

SCHEDULES

SCHEDULE 1

Section 6

DISABILITY: SUPPLEMENTARY PROVISION

PART 1

DETERMINATION OF DISABILITY

Impairment

- 1 Regulations may make provision for a condition of a prescribed description to be, or not to be, an impairment.

Long-term effects

- 2 (1) The effect of an impairment is long-term if—
- (a) it has lasted for at least 12 months,
 - (b) it is likely to last for at least 12 months, or
 - (c) it is likely to last for the rest of the life of the person affected.
- (2) If an impairment ceases to have a substantial adverse effect on a person's ability to carry out normal day-to-day activities, it is to be treated as continuing to have that effect if that effect is likely to recur.
- (3) For the purposes of sub-paragraph (2), the likelihood of an effect recurring is to be disregarded in such circumstances as may be prescribed.
- (4) Regulations may prescribe circumstances in which, despite sub-paragraph (1), an effect is to be treated as being, or as not being, long-term.

Severe disfigurement

- 3 (1) An impairment which consists of a severe disfigurement is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities.
- (2) Regulations may provide that in prescribed circumstances a severe disfigurement is not to be treated as having that effect.
- (3) The regulations may, in particular, make provision in relation to deliberately acquired disfigurement.

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Substantial adverse effects

- 4 Regulations may make provision for an effect of a prescribed description on the ability of a person to carry out normal day-to-day activities to be treated as being, or as not being, a substantial adverse effect.

Effect of medical treatment

- 5 (1) An impairment is to be treated as having a substantial adverse effect on the ability of the person concerned to carry out normal day-to-day activities if—
- (a) measures are being taken to treat or correct it, and
 - (b) but for that, it would be likely to have that effect.
- (2) “Measures” includes, in particular, medical treatment and the use of a prosthesis or other aid.
- (3) Sub-paragraph (1) does not apply—
- (a) in relation to the impairment of a person’s sight, to the extent that the impairment is, in the person’s case, correctable by spectacles or contact lenses or in such other ways as may be prescribed;
 - (b) in relation to such other impairments as may be prescribed, in such circumstances as are prescribed.

Certain medical conditions

- 6 (1) Cancer, HIV infection and multiple sclerosis are each a disability.
- (2) HIV infection is infection by a virus capable of causing the Acquired Immune Deficiency Syndrome.

Deemed disability

- 7 (1) Regulations may provide for persons of prescribed descriptions to be treated as having disabilities.
- (2) The regulations may prescribe circumstances in which a person who has a disability is to be treated as no longer having the disability.
- (3) This paragraph does not affect the other provisions of this Schedule.

Progressive conditions

- 8 (1) This paragraph applies to a person (P) if—
- (a) P has a progressive condition,
 - (b) as a result of that condition P has an impairment which has (or had) an effect on P’s ability to carry out normal day-to-day activities, but
 - (c) the effect is not (or was not) a substantial adverse effect.
- (2) P is to be taken to have an impairment which has a substantial adverse effect if the condition is likely to result in P having such an impairment.
- (3) Regulations may make provision for a condition of a prescribed description to be treated as being, or as not being, progressive.

Past disabilities

- 9 (1) A question as to whether a person had a disability at a particular time (“the relevant time”) is to be determined, for the purposes of section 6, as if the provisions of, or made under, this Act were in force when the act complained of was done had been in force at the relevant time.
- (2) The relevant time may be a time before the coming into force of the provision of this Act to which the question relates.

PART 2

GUIDANCE

Preliminary

- 10 This Part of this Schedule applies in relation to guidance referred to in section 6(5).

Examples

- 11 The guidance may give examples of—
- (a) effects which it would, or would not, be reasonable, in relation to particular activities, to regard as substantial adverse effects;
 - (b) substantial adverse effects which it would, or would not, be reasonable to regard as long-term.

Adjudicating bodies

- 12 (1) In determining whether a person is a disabled person, an adjudicating body must take account of such guidance as it thinks is relevant.
- (2) An adjudicating body is—
- (a) a court;
 - (b) a tribunal;
 - (c) a person (other than a court or tribunal) who may decide a claim relating to a contravention of Part 6 (education).

Representations

- 13 Before issuing the guidance, the Minister must—
- (a) publish a draft of it;
 - (b) consider any representations made to the Minister about the draft;
 - (c) make such modifications as the Minister thinks appropriate in the light of the representations.

Parliamentary procedure

- 14 (1) If the Minister decides to proceed with proposed guidance, a draft of it must be laid before Parliament.
- (2) If, before the end of the 40-day period, either House resolves not to approve the draft, the Minister must take no further steps in relation to the proposed guidance.

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- (3) If no such resolution is made before the end of that period, the Minister must issue the guidance in the form of the draft.
- (4) Sub-paragraph (2) does not prevent a new draft of proposed guidance being laid before Parliament.
- (5) The 40-day period—
 - (a) begins on the date on which the draft is laid before both Houses (or, if laid before each House on a different date, on the later date);
 - (b) does not include a period during which Parliament is prorogued or dissolved;
 - (c) does not include a period during which both Houses are adjourned for more than 4 days.

Commencement

15 The guidance comes into force on the day appointed by order by the Minister.

Revision and revocation

- 16 (1) The Minister may—
- (a) revise the whole or part of guidance and re-issue it;
 - (b) by order revoke guidance.
- (2) A reference to guidance includes a reference to guidance which has been revised and re-issued.

SCHEDULE 2

Section 31

SERVICES AND PUBLIC FUNCTIONS: REASONABLE ADJUSTMENTS

Preliminary

1 This Schedule applies where a duty to make reasonable adjustments is imposed on A by this Part.

The duty

- 2 (1) A must comply with the first, second and third requirements.
- (2) For the purposes of this paragraph, the reference in section 20(3), (4) or (5) to a disabled person is to disabled persons generally.
- (3) Section 20 has effect as if, in subsection (4), for “to avoid the disadvantage” there were substituted—
- “(a) to avoid the disadvantage, or
 - (b) to adopt a reasonable alternative method of providing the service or exercising the function.”
- (4) In relation to each requirement, the relevant matter is the provision of the service, or the exercise of the function, by A.

- (5) Being placed at a substantial disadvantage in relation to the exercise of a function means—
- (a) if a benefit is or may be conferred in the exercise of the function, being placed at a substantial disadvantage in relation to the conferment of the benefit, or
 - (b) if a person is or may be subjected to a detriment in the exercise of the function, suffering an unreasonably adverse experience when being subjected to the detriment.
- (6) In relation to the second requirement, a physical feature includes a physical feature brought by or on behalf of A, in the course of providing the service or exercising the function, on to premises other than those that A occupies (as well as including a physical feature in or on premises that A occupies).
- (7) If A is a service-provider, nothing in this paragraph requires A to take a step which would fundamentally alter—
- (a) the nature of the service, or
 - (b) the nature of A's trade or profession.
- (8) If A exercises a public function, nothing in this paragraph requires A to take a step which A has no power to take.

Special provision about transport

- 3 (1) This paragraph applies where A is concerned with the provision of a service which involves transporting people by land, air or water.
- (2) It is never reasonable for A to have to take a step which would—
- (a) involve the alteration or removal of a physical feature of a vehicle used in providing the service;
 - (b) affect whether vehicles are provided;
 - (c) affect what vehicles are provided;
 - (d) affect what happens in the vehicle while someone is travelling in it.
- (3) But, for the purpose of complying with the first or third requirement, A may not rely on sub-paragraph (2)(b), (c) or (d) if the vehicle concerned is—
- (a) a hire-vehicle designed and constructed for the carriage of passengers, comprising more than 8 seats in addition to the driver's seat and having a maximum mass not exceeding 5 tonnes,
 - (b) a hire-vehicle designed and constructed for the carriage of goods and having a maximum mass not exceeding 3.5 tonnes,
 - (c) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 or section 7 of the Private Hire Vehicles (London) Act 1998 (or under a provision of a local Act corresponding to either of those provisions),
 - (d) a private hire car (within the meaning of section 23 of the Civic Government (Scotland) Act 1982),
 - (e) a public service vehicle (within the meaning given by section 1 of the Public Passenger Vehicles Act 1981),
 - (f) a vehicle built or adapted to carry passengers on a railway or tramway (within the meaning, in each case, of the Transport and Works Act 1992),
 - (g) a taxi,

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- (h) a vehicle deployed to transport the driver and passengers of a vehicle that has broken down or is involved in an accident, or
 - (i) a vehicle deployed on a system using a mode of guided transport (within the meaning of the Transport and Works Act 1992).
- (4) In so far as the second requirement requires A to adopt a reasonable alternative method of providing the service to disabled persons, A may not, for the purpose of complying with the requirement, rely on sub-paragraph (2)(b), (c) or (d) if the vehicle is within sub-paragraph (3)(h).
- (5) A may not, for the purpose of complying with the first, second or third requirement rely on sub-paragraph (2) of this paragraph if A provides the service by way of a hire-vehicle built to carry no more than 8 passengers.
- (6) For the purposes of sub-paragraph (5) in its application to the second requirement, a part of a vehicle is to be regarded as a physical feature if it requires alteration in order to facilitate the provision of—
- (a) hand controls to enable a disabled person to operate braking and accelerator systems in the vehicle, or
 - (b) facilities for the stowage of a wheelchair.
- (7) For the purposes of sub-paragraph (6)(a), fixed seating and in-built electrical systems are not physical features; and for the purposes of sub-paragraph (6)(b), fixed seating is not a physical feature.
- (8) In the case of a vehicle within sub-paragraph (3), a relevant device is not an auxiliary aid for the purposes of the third requirement.
- (9) A relevant device is a device or structure, or equipment, the installation, operation or maintenance of which would necessitate making a permanent alteration to, or which would have a permanent effect on, the internal or external fabric of the vehicle.
- (10) Regulations may amend this paragraph so as to provide for sub-paragraph (2) not to apply, or to apply only so far as is prescribed, in relation to vehicles of a prescribed description.

Interpretation

- 4 (1) This paragraph applies for the purposes of paragraph 3.
- (2) A “hire-vehicle” is a vehicle hired (by way of a trade) under a hiring agreement to which section 66 of the Road Traffic Offenders Act 1988 applies.
- (3) A “taxi”, in England and Wales, is a vehicle—
- (a) licensed under section 37 of the Town Police Clauses Act 1847,
 - (b) licensed under section 6 of the Metropolitan Public Carriage Act 1869, or
 - (c) drawn by one or more persons or animals.
- (4) A “taxi”, in Scotland, is—
- (a) a hire car engaged, by arrangements made in a public place between the person to be transported (or a person acting on that person’s behalf) and the driver, for a journey starting there and then, or
 - (b) a vehicle drawn by one or more persons or animals.

SCHEDULE 3

Section 31

SERVICES AND PUBLIC FUNCTIONS: EXCEPTIONS

PART 1

CONSTITUTIONAL MATTERS

Parliament

- 1 (1) Section 29 does not apply to the exercise of—
 - (a) a function of Parliament;
 - (b) a function exercisable in connection with proceedings in Parliament.
- (2) Sub-paragraph (1) does not permit anything to be done to or in relation to an individual unless it is done by or in pursuance of a resolution or other deliberation of either House or of a Committee of either House.

Legislation

- 2 (1) Section 29 does not apply to preparing, making or considering—
 - (a) an Act of Parliament;
 - (b) a Bill for an Act of Parliament;
 - (c) an Act of the Scottish Parliament;
 - (d) a Bill for an Act of the Scottish Parliament;
 - (e) an Act of the National Assembly for Wales;
 - (f) a Bill for an Act of the National Assembly for Wales.
- (2) Section 29 does not apply to preparing, making, approving or considering—
 - (a) a Measure of the National Assembly for Wales;
 - (b) a proposed Measure of the National Assembly for Wales.
- (3) Section 29 does not apply to preparing, making, confirming, approving or considering an instrument which is made under an enactment by—
 - (a) a Minister of the Crown;
 - (b) the Scottish Ministers or a member of the Scottish Executive;
 - (c) the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government.
- (4) Section 29 does not apply to preparing, making, confirming, approving or considering an instrument to which paragraph 6(a) of Schedule 2 to the Synodical Government Measure 1969 ([1969 No. 2](#)) (Measures, Canons, Acts of Synod, orders, etc.) applies.
- (5) Section 29 does not apply to anything done in connection with the preparation, making, consideration, approval or confirmation of an instrument made by—
 - (a) Her Majesty in Council;
 - (b) the Privy Council.
- (6) Section 29 does not apply to anything done in connection with the imposition of a requirement or condition which comes within Schedule 22 (statutory provisions).

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Judicial functions

- 3 (1) Section 29 does not apply to—
- (a) a judicial function;
 - (b) anything done on behalf of, or on the instructions of, a person exercising a judicial function;
 - (c) a decision not to commence or continue criminal proceedings;
 - (d) anything done for the purpose of reaching, or in pursuance of, a decision not to commence or continue criminal proceedings.
- (2) A reference in sub-paragraph (1) to a judicial function includes a reference to a judicial function conferred on a person other than a court or tribunal.

Armed forces

- 4 (1) Section 29(6), so far as relating to relevant discrimination, does not apply to anything done for the purpose of ensuring the combat effectiveness of the armed forces.
- (2) “Relevant discrimination” is—
- (a) age discrimination;
 - (b) disability discrimination;
 - (c) gender reassignment discrimination;
 - (d) sex discrimination.

Security services, etc.

- 5 Section 29 does not apply to—
- (a) the Security Service;
 - (b) the Secret Intelligence Service;
 - (c) the Government Communications Headquarters;
 - (d) a part of the armed forces which is, in accordance with a requirement of the Secretary of State, assisting the Government Communications Headquarters.

PART 2

EDUCATION

- 6 In its application to a local authority in England and Wales, section 29, so far as relating to age discrimination or religious or belief-related discrimination, does not apply to—
- (a) the exercise of the authority’s functions under section 14 of the [Education Act 1996](#) (provision of schools);
 - (b) the exercise of its function under section 13 of that Act in so far as it relates to a function of its under section 14 of that Act.
- 7 In its application to an education authority, section 29, so far as relating to age discrimination or religious or belief-related discrimination, does not apply to—
- (a) the exercise of the authority’s functions under section 17 of the [Education \(Scotland\) Act 1980](#) (provision of schools);

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- (b) the exercise of its functions under section 1 of that Act, section 2 of the Standards in Scotland's Schools etc. Act 2000 (asp 6) or section 4 or 5 of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) (general responsibility for education) in so far as it relates to a matter specified in paragraph (a);
 - (c) the exercise of its functions under subsection (1) of section 50 of the Education (Scotland) Act 1980 (education of pupils in exceptional circumstances) in so far as it consists of making arrangements of the description referred to in subsection (2) of that section.
- 8 (1) In its application to a local authority in England and Wales or an education authority, section 29, so far as relating to sex discrimination, does not apply to the exercise of the authority's functions in relation to the establishment of a school.
- (2) But nothing in sub-paragraph (1) is to be taken as disapplying section 29 in relation to the exercise of the authority's functions under section 14 of the Education Act 1996 or section 17 of the Education (Scotland) Act 1980.
- 9 Section 29, so far as relating to age discrimination, does not apply in relation to anything done in connection with—
 - (a) the curriculum of a school,
 - (b) admission to a school,
 - (c) transport to or from a school, or
 - (d) the establishment, alteration or closure of schools.
- 10 (1) Section 29, so far as relating to disability discrimination, does not require a local authority in England or Wales exercising functions under the Education Acts or an education authority exercising relevant functions to remove or alter a physical feature.
- (2) Relevant functions are functions under—
 - (a) the Education (Scotland) Act 1980,
 - (b) the Education (Scotland) Act 1996,
 - (c) the Standards in Scotland's Schools etc. Act 2000, or
 - (d) the Education (Additional Support for Learning) (Scotland) Act 2004.
- 11 Section 29, so far as relating to religious or belief-related discrimination, does not apply in relation to anything done in connection with—
 - (a) the curriculum of a school;
 - (b) admission to a school which has a religious ethos;
 - (c) acts of worship or other religious observance organised by or on behalf of a school (whether or not forming part of the curriculum);
 - (d) the responsible body of a school which has a religious ethos;
 - (e) transport to or from a school;
 - (f) the establishment, alteration or closure of schools.
- 12 This Part of this Schedule is to be construed in accordance with Chapter 1 of Part 6.

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PART 3

HEALTH AND CARE

Blood services

- 13 (1) A person operating a blood service does not contravene section 29 only by refusing to accept a donation of an individual's blood if—
- (a) the refusal is because of an assessment of the risk to the public, or to the individual, based on clinical, epidemiological or other data obtained from a source on which it is reasonable to rely, and
 - (b) the refusal is reasonable.
- (2) A blood service is a service for the collection and distribution of human blood for the purposes of medical services.
- (3) “Blood” includes blood components.

Health and safety

- 14 (1) A service-provider (A) who refuses to provide the service to a pregnant woman does not discriminate against her in contravention of section 29 because she is pregnant if—
- (a) A reasonably believes that providing her with the service would, because she is pregnant, create a risk to her health or safety,
 - (b) A refuses to provide the service to persons with other physical conditions, and
 - (c) the reason for that refusal is that A reasonably believes that providing the service to such persons would create a risk to their health or safety.
- (2) A service-provider (A) who provides, or offers to provide, the service to a pregnant woman on conditions does not discriminate against her in contravention of section 29 because she is pregnant if—
- (a) the conditions are intended to remove or reduce a risk to her health or safety,
 - (b) A reasonably believes that the provision of the service without the conditions would create a risk to her health or safety,
 - (c) A imposes conditions on the provision of the service to persons with other physical conditions, and
 - (d) the reason for the imposition of those conditions is that A reasonably believes that the provision of the service to such persons without those conditions would create a risk to their health or safety.

Care within the family

- 15 A person (A) does not contravene section 29 only by participating in arrangements under which (whether or not for reward) A takes into A's home, and treats as members of A's family, persons requiring particular care and attention.

PART 4

IMMIGRATION

Disability

- 16 (1) This paragraph applies in relation to disability discrimination.
- (2) Section 29 does not apply to—
- (a) a decision within sub-paragraph (3);
 - (b) anything done for the purposes of or in pursuance of a decision within that sub-paragraph.
- (3) A decision is within this sub-paragraph if it is a decision (whether or not taken in accordance with immigration rules) to do any of the following on the ground that doing so is necessary for the public good—
- (a) to refuse entry clearance;
 - (b) to refuse leave to enter or remain in the United Kingdom;
 - (c) to cancel leave to enter or remain in the United Kingdom;
 - (d) to vary leave to enter or remain in the United Kingdom;
 - (e) to refuse an application to vary leave to enter or remain in the United Kingdom.
- (4) Section 29 does not apply to—
- (a) a decision taken, or guidance given, by the Secretary of State in connection with a decision within sub-paragraph (3);
 - (b) a decision taken in accordance with guidance given by the Secretary of State in connection with a decision within that sub-paragraph.

Nationality and ethnic or national origins

- 17 (1) This paragraph applies in relation to race discrimination so far as relating to—
- (a) nationality, or
 - (b) ethnic or national origins.
- (2) Section 29 does not apply to anything done by a relevant person in the exercise of functions exercisable by virtue of a relevant enactment.
- (3) A relevant person is—
- (a) a Minister of the Crown acting personally, or
 - (b) a person acting in accordance with a relevant authorisation.
- (4) A relevant authorisation is a requirement imposed or express authorisation given—
- (a) with respect to a particular case or class of case, by a Minister of the Crown acting personally;
 - (b) with respect to a particular class of case, by a relevant enactment or by an instrument made under or by virtue of a relevant enactment.
- (5) The relevant enactments are—
- (a) the Immigration Acts,
 - (b) the Special Immigration Appeals Commission Act 1997,

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- (c) a provision made under section 2(2) of the European Communities Act 1972 which relates to immigration or asylum, and
 - (d) a provision of Community law which relates to immigration or asylum.
- (6) The reference in sub-paragraph (5)(a) to the Immigration Acts does not include a reference to—
- (a) sections 28A to 28K of the Immigration Act 1971 (powers of arrest, entry and search, etc.), or
 - (b) section 14 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (power of arrest).

Religion or belief

- 18 (1) This paragraph applies in relation to religious or belief-related discrimination.
- (2) Section 29 does not apply to a decision within sub-paragraph (3) or anything done for the purposes of or in pursuance of a decision within that sub-paragraph.
- (3) A decision is within this sub-paragraph if it is a decision taken in accordance with immigration rules—
- (a) to refuse entry clearance or leave to enter the United Kingdom, or to cancel leave to enter or remain in the United Kingdom, on the grounds that the exclusion of the person from the United Kingdom is conducive to the public good, or
 - (b) to vary leave to enter or remain in the United Kingdom, or to refuse an application to vary leave to enter or remain in the United Kingdom, on the grounds that it is undesirable to permit the person to remain in the United Kingdom.
- (4) Section 29 does not apply to a decision within sub-paragraph (5), or anything done for the purposes of or in pursuance of a decision within that sub-paragraph, if the decision is taken on grounds mentioned in sub-paragraph (6).
- (5) A decision is within this sub-paragraph if it is a decision (whether or not taken in accordance with immigration rules) in connection with an application for entry clearance or for leave to enter or remain in the United Kingdom.
- (6) The grounds referred to in sub-paragraph (4) are—
- (a) the grounds that a person holds an office or post in connection with a religion or belief or provides a service in connection with a religion or belief,
 - (b) the grounds that a religion or belief is not to be treated in the same way as certain other religions or beliefs, or
 - (c) the grounds that the exclusion from the United Kingdom of a person to whom paragraph (a) applies is conducive to the public good.
- (7) Section 29 does not apply to—
- (a) a decision taken, or guidance given, by the Secretary of State in connection with a decision within sub-paragraph (3) or (5);
 - (b) a decision taken in accordance with guidance given by the Secretary of State in connection with a decision within either of those sub-paragraphs.

Interpretation

- 19 A reference to entry clearance, leave to enter or remain or immigration rules is to be construed in accordance with the Immigration Act 1971.

PART 5

INSURANCE, ETC.

Services arranged by employer

- 20 (1) Section 29 does not apply to the provision of a relevant financial service if the provision is in pursuance of arrangements made by an employer for the service-provider to provide the service to the employer's employees, and other persons, as a consequence of the employment.
- (2) "Relevant financial service" means—
- (a) insurance or a related financial service, or
 - (b) a service relating to membership of or benefits under a personal pension scheme (within the meaning given by section 1 of the Pension Schemes Act 1993).

Disability

- 21 (1) It is not a contravention of section 29, so far as relating to disability discrimination, to do anything in connection with insurance business if—
- (a) that thing is done by reference to information that is both relevant to the assessment of the risk to be insured and from a source on which it is reasonable to rely, and
 - (b) it is reasonable to do that thing.
- (2) "Insurance business" means business which consists of effecting or carrying out contracts of insurance; and that definition is to be read with—
- (a) section 22 of the Financial Services and Markets Act 2000,
 - (b) any relevant order under that Act, and
 - (c) Schedule 2 to that Act.

Sex, gender reassignment, pregnancy and maternity

- 22 (1) It is not a contravention of section 29, so far as relating to relevant discrimination, to do anything in relation to an annuity, life insurance policy, accident insurance policy or similar matter involving the assessment of risk if—
- (a) that thing is done by reference to actuarial or other data from a source on which it is reasonable to rely, and
 - (b) it is reasonable to do that thing.
- (2) In the case of a contract of insurance, or a contract for related financial services, entered into before 6 April 2008, sub-paragraph (1) applies only in relation to differences in premiums and benefits that are applicable to a person under the contract.

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- (3) In the case of a contract of insurance, or a contract for related financial services, entered into on or after 6 April 2008, sub-paragraph (1) applies only in relation to differences in premiums and benefits if—
- (a) the use of sex as a factor in the assessment of risk is based on relevant and accurate actuarial and statistical data,
 - (b) the data are compiled, published (whether in full or in summary form) and regularly updated in accordance with guidance issued by the Treasury,
 - (c) the differences are proportionate having regard to the data, and
 - (d) the differences do not result from costs related to pregnancy or to a woman's having given birth in the period of 26 weeks ending on the day on which the thing in question is done.
- (4) “Relevant discrimination” is—
- (a) gender reassignment discrimination;
 - (b) pregnancy and maternity discrimination;
 - (c) sex discrimination.
- (5) For the purposes of the application of sub-paragraph (3) to gender reassignment discrimination by virtue of section 13, that section has effect as if in subsection (1), after “others” there were inserted “of B's sex”.
- (6) In the application of sub-paragraph (3) to a contract entered into before 22 December 2008, paragraph (d) is to be ignored.

Existing insurance policies

- 23 (1) It is not a contravention of section 29, so far as relating to relevant discrimination, to do anything in connection with insurance business in relation to an existing insurance policy.
- (2) “Relevant discrimination” is—
- (a) age discrimination;
 - (b) disability discrimination;
 - (c) gender reassignment discrimination;
 - (d) pregnancy and maternity discrimination;
 - (e) race discrimination;
 - (f) religious or belief-related discrimination;
 - (g) sex discrimination;
 - (h) sexual orientation discrimination.
- (3) An existing insurance policy is a policy of insurance entered into before the date on which this paragraph comes into force.
- (4) Sub-paragraph (1) does not apply where an existing insurance policy was renewed, or the terms of such a policy were reviewed, on or after the date on which this paragraph comes into force.
- (5) A review of an existing insurance policy which was part of, or incidental to, a general reassessment by the service-provider of the pricing structure for a group of policies is not a review for the purposes of sub-paragraph (4).
- (6) “Insurance business” has the meaning given in paragraph 21.

PART 6

MARRIAGE

Gender reassignment: England and Wales

- 24 (1) A person does not contravene section 29, so far as relating to gender reassignment discrimination, only because of anything done in reliance on section 5B of the Marriage Act 1949 (solemnisation of marriages involving person of acquired gender).
- (2) A person (A) whose consent to the solemnisation of the marriage of a person (B) is required under section 44(1) of the Marriage Act 1949 (solemnisation in registered building) does not contravene section 29, so far as relating to gender reassignment discrimination, by refusing to consent if A reasonably believes that B's gender has become the acquired gender under the Gender Recognition Act 2004.
- (3) Sub-paragraph (4) applies to a person (A) who may, in a case that comes within the Marriage Act 1949 (other than the case mentioned in sub-paragraph (1)), solemnise marriages according to a form, rite or ceremony of a body of persons who meet for religious worship.
- (4) A does not contravene section 29, so far as relating to gender reassignment discrimination, by refusing to solemnise, in accordance with a form, rite or ceremony as described in sub-paragraph (3), the marriage of a person (B) if A reasonably believes that B's gender has become the acquired gender under the Gender Recognition Act 2004.

Gender reassignment: Scotland

- 25 (1) An approved celebrant (A) does not contravene section 29, so far as relating to gender reassignment discrimination, only by refusing to solemnise the marriage of a person (B) if A reasonably believes that B's gender has become the acquired gender under the Gender Recognition Act 2004.
- (2) In sub-paragraph (1) "approved celebrant" has the meaning given in section 8(2)(a) of the Marriage (Scotland) Act 1977 (persons who may solemnise marriage).

PART 7

SEPARATE AND SINGLE SERVICES

Separate services for the sexes

- 26 (1) A person does not contravene section 29, so far as relating to sex discrimination, by providing separate services for persons of each sex if—
- (a) a joint service for persons of both sexes would be less effective, and
 - (b) the limited provision is a proportionate means of achieving a legitimate aim.
- (2) A person does not contravene section 29, so far as relating to sex discrimination, by providing separate services differently for persons of each sex if—
- (a) a joint service for persons of both sexes would be less effective,

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- (b) the extent to which the service is required by one sex makes it not reasonably practicable to provide the service otherwise than as a separate service provided differently for each sex, and
 - (c) the limited provision is a proportionate means of achieving a legitimate aim.
- (3) This paragraph applies to a person exercising a public function in relation to the provision of a service as it applies to the person providing the service.

Single-sex services

- 27 (1) A person does not contravene section 29, so far as relating to sex discrimination, by providing a service only to persons of one sex if—
- (a) any of the conditions in sub-paragraphs (2) to (7) is satisfied, and
 - (b) the limited provision is a proportionate means of achieving a legitimate aim.
- (2) The condition is that only persons of that sex have need of the service.
- (3) The condition is that—
- (a) the service is also provided jointly for persons of both sexes, and
 - (b) the service would be insufficiently effective were it only to be provided jointly.
- (4) The condition is that—
- (a) a joint service for persons of both sexes would be less effective, and
 - (b) the extent to which the service is required by persons of each sex makes it not reasonably practicable to provide separate services.
- (5) The condition is that the service is provided at a place which is, or is part of—
- (a) a hospital, or
 - (b) another establishment for persons requiring special care, supervision or attention.
- (6) The condition is that—
- (a) the service is provided for, or is likely to be used by, two or more persons at the same time, and
 - (b) the circumstances are such that a person of one sex might reasonably object to the presence of a person of the opposite sex.
- (7) The condition is that—
- (a) there is likely to be physical contact between a person (A) to whom the service is provided and another person (B), and
 - (b) B might reasonably object if A were not of the same sex as B.
- (8) This paragraph applies to a person exercising a public function in relation to the provision of a service as it applies to the person providing the service.

Gender reassignment

- 28 (1) A person does not contravene section 29, so far as relating to gender reassignment discrimination, only because of anything done in relation to a matter within sub-paragraph (2) if the conduct in question is a proportionate means of achieving a legitimate aim.

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- (2) The matters are—
- (a) the provision of separate services for persons of each sex;
 - (b) the provision of separate services differently for persons of each sex;
 - (c) the provision of a service only to persons of one sex.

Services relating to religion

- 29 (1) A minister does not contravene section 29, so far as relating to sex discrimination, by providing a service only to persons of one sex or separate services for persons of each sex, if—
- (a) the service is provided for the purposes of an organised religion,
 - (b) it is provided at a place which is (permanently or for the time being) occupied or used for those purposes, and
 - (c) the limited provision of the service is necessary in order to comply with the doctrines of the religion or is for the purpose of avoiding conflict with the strongly held religious convictions of a significant number of the religion's followers.
- (2) The reference to a minister is a reference to a minister of religion, or other person, who—
- (a) performs functions in connection with the religion, and
 - (b) holds an office or appointment in, or is accredited, approved or recognised for purposes of, a relevant organisation in relation to the religion.
- (3) An organisation is a relevant organisation in relation to a religion if its purpose is—
- (a) to practise the religion,
 - (b) to advance the religion,
 - (c) to teach the practice or principles of the religion,
 - (d) to enable persons of the religion to receive benefits, or to engage in activities, within the framework of that religion, or
 - (e) to foster or maintain good relations between persons of different religions.
- (4) But an organisation is not a relevant organisation in relation to a religion if its sole or main purpose is commercial.

Services generally provided only for persons who share a protected characteristic

- 30 If a service is generally provided only for persons who share a protected characteristic, a person (A) who normally provides the service for persons who share that characteristic does not contravene section 29(1) or (2)—
- (a) by insisting on providing the service in the way A normally provides it, or
 - (b) if A reasonably thinks it is impracticable to provide the service to persons who do not share that characteristic, by refusing to provide the service.

PART 8

TELEVISION, RADIO AND ON-LINE BROADCASTING AND DISTRIBUTION

- 31 (1) Section 29 does not apply to the provision of a content service (within the meaning given by section 32(7) of the Communications Act 2003).

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- (2) Sub-paragraph (1) does not apply to the provision of an electronic communications network, electronic communications service or associated facility (each of which has the same meaning as in that Act).

PART 9

TRANSPORT

Application to disability

- 32 This Part of this Schedule applies in relation to disability discrimination.

Transport by air

- 33 (1) Section 29 does not apply to—
- (a) transporting people by air;
 - (b) a service provided on a vehicle for transporting people by air.
- (2) Section 29 does not apply to anything governed by Regulation (EC) No 1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air.

Transport by land

- 34 (1) Section 29 does not apply to transporting people by land, unless the vehicle concerned is—
- (a) a hire-vehicle designed and constructed for the carriage of passengers and comprising no more than 8 seats in addition to the driver's seat,
 - (b) a hire-vehicle designed and constructed for the carriage of passengers, comprising more than 8 seats in addition to the driver's seat and having a maximum mass not exceeding 5 tonnes,
 - (c) a hire-vehicle designed and constructed for the carriage of goods and having a maximum mass not exceeding 3.5 tonnes,
 - (d) a vehicle licensed under section 48 of the Local Government (Miscellaneous Provisions) Act 1976 or section 7 of the Private Hire Vehicles (London) Act 1998 (or under a provision of a local Act corresponding to either of those provisions),
 - (e) a private hire car (within the meaning of section 23 of the Civic Government (Scotland) Act 1982),
 - (f) a public service vehicle (within the meaning given by section 1 of the Public Passenger Vehicles Act 1981),
 - (g) a vehicle built or adapted to carry passengers on a railway or tramway (within the meaning, in each case, of the Transport and Works Act 1992),
 - (h) a taxi,
 - (i) a vehicle deployed to transport the driver and passengers of a vehicle that has broken down or is involved in an accident, or
 - (j) a vehicle deployed on a system using a mode of guided transport (within the meaning of the Transport and Works Act 1992).

- (2) Paragraph 4 of Schedule 2 applies for the purposes of this paragraph as it applies for the purposes of paragraph 3 of that Schedule.

PART 10

SUPPLEMENTARY

Power to amend

- 35 (1) A Minister of the Crown may by order amend this Schedule—
- (a) so as to add, vary or omit an exception to section 29, so far as relating to disability, religion or belief or sexual orientation;
 - (b) so as to add, vary or omit an exception to section 29(6), so far as relating to gender reassignment, pregnancy and maternity, race or sex.
- (2) But provision by virtue of sub-paragraph (1) may not amend this Schedule—
- (a) so as to omit an exception in paragraph 1, 2 or 3;
 - (b) so as to reduce the extent to which an exception in paragraph 1, 2 or 3 applies.
- (3) For the purposes of an order under sub-paragraph (1)(a), so far as relating to disability, which makes provision in relation to transport by air, it does not matter whether the transport is within or outside the United Kingdom.
- (4) Before making an order under this paragraph the Minister must consult the Commission.
- (5) Nothing in this paragraph affects the application of any other provision of this Act to conduct outside England and Wales or Scotland.

SCHEDULE 4

Section 38

PREMISES: REASONABLE ADJUSTMENTS

Preliminary

- 1 This Schedule applies where a duty to make reasonable adjustments is imposed on A by this Part.

The duty in relation to let premises

- 2 (1) This paragraph applies where A is a controller of let premises.
- (2) A must comply with the first and third requirements.
- (3) For the purposes of this paragraph, the reference in section 20(3) to a provision, criterion or practice of A's includes a reference to a term of the letting.
- (4) For those purposes, the reference in section 20(3) or (5) to a disabled person is a reference to a disabled person who—
- (a) is a tenant of the premises, or

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- (b) is otherwise entitled to occupy them.
- (5) In relation to each requirement, the relevant matters are—
 - (a) the enjoyment of the premises;
 - (b) the use of a benefit or facility, entitlement to which arises as a result of the letting.
- (6) Sub-paragraph (2) applies only if A receives a request from or on behalf of the tenant or a person entitled to occupy the premises to take steps to avoid the disadvantage or provide the auxiliary aid.
- (7) If a term of the letting that prohibits the tenant from making alterations puts the disabled person at the disadvantage referred to in the first requirement, A is required to change the term only so far as is necessary to enable the tenant to make alterations to the let premises so as to avoid the disadvantage.
- (8) It is never reasonable for A to have to take a step which would involve the removal or alteration of a physical feature.
- (9) For the purposes of this paragraph, physical features do not include furniture, furnishings, materials, equipment or other chattels in or on the premises; and none of the following is an alteration of a physical feature—
 - (a) the replacement or provision of a sign or notice;
 - (b) the replacement of a tap or door handle;
 - (c) the replacement, provision or adaptation of a door bell or door entry system;
 - (d) changes to the colour of a wall, door or any other surface.
- (10) The terms of a letting include the terms of an agreement relating to it.

The duty in relation to premises to let

- 3 (1) This paragraph applies where A is a controller of premises to let.
- (2) A must comply with the first and third requirements.
- (3) For the purposes of this paragraph, the reference in section 20(3) or (5) to a disabled person is a reference to a disabled person who is considering taking a letting of the premises.
- (4) In relation to each requirement, the relevant matter is becoming a tenant of the premises.
- (5) Sub-paragraph (2) applies only if A receives a request by or on behalf of a disabled person within sub-paragraph (3) for A to take steps to avoid the disadvantage or provide the auxiliary aid.
- (6) Nothing in this paragraph requires A to take a step which would involve the removal or alteration of a physical feature.
- (7) Sub-paragraph (9) of paragraph 2 applies for the purposes of this paragraph as it applies for the purposes of that paragraph.

The duty in relation to commonhold units

- 4 (1) This paragraph applies where A is a commonhold association; and the reference to a commonhold association is a reference to the association in its capacity as the person who manages a commonhold unit.
- (2) A must comply with the first and third requirements.
- (3) For the purposes of this paragraph, the reference in section 20(3) to a provision, criterion or practice of A's includes a reference to—
- (a) a term of the commonhold community statement, or
 - (b) any other term applicable by virtue of the transfer of the unit to the unit-holder.
- (4) For those purposes, the reference in section 20(3) or (5) to a disabled person is a reference to a disabled person who—
- (a) is the unit-holder, or
 - (b) is otherwise entitled to occupy the unit.
- (5) In relation to each requirement, the relevant matters are—
- (a) the enjoyment of the unit;
 - (b) the use of a benefit or facility, entitlement to which arises as a result of a term within sub-paragraph (3)(a) or (b).
- (6) Sub-paragraph (2) applies only if A receives a request from or on behalf of the unit-holder or a person entitled to occupy the unit to take steps to avoid the disadvantage or provide the auxiliary aid.
- (7) If a term within sub-paragraph (3)(a) or (b) that prohibits the unit-holder from making alterations puts the disabled person at the disadvantage referred to in the first requirement, A is required to change the term only so far as is necessary to enable the unit-holder to make alterations to the unit so as to avoid the disadvantage.
- (8) It is never reasonable for A to have to take a step which would involve the removal or alteration of a physical feature; and sub-paragraph (9) of paragraph 2 applies in relation to a commonhold unit as it applies in relation to let premises.

The duty in relation to common parts

- 5 (1) This paragraph applies where A is a responsible person in relation to common parts.
- (2) A must comply with the second requirement.
- (3) For the purposes of this paragraph, the reference in section 20(4) to a physical feature is a reference to a physical feature of the common parts.
- (4) For those purposes, the reference in section 20(4) to a disabled person is a reference to a disabled person who—
- (a) is a tenant of the premises,
 - (b) is a unit-holder, or
 - (c) is otherwise entitled to occupy the premises,
- and uses or intends to use the premises as the person's only or main home.
- (5) In relation to the second requirement, the relevant matter is the use of the common parts.

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- (6) Sub-paragraph (2) applies only if—
- (a) A receives a request by or on behalf of a disabled person within sub-paragraph (4) for A to take steps to avoid the disadvantage, and
 - (b) the steps requested are likely to avoid or reduce the disadvantage.

Consultation on adjustments relating to common parts

- 6
- (1) In deciding whether it is reasonable to take a step for the purposes of paragraph 5, A must consult all persons A thinks would be affected by the step.
 - (2) The consultation must be carried out within a reasonable period of the request being made.
 - (3) A is not required to have regard to a view expressed against taking a step in so far as A reasonably believes that the view is expressed because of the disabled person's disability.
 - (4) Nothing in this paragraph affects anything a commonhold association is required to do pursuant to Part 1 of the Commonhold and Leasehold Reform Act 2002.

Agreement on adjustments relating to common parts

- 7
- (1) If A decides that it is reasonable to take a step for the purposes of paragraph 5, A and the disabled person must agree in writing the rights and responsibilities of each of them in relation to the step.
 - (2) An agreement under this paragraph must, in particular, make provision as to the responsibilities of the parties in relation to—
 - (a) the costs of any work to be undertaken;
 - (b) other costs arising from the work;
 - (c) the restoration of the common parts to their former condition if the relevant disabled person stops living in the premises.
 - (3) It is always reasonable before the agreement is made for A to insist that the agreement should require the disabled person to pay—
 - (a) the costs referred to in paragraphs (a) and (b) of sub-paragraph (2), and
 - (b) the costs of the restoration referred to in paragraph (c) of that sub-paragraph.
 - (4) If an agreement under this paragraph is made, A's obligations under the agreement become part of A's interest in the common parts and pass on subsequent disposals accordingly.
 - (5) Regulations may require a party to an agreement under this paragraph to provide, in prescribed circumstances, prescribed information about the agreement to persons of a prescribed description.
 - (6) The regulations may require the information to be provided in a prescribed form.
 - (7) Regulations may make provision as to circumstances in which an agreement under this paragraph is to cease to have effect, in so far as the agreement does not itself make provision for termination.

Victimisation

- 8 (1) This paragraph applies where the relevant disabled person comes within paragraph 2(4)(b), 4(4)(b) or 5(4)(c).
- (2) A must not, because of costs incurred in connection with taking steps to comply with a requirement imposed for the purposes of paragraph 2, 4 or 5, subject to a detriment—
- (a) a tenant of the premises, or
 - (b) the unit-holder.

Regulations

- 9 (1) This paragraph applies for the purposes of section 36 and this Schedule.
- (2) Regulations may make provision as to—
- (a) circumstances in which premises are to be treated as let, or as not let, to a person;
 - (b) circumstances in which premises are to be treated as being, or as not being, to let;
 - (c) who is to be treated as being, or as not being, a person entitled to occupy premises otherwise than as tenant or unit-holder;
 - (d) who is to be treated as being, or as not being, a person by whom premises are let;
 - (e) who is to be treated as having, or as not having, premises to let;
 - (f) who is to be treated as being, or as not being, a manager of premises.
- (3) Provision made by virtue of this paragraph may amend this Schedule.

SCHEDULE 5

Section 38

PREMISES: EXCEPTIONS

Owner-occupier

- 1 (1) This paragraph applies to the private disposal of premises by an owner-occupier.
- (2) A disposal is a private disposal only if the owner-occupier does not—
- (a) use the services of an estate agent for the purpose of disposing of the premises, or
 - (b) publish (or cause to be published) an advertisement in connection with their disposal.
- (3) Section 33(1) applies only in so far as it relates to race.
- (4) Section 34(1) does not apply in so far as it relates to—
- (a) religion or belief, or
 - (b) sexual orientation.
- (5) In this paragraph—

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“estate agent” means a person who, by way of profession or trade, provides services for the purpose of—

- (a) finding premises for persons seeking them, or
- (b) assisting in the disposal of premises;

“owner-occupier” means a person who—

- (a) owns an estate or interest in premises, and
- (b) occupies the whole of them.

- 2 (1) Section 36(1)(a) does not apply if—
 - (a) the premises are, or have been, the only or main home of a person by whom they are let, and
 - (b) since entering into the letting, neither that person nor any other by whom they are let has used a manager for managing the premises.
- (2) A manager is a person who, by profession or trade, manages let premises.
- (3) Section 36(1)(b) does not apply if—
 - (a) the premises are, or have been, the only or main home of a person who has them to let, and
 - (b) neither that person nor any other who has the premises to let uses the services of an estate agent for letting the premises.
- (4) “Estate agent” has the meaning given in paragraph 1.

Small premises

- 3 (1) This paragraph applies to anything done by a person in relation to the disposal, occupation or management of part of small premises if—
 - (a) the person or a relative of that person resides, and intends to continue to reside, in another part of the premises, and
 - (b) the premises include parts (other than storage areas and means of access) shared with residents of the premises who are not members of the same household as the resident mentioned in paragraph (a).
- (2) Sections 33(1), 34(1) and 35(1) apply only in so far as they relate to race.
- (3) Premises are small if—
 - (a) the only other persons occupying the accommodation occupied by the resident mentioned in sub-paragraph (1)(a) are members of the same household,
 - (b) the premises also include accommodation for at least one other household,
 - (c) the accommodation for each of those other households is let, or available for letting, on a separate tenancy or similar agreement, and
 - (d) the premises are not normally sufficient to accommodate more than two other households.
- (4) Premises are also small if they are not normally sufficient to provide residential accommodation for more than six persons (in addition to the resident mentioned in sub-paragraph (1)(a) and members of the same household).
- (5) In this paragraph, “relative” means—
 - (a) spouse or civil partner,
 - (b) unmarried partner,

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- (c) parent or grandparent,
 - (d) child or grandchild (whether or not legitimate),
 - (e) the spouse, civil partner or unmarried partner of a child or grandchild,
 - (f) brother or sister (whether of full blood or half-blood), or
 - (g) a relative within paragraph (c), (d), (e) or (f) whose relationship arises as a result of marriage or civil partnership.
- (6) In sub-paragraph (5), a reference to an unmarried partner is a reference to the other member of a couple consisting of—
- (a) a man and a woman who are not married to each other but are living together as husband and wife, or
 - (b) two people of the same sex who are not civil partners of each other but are living together as if they were.
- 4 (1) Section 36(1) does not apply if—
- (a) the premises in question are small premises,
 - (b) the relevant person or a relative of that person resides, and intends to continue to reside, in another part of the premises, and
 - (c) the premises include parts (other than storage areas and means of access) shared with residents of the premises who are not members of the same household as the resident mentioned in paragraph (b).
- (2) The relevant person is the person who, for the purposes of section 36(1), is—
- (a) the controller of the premises, or
 - (b) the responsible person in relation to the common parts to which the premises relate.
- (3) “Small premises” and “relative” have the same meaning as in paragraph 3.
- 5 A Minister of the Crown may by order amend paragraph 3 or 4.

SCHEDULE 6

Section 52

OFFICE-HOLDERS: EXCLUDED OFFICES

Work to which other provisions apply

- 1 (1) An office or post is not a personal or public office in so far as one or more of the provisions mentioned in sub-paragraph (2)—
- (a) applies in relation to the office or post, or
 - (b) would apply in relation to the office or post but for the operation of some other provision of this Act.
- (2) Those provisions are—
- (a) section 39 (employment);
 - (b) section 41 (contract work);
 - (c) section 44 (partnerships).
 - (d) section 45 (LLPs);
 - (e) section 47 (barristers);
 - (f) section 48 (advocates);

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- (g) section 55 (employment services) so far as applying to the provision of work experience within section 56(2)(a) or arrangements within section 56(2)(c) for such provision.

Political offices

- 2 (1) An office or post is not a personal or public office if it is a political office.
- (2) A political office is an office or post set out in the second column of the following Table—

<i>Political setting</i>	<i>Office or post</i>
Houses of Parliament	<p>An office of the House of Commons held by a member of that House</p> <p>An office of the House of Lords held by a member of that House</p> <p>A Ministerial office within the meaning of section 2 of the House of Commons Disqualification Act 1975</p> <p>The office of the Leader of the Opposition within the meaning of the Ministerial and other Salaries Act 1975</p> <p>The office of the Chief Opposition Whip, or of an Assistant Opposition Whip, within the meaning of that Act</p>
Scottish Parliament	<p>An office of the Scottish Parliament held by a member of the Parliament</p> <p>The office of a member of the Scottish Executive</p> <p>The office of a junior Scottish Minister</p>
National Assembly for Wales	<p>An office of the National Assembly for Wales held by a member of the Assembly</p> <p>The office of a member of the Welsh Assembly Government</p>
Local government in England (outside London)	<p>An office of a county council, district council or parish council in England held by a member of the council</p> <p>An office of the Council of the Isles of Scilly held by a member of the Council</p>
Local government in London	<p>An office of the Greater London Authority held by the Mayor of London or a member of the London Assembly</p> <p>An office of a London borough council held by a member of the council</p> <p>An office of the Common Council of the City of London held by a member of the Council</p>

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<i>Political setting</i>	<i>Office or post</i>
Local government in Wales	An office of a county council, county borough council or community council in Wales held by a member of the council
Local government in Scotland	An office of a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 held by a member of the council An office of a council established under section 51 of the Local Government (Scotland) Act 1973 held by a member of the council
Political parties	An office of a registered political party

- (3) The reference to a registered political party is a reference to a party registered in the Great Britain register under Part 2 of the Political Parties, Elections and Referendums Act 2000.

Honours etc.

- 3 A life peerage (within the meaning of the [Life Peerages Act 1958](#)), or any other dignity or honour conferred by the Crown, is not a personal or public office.

SCHEDULE 7

Section 80

EQUALITY OF TERMS: EXCEPTIONS

PART 1

TERMS OF WORK

Compliance with laws regulating employment of women, etc.

- 1 Neither a sex equality clause nor a maternity equality clause has effect in relation to terms of work affected by compliance with laws regulating—
- (a) the employment of women;
 - (b) the appointment of women to personal or public offices.

Pregnancy, etc.

- 2 A sex equality clause does not have effect in relation to terms of work affording special treatment to women in connection with pregnancy or childbirth.

Status: This is the original version (as it was originally enacted).

PART 2

OCCUPATIONAL PENSION SCHEMES

Preliminary

- 3 (1) A sex equality rule does not have effect in relation to a difference as between men and women in the effect of a relevant matter if the difference is permitted by or by virtue of this Part of this Schedule.
- (2) “Relevant matter” has the meaning given in section 67.

State retirement pensions

- 4 (1) This paragraph applies where a man and a woman are eligible, in such circumstances as may be prescribed, to receive different amounts by way of pension.
- (2) The difference is permitted if, in prescribed circumstances, it is attributable only to differences between men and women in the retirement benefits to which, in prescribed circumstances, the man and woman are or would be entitled.
- (3) “Retirement benefits” are benefits under sections 43 to 55 of the Social Security Contributions and Benefits Act 1992 (state retirement pensions).

Actuarial factors

- 5 (1) A difference as between men and women is permitted if it consists of applying to the calculation of the employer’s contributions to an occupational pension scheme actuarial factors which—
- (a) differ for men and women, and
 - (b) are of such description as may be prescribed.
- (2) A difference as between men and women is permitted if it consists of applying to the determination of benefits of such description as may be prescribed actuarial factors which differ for men and women.

Power to amend

- 6 (1) Regulations may amend this Part of this Schedule so as to add, vary or omit provision about cases where a difference as between men and women in the effect of a relevant matter is permitted.
- (2) The regulations may make provision about pensionable service before the date on which they come into force (but not about pensionable service before 17 May 1990).

SCHEDULE 8

Section 83

WORK: REASONABLE ADJUSTMENTS

PART 1

INTRODUCTORY

Preliminary

- 1 This Schedule applies where a duty to make reasonable adjustments is imposed on A by this Part of this Act.

The duty

- 2 (1) A must comply with the first, second and third requirements.
- (2) For the purposes of this paragraph—
- (a) the reference in section 20(3) to a provision, criterion or practice is a reference to a provision, criterion or practice applied by or on behalf of A;
 - (b) the reference in section 20(4) to a physical feature is a reference to a physical feature of premises occupied by A;
 - (c) the reference in section 20(3), (4) or (5) to a disabled person is to an interested disabled person.
- (3) In relation to the first and third requirements, a relevant matter is any matter specified in the first column of the applicable table in Part 2 of this Schedule.
- (4) In relation to the second requirement, a relevant matter is—
- (a) a matter specified in the second entry of the first column of the applicable table in Part 2 of this Schedule, or
 - (b) where there is only one entry in a column, a matter specified there.
- (5) If two or more persons are subject to a duty to make reasonable adjustments in relation to the same interested disabled person, each of them must comply with the duty so far as it is reasonable for each of them to do so.
- 3 (1) This paragraph applies if a duty to make reasonable adjustments is imposed on A by section 55 (except where the employment service which A provides is the provision of vocational training within the meaning given by section 56(6)(b)).
- (2) The reference in section 20(3), (4) and (5) to a disabled person is a reference to an interested disabled person.
- (3) In relation to each requirement, the relevant matter is the employment service which A provides.
- (4) Sub-paragraph (5) of paragraph 2 applies for the purposes of this paragraph as it applies for the purposes of that paragraph.

Status: This is the original version (as it was originally enacted).

PART 2

INTERESTED DISABLED PERSON

Preliminary

- 4 An interested disabled person is a disabled person who, in relation to a relevant matter, is of a description specified in the second column of the applicable table in this Part of this Schedule.

Employers (see section 39)

- 5 (1) This paragraph applies where A is an employer.

<i>Relevant matter</i>	<i>Description of disabled person</i>
Deciding to whom to offer employment.	A person who is, or has notified A that the person may be, an applicant for the employment.
Employment by A.	An applicant for employment by A. An employee of A's.

- (2) Where A is the employer of a disabled contract worker (B), A must comply with the first, second and third requirements on each occasion when B is supplied to a principal to do contract work.
- (3) In relation to the first requirement (as it applies for the purposes of sub-paragraph (2))—
- (a) the reference in section 20(3) to a provision, criterion or practice is a reference to a provision, criterion or practice applied by or on behalf of all or most of the principals to whom B is or might be supplied,
 - (b) the reference to being put at a substantial disadvantage is a reference to being likely to be put at a substantial disadvantage that is the same or similar in the case of each of the principals referred to in paragraph (a), and
 - (c) the requirement imposed on A is a requirement to take such steps as it would be reasonable for A to have to take if the provision, criterion or practice were applied by or on behalf of A.
- (4) In relation to the second requirement (as it applies for the purposes of sub-paragraph (2))—
- (a) the reference in section 20(4) to a physical feature is a reference to a physical feature of premises occupied by each of the principals referred to in sub-paragraph (3)(a),
 - (b) the reference to being put at a substantial disadvantage is a reference to being likely to be put at a substantial disadvantage that is the same or similar in the case of each of those principals, and
 - (c) the requirement imposed on A is a requirement to take such steps as it would be reasonable for A to have to take if the premises were occupied by A.
- (5) In relation to the third requirement (as it applies for the purposes of sub-paragraph (2))—
- (a) the reference in section 20(5) to being put at a substantial disadvantage is a reference to being likely to be put at a substantial disadvantage that is

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- the same or similar in the case of each of the principals referred to in subparagraph (3)(a), and
- (b) the requirement imposed on A is a requirement to take such steps as it would be reasonable for A to have to take if A were the person to whom B was supplied.

Principals in contract work (see section 41)

- 6 (1) This paragraph applies where A is a principal.

<i>Relevant matter</i>	<i>Description of disabled person</i>
Contract work that A may make available.	A person who is, or has notified A that the person may be, an applicant to do the work.
Contract work that A makes available.	A person who is supplied to do the work.

- (2) A is not required to do anything that a disabled person's employer is required to do by virtue of paragraph 5.

Partnerships (see section 44)

- 7 (1) This paragraph applies where A is a firm or a proposed firm.

<i>Relevant matter</i>	<i>Description of disabled person</i>
Deciding to whom to offer a position as a partner.	A person who is, or has notified A that the person may be, a candidate for the position.
A position as a partner.	A candidate for the position. The partner who holds the position.

- (2) Where a firm or proposed firm (A) is required by this Schedule to take a step in relation to an interested disabled person (B)—
- (a) the cost of taking the step is to be treated as an expense of A;
- (b) the extent to which B should (if B is or becomes a partner) bear the cost is not to exceed such amount as is reasonable (having regard in particular to B's entitlement to share in A's profits).

LLPs (see section 45)

- 8 (1) This paragraph applies where A is an LLP or a proposed LLP.

<i>Relevant matter</i>	<i>Description of disabled person</i>
Deciding to whom to offer a position as a member.	A person who is, or has notified A that the person may be, a candidate for the position.
A position as a member.	A candidate for the position. The member who holds the position.

- (2) Where an LLP or proposed LLP (A) is required by this Schedule to take a step in relation to an interested disabled person (B)—

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- (a) the cost of taking the step is to be treated as an expense of A;
- (b) the extent to which B should (if B is or becomes a member) bear the cost is not to exceed such amount as is reasonable (having regard in particular to B's entitlement to share in A's profits).

Barristers and their clerks (see section 47)

9 This paragraph applies where A is a barrister or barrister's clerk.

<i>Relevant matter</i>	<i>Description of disabled person</i>
Deciding to whom to offer a pupillage or tenancy.	A person who is, or has notified A that the person may be, an applicant for the pupillage or tenancy.
A pupillage or tenancy.	An applicant for the pupillage or tenancy. The pupil or tenant.

Advocates and their clerks (see section 48)

10 This paragraph applies where A is an advocate or advocate's clerk.

<i>Relevant matter</i>	<i>Description of disabled person</i>
Deciding who to offer to take as a devil or to whom to offer membership of a stable.	A person who applies, or has notified A that the person may apply, to be taken as a devil or to become a member of the stable.
The relationship with a devil or membership of a stable.	An applicant to be taken as a devil or to become a member of the stable. The devil or member.

Persons making appointments to offices etc. (see sections 49 to 51)

11 This paragraph applies where A is a person who has the power to make an appointment to a personal or public office.

<i>Relevant matter</i>	<i>Description of disabled person</i>
Deciding to whom to offer the appointment.	A person who is, or has notified A that the person may be, seeking the appointment. A person who is being considered for the appointment.
Appointment to the office.	A person who is seeking, or being considered for, appointment to the office.

12 This paragraph applies where A is a relevant person in relation to a personal or public office.

<i>Relevant matter</i>	<i>Description of disabled person</i>
Appointment to the office.	A person appointed to the office.

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- 13 This paragraph applies where A is a person who has the power to make a recommendation for, or give approval to, an appointment to a public office.

<i>Relevant matter</i>	<i>Description of disabled person</i>
Deciding who to recommend or approve for appointment to the office.	A person who is, or has notified A that the person may be, seeking recommendation or approval for appointment to the office. A person who is being considered for recommendation or approval for appointment to the office.
An appointment to the office.	A person who is seeking, or being considered for, appointment to the office in question.

- 14 In relation to the second requirement in a case within paragraph 11, 12 or 13, the reference in paragraph 2(2)(b) to premises occupied by A is to be read as a reference to premises—

- (a) under the control of A, and
- (b) at or from which the functions of the office concerned are performed.

Qualifications bodies (see section 53)

- 15 (1) This paragraph applies where A is a qualifications body.

<i>Relevant matter</i>	<i>Description of disabled person</i>
Deciding upon whom to confer a relevant qualification.	A person who is, or has notified A that the person may be, an applicant for the conferment of the qualification.
Conferment by the body of a relevant qualification.	An applicant for the conferment of the qualification. A person who holds the qualification.

- (2) A provision, criterion or practice does not include the application of a competence standard.

Employment service-providers (see section 55)

- 16 This paragraph applies where—
- (a) A is an employment service-provider, and
 - (b) the employment service which A provides is vocational training within the meaning given by section 56(6)(b).

<i>Relevant matter</i>	<i>Description of disabled person</i>
Deciding to whom to offer to provide the service.	A person who is, or has notified A that the person may be, an applicant for the provision of the service.

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<i>Relevant matter</i>	<i>Description of disabled person</i>
Provision by A of the service.	A person who applies to A for the provision of the service. A person to whom A provides the service.

Trade organisations (see section 57)

17 This paragraph applies where A is a trade organisation.

<i>Relevant matter</i>	<i>Description of disabled person</i>
Deciding to whom to offer membership of the organisation.	A person who is, or has notified A that the person may be, an applicant for membership.
Membership of the organisation.	An applicant for membership. A member.

Local authorities (see section 58)

18 (1) This paragraph applies where A is a local authority.

<i>Relevant matter</i>	<i>Description of disabled person</i>
A member's carrying-out of official business.	The member.

- (2) Regulations may, for the purposes of a case within this paragraph, make provision—
- (a) as to circumstances in which a provision, criterion or practice is, or is not, to be taken to put a disabled person at the disadvantage referred to in the first requirement;
 - (b) as to circumstances in which a physical feature is, or is not, to be taken to put a disabled person at the disadvantage referred to in the second requirement;
 - (c) as to circumstances in which it is, or in which it is not, reasonable for a local authority to be required to take steps of a prescribed description;
 - (d) as to steps which it is always, or which it is never, reasonable for a local authority to take.

Occupational pensions (see section 61)

19 This paragraph applies where A is, in relation to an occupational pension scheme, a responsible person within the meaning of section 61.

<i>Relevant matter</i>	<i>Description of disabled person</i>
Carrying out A's functions in relation to the scheme.	A person who is or may be a member of the scheme.

PART 3

LIMITATIONS ON THE DUTY

Lack of knowledge of disability, etc.

- 20 (1) A is not subject to a duty to make reasonable adjustments if A does not know, and could not reasonably be expected to know—
- (a) in the case of an applicant or potential applicant, that an interested disabled person is or may be an applicant for the work in question;
 - (b) in any other case referred to in this Part of this Schedule, that an interested disabled person has a disability and is likely to be placed at the disadvantage referred to in the first, second or third requirement.
- (2) An applicant is, in relation to the description of A specified in the first column of the table, a person of a description specified in the second column (and the reference to a potential applicant is to be construed accordingly).

<i>Description of A</i>	<i>Applicant</i>
An employer	An applicant for employment
A firm or proposed firm	A candidate for a position as a partner
An LLP or proposed LLP	A candidate for a position as a member
A barrister or barrister's clerk	An applicant for a pupillage or tenancy
An advocate or advocate's clerk	An applicant for being taken as an advocate's devil or for becoming a member of a stable
A relevant person in relation to a personal or public office	A person who is seeking appointment to, or recommendation or approval for appointment to, the office
A qualifications body	An applicant for the conferment of a relevant qualification
An employment service-provider	An applicant for the provision of an employment service
A trade organisation	An applicant for membership

- (3) If the duty to make reasonable adjustments is imposed on A by section 55, this paragraph applies only in so far as the employment service which A provides is vocational training within the meaning given by section 56(6)(b).

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SCHEDULE 9

Section 83

WORK: EXCEPTIONS

PART 1

OCCUPATIONAL REQUIREMENTS

General

- 1 (1) A person (A) does not contravene a provision mentioned in sub-paragraph (2) by applying in relation to work a requirement to have a particular protected characteristic, if A shows that, having regard to the nature or context of the work—
- (a) it is an occupational requirement,
 - (b) the application of the requirement is a proportionate means of achieving a legitimate aim, and
 - (c) the person to whom A applies the requirement does not meet it (or A has reasonable grounds for not being satisfied that the person meets it).
- (2) The provisions are—
- (a) section 39(1)(a) or (c) or (2)(b) or (c);
 - (b) section 41(1)(b);
 - (c) section 44(1)(a) or (c) or (2)(b) or (c);
 - (d) section 45(1)(a) or (c) or (2)(b) or (c);
 - (e) section 49(3)(a) or (c) or (6)(b) or (c);
 - (f) section 50(3)(a) or (c) or (6)(b) or (c);
 - (g) section 51(1).
- (3) The references in sub-paragraph (1) to a requirement to have a protected characteristic are to be read—
- (a) in the case of gender reassignment, as references to a requirement not to be a transsexual person (and section 7(3) is accordingly to be ignored);
 - (b) in the case of marriage and civil partnership, as references to a requirement not to be married or a civil partner (and section 8(2) is accordingly to be ignored).
- (4) In the case of a requirement to be of a particular sex, sub-paragraph (1) has effect as if in paragraph (c), the words from “(or” to the end were omitted.

Religious requirements relating to sex, marriage etc., sexual orientation

- 2 (1) A person (A) does not contravene a provision mentioned in sub-paragraph (2) by applying in relation to employment a requirement to which sub-paragraph (4) applies if A shows that—
- (a) the employment is for the purposes of an organised religion,
 - (b) the application of the requirement engages the compliance or non-conflict principle, and
 - (c) the person to whom A applies the requirement does not meet it (or A has reasonable grounds for not being satisfied that the person meets it).
- (2) The provisions are—

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- (a) section 39(1)(a) or (c) or (2)(b) or (c);
 - (b) section 49(3)(a) or (c) or (6)(b) or (c);
 - (c) section 50(3)(a) or (c) or (6)(b) or (c);
 - (d) section 51(1).
- (3) A person does not contravene section 53(1) or (2)(a) or (b) by applying in relation to a relevant qualification (within the meaning of that section) a requirement to which sub-paragraph (4) applies if the person shows that—
- (a) the qualification is for the purposes of employment mentioned in sub-paragraph (1)(a), and
 - (b) the application of the requirement engages the compliance or non-conflict principle.
- (4) This sub-paragraph applies to—
- (a) a requirement to be of a particular sex;
 - (b) a requirement not to be a transsexual person;
 - (c) a requirement not to be married or a civil partner;
 - (d) a requirement not to be married to, or the civil partner of, a person who has a living former spouse or civil partner;
 - (e) a requirement relating to circumstances in which a marriage or civil partnership came to an end;
 - (f) a requirement related to sexual orientation.
- (5) The application of a requirement engages the compliance principle if the requirement is applied so as to comply with the doctrines of the religion.
- (6) The application of a requirement engages the non-conflict principle if, because of the nature or context of the employment, the requirement is applied so as to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers.
- (7) A reference to employment includes a reference to an appointment to a personal or public office.
- (8) In the case of a requirement within sub-paragraph (4)(a), sub-paragraph (1) has effect as if in paragraph (c) the words from “(or” to the end were omitted.

Other requirements relating to religion or belief

- 3 A person (A) with an ethos based on religion or belief does not contravene a provision mentioned in paragraph 1(2) by applying in relation to work a requirement to be of a particular religion or belief if A shows that, having regard to that ethos and to the nature or context of the work—
- (a) it is an occupational requirement,
 - (b) the application of the requirement is a proportionate means of achieving a legitimate aim, and
 - (c) the person to whom A applies the requirement does not meet it (or A has reasonable grounds for not being satisfied that the person meets it).

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Armed forces

- 4 (1) A person does not contravene section 39(1)(a) or (c) or (2)(b) by applying in relation to service in the armed forces a relevant requirement if the person shows that the application is a proportionate means of ensuring the combat effectiveness of the armed forces.
- (2) A relevant requirement is—
- (a) a requirement to be a man;
 - (b) a requirement not to be a transsexual person.
- (3) This Part of this Act, so far as relating to age or disability, does not apply to service in the armed forces; and section 55, so far as relating to disability, does not apply to work experience in the armed forces.

Employment services

- 5 (1) A person (A) does not contravene section 55(1) or (2) if A shows that A's treatment of another person relates only to work the offer of which could be refused to that other person in reliance on paragraph 1, 2, 3 or 4.
- (2) A person (A) does not contravene section 55(1) or (2) if A shows that A's treatment of another person relates only to training for work of a description mentioned in sub-paragraph (1).
- (3) A person (A) does not contravene section 55(1) or (2) if A shows that—
- (a) A acted in reliance on a statement made to A by a person with the power to offer the work in question to the effect that, by virtue of sub-paragraph (1) or (2), A's action would be lawful, and
 - (b) it was reasonable for A to rely on the statement.
- (4) A person commits an offence by knowingly or recklessly making a statement such as is mentioned in sub-paragraph (3)(a) which in a material respect is false or misleading.
- (5) A person guilty of an offence under sub-paragraph (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Interpretation

- 6 (1) This paragraph applies for the purposes of this Part of this Schedule.
- (2) A reference to contravening a provision of this Act is a reference to contravening that provision by virtue of section 13.
- (3) A reference to work is a reference to employment, contract work, a position as a partner or as a member of an LLP, or an appointment to a personal or public office.
- (4) A reference to a person includes a reference to an organisation.
- (5) A reference to section 39(2)(b), 44(2)(b), 45(2)(b), 49(6)(b) or 50(6)(b) is to be read as a reference to that provision with the omission of the words "or for receiving any other benefit, facility or service".

- (6) A reference to section 39(2)(c), 44(2)(c), 45(2)(c), 49(6)(c), 50(6)(c), 53(2)(a) or 55(2)(c) (dismissal, etc.) does not include a reference to that provision so far as relating to sex.
- (7) The reference to paragraph (b) of section 41(1), so far as relating to sex, is to be read as if that paragraph read—
- “(b) by not allowing the worker to do the work.”

PART 2

EXCEPTIONS RELATING TO AGE

Preliminary

- 7 For the purposes of this Part of this Schedule, a reference to an age contravention is a reference to a contravention of this Part of this Act, so far as relating to age.

Retirement

- 8 (1) It is not an age contravention to dismiss a relevant worker at or over the age of 65 if the reason for the dismissal is retirement.
- (2) Each of the following is a relevant worker—
- (a) an employee within the meaning of section 230(1) of the [Employment Rights Act 1996](#);
 - (b) a person in Crown employment;
 - (c) a relevant member of the House of Commons staff;
 - (d) a relevant member of the House of Lords staff.
- (3) Retirement is a reason for dismissal only if it is a reason for dismissal by virtue of Part 10 of the [Employment Rights Act 1996](#).

Applicants at or approaching retirement age

- 9 (1) A person does not contravene section 39(1)(a) or (c), so far as relating to age, in a case where the other person—
- (a) has attained the age limit, or would have attained it before the end of six months beginning with the date on which the application for the employment had to be made, and
 - (b) would, if recruited for the employment, be a relevant worker within the meaning of paragraph 8.
- (2) The age limit is whichever is the greater of—
- (a) the age of 65, and
 - (b) the normal retirement age in the case of the employment concerned.
- (3) The reference to the normal retirement age is to be construed in accordance with section 98ZH of the [Employment Rights Act 1996](#).

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Benefits based on length of service

- 10 (1) It is not an age contravention for a person (A) to put a person (B) at a disadvantage when compared with another (C), in relation to the provision of a benefit, facility or service in so far as the disadvantage is because B has a shorter period of service than C.
- (2) If B's period of service exceeds 5 years, A may rely on sub-paragraph (1) only if A reasonably believes that doing so fulfils a business need.
- (3) A person's period of service is whichever of the following A chooses—
- (a) the period for which the person has been working for A at or above a level (assessed by reference to the demands made on the person) that A reasonably regards as appropriate for the purposes of this paragraph, or
 - (b) the period for which the person has been working for A at any level.
- (4) The period for which a person has been working for A must be based on the number of weeks during the whole or part of which the person has worked for A.
- (5) But for that purpose A may, so far as is reasonable, discount—
- (a) periods of absence;
 - (b) periods that A reasonably regards as related to periods of absence.
- (6) For the purposes of sub-paragraph (3)(b), a person is to be treated as having worked for A during any period in which the person worked for a person other than A if—
- (a) that period counts as a period of employment with A as a result of section 218 of the [Employment Rights Act 1996](#), or
 - (b) if sub-paragraph (a) does not apply, that period is treated as a period of employment by an enactment pursuant to which the person's employment was transferred to A.
- (7) For the purposes of this paragraph, the reference to a benefit, facility or service does not include a reference to a benefit, facility or service which may be provided only by virtue of a person's ceasing to work.

The national minimum wage: young workers

- 11 (1) It is not an age contravention for a person to pay a young worker (A) at a lower rate than that at which the person pays an older worker (B) if—
- (a) the hourly rate for the national minimum wage for a person of A's age is lower than that for a person of B's age, and
 - (b) the rate at which A is paid is below the single hourly rate.
- (2) A young worker is a person who qualifies for the national minimum wage at a lower rate than the single hourly rate; and an older worker is a person who qualifies for the national minimum wage at a higher rate than that at which the young worker qualifies for it.
- (3) The single hourly rate is the rate prescribed under section 1(3) of the [National Minimum Wage Act 1998](#).

The national minimum wage: apprentices

- 12 (1) It is not an age contravention for a person to pay an apprentice who does not qualify for the national minimum wage at a lower rate than the person pays an apprentice who does.
- (2) An apprentice is a person who—
- (a) is employed under a contract of apprenticeship, or
 - (b) as a result of provision made by virtue of section 3(2)(a) of the National Minimum Wage Act 1998 (persons not qualifying), is treated as employed under a contract of apprenticeship.

Redundancy

- 13 (1) It is not an age contravention for a person to give a qualifying employee an enhanced redundancy payment of an amount less than that of an enhanced redundancy payment which the person gives to another qualifying employee, if each amount is calculated on the same basis.
- (2) It is not an age contravention to give enhanced redundancy payments only to those who are qualifying employees by virtue of sub-paragraph (3)(a) or (b).
- (3) A person is a qualifying employee if the person—
- (a) is entitled to a redundancy payment as a result of section 135 of the [Employment Rights Act 1996](#),
 - (b) agrees to the termination of the employment in circumstances where the person would, if dismissed, have been so entitled,
 - (c) would have been so entitled but for section 155 of that Act (requirement for two years' continuous employment), or
 - (d) agrees to the termination of the employment in circumstances where the person would, if dismissed, have been so entitled but for that section.
- (4) An enhanced redundancy payment is a payment the amount of which is, subject to sub-paragraphs (5) and (6), calculated in accordance with section 162(1) to (3) of the [Employment Rights Act 1996](#).
- (5) A person making a calculation for the purposes of sub-paragraph (4)—
- (a) may treat a week's pay as not being subject to a maximum amount;
 - (b) may treat a week's pay as being subject to a maximum amount above that for the time being specified in section 227(1) of the [Employment Rights Act 1996](#);
 - (c) may multiply the appropriate amount for each year of employment by a figure of more than one.
- (6) Having made a calculation for the purposes of sub-paragraph (4) (whether or not in reliance on sub-paragraph (5)), a person may multiply the amount calculated by a figure of more than one.
- (7) In sub-paragraph (5), “the appropriate amount” has the meaning given in section 162 of the [Employment Rights Act 1996](#), and “a week's pay” is to be read with Chapter 2 of Part 14 of that Act.
- (8) For the purposes of sub-paragraphs (4) to (6), the reference to “the relevant date” in subsection (1)(a) of section 162 of that Act is, in the case of a person who is a

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qualifying employee by virtue of sub-paragraph (3)(b) or (d), to be read as reference to the date of the termination of the employment.

Life assurance

- 14 (1) This paragraph applies if a person (A) takes early retirement because of ill health.
- (2) It is not an age contravention to provide A with life assurance cover for the period starting when A retires and ending—
- (a) if there is a normal retirement age, when A attains the normal retirement age;
 - (b) in any other case, when A attains the age of 65.
- (3) The normal retirement age in relation to A is the age at which, when A retires, persons holding comparable positions in the same undertaking are normally required to retire.

Child care

- 15 (1) A person does not contravene a relevant provision, so far as relating to age, only by providing, or making arrangements for or facilitating the provision of, care for children of a particular age group.
- (2) The relevant provisions are—
- (a) section 39(2)(b);
 - (b) section 41(1)(c);
 - (c) section 44(2)(b);
 - (d) section 45(2)(b);
 - (e) section 47(2)(b);
 - (f) section 48(2)(b);
 - (g) section 49(6)(b);
 - (h) section 50(6)(b);
 - (i) section 57(2)(a);
 - (j) section 58(3)(a).
- (3) Facilitating the provision of care for a child includes—
- (a) paying for some or all of the cost of the provision;
 - (b) helping a parent of the child to find a suitable person to provide care for the child;
 - (c) enabling a parent of the child to spend more time providing care for the child or otherwise assisting the parent with respect to the care that the parent provides for the child.
- (4) A child is a person who has not attained the age of 17.
- (5) A reference to care includes a reference to supervision.

Contributions to personal pension schemes

- 16 (1) A Minister of the Crown may by order provide that it is not an age contravention for an employer to maintain or use, with respect to contributions to personal pension schemes, practices, actions or decisions relating to age which are of a specified description.

- (2) An order authorising the use of practices, actions or decisions which are not in use before the order comes into force must not be made unless the Minister consults such persons as the Minister thinks appropriate.
- (3) “Personal pension scheme” has the meaning given in section 1 of the Pension Schemes Act 1993; and “employer”, in relation to a personal pension scheme, has the meaning given in section 318(1) of the Pensions Act 2004.

PART 3

OTHER EXCEPTIONS

Non-contractual payments to women on maternity leave

- 17
- (1) A person does not contravene section 39(1)(b) or (2), so far as relating to pregnancy and maternity, by depriving a woman who is on maternity leave of any benefit from the terms of her employment relating to pay.
 - (2) The reference in sub-paragraph (1) to benefit from the terms of a woman’s employment relating to pay does not include a reference to—
 - (a) maternity-related pay (including maternity-related pay that is increase-related),
 - (b) pay (including increase-related pay) in respect of times when she is not on maternity leave, or
 - (c) pay by way of bonus in respect of times when she is on compulsory maternity leave.
 - (3) For the purposes of sub-paragraph (2), pay is increase-related in so far as it is to be calculated by reference to increases in pay that the woman would have received had she not been on maternity leave.
 - (4) A reference to terms of her employment is a reference to terms of her employment that are not in her contract of employment, her contract of apprenticeship or her contract to do work personally.
 - (5) “Pay” means benefits—
 - (a) that consist of the payment of money to an employee by way of wages or salary, and
 - (b) that are not benefits whose provision is regulated by the contract referred to in sub-paragraph (4).
 - (6) “Maternity-related pay” means pay to which a woman is entitled—
 - (a) as a result of being pregnant, or
 - (b) in respect of times when she is on maternity leave.

Benefits dependent on marital status, etc.

- 18
- (1) A person does not contravene this Part of this Act, so far as relating to sexual orientation, by doing anything which prevents or restricts a person who is not married from having access to a benefit, facility or service—
 - (a) the right to which accrued before 5 December 2005 (the day on which section 1 of the [Civil Partnership Act 2004](#) came into force), or

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- (b) which is payable in respect of periods of service before that date.
- (2) A person does not contravene this Part of this Act, so far as relating to sexual orientation, by providing married persons and civil partners (to the exclusion of all other persons) with access to a benefit, facility or service.

Provision of services etc. to the public

- 19 (1) A does not contravene a provision mentioned in sub-paragraph (2) in relation to the provision of a benefit, facility or service to B if A is concerned with the provision (for payment or not) of a benefit, facility or service of the same description to the public.
- (2) The provisions are—
- (a) section 39(2) and (4);
 - (b) section 41(1) and (3);
 - (c) sections 44(2) and (6) and 45(2) and (6);
 - (d) sections 49(6) and (8) and 50(6), (7), (9) and (10).
- (3) Sub-paragraph (1) does not apply if—
- (a) the provision by A to the public differs in a material respect from the provision by A to comparable persons,
 - (b) the provision to B is regulated by B’s terms, or
 - (c) the benefit, facility or service relates to training.
- (4) “Comparable persons” means—
- (a) in relation to section 39(2) or (4), the other employees;
 - (b) in relation to section 41(1) or (3), the other contract workers supplied to the principal;
 - (c) in relation to section 44(2) or (6), the other partners of the firm;
 - (d) in relation to section 45(2) or (6), the other members of the LLP;
 - (e) in relation to section 49(6) or (8) or 50(6), (7), (9) or (10), persons holding offices or posts not materially different from that held by B.
- (5) “B’s terms” means—
- (a) the terms of B’s employment,
 - (b) the terms on which the principal allows B to do the contract work,
 - (c) the terms on which B has the position as a partner or member, or
 - (d) the terms of B’s appointment to the office.
- (6) A reference to the public includes a reference to a section of the public which includes B.

Insurance contracts, etc.

- 20 (1) It is not a contravention of this Part of this Act, so far as relating to relevant discrimination, to do anything in relation to an annuity, life insurance policy, accident insurance policy or similar matter involving the assessment of risk if—
- (a) that thing is done by reference to actuarial or other data from a source on which it is reasonable to rely, and
 - (b) it is reasonable to do it.
- (2) “Relevant discrimination” is—

- (a) gender reassignment discrimination;
- (b) marriage and civil partnership discrimination;
- (c) pregnancy and maternity discrimination;
- (d) sex discrimination.

SCHEDULE 10

Section 88

ACCESSIBILITY FOR DISABLED PUPILS

Accessibility strategies

- 1 (1) A local authority in England and Wales must, in relation to schools for which it is the responsible body, prepare—
 - (a) an accessibility strategy;
 - (b) further such strategies at such times as may be prescribed.
 - (2) An accessibility strategy is a strategy for, over a prescribed period—
 - (a) increasing the extent to which disabled pupils can participate in the schools' curriculums;
 - (b) improving the physical environment of the schools for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the schools;
 - (c) improving the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled.
 - (3) The delivery in sub-paragraph (2)(c) must be—
 - (a) within a reasonable time;
 - (b) in ways which are determined after taking account of the pupils' disabilities and any preferences expressed by them or their parents.
 - (4) An accessibility strategy must be in writing.
 - (5) A local authority must keep its accessibility strategy under review during the period to which it relates and, if necessary, revise it.
 - (6) A local authority must implement its accessibility strategy.
- 2 (1) In preparing its accessibility strategy, a local authority must have regard to—
 - (a) the need to allocate adequate resources for implementing the strategy;
 - (b) guidance as to the matters mentioned in sub-paragraph (3).
 - (2) The authority must also have regard to guidance as to compliance with paragraph 1(5).
 - (3) The matters are—
 - (a) the content of an accessibility strategy;
 - (b) the form in which it is to be produced;
 - (c) persons to be consulted in its preparation.
 - (4) Guidance may be issued—

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- (a) for England, by a Minister of the Crown;
 - (b) for Wales, by the Welsh Ministers.
- (5) A local authority must, if asked, make a copy of its accessibility strategy available for inspection at such reasonable times as it decides.
- (6) A local authority in England must, if asked by a Minister of the Crown, give the Minister a copy of its accessibility strategy.
- (7) A local authority in Wales must, if asked by the Welsh Ministers, give them a copy of its accessibility strategy.

Accessibility plans

- 3 (1) The responsible body of a school in England and Wales must prepare—
- (a) an accessibility plan;
 - (b) further such plans at such times as may be prescribed.
- (2) An accessibility plan is a plan for, over a prescribed period—
- (a) increasing the extent to which disabled pupils can participate in the school's curriculum,
 - (b) improving the physical environment of the school for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the school, and
 - (c) improving the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled.
- (3) The delivery in sub-paragraph (2)(c) must be—
- (a) within a reasonable time;
 - (b) in ways which are determined after taking account of the pupils' disabilities and any preferences expressed by them or their parents.
- (4) An accessibility plan must be in writing.
- (5) The responsible body must keep its accessibility plan under review during the period to which it relates and, if necessary, revise it.
- (6) The responsible body must implement its accessibility plan.
- (7) A relevant inspection may extend to the performance by the responsible body of its functions in relation to the preparation, publication, review, revision and implementation of its accessibility plan.
- (8) A relevant inspection is an inspection under—
- (a) Part 1 of the [Education Act 2005](#), or
 - (b) Chapter 1 of Part 4 of the Education and Skills Act 2008 (regulation and inspection of independent education provision in England).
- 4 (1) In preparing an accessibility plan, the responsible body must have regard to the need to allocate adequate resources for implementing the plan.
- (2) The proprietor of an independent educational institution (other than an Academy) must, if asked, make a copy of the school's accessibility plan available for inspection at such reasonable times as the proprietor decides.

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- (3) The proprietor of an independent educational institution in England (other than an Academy) must, if asked by a Minister of the Crown, give the Minister a copy of the school's accessibility plan.
- (4) The proprietor of an independent school in Wales (other than an Academy) must, if asked by the Welsh Ministers, give them a copy of the school's accessibility plan.

Power of direction

- 5 (1) This sub-paragraph applies if the appropriate authority is satisfied (whether or not on a complaint) that a responsible body—
 - (a) has acted or is proposing to act unreasonably in the discharge of a duty under this Schedule, or
 - (b) has failed to discharge such a duty.
- (2) This sub-paragraph applies if the appropriate authority is satisfied (whether or not on a complaint) that a responsible body of a school specified in sub-paragraph (3)—
 - (a) has acted or is proposing to act unreasonably in the discharge of a duty the body has in relation to the provision to the authority of copies of the body's accessibility plan or the inspection of that plan, or
 - (b) has failed to discharge the duty.
- (3) The schools are—
 - (a) schools approved under section 342 of the [Education Act 1996](#) (non-maintained special schools);
 - (b) Academies.
- (4) This sub-paragraph applies if a Tribunal has made an order under paragraph 5 of Schedule 17 and the appropriate authority is satisfied (whether or not on a complaint) that the responsible body concerned—
 - (a) has acted or is proposing to act unreasonably in complying with the order, or
 - (b) has failed to comply with the order.
- (5) If sub-paragraph (1), (2) or (4) applies, the appropriate authority may give a responsible body such directions as the authority thinks expedient as to—
 - (a) the discharge by the body of the duty, or
 - (b) compliance by the body with the order.
- (6) A direction may be given in relation to sub-paragraph (1) or (2) even if the performance of the duty is contingent on the opinion of the responsible body.
- (7) A direction may not, unless sub-paragraph (8) applies, be given to the responsible body of a school in England in respect of a matter—
 - (a) that has been complained about to a Local Commissioner in accordance with Chapter 2 of Part 10 of the Apprenticeships, Skills, Children and Learning Act 2009 (parental complaints against governing bodies etc.), or
 - (b) that the appropriate authority thinks could have been so complained about.
- (8) This sub-paragraph applies if—
 - (a) the Local Commissioner has made a recommendation to the responsible body under section 211(4) of the Apprenticeships, Skills, Children and Learning Act 2009 (statement following investigation) in respect of the matter, and

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- (b) the responsible body has not complied with the recommendation.
- (9) A direction—
- (a) may be varied or revoked by the appropriate authority;
 - (b) may be enforced, on the application of the appropriate authority, by a mandatory order obtained in accordance with section 31 of the Senior Courts Act 1981.
- (10) The appropriate authority is—
- (a) in relation to the responsible body of a school in England, the Secretary of State;
 - (b) in relation to the responsible body of a school in Wales, the Welsh Ministers.

Supplementary

- 6 (1) This paragraph applies for the purposes of this Schedule.
- (2) Regulations may prescribe services which are, or are not, to be regarded as being—
- (a) education;
 - (b) a benefit, facility or service.
- (3) The power to make regulations is exercisable by—
- (a) in relation to England, a Minister of the Crown;
 - (b) in relation to Wales, the Welsh Ministers.
- (4) “Disabled pupil” includes a disabled person who may be admitted to the school as a pupil.
- (5) “Responsible body” means—
- (a) in relation to a maintained school or a maintained nursery school, the local authority or governing body;
 - (b) in relation to a pupil referral unit, the local authority;
 - (c) in relation to an independent educational institution, the proprietor;
 - (d) in relation to a special school not maintained by a local authority, the proprietor.
- (6) “Governing body”, in relation to a maintained school, means the body corporate (constituted in accordance with regulations under section 19 of the [Education Act 2002](#)) which the school has as a result of that section.
- (7) “Maintained school” has the meaning given in section 20 of the School Standards and Framework Act 1998; and “maintained nursery school” has the meaning given in section 22 of that Act.

SCHEDULE 11

Section 89

SCHOOLS: EXCEPTIONS

PART 1

SEX DISCRIMINATION

Admission to single-sex schools

- 1 (1) Section 85(1), so far as relating to sex, does not apply in relation to a single-sex school.
- (2) A single-sex school is a school which—
 - (a) admits pupils of one sex only, or
 - (b) on the basis of the assumption in sub-paragraph (3), would be taken to admit pupils of one sex only.
- (3) That assumption is that pupils of the opposite sex are to be disregarded if—
 - (a) their admission to the school is exceptional, or
 - (b) their numbers are comparatively small and their admission is confined to particular courses or classes.
- (4) In the case of a school which is a single-sex school by virtue of sub-paragraph (3)(b), section 85(2)(a) to (d), so far as relating to sex, does not prohibit confining pupils of the same sex to particular courses or classes.

Single-sex boarding at schools

- 2 (1) Section 85(1), so far as relating to sex, does not apply in relation to admission as a boarder to a school to which this paragraph applies.
- (2) Section 85(2)(a) to (d), so far as relating to sex, does not apply in relation to boarding facilities at a school to which this paragraph applies.
- (3) This paragraph applies to a school (other than a single-sex school) which has some pupils as boarders and others as non-boarders and which—
 - (a) admits as boarders pupils of one sex only, or
 - (b) on the basis of the assumption in sub-paragraph (4), would be taken to admit as boarders pupils of one sex only.
- (4) That assumption is that pupils of the opposite sex admitted as boarders are to be disregarded if their numbers are small compared to the numbers of other pupils admitted as boarders.

Single-sex schools turning co-educational

- 3 (1) If the responsible body of a single-sex school decides to alter its admissions arrangements so that the school will cease to be a single-sex school, the body may apply for a transitional exemption order in relation to the school.
- (2) If the responsible body of a school to which paragraph 2 applies decides to alter its admissions arrangements so that the school will cease to be one to which that

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paragraph applies, the body may apply for a transitional exemption order in relation to the school.

- (3) A transitional exemption order in relation to a school is an order which, during the period specified in the order as the transitional period, authorises—
 - (a) sex discrimination by the responsible body of the school in the arrangements it makes for deciding who is offered admission as a pupil;
 - (b) the responsible body, in the circumstances specified in the order, not to admit a person as a pupil because of the person's sex.
 - (4) Paragraph 4 applies in relation to the making of transitional exemption orders.
 - (5) The responsible body of a school does not contravene this Act, so far as relating to sex discrimination, if—
 - (a) in accordance with a transitional exemption order, or
 - (b) pending the determination of an application for a transitional exemption order in relation to the school,
 it does not admit a person as a pupil because of the person's sex.
- 4
- (1) In the case of a maintained school within the meaning given by section 32 of the [Education and Inspections Act 2006](#), a transitional exemption order may be made in accordance with such provision as is made in regulations under section 21 of that Act (orders made by local authority or adjudicator in relation to schools in England).
 - (2) In the case of a school in Wales maintained by a local authority, a transitional exemption order may be made in accordance with paragraph 22 of Schedule 6, or paragraph 17 of Schedule 7, to the [School Standards and Framework Act 1998](#) (orders made by Welsh Ministers).
 - (3) In the case of a school in Scotland managed by an education authority or in respect of which the managers are for the time being receiving grants under section 73(c) or (d) of the Education (Scotland) Act 1980—
 - (a) the responsible body may submit to the Scottish Ministers an application for the making of a transitional exemption order, and
 - (b) the Scottish Ministers may make the order.
 - (4) Where, under section 113A of the [Learning and Skills Act 2000](#), the Learning and Skills Council for England make proposals to the Secretary of State for an alteration in the admissions arrangements of a single-sex school or a school to which paragraph 2 applies—
 - (a) the making of the proposals is to be treated as an application to the Secretary of State for the making of a transitional exemption order, and
 - (b) the Secretary of State may make the order.
 - (5) Where proposals are made to the Welsh Ministers under section 113A of the [Learning and Skills Act 2000](#) for an alteration in the admissions arrangements of a single-sex school or a school to which paragraph 2 applies—
 - (a) the making of the proposals is to be treated as an application to the Welsh Ministers for the making of a transitional exemption order, and
 - (b) the Welsh Ministers may make the order.
 - (6) In the case of a school in England or Wales not coming within sub-paragraph (1), (2), (4) or (5) or an independent school in Scotland—

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- (a) the responsible body may submit to the Commission an application for the making of a transitional exemption order, and
 - (b) the Commission may make the order.
- (7) An application under sub-paragraph (6) must specify—
- (a) the period proposed by the responsible body as the transitional period to be specified in the order,
 - (b) the stages within that period by which the body proposes to move to the position where section 85(1)(a) and (c), so far as relating to sex, is complied with, and
 - (c) any other matters relevant to the terms and operation of the order applied for.
- (8) The Commission must not make an order on an application under sub-paragraph (6) unless satisfied that the terms of the application are reasonable, having regard to—
- (a) the nature of the school's premises,
 - (b) the accommodation, equipment and facilities available, and
 - (c) the responsible body's financial resources.

PART 2

RELIGIOUS OR BELIEF-RELATED DISCRIMINATION

School with religious character etc.

- 5 Section 85(1) and (2)(a) to (d), so far as relating to religion or belief, does not apply in relation to—
- (a) a school designated under section 69(3) of the [School Standards and Framework Act 1998](#) (foundation or voluntary school with religious character);
 - (b) a school listed in the register of independent schools for England or for Wales, if the school's entry in the register records that the school has a religious ethos;
 - (c) a school transferred to an education authority under section 16 of the Education (Scotland) Act 1980 (transfer of certain schools to education authorities) which is conducted in the interest of a church or denominational body;
 - (d) a school provided by an education authority under section 17(2) of that Act (denominational schools);
 - (e) a grant-aided school (within the meaning of that Act) which is conducted in the interest of a church or denominational body;
 - (f) a school registered in the register of independent schools for Scotland if the school admits only pupils who belong, or whose parents belong, to one or more particular denominations;
 - (g) a school registered in that register if the school is conducted in the interest of a church or denominational body.

Curriculum, worship, etc.

- 6 Section 85(2)(a) to (d), so far as relating to religion or belief, does not apply in relation to anything done in connection with acts of worship or other religious

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observance organised by or on behalf of a school (whether or not forming part of the curriculum).

Power to amend

- 7 (1) A Minister of the Crown may by order amend this Part of this Schedule—
- (a) so as to add, vary or omit an exception to section 85;
 - (b) so as to make provision about the construction or application of section 19(2) (d) in relation to section 85.
- (2) The power under sub-paragraph (1) is exercisable only in relation to religious or belief-related discrimination.
- (3) Before making an order under this paragraph the Minister must consult—
- (a) the Welsh Ministers,
 - (b) the Scottish Ministers, and
 - (c) such other persons as the Minister thinks appropriate.

PART 3

DISABILITY DISCRIMINATION

Permitted form of selection

- 8 (1) A person does not contravene section 85(1), so far as relating to disability, only by applying a permitted form of selection.
- (2) In relation to England and Wales, a permitted form of selection is—
- (a) in the case of a maintained school which is not designated as a grammar school under section 104 of the [School Standards and Framework Act 1998](#), a form of selection mentioned in section 99(2) or (4) of that Act;
 - (b) in the case of a maintained school which is so designated, its selective admission arrangements (within the meaning of section 104 of that Act);
 - (c) in the case of an independent educational institution, arrangements which provide for some or all of its pupils to be selected by reference to general or special ability or aptitude, with a view to admitting only pupils of high ability or aptitude.
- (3) In relation to Scotland, a permitted form of selection is—
- (a) in the case of a school managed by an education authority, arrangements approved by the Scottish Ministers for the selection of pupils for admission;
 - (b) in the case of an independent school, arrangements which provide for some or all of its pupils to be selected by reference to general or special ability or aptitude, with a view to admitting only pupils of high ability or aptitude.
- (4) “Maintained school” has the meaning given in section 22 of the School Standards and Framework Act 1998.

SCHEDULE 12

Section 94

FURTHER AND HIGHER EDUCATION EXCEPTIONS

PART 1

SINGLE-SEX INSTITUTIONS, ETC.

Admission to single-sex institutions

- 1 (1) Section 91(1), so far as relating to sex, does not apply in relation to a single-sex institution.
- (2) A single-sex institution is an institution to which section 91 applies, which—
 - (a) admits students of one sex only, or
 - (b) on the basis of the assumption in sub-paragraph (3), would be taken to admit students of one sex only.
- (3) That assumption is that students of the opposite sex are to be disregarded if—
 - (a) their admission to the institution is exceptional, or
 - (b) their numbers are comparatively small and their admission is confined to particular courses or classes.
- (4) In the case of an institution which is a single-sex institution by virtue of sub-paragraph (3)(b), section 91(2)(a) to (d), so far as relating to sex, does not prohibit confining students of the same sex to particular courses or classes.

Single-sex institutions turning co-educational

- 2 (1) If the responsible body of a single-sex institution decides to alter its admissions arrangements so that the institution will cease to be a single-sex institution, the body may apply for a transitional exemption order in relation to the institution.
- (2) A transitional exemption order relating to an institution is an order which, during the period specified in the order as the transitional period, authorises—
 - (a) sex discrimination by the responsible body of the institution in the arrangements it makes for deciding who is offered admission as a student;
 - (b) the responsible body, in the circumstances specified in the order, not to admit a person as a student because of the person's sex.
- (3) Paragraph 3 applies in relation to the making of a transitional exemption order.
- (4) The responsible body of an institution does not contravene this Act, so far as relating to sex discrimination, if—
 - (a) in accordance with a transitional exemption order, or
 - (b) pending the determination of an application for a transitional exemption order in relation to the institution,it does not admit a person as a student because of the person's sex.
- (5) The responsible body of an institution does not contravene this Act, so far as relating to sex discrimination, if—
 - (a) in accordance with a transitional exemption order, or

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- (b) pending the determination of an application for a transitional exemption order in relation to the institution,
it discriminates in the arrangements it makes for deciding who is offered admission as a student.
- 3 (1) In the case of a single-sex institution—
 - (a) its responsible body may submit to the Commission an application for the making of a transitional exemption order, and
 - (b) the Commission may make the order.
- (2) An application under sub-paragraph (1) must specify—
 - (a) the period proposed by the responsible body as the transitional period to be specified in the order,
 - (b) the stages, within that period, by which the body proposes to move to the position where section 91(1)(a) and (c), so far as relating to sex, is complied with, and
 - (c) any other matters relevant to the terms and operation of the order applied for.
- (3) The Commission must not make an order on an application under sub-paragraph (1) unless satisfied that the terms of the application are reasonable, having regard to—
 - (a) the nature of the institution’s premises,
 - (b) the accommodation, equipment and facilities available, and
 - (c) the responsible body’s financial resources.

PART 2

OTHER EXCEPTIONS

Occupational requirements

- 4 A person (P) does not contravene section 91(1) or (2) if P shows that P’s treatment of another person relates only to training that would help fit that other person for work the offer of which the other person could be refused in reliance on Part 1 of Schedule 9.

Institutions with a religious ethos

- 5 (1) The responsible body of an institution which is designated for the purposes of this paragraph does not contravene section 91(1), so far as relating to religion or belief, if, in the admission of students to a course at the institution—
 - (a) it gives preference to persons of a particular religion or belief,
 - (b) it does so to preserve the institution’s religious ethos, and
 - (c) the course is not a course of vocational training.
- (2) A Minister of the Crown may by order designate an institution if satisfied that the institution has a religious ethos.

Benefits dependent on marital status, etc.

- 6 A person does not contravene section 91, so far as relating to sexual orientation, by providing married persons and civil partners (to the exclusion of all other persons) with access to a benefit, facility or service.

Child care

- 7 (1) A person does not contravene section 91(2)(b) or (d), so far as relating to age, only by providing, or making arrangements for or facilitating the provision of, care for children of a particular age group.
- (2) Facilitating the provision of care for a child includes—
- (a) paying for some or all of the cost of the provision;
 - (b) helping a parent of the child to find a suitable person to provide care for the child;
 - (c) enabling a parent of the child to spend more time providing care for the child or otherwise assisting the parent with respect to the care that the parent provides for the child.
- (3) A child is a person who has not attained the age of 17.
- (4) A reference to care includes a reference to supervision.

SCHEDULE 13

Section 98

EDUCATION: REASONABLE ADJUSTMENTS

Preliminary

- 1 This Schedule applies where a duty to make reasonable adjustments is imposed on A by this Part.

The duty for schools

- 2 (1) This paragraph applies where A is the responsible body of a school to which section 85 applies.
- (2) A must comply with the first and third requirements.
- (3) For the purposes of this paragraph—
- (a) the reference in section 20(3) to a provision, criterion or practice is a reference to a provision, criterion or practice applied by or on behalf of A;
 - (b) the reference in section 20(3) or (5) to a disabled person is—
 - (i) in relation to a relevant matter within sub-paragraph (4)(a), a reference to disabled persons generally;
 - (ii) in relation to a relevant matter within sub-paragraph (4)(b), a reference to disabled pupils generally.
- (4) In relation to each requirement, the relevant matters are—
- (a) deciding who is offered admission as a pupil;
 - (b) provision of education or access to a benefit, facility or service.

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The duty for further or higher education institutions

- 3 (1) This paragraph applies where A is the responsible body of an institution to which section 91 applies.
- (2) A must comply with the first, second and third requirements.
- (3) For the purposes of this paragraph—
- (a) the reference in section 20(3) to a provision, criterion or practice is a reference to a provision, criterion or practice applied by or on behalf of A;
 - (b) the reference in section 20(4) to a physical feature is a reference to a physical feature of premises occupied by A;
 - (c) the reference in section 20(3), (4) or (5) to a disabled person is—
 - (i) in relation to a relevant matter within sub-paragraph (4)(a), a reference to disabled persons generally;
 - (ii) in relation to a relevant matter within sub-paragraph (4)(b) or (c), a reference to disabled students generally;
 - (iii) in relation to a relevant matter within sub-paragraph (4)(d) or (e) below, a reference to an interested disabled person.
- (4) In relation to each requirement, the relevant matters are—
- (a) deciding who is offered admission as a student;
 - (b) provision of education;
 - (c) access to a benefit, facility or service;
 - (d) deciding on whom a qualification is conferred;
 - (e) a qualification that A confers.
- 4 (1) An interested disabled person is a disabled person who, in relation to a relevant matter specified in the first column of the table, is of a description specified in the second column.

<i>Case</i>	<i>Description of disabled person</i>
Deciding upon whom to confer a qualification.	A person who is, or has notified A that the person may be, an applicant for the conferment of the qualification.
A qualification that A confers.	An applicant for the conferment by A of the qualification. A person on whom A confers the qualification.

- (2) A provision, criterion or practice does not include the application of a competence standard.
- (3) A competence standard is an academic, medical or other standard applied for the purpose of determining whether or not a person has a particular level of competence or ability.

The duty relating to certain other further or higher education courses

- 5 (1) This paragraph applies where A is the responsible body in relation to a course to which section 92 applies.

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- (2) A must comply with the first, second and third requirements; but if A is the governing body of a maintained school (within the meaning given by that section), A is not required to comply with the second requirement.
- (3) For the purposes of this paragraph—
 - (a) the reference in section 20(3) to a provision, criterion or practice is a reference to a provision, criterion or practice applied by or on behalf of A;
 - (b) the reference in section 20(4) to a physical feature is a reference to a physical feature of premises occupied by A;
 - (c) the reference in section 20(3), (4) or (5) to a disabled person is—
 - (i) in relation to a relevant matter within sub-paragraph (4)(a), a reference to disabled persons generally;
 - (ii) in relation to a relevant matter within sub-paragraph (4)(b), a reference to disabled persons generally who are enrolled on the course.
- (4) In relation to each requirement, the relevant matters are—
 - (a) arrangements for enrolling persons on a course of further or higher education secured by A;
 - (b) services provided by A for persons enrolled on the course.

The duty relating to recreational or training facilities

- 6 (1) This paragraph applies where A is the responsible body in relation to facilities to which section 93 applies.
- (2) A must comply with the first, second and third requirements.
- (3) For the purposes of this paragraph—
 - (a) the reference in section 20(3) to a provision, criterion or practice is a reference to a provision, criterion or practice applied by or on behalf of A;
 - (b) the reference in section 20(4) to a physical feature is a reference to a physical feature of premises occupied by A;
 - (c) the reference in section 20(3), (4) or (5) to a disabled person is a reference to disabled persons generally.
- (4) In relation to each requirement, the relevant matter is A's arrangements for providing the recreational or training facilities.

Code of practice

- 7 In deciding whether it is reasonable for A to have to take a step for the purpose of complying with the first, second or third requirement, A must have regard to relevant provisions of a code of practice issued under section 14 of the Equality Act 2006.

Confidentiality requests

- 8 (1) This paragraph applies if a person has made a confidentiality request of which A is aware.

Status: This is the original version (as it was originally enacted).

- (2) In deciding whether it is reasonable for A to have to take a step in relation to that person so as to comply with the first, second or third requirement, A must have regard to the extent to which taking the step is consistent with the request.
- (3) In a case within paragraph 2, a “confidentiality request” is a request—
 - (a) that the nature or existence of a disabled person’s disability be treated as confidential, and
 - (b) which satisfies either of the following conditions.
- (4) The first condition is that the request is made by the person’s parent.
- (5) The second condition is that—
 - (a) it is made by the person, and
 - (b) A reasonably believes that the person has sufficient understanding of the nature and effect of the request.
- (6) In a case within paragraph 3, a “confidentiality request” is a request by a disabled person that the nature or existence of the person’s disability be treated as confidential.

The duty for general qualifications bodies

- 9 (1) This paragraph applies where A is a qualifications body for the purposes of section 96.
- (2) Paragraphs 3 and 4(1), so far as relating to qualifications, apply to a qualifications body as they apply to a responsible body.
- (3) This paragraph is subject to section 96(7).

SCHEDULE 14

Section 99

EDUCATIONAL CHARITIES AND ENDOWMENTS

Educational charities

- 1 (1) This paragraph applies to a trust deed or other instrument—
 - (a) which concerns property applicable for or in connection with the provision of education in an establishment in England and Wales to which section 85 or 91 applies, and
 - (b) which in any way restricts the benefits available under the instrument to persons of one sex.
- (2) Sub-paragraph (3) applies if, on the application of the trustees or the responsible body (within the meaning of that section), a Minister of the Crown is satisfied that the removal or modification of the restriction would be conducive to the advancement of education without sex discrimination.
- (3) The Minister may by order make such modifications of the instrument as appear to the Minister expedient for removing or modifying the restriction.
- (4) If the trust was created by a gift or bequest, an order must not be made until the end of the period of 25 years after the date when the gift or bequest took effect.

Status: This is the original version (as it was originally enacted).

- (5) Sub-paragraph (4) does not apply if the donor or the personal representatives of the donor or testator consent in writing to making the application for the order.
- (6) The Minister must require the applicant to publish a notice—
 - (a) containing particulars of the proposed order;
 - (b) stating that representations may be made to the Minister within a period specified in the notice.
- (7) The period must be not less than one month beginning with the day after the date of the notice.
- (8) The applicant must publish the notice in the manner specified by the Minister.
- (9) The cost of publication may be paid out of the property of the trust.
- (10) Before making the order, the Minister must take account of representations made in accordance with the notice.

Educational endowments

- 2 (1) This paragraph applies to an educational endowment—
 - (a) to which section 104 of the Education (Scotland) Act 1980 applies, and
 - (b) which in any way restricts the benefit of the endowment to persons of one sex.
- (2) Sub-paragraph (3) applies if, on the application of the governing body of an educational endowment, the Scottish Ministers are satisfied that the removal or modification of the provision which restricts the benefit of the endowment to persons of one sex would be conducive to the advancement of education without sex discrimination.
- (3) The Scottish Ministers may by order make such provision as they think expedient for removing or modifying the restriction.
- (4) If the Scottish Ministers propose to make such an order they must publish a notice in such manner as they think sufficient for giving information to persons they think may be interested in the endowment—
 - (a) containing particulars of the proposed order;
 - (b) stating that representations may be made with respect to the proposal within such period as is specified in the notice.
- (5) The period must be not less than one month beginning with the day after the date of publication of the notice.
- (6) The cost of publication is to be paid out of the funds of the endowment to which the notice relates.
- (7) Before making an order, the Scottish Ministers—
 - (a) must consider representations made in accordance with the notice;
 - (b) may cause a local inquiry to be held into the representations under section 67 of the Education (Scotland) Act 1980.
- (8) A reference to an educational endowment includes a reference to—
 - (a) a scheme made or approved for the endowment under Part 6 of the Education (Scotland) Act 1980;

Status: This is the original version (as it was originally enacted).

- (b) in the case of an endowment the governing body of which is entered in the Scottish Charity Register, a scheme approved for the endowment under section 39 or 40 of the Charities and Trustee Investment (Scotland) Act 2005 (asp 10);
 - (c) an endowment which is, by virtue of section 108(1) of the Education (Scotland) Act 1980, treated as if it were an educational endowment (or which would, but for the disapplication of that section by section 122(4) of that Act, be so treated);
 - (d) a university endowment, the Carnegie Trust, a theological endowment and a new endowment.
- (9) Expressions used in this paragraph and in Part 6 of the Education (Scotland) Act 1980 have the same meaning in this paragraph as in that Part.

SCHEDULE 15

Section 107

ASSOCIATIONS: REASONABLE ADJUSTMENTS

Preliminary

- 1 This Schedule applies where a duty to make reasonable adjustments is imposed on an association (A) by this Part.

The duty

- 2 (1) A must comply with the first, second and third requirements.
- (2) For the purposes of this paragraph, the reference in section 20(3), (4) or (5) to a disabled person is a reference to disabled persons who—
- (a) are, or are seeking to become or might wish to become, members,
 - (b) are associates, or
 - (c) are, or are likely to become, guests.
- (3) Section 20 has effect as if, in subsection (4), for “to avoid the disadvantage” there were substituted—
- “(a) to avoid the disadvantage, or
 - (b) to adopt a reasonable alternative method of affording access to the benefit, facility or service or of admitting persons to membership or inviting persons as guests.”
- (4) In relation to the first and third requirements, the relevant matters are—
- (a) access to a benefit, facility or service;
 - (b) members’ or associates’ retaining their rights as such or avoiding having them varied;
 - (c) being admitted to membership or invited as a guest.
- (5) In relation to the second requirement, the relevant matters are—
- (a) access to a benefit, facility or service;
 - (b) being admitted to membership or invited as a guest.

- (6) In relation to the second requirement, a physical feature includes a physical feature brought by or on behalf of A, in the course of or for the purpose of providing a benefit, facility or service, on to premises other than those that A occupies (as well as including a physical feature in or on premises that A occupies).
- (7) Nothing in this paragraph requires A to take a step which would fundamentally alter—
 - (a) the nature of the benefit, facility or service concerned, or
 - (b) the nature of the association.
- (8) Nor does anything in this paragraph require a member or associate in whose house meetings of the association take place to make adjustments to a physical feature of the house.

SCHEDULE 16

Section 107

ASSOCIATIONS: EXCEPTIONS

Single characteristic associations

- 1 (1) An association does not contravene section 101(1) by restricting membership to persons who share a protected characteristic.
- (2) An association that restricts membership to persons who share a protected characteristic does not breach section 101(3) by restricting the access by associates to a benefit, facility or service to such persons as share the characteristic.
- (3) An association that restricts membership to persons who share a protected characteristic does not breach section 102(1) by inviting as guests, or by permitting to be invited as guests, only such persons as share the characteristic.
- (4) Sub-paragraphs (1) to (3), so far as relating to race, do not apply in relation to colour.
- (5) This paragraph does not apply to an association that is a registered political party.

Health and safety

- 2 (1) An association (A) does not discriminate against a pregnant woman in contravention of section 101(1)(b) because she is pregnant if—
 - (a) the terms on which A is prepared to admit her to membership include a term intended to remove or reduce a risk to her health or safety,
 - (b) A reasonably believes that admitting her to membership on terms which do not include that term would create a risk to her health or safety,
 - (c) the terms on which A is prepared to admit persons with other physical conditions to membership include a term intended to remove or reduce a risk to their health or safety, and
 - (d) A reasonably believes that admitting them to membership on terms which do not include that term would create a risk to their health or safety.
- (2) Sub-paragraph (1) applies to section 102(1)(b) as it applies to section 101(1)(b); and for that purpose a reference to admitting a person to membership is to be read as a

Status: This is the original version (as it was originally enacted).

reference to inviting the person as a guest or permitting the person to be invited as a guest.

- (3) An association (A) does not discriminate against a pregnant woman in contravention of section 101(2)(a) or (3)(a) or 102(2)(a) because she is pregnant if—
- (a) the way in which A affords her access to a benefit, facility or service is intended to remove or reduce a risk to her health or safety,
 - (b) A reasonably believes that affording her access to the benefit, facility or service otherwise than in that way would create a risk to her health or safety,
 - (c) A affords persons with other physical conditions access to the benefit, facility or service in a way that is intended to remove or reduce a risk to their health or safety, and
 - (d) A reasonably believes that affording them access to the benefit, facility or service otherwise than in that way would create a risk to their health or safety.
- (4) An association (A) which does not afford a pregnant woman access to a benefit, facility or service does not discriminate against her in contravention of section 101(2)(a) or (3)(a) or 102(2)(a) because she is pregnant if—
- (a) A reasonably believes that affording her access to the benefit, facility or service would, because she is pregnant, create a risk to her health or safety,
 - (b) A does not afford persons with other physical conditions access to the benefit, facility or service, and
 - (c) the reason for not doing so is that A reasonably believes that affording them access to the benefit, facility or service would create a risk to their health or safety.
- (5) An association (A) does not discriminate against a pregnant woman under section 101(2)(c) or (3)(c) because she is pregnant if—
- (a) the variation of A’s terms of membership, or rights as an associate, is intended to remove or reduce a risk to her health or safety,
 - (b) A reasonably believes that not making the variation to A’s terms or rights would create a risk to her health or safety,
 - (c) A varies the terms of membership, or rights as an associate, of persons with other physical conditions,
 - (d) the variation of their terms or rights is intended to remove or reduce a risk to their health or safety, and
 - (e) A reasonably believes that not making the variation to their terms or rights would create a risk to their health or safety.

SCHEDULE 17

Section 116

DISABLED PUPILS: ENFORCEMENT

PART 1

INTRODUCTORY

- 1 In this Schedule—
 “the Tribunal” means—

Status: This is the original version (as it was originally enacted).

- (a) in relation to a school in England, the First-tier Tribunal;
 - (b) in relation to a school in Wales, the Special Educational Needs Tribunal for Wales;
 - (c) in relation to a school in Scotland, an Additional Support Needs Tribunal for Scotland;
- “the English Tribunal” means the First-tier Tribunal;
- “the Welsh Tribunal” means the Special Educational Needs Tribunal for Wales;
- “the Scottish Tribunal” means an Additional Support Needs Tribunal for Scotland;
- “responsible body” is to be construed in accordance with section 85.

PART 2

TRIBUNALS IN ENGLAND AND WALES

Introductory

- 2 This Part of this Schedule applies in relation to the English Tribunal and the Welsh Tribunal.

Jurisdiction

- 3 A claim that a responsible body has contravened Chapter 1 of Part 6 because of a person’s disability may be made to the Tribunal by the person’s parent.

Time for bringing proceedings

- 4 (1) Proceedings on a claim may not be brought after the end of the period of 6 months starting with the date when the conduct complained of occurred.
- (2) If, in relation to proceedings or prospective proceedings under section 27 of the Equality Act 2006, the dispute is referred for conciliation in pursuance of arrangements under that section before the end of that period, the period is extended by 3 months.
- (3) The Tribunal may consider a claim which is out of time.
- (4) Sub-paragraph (3) does not apply if the Tribunal has previously decided under that sub-paragraph not to consider a claim.
- (5) For the purposes of sub-paragraph (1)—
- (a) if the contravention is attributable to a term in a contract, the conduct is to be treated as extending throughout the duration of the contract;
 - (b) conduct extending over a period is to be treated as occurring at the end of the period;
 - (c) failure to do something is to be treated as occurring when the person in question decided on it.
- (6) In the absence of evidence to the contrary, a person (P) is to be taken to decide on failure to do something—
- (a) when P acts inconsistently with doing it, or

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- (b) if P does not act inconsistently, on the expiry of the period in which P might reasonably have been expected to do it.

Powers

- 5 (1) This paragraph applies if the Tribunal finds that the contravention has occurred.
- (2) The Tribunal may make such order as it thinks fit.
- (3) The power under sub-paragraph (2)—
 - (a) may, in particular, be exercised with a view to obviating or reducing the adverse effect on the person of any matter to which the claim relates;
 - (b) does not include power to order the payment of compensation.

Procedure

- 6 (1) This paragraph applies in relation to the Welsh Tribunal.
- (2) The Welsh Ministers may by regulations make provision as to—
 - (a) the proceedings on a claim under paragraph 3;
 - (b) the making of a claim.
- (3) The regulations may, in particular, include provision—
 - (a) as to the manner in which a claim must be made;
 - (b) for enabling functions relating to preliminary or incidental matters (including in particular a decision under paragraph 4(3) to be performed by the President or by the person occupying the chair);
 - (c) enabling hearings to be conducted in the absence of a member other than the person occupying the chair;
 - (d) as to persons who may appear on behalf of the parties;
 - (e) for granting such rights to disclosure or inspection of documents or to further particulars as may be granted by the county court;
 - (f) requiring persons to attend to give evidence and produce documents;
 - (g) for authorising the administration of oaths to witnesses;
 - (h) for deciding claims without a hearing in prescribed circumstances;
 - (i) as to the withdrawal of claims;
 - (j) for enabling the Tribunal to stay proceedings;
 - (k) for the award of costs or expenses;
 - (l) for settling costs or expenses (and, in particular, for enabling costs to be assessed in the county court);
 - (m) for the registration and proof of decisions and orders;
 - (n) for enabling prescribed decisions to be reviewed, or prescribed orders to be varied or revoked, in such circumstances as may be decided in accordance with the regulations.
- (4) Proceedings must be held in private, except in prescribed circumstances.
- (5) The Welsh Ministers may pay such allowances for the purpose of or in connection with the attendance of persons at the Tribunal as they may decide.

- (6) Part 1 of the [Arbitration Act 1996](#) does not apply to the proceedings, but regulations may make provision in relation to such proceedings that corresponds to a provision of that Part.
- (7) The regulations may make provision for a claim to be heard, in prescribed circumstances, with an appeal under Part 4 of the Education Act 1996 (special educational needs).
- (8) A person commits an offence by failing to comply with—
 - (a) a requirement in respect of the disclosure or inspection of documents imposed by virtue of sub-paragraph (3)(e), or
 - (b) a requirement imposed by virtue of sub-paragraph (3)(f).
- (9) A person guilty of the offence is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

PART 3

TRIBUNALS IN SCOTLAND

Introductory

- 7 This Part of this Schedule applies in relation to the Scottish Tribunal.

Jurisdiction

- 8 A claim that a responsible body has contravened Chapter 1 of Part 6 because of a person's disability may be made to the Tribunal by—
- (a) the person's parent;
 - (b) where the person has capacity to make the claim, the person.

Powers

- 9 (1) This paragraph applies if the Tribunal finds the contravention has occurred.
- (2) The Tribunal may make such order as it thinks fit.
- (3) The power under sub-paragraph (2)—
- (a) may, in particular, be exercised with a view to obviating or reducing the adverse effect on the person of any matter to which the claim relates;
 - (b) does not include power to order the payment of compensation.

Procedure etc.

- 10 (1) The Scottish Ministers may make rules as to—
- (a) the proceedings on a claim under paragraph 8;
 - (b) the making of a claim.
- (2) The rules may, in particular, include provision for or in connection with—
- (a) the form and manner in which a claim must be made;
 - (b) the time within which a claim is to be made;

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- (c) the withdrawal of claims;
- (d) the recovery and inspection of documents;
- (e) the persons who may appear on behalf of the parties;
- (f) the persons who may be present at proceedings alongside any party or witness to support the party or witness;
- (g) enabling specified persons other than the parties to appear or be represented in specified circumstances;
- (h) requiring specified persons to give notice to other specified persons of specified matters;
- (i) the time within which any such notice must be given;
- (j) enabling Tribunal proceedings to be conducted in the absence of any member of a Tribunal other than the convener;
- (k) enabling any matters that are preliminary or incidental to the determination of proceedings to be determined by the convener of a Tribunal alone or with such other members of the Tribunal as may be specified;
- (l) enabling Tribunals to be held in private;
- (m) enabling a Tribunal to exclude any person from attending all or part of Tribunal proceedings;
- (n) enabling a Tribunal to impose reporting restrictions in relation to all or part of Tribunal proceedings;
- (o) enabling a Tribunal to determine specified matters without holding a hearing;
- (p) the recording and publication of decisions and orders of a Tribunal;
- (q) enabling a Tribunal to commission medical and other reports in specified circumstances;
- (r) requiring a Tribunal to take specified actions, or to determine specified proceedings, within specified periods;
- (s) enabling a Tribunal to make an award of expenses;
- (t) the taxation or assessment of such expenses;
- (u) enabling a Tribunal, in specified circumstances, to review, or to vary or revoke, any of its decisions, orders or awards;
- (v) enabling a Tribunal, in specified circumstances, to review the decisions, orders or awards of another Tribunal and take such action (including variation and revocation) in respect of those decisions, orders or awards as it thinks fit.

Appeals

- 11 (1) Either of the persons specified in sub-paragraph (2) may appeal on a point of law to the Court of Session against a decision of a Tribunal relating to a claim under this Schedule.
- (2) Those persons are—
- (a) the person who made the claim;
 - (b) the responsible body.
- (3) Where the Court of Session allows an appeal under sub-paragraph (1) it may—
- (a) remit the reference back to the Tribunal or to a differently constituted Tribunal to be considered again and give the Tribunal such directions about the consideration of the case as the Court thinks fit;

- (b) make such ancillary orders as it considers necessary or appropriate.

Amendment of Education (Additional Support for Learning) (Scotland) Act 2004

- 12 The Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) is amended as follows—
- (a) in section 17(1), omit “to exercise the functions which are conferred on a Tribunal by virtue of this Act”;
 - (b) after section 17(1), insert—
 - “(1A) Tribunals are to exercise the functions which are conferred on them by virtue of—
 - (a) this Act, and
 - (b) the Equality Act 2010”;
 - (c) in the definition of “Tribunal functions” in paragraph 1 of Schedule 1, after “Act” insert “or the Equality Act 2010”.

PART 4

ADMISSIONS AND EXCLUSIONS

Admissions

- 13 (1) This paragraph applies if appeal arrangements have been made in relation to admissions decisions.
- (2) A claim that a responsible body has, because of a person’s disability, contravened Chapter 1 of Part 6 in respect of an admissions decision must be made under the appeal arrangements.
- (3) The body hearing the claim has the powers it has in relation to an appeal under the appeal arrangements.
- (4) Appeal arrangements are arrangements under—
- (a) section 94 of the [School Standards and Framework Act 1998](#), or
 - (b) an agreement between the responsible body for an Academy and the Secretary of State under section 482 of the [Education Act 1996](#), enabling an appeal to be made by the person’s parent against the decision.
- (5) An admissions decision is—
- (a) a decision of a kind mentioned in section 94(1) or (2) of the [School Standards and Framework Act 1998](#);
 - (b) a decision as to the admission of a person to an Academy taken by the responsible body or on its behalf.

Exclusions

- 14 (1) This paragraph applies if appeal arrangements have been made in relation to exclusion decisions.

Status: This is the original version (as it was originally enacted).

- (2) A claim that a responsible body has, because of a person’s disability, contravened Chapter 1 of Part 6 in respect of an exclusion decision must be made under the appeal arrangements.
- (3) The body hearing the claim has the powers it has in relation to an appeal under the appeal arrangements.
- (4) Appeal arrangements are arrangements under—
 - (a) section 52(3) of the [Education Act 2002](#), or
 - (b) an agreement between the responsible body for an Academy and the Secretary of State under section 482 of the [Education Act 1996](#), enabling an appeal to be made by the person’s parent against the decision.
- (5) An exclusion decision is—
 - (a) a decision of a kind mentioned in 52(3) of the [Education Act 2002](#);
 - (b) a decision taken by the responsible body or on its behalf not to reinstate a pupil who has been permanently excluded from an Academy by its head teacher.
- (6) “Responsible body”, in relation to a maintained school, includes the discipline committee of the governing body if that committee is required to be established as a result of regulations made under section 19 of the [Education Act 2002](#).
- (7) “Maintained school” has the meaning given in section 20(7) of the School Standards and Framework Act 1998.

SCHEDULE 18

Section 149

PUBLIC SECTOR EQUALITY DUTY: EXCEPTIONS

Children

- 1 (1) Section 149, so far as relating to age, does not apply to the exercise of a function relating to—
 - (a) the provision of education to pupils in schools;
 - (b) the provision of benefits, facilities or services to pupils in schools;
 - (c) the provision of accommodation, benefits, facilities or services in community homes pursuant to section 53(1) of the Children Act 1989;
 - (d) the provision of accommodation, benefits, facilities or services pursuant to arrangements under section 82(5) of that Act (arrangements by the Secretary of State relating to the accommodation of children);
 - (e) the provision of accommodation, benefits, facilities or services in residential establishments pursuant to section 26(1)(b) of the Children (Scotland) Act 1995.
- (2) “Pupil” and “school” each have the same meaning as in Chapter 1 of Part 6.

Immigration

- 2 (1) In relation to the exercise of immigration and nationality functions, section 149 has effect as if subsection (1)(b) did not apply to the protected characteristics of age, race or religion or belief; but for that purpose “race” means race so far as relating to—
- (a) nationality, or
 - (b) ethnic or national origins.
- (2) “Immigration and nationality functions” means functions exercisable by virtue of—
- (a) the Immigration Acts (excluding sections 28A to 28K of the Immigration Act 1971 so far as they relate to criminal offences),
 - (b) the British Nationality Act 1981,
 - (c) the British Nationality (Falkland Islands) Act 1983,
 - (d) the British Nationality (Hong Kong) Act 1990,
 - (e) the Hong Kong (War Wives and Widows) Act 1996,
 - (f) the British Nationality (Hong Kong) Act 1997,
 - (g) the Special Immigration Appeals Commission Act 1997, or
 - (h) a provision made under section 2(2) of the European Communities Act 1972, or of Community law, which relates to the subject matter of an enactment within paragraphs (a) to (g).

Judicial functions, etc.

- 3 (1) Section 149 does not apply to the exercise of—
- (a) a judicial function;
 - (b) a function exercised on behalf of, or on the instructions of, a person exercising a judicial function.
- (2) The references to a judicial function include a reference to a judicial function conferred on a person other than a court or tribunal.

Exceptions that are specific to section 149(2)

- 4 (1) Section 149(2) (application of section 149(1) to persons who are not public authorities but by whom public functions are exercisable) does not apply to—
- (a) a person listed in sub-paragraph (2);
 - (b) the exercise of a function listed in sub-paragraph (3).
- (2) Those persons are—
- (a) the House of Commons;
 - (b) the House of Lords;
 - (c) the Scottish Parliament;
 - (d) the National Assembly for Wales;
 - (e) the General Synod of the Church of England;
 - (f) the Security Service;
 - (g) the Secret Intelligence Service;
 - (h) the Government Communications Headquarters;
 - (i) a part of the armed forces which is, in accordance with a requirement of the Secretary of State, assisting the Government Communications Headquarters.
- (3) Those functions are—

Status: This is the original version (as it was originally enacted).

- (a) a function in connection with proceedings in the House of Commons or the House of Lords;
- (b) a function in connection with proceedings in the Scottish Parliament (other than a function of the Scottish Parliamentary Corporate Body);
- (c) a function in connection with proceedings in the National Assembly for Wales (other than a function of the Assembly Commission).

Power to amend Schedule

- 5 (1) A Minister of the Crown may by order amend this Schedule so as to add, vary or omit an exception to section 149.
- (2) But provision by virtue of sub-paragraph (1) may not amend this Schedule—
- (a) so as to omit an exception in paragraph 3;
 - (b) so as to omit an exception in paragraph 4(1) so far as applying for the purposes of paragraph 4(2)(a) to (e) or (3);
 - (c) so as to reduce the extent to which an exception referred to in paragraph (a) or (b) applies.

SCHEDULE 19

Section 150

PUBLIC AUTHORITIES

PART 1

PUBLIC AUTHORITIES: GENERAL

Ministers of the Crown and government departments

A Minister of the Crown.

A government department other than the Security Service, the Secret Intelligence Service or the Government Communications Headquarters.

Armed forces

Any of the armed forces other than any part of the armed forces which is, in accordance with a requirement of the Secretary of State, assisting the Government Communications Headquarters.

National Health Service

A Strategic Health Authority established under section 13 of the National Health Service Act 2006, or continued in existence by virtue of that section.

A Primary Care Trust established under section 18 of that Act, or continued in existence by virtue of that section.

An NHS trust established under section 25 of that Act.

A Special Health Authority established under section 28 of that Act other than NHS Blood and Transplant and the NHS Business Services Authority.

An NHS foundation trust within the meaning given by section 30 of that Act.

Local government

A county council, district council or parish council in England.

A parish meeting constituted under section 13 of the Local Government Act 1972.

Charter trustees constituted under section 246 of that Act for an area in England.

Status: This is the original version (as it was originally enacted).

The Greater London Authority.

A London borough council.

The Common Council of the City of London in its capacity as a local authority or port health authority.

The Sub-Treasurer of the Inner Temple or the Under-Treasurer of the Middle Temple, in that person's capacity as a local authority.

The London Development Agency.

The London Fire and Emergency Planning Authority.

Transport for London.

The Council of the Isles of Scilly.

The Broads Authority established by section 1 of the Norfolk and Suffolk Broads Act 1988.

A regional development agency established by the Regional Development Agencies Act 1998 (other than the London Development Agency).

A fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004, or a scheme to which section 4 of that Act applies, for an area in England.

An internal drainage board which is continued in being by virtue of section 1 of the Land Drainage Act 1991 for an area in England.

A National Park authority established by an order under section 63 of the Environment Act 1995 for an area in England.

A Passenger Transport Executive for an integrated transport area in England (within the meaning of Part 2 of the Transport Act 1968).

A port health authority constituted by an order under section 2 of the Public Health (Control of Disease) Act 1984 for an area in England.

A waste disposal authority established by virtue of an order under section 10(1) of the Local Government Act 1985.

A joint authority established under Part 4 of that Act for an area in England (including, by virtue of section 77(9) of the Local Transport Act 2008, an Integrated Transport Authority established under Part 5 of that Act of 2008).

A body corporate established pursuant to an order under section 67 of the Local Government Act 1985.

A joint committee constituted in accordance with section 102(1)(b) of the Local Government Act 1972 for an area in England.

A joint board which is continued in being by virtue of section 263(1) of that Act for an area in England.

Other educational bodies

The governing body of an educational establishment maintained by an English local authority (within the meaning of section 162 of the Education and Inspections Act 2006).

The governing body of an institution in England within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992).

The governing body of an institution in England within the higher education sector (within the meaning of section 91(5) of that Act).

Police

A police authority established under section 3 of the Police Act 1996.

The Metropolitan Police Authority established under section 5B of that Act.

The Common Council of the City of London in its capacity as a police authority.

Status: This is the original version (as it was originally enacted).

PART 2

PUBLIC AUTHORITIES: RELEVANT WELSH AUTHORITIES

Welsh Assembly Government, etc.

The Welsh Ministers.

The First Minister for Wales.

The Counsel General to the Welsh Assembly Government.

A subsidiary of the Welsh Ministers (within the meaning given by section 134(4) of the Government of Wales Act 2006).

National Health Service

A Local Health Board established under section 11 of the National Health Service (Wales) Act 2006.

An NHS trust established under section 18 of that Act.

A Special Health Authority established under section 22 of that Act other than NHS Blood and Transplant and the NHS Business Services Authority.

A Community Health Council in Wales.

Local government

A county council, county borough council or community council in Wales.

Charter trustees constituted under section 246 of the Local Government Act 1972 for an area in Wales.

A fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004, or a scheme to which section 4 of that Act applies, for an area in Wales.

An internal drainage board which is continued in being by virtue of section 1 of the Land Drainage Act 1991 for an area in Wales.

A National Park authority established by an order under section 63 of the Environment Act 1995 for an area in Wales.

A port health authority constituted by an order under section 2 of the Public Health (Control of Disease) Act 1984 for an area in Wales.

A joint authority established under Part 4 of the Local Government Act 1985 for an area in Wales.

A joint committee constituted in accordance with section 102(1)(b) of the Local Government Act 1972 for an area in Wales.

A joint board which is continued in being by virtue of section 263(1) of that Act for an area in Wales.

Other educational bodies

The governing body of an educational establishment maintained by a Welsh local authority (within the meaning of section 162 of the Education and Inspections Act 2006).

The governing body of an institution in Wales within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992).

The governing body of an institution in Wales within the higher education sector (within the meaning of section 91(5) of that Act).

PART 3

PUBLIC AUTHORITIES: RELEVANT SCOTTISH AUTHORITIES

Scottish Administration

An office-holder in the Scottish Administration (within the meaning given by section 126(7)(a) of the Scotland Act 1998).

National Health Service

A Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978.

A Special Health Board constituted under that section.

Local government

A council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.

A community council established under section 51 of the Local Government (Scotland) Act 1973.

A joint board within the meaning of section 235(1) of that Act.

A joint fire and rescue board constituted by a scheme under section 2(1) of the Fire (Scotland) Act 2005.

A licensing board established under section 5 of the Licensing (Scotland) Act 2005, or continued in being by virtue of that section.

A National Park authority established by a designation order made under section 6 of the National Parks (Scotland) Act 2000.

Scottish Enterprise and Highlands and Islands Enterprise, established under the Enterprise and New Towns (Scotland) Act 1990.

Other educational bodies

An education authority in Scotland (within the meaning of section 135(1) of the Education (Scotland) Act 1980).

The managers of a grant-aided school (within the meaning of that section).

The board of management of a college of further education (within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992).

In the case of such a college of further education not under the management of a board of management, the board of governors of the college or any person responsible for the management of the college, whether or not formally constituted as a governing body or board of governors.

The governing body of an institution within the higher education sector (within the meaning of Part 2 of the Further and Higher Education (Scotland) Act 1992).

Police

A police authority established under section 2 of the Police (Scotland) Act 1967.

SCHEDULE 20

Section 186

RAIL VEHICLE ACCESSIBILITY: COMPLIANCE

Rail vehicle accessibility compliance certificates

- 1 (1) A regulated rail vehicle which is prescribed, or is of a prescribed class or description, must not be used for carriage unless a compliance certificate is in force for the vehicle.
- (2) A “compliance certificate” is a certificate that the Secretary of State is satisfied that the regulated rail vehicle conforms with the provisions of rail vehicle accessibility regulations with which it is required to conform.
- (3) A compliance certificate is subject to such conditions as are specified in it.

Status: This is the original version (as it was originally enacted).

- (4) A compliance certificate may not be issued for a rail vehicle unless the Secretary of State has been provided with a report of a compliance assessment of the vehicle.
- (5) A “compliance assessment” is an assessment of a rail vehicle against provisions of rail vehicle accessibility regulations with which the vehicle is required to conform.
- (6) If a regulated rail vehicle is used for carriage in contravention of sub-paragraph (1), the Secretary of State may require the operator of the vehicle to pay a penalty.
- (7) The Secretary of State must review a decision not to issue a compliance certificate if before the end of the prescribed period the applicant—
 - (a) asks the Secretary of State to review the decision, and
 - (b) pays any fee fixed under paragraph 4.
- (8) For the purposes of the review, the Secretary of State must consider any representations made by the applicant in writing before the end of the prescribed period.

Regulations as to compliance certificates

- 2 (1) Regulations may make provision as to compliance certificates.
- (2) The regulations may (in particular) include provision—
 - (a) as to applications for and issue of certificates;
 - (b) specifying conditions to which certificates are subject;
 - (c) as to the period for which a certificate is in force;
 - (d) as to circumstances in which a certificate ceases to be in force;
 - (e) dealing with failure to comply with a specified condition;
 - (f) for the examination of rail vehicles in respect of which applications have been made;
 - (g) with respect to the issue of copies of certificates in place of those which have been lost or destroyed.

Regulations as to compliance assessments

- 3 (1) Regulations may make provision as to compliance assessments.
- (2) The regulations—
 - (a) may make provision as to the person who has to have carried out the assessment;
 - (b) may (in particular) require that the assessment be one carried out by a person who has been appointed by the Secretary of State to carry out compliance assessments (an “appointed assessor”).
- (3) For the purposes of any provisions in the regulations made by virtue of sub-paragraph (2)(b), the regulations—
 - (a) may make provision about appointments of appointed assessors, including (in particular)—
 - (i) provision for an appointment to be on application or otherwise than on application;
 - (ii) provision as to who may be appointed;
 - (iii) provision as to the form of applications for appointment;

Status: This is the original version (as it was originally enacted).

- (iv) provision as to information to be supplied with applications for appointment;
 - (v) provision as to terms and conditions, or the period or termination, of an appointment;
 - (vi) provision for terms and conditions of an appointment, including any as to its period or termination, to be as agreed by the Secretary of State when making the appointment;
- (b) may make provision authorising an appointed assessor to charge fees in connection with, or incidental to, the carrying out of a compliance assessment, including (in particular)—
- (i) provision restricting the amount of a fee;
 - (ii) provision authorising fees that contain a profit element;
 - (iii) provision for advance payment of fees;
- (c) may make provision requiring an appointed assessor to carry out a compliance assessment, and to do so in accordance with any procedures that may be prescribed, if prescribed conditions (which may include conditions as to the payment of fees to the assessor) are satisfied;
- (d) must make provision for the referral to the Secretary of State of disputes between—
- (i) an appointed assessor carrying out a compliance assessment, and
 - (ii) the person who requested the assessment,
- relating to which provisions of rail vehicle accessibility regulations the vehicle is to be assessed against or to what amounts to conformity with any of those provisions.
- (4) For the purposes of sub-paragraph (3)(b) to (d) a compliance assessment includes pre-assessment activities (for example, a consideration of how the outcome of a compliance assessment would be affected by the carrying out of particular proposed work).

Fees in respect of compliance certificates

- 4 (1) The Secretary of State may charge such fees, payable at such times, as are prescribed in respect of—
- (a) applications for, and the issue of, compliance certificates;
 - (b) copies of compliance certificates;
 - (c) reviews under paragraph 1(7);
 - (d) referrals of disputes under provision made by virtue of paragraph 3(3)(d).
- (2) Fees received by the Secretary of State must be paid into the Consolidated Fund.
- (3) Regulations under this paragraph may make provision for the repayment of fees, in whole or in part, in such circumstances as are prescribed.
- (4) Before making regulations under this paragraph the Secretary of State must consult such representative organisations as the Secretary of State thinks fit.

Status: This is the original version (as it was originally enacted).

Penalty for using rail vehicle that does not conform with accessibility regulations

- 5 (1) If the Secretary of State thinks that a regulated rail vehicle does not conform with a provision of rail vehicle accessibility regulations with which it is required to conform, the Secretary of State may give the operator of the vehicle a notice—
- (a) identifying the vehicle, the provision and how the vehicle fails to conform;
 - (b) specifying the improvement deadline.
- (2) The improvement deadline may not be earlier than the end of the prescribed period beginning with the day the notice is given.
- (3) Sub-paragraph (4) applies if—
- (a) the Secretary of State has given a notice under sub-paragraph (1),
 - (b) the improvement deadline specified in the notice has passed, and
 - (c) the Secretary of State thinks that the vehicle still does not conform with the provision identified in the notice.
- (4) The Secretary of State may give the operator a further notice—
- (a) identifying the vehicle, the provision and how the vehicle fails to conform;
 - (b) specifying the final deadline.
- (5) The final deadline may not be earlier than the end of the prescribed period beginning with the day the further notice is given.
- (6) The Secretary of State may require the operator to pay a penalty if—
- (a) the Secretary of State has given notice under sub-paragraph (4), and
 - (b) the vehicle is used for carriage at a time after the final deadline when the vehicle does not conform with the provision identified in the notice.

Penalty for using rail vehicle otherwise than in conformity with accessibility regulations

- 6 (1) If the Secretary of State thinks that a regulated rail vehicle has been used for carriage otherwise than in conformity with a provision of rail vehicle accessibility regulations with which the use of the vehicle is required to conform, the Secretary of State may give the operator of the vehicle a notice—
- (a) identifying the provision and how it was breached;
 - (b) identifying each vehicle operated by the operator that is covered by the notice;
 - (c) specifying the improvement deadline.
- (2) The improvement deadline may not be earlier than the end of the prescribed period beginning with the day the notice is given.
- (3) Sub-paragraph (4) applies if—
- (a) the Secretary of State has given a notice under sub-paragraph (1),
 - (b) the improvement deadline specified in the notice has passed, and
 - (c) the Secretary of State thinks that a vehicle covered by the notice has after that deadline been used for carriage otherwise than in conformity with the provision identified in the notice.
- (4) The Secretary of State may give the operator a further notice—
- (a) identifying the provision and how it was breached;

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- (b) identifying each vehicle operated by the operator that is covered by the further notice;
 - (c) specifying the final deadline.
- (5) The final deadline may not be earlier than the end of the prescribed period beginning with the day the further notice is given.
- (6) The Secretary of State may require the operator to pay a penalty if—
 - (a) the Secretary of State has given notice under sub-paragraph (4), and
 - (b) a vehicle covered by the notice is at a time after the final deadline used for carriage otherwise than in conformity with the provision identified in the notice.

Inspection of rail vehicles

- 7
- (1) If the condition in sub-paragraph (2) is satisfied, a person authorised by the Secretary of State (an “inspector”) may inspect a regulated rail vehicle for conformity with provisions of the accessibility regulations with which it is required to conform.
 - (2) The condition is that the Secretary of State—
 - (a) has reasonable grounds for suspecting that the vehicle does not conform with such provisions, or
 - (b) has given a notice under paragraph 5(1) or (4) relating to the vehicle.
 - (3) For the purpose of exercising the power under sub-paragraph (1) an inspector may—
 - (a) enter premises if the inspector has reasonable grounds for suspecting that the vehicle is at the premises;
 - (b) enter the vehicle;
 - (c) require any person to afford such facilities and assistance with respect to matters under the person’s control as are necessary to enable the inspector to exercise the power.
 - (4) An inspector must, if required to do so, produce evidence of the Secretary of State’s authorisation.
 - (5) For the purposes of paragraph 5(1) the Secretary of State may draw such inferences as appear proper from any obstruction of the exercise of the power under sub-paragraph (1).
 - (6) Sub-paragraphs (7) and (8) apply if the power under sub-paragraph (1) is exercisable by virtue of sub-paragraph (2)(b).
 - (7) The Secretary of State may treat paragraph 5(3)(c) as satisfied in relation to a vehicle if—
 - (a) the inspector takes steps to exercise the power after a notice is given under paragraph 5(1) but before a notice is given under paragraph 5(4), and
 - (b) a person obstructs the exercise of the power.
 - (8) The Secretary of State may require the operator of a vehicle to pay a penalty if—
 - (a) the operator, or a person acting on the operator’s behalf, intentionally obstructs the exercise of the power, and
 - (b) the obstruction occurs after a notice has been given under paragraph 5(4) in respect of the vehicle.

Status: This is the original version (as it was originally enacted).

- (9) In this paragraph “inspect” includes test.

Supplementary powers

- 8 (1) For the purposes of paragraph 5 the Secretary of State may give notice to a person requiring the person to supply the Secretary of State by a time specified in the notice with a vehicle number or other identifier for a rail vehicle—
- (a) of which the person is the operator, and
 - (b) which is specified in the notice.
- (2) The time specified may not be earlier than the end of the period of 14 days beginning with the day the notice is given.
- (3) If the person does not comply with the notice, the Secretary of State may require the person to pay a penalty.
- (4) If the Secretary of State has given a notice to a person under paragraph 5(1) or 6(1), the Secretary of State may request the person to supply the Secretary of State, by a time specified in the request, with a statement detailing the steps taken in response to the notice.
- (5) The time specified may not be earlier than the improvement deadline.
- (6) The Secretary of State may treat paragraph 5(3)(c) or (as the case may be) paragraph 6(3)(c) as being satisfied in relation to a vehicle if a request under sub-paragraph (4) is not complied with by the time specified.

Penalties: amount, due date and recovery

- 9 (1) In this paragraph and paragraphs 10 to 12 “penalty” means a penalty under this Schedule.
- (2) The amount of a penalty must not exceed whichever is the lesser of—
- (a) the maximum prescribed for the purposes of this sub-paragraph;
 - (b) 10% of the turnover of the person on whom it is imposed.
- (3) Turnover is to be determined by such means as are prescribed.
- (4) A penalty must be paid to the Secretary of State before the end of the prescribed period.
- (5) A sum payable as a penalty may be recovered as a debt due to the Secretary of State.
- (6) In proceedings for recovery of a penalty no question may be raised as to—
- (a) liability to the penalty;
 - (b) its amount.
- (7) Sums paid to the Secretary of State as a penalty must be paid into the Consolidated Fund.

Penalties: code of practice

- 10 (1) The Secretary of State must issue a code of practice specifying matters to be considered in determining the amount of a penalty.

Status: This is the original version (as it was originally enacted).

- (2) The Secretary of State may—
 - (a) revise the whole or part of the code;
 - (b) issue the code as revised.
- (3) Before issuing the code the Secretary of State must lay a draft of it before Parliament.
- (4) After laying the draft before Parliament, the Secretary of State may bring the code into operation by order.
- (5) The Secretary of State must have regard to the code and any other relevant matter—
 - (a) when imposing a penalty;
 - (b) when considering an objection under paragraph 11.
- (6) In sub-paragraphs (3) to (5) a reference to the code includes a reference to the code as revised.

Penalties: procedure

- 11 (1) If the Secretary of State decides that a person is liable to a penalty the Secretary of State must notify the person.
- (2) The notification must—
 - (a) state the Secretary of State's reasons for the decision;
 - (b) state the amount of the penalty;
 - (c) specify the date by which and manner in which the penalty must be paid;
 - (d) explain how the person may object to the penalty.
- (3) The person may give the Secretary of State notice of objection to the penalty on the ground that—
 - (a) the person is not liable to the penalty, or
 - (b) the amount of the penalty is too high.
- (4) A notice of objection must—
 - (a) be in writing;
 - (b) give the reasons for the objection;
 - (c) be given before the end of the period prescribed for the purposes of this sub-paragraph.
- (5) On considering a notice of objection the Secretary of State may—
 - (a) cancel the penalty;
 - (b) reduce the amount of the penalty;
 - (c) do neither of those things.
- (6) The Secretary of State must inform the objector of the decision under sub-paragraph (5) before the end of the period prescribed for the purposes of this sub-paragraph (or such longer period as is agreed with the objector).

Penalties: appeals

- 12 (1) A person may appeal to the court against a penalty on the ground that—
 - (a) the person is not liable to the penalty;
 - (b) the amount of the penalty is too high.

Status: This is the original version (as it was originally enacted).

- (2) The court may—
- (a) allow the appeal and cancel the penalty;
 - (b) allow the appeal and reduce the amount of the penalty;
 - (c) dismiss the appeal.
- (3) An appeal under this section is a re-hearing of the Secretary of State’s decision and is to be determined having regard to—
- (a) any code of practice under paragraph 10 which has effect at the time of the appeal;
 - (b) any other matter which the court thinks is relevant (whether or not the Secretary of State was aware of it).
- (4) An appeal may be brought under this section whether or not—
- (a) the person has given notice of objection under paragraph 11(3);
 - (b) the penalty has been reduced under paragraph 11(5).
- (5) In this section “the court” is—
- (a) in England and Wales, a county court;
 - (b) in Scotland, the sheriff.
- (6) The sheriff may transfer the proceedings to the Court of Session.
- (7) If the sheriff makes a determination under sub-paragraph (2), a party to the proceedings may appeal against the determination on a point of law to—
- (a) the Sheriff Principal, or
 - (b) the Court of Session.

Forgery, etc.

- 13 (1) Section 188 has effect—
- (a) as if a compliance certificate were a “relevant document”;
 - (b) as if subsection (4) included a reference to a compliance certificate.
- (2) A person commits an offence by pretending, with intent to deceive, to be a person authorised to exercise a power under paragraph 7.
- (3) A person guilty of an offence under sub-paragraph (2) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

Regulations

- 14 A power to make regulations under this Schedule is exercisable by the Secretary of State.

Interpretation

- 15 (1) In this Schedule—
- “compliance assessment” has the meaning given in paragraph 1(5);
 - “compliance certificate” has the meaning given in paragraph 1(2);
 - “operator”, in relation to a rail vehicle, means the person having the management of the vehicle.

- (2) If an exemption order under section 183 authorises the use of a rail vehicle even though the vehicle does not conform with a provision of rail vehicle accessibility regulations, a reference in this Schedule to provisions of rail vehicle accessibility regulations with which the vehicle is required to conform does not, in relation to the vehicle, include a reference to that provision.

SCHEDULE 21

Section 189

REASONABLE ADJUSTMENTS: SUPPLEMENTARY

Preliminary

- 1 This Schedule applies for the purposes of Schedules 2, 4, 8, 13 and 15.

Binding obligations, etc.

- 2 (1) This paragraph applies if—
- (a) a binding obligation requires A to obtain the consent of another person to an alteration of premises which A occupies,
 - (b) where A is a controller of let premises, a binding obligation requires A to obtain the consent of another person to a variation of a term of the tenancy, or
 - (c) where A is a responsible person in relation to common parts, a binding obligation requires A to obtain the consent of another person to an alteration of the common parts.
- (2) For the purpose of discharging a duty to make reasonable adjustments—
- (a) it is always reasonable for A to have to take steps to obtain the consent, but
 - (b) it is never reasonable for A to have to make the alteration before the consent is obtained.
- (3) In this Schedule, a binding obligation is a legally binding obligation in relation to premises, however arising; but the reference to a binding obligation in sub-paragraph (1)(a) or (c) does not include a reference to an obligation imposed by a tenancy.
- (4) The steps referred to in sub-paragraph (2)(a) do not include applying to a court or tribunal.

Landlord's consent

- 3 (1) This paragraph applies if—
- (a) A occupies premises under a tenancy,
 - (b) A is proposing to make an alteration to the premises so as to comply with a duty to make reasonable adjustments, and
 - (c) but for this paragraph, A would not be entitled to make the alteration.
- (2) This paragraph also applies if—
- (a) A is a responsible person in relation to common parts,
 - (b) A is proposing to make an alteration to the common parts so as to comply with a duty to make reasonable adjustments,

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- (c) A is the tenant of property which includes the common parts, and
 - (d) but for this paragraph, A would not be entitled to make the alteration.
- (3) The tenancy has effect as if it provided—
- (a) for A to be entitled to make the alteration with the written consent of the landlord,
 - (b) for A to have to make a written application for that consent,
 - (c) for the landlord not to withhold the consent unreasonably, and
 - (d) for the landlord to be able to give the consent subject to reasonable conditions.
- (4) If a question arises as to whether A has made the alteration (and, accordingly, complied with a duty to make reasonable adjustments), any constraint attributable to the tenancy must be ignored unless A has applied to the landlord in writing for consent to the alteration.
- (5) For the purposes of sub-paragraph (1) or (2), A must be treated as not entitled to make the alteration if the tenancy—
- (a) imposes conditions which are to apply if A makes an alteration, or
 - (b) entitles the landlord to attach conditions to a consent to the alteration.

Proceedings before county court or sheriff

- 4 (1) This paragraph applies if, in a case within Part 3, 4, 6 or 7 of this Act—
- (a) A has applied in writing to the landlord for consent to the alteration, and
 - (b) the landlord has refused to give consent or has given consent subject to a condition.
- (2) A (or a disabled person with an interest in the alteration being made) may refer the matter to a county court or, in Scotland, the sheriff.
- (3) The county court or sheriff must determine whether the refusal or condition is unreasonable.
- (4) If the county court or sheriff finds that the refusal or condition is unreasonable, the county court or sheriff—
- (a) may make such declaration as it thinks appropriate;
 - (b) may make an order authorising A to make the alteration specified in the order (and requiring A to comply with such conditions as are so specified).

Joining landlord as party to proceedings

- 5 (1) This paragraph applies to proceedings relating to a contravention of this Act by virtue of section 20.
- (2) A party to the proceedings may request the employment tribunal, county court or sheriff (“the judicial authority”) to direct that the landlord is joined or sisted as a party to the proceedings.
- (3) The judicial authority—
- (a) must grant the request if it is made before the hearing of the complaint or claim begins;
 - (b) may refuse the request if it is made after the hearing begins;

Status: This is the original version (as it was originally enacted).

- (c) must refuse the request if it is made after the complaint or claim has been determined.
- (4) If the landlord is joined or sisted as a party to the proceedings, the judicial authority may determine whether—
 - (a) the landlord has refused to consent to the alteration;
 - (b) the landlord has consented subject to a condition;
 - (c) the refusal or condition was unreasonable.
- (5) If the judicial authority finds that the refusal or condition was unreasonable, it—
 - (a) may make such declaration as it thinks appropriate;
 - (b) may make an order authorising A to make the alteration specified in the order (and requiring A to comply with such conditions as are so specified);
 - (c) may order the landlord to pay compensation to the complainant or claimant.
- (6) An employment tribunal may act in reliance on sub-paragraph (5)(c) instead of, or in addition to, acting in reliance on section 124(2); but if it orders the landlord to pay compensation it must not do so in reliance on section 124(2).
- (7) If a county court or the sheriff orders the landlord to pay compensation, it may not order A to do so.

Regulations

- 6 (1) Regulations may make provision as to circumstances in which a landlord is taken for the purposes of this Schedule to have—
 - (a) withheld consent;
 - (b) withheld consent reasonably;
 - (c) withheld consent unreasonably.
- (2) Regulations may make provision as to circumstances in which a condition subject to which a landlord gives consent is taken—
 - (a) to be reasonable;
 - (b) to be unreasonable.
- (3) Regulations may make provision supplementing or modifying the preceding paragraphs of this Schedule, or provision made under this paragraph, in relation to a case where A's tenancy is a sub-tenancy.
- (4) Provision made by virtue of this paragraph may amend the preceding paragraphs of this Schedule.

Interpretation

- 7 An expression used in this Schedule and in Schedule 2, 4, 8, 13 or 15 has the same meaning in this Schedule as in that Schedule.

Status: This is the original version (as it was originally enacted).

SCHEDULE 22

Section 191

STATUTORY PROVISIONS

Statutory authority

- 1 (1) A person (P) does not contravene a provision specified in the first column of the table, so far as relating to the protected characteristic specified in the second column in respect of that provision, if P does anything P must do pursuant to a requirement specified in the third column.

<i>Specified provision</i>	<i>Protected characteristic</i>	<i>Requirement</i>
Parts 3 to 7	Age	A requirement of an enactment
Parts 3 to 7 and 12	Disability	A requirement of an enactment A relevant requirement or condition imposed by virtue of an enactment
Parts 3 to 7	Religion or belief	A requirement of an enactment A relevant requirement or condition imposed by virtue of an enactment
Section 29(6) and Parts 6 and 7	Sex	A requirement of an enactment
Parts 3, 4, 6 and 7	Sexual orientation	A requirement of an enactment A relevant requirement or condition imposed by virtue of an enactment

- (2) A reference in the table to Part 6 does not include a reference to that Part so far as relating to vocational training.
- (3) In this paragraph a reference to an enactment includes a reference to—
- a Measure of the General Synod of the Church of England;
 - an enactment passed or made on or after the date on which this Act is passed.
- (4) In the table, a relevant requirement or condition is a requirement or condition imposed (whether before or after the passing of this Act) by—
- a Minister of the Crown;
 - a member of the Scottish Executive;
 - the National Assembly for Wales (constituted by the [Government of Wales Act 1998](#));
 - the Welsh Ministers, the First Minister for Wales or the Counsel General to the Welsh Assembly Government.

Protection of women

- 2 (1) A person (P) does not contravene a specified provision only by doing in relation to a woman (W) anything P is required to do to comply with—
- a pre-1975 Act enactment concerning the protection of women;

Status: This is the original version (as it was originally enacted).

- (b) a relevant statutory provision (within the meaning of Part 1 of the [Health and Safety at Work etc. Act 1974](#)) if it is done for the purpose of the protection of W (or a description of women which includes W);
 - (c) a requirement of a provision specified in Schedule 1 to the [Employment Act 1989](#) (provisions concerned with protection of women at work).
- (2) The references to the protection of women are references to protecting women in relation to—
 - (a) pregnancy or maternity, or
 - (b) any other circumstances giving rise to risks specifically affecting women.
- (3) It does not matter whether the protection is restricted to women.
- (4) These are the specified provisions—
 - (a) Part 5 (work);
 - (b) Part 6 (education), so far as relating to vocational training.
- (5) A pre-1975 Act enactment is an enactment contained in—
 - (a) an Act passed before the [Sex Discrimination Act 1975](#);
 - (b) an instrument approved or made by or under such an Act (including one approved or made after the passing of the 1975 Act).
- (6) If an Act repeals and re-enacts (with or without modification) a pre-1975 enactment then the provision re-enacted must be treated as being in a pre-1975 enactment.
- (7) For the purposes of sub-paragraph (1)(c), a reference to a provision in Schedule 1 to the [Employment Act 1989](#) includes a reference to a provision for the time being having effect in place of it.
- (8) This paragraph applies only to the following protected characteristics—
 - (a) pregnancy and maternity;
 - (b) sex.

Educational appointments, etc: religious belief

- 3 (1) A person does not contravene Part 5 (work) only by doing a relevant act in connection with the employment of another in a relevant position.
- (2) A relevant position is—
 - (a) the head teacher or principal of an educational establishment;
 - (b) the head, a fellow or other member of the academic staff of a college, or institution in the nature of a college, in a university;
 - (c) a professorship of a university which is a canon professorship or one to which a canonry is annexed.
- (3) A relevant act is anything it is necessary to do to comply with—
 - (a) a requirement of an instrument relating to the establishment that the head teacher or principal must be a member of a particular religious order;
 - (b) a requirement of an instrument relating to the college or institution that the holder of the position must be a woman;
 - (c) an Act or instrument in accordance with which the professorship is a canon professorship or one to which a canonry is annexed.

Status: This is the original version (as it was originally enacted).

- (4) Sub-paragraph (3)(b) does not apply to an instrument taking effect on or after 16 January 1990 (the day on which section 5(3) of the Employment Act 1989 came into force).
- (5) A Minister of the Crown may by order provide that anything in sub-paragraphs (1) to (3) does not have effect in relation to—
- (a) a specified educational establishment or university;
 - (b) a specified description of educational establishments.
- (6) An educational establishment is—
- (a) a school within the meaning of the [Education Act 1996](#) or the [Education \(Scotland\) Act 1980](#);
 - (b) a college, or institution in the nature of a college, in a university;
 - (c) an institution designated by order made, or having effect as if made, under section 129 of the [Education Reform Act 1988](#);
 - (d) a college of further education within the meaning of section 36 of the Further and Higher Education (Scotland) Act 1992;
 - (e) a university in Scotland;
 - (f) an institution designated by order under section 28 of the Further and Higher Education Act 1992 or section 44 of the Further and Higher Education (Scotland) Act 1992.
- (7) This paragraph does not affect paragraph 2 of Schedule 9.
- 4 A person does not contravene this Act only by doing anything which is permitted for the purposes of—
- (a) section 58(6) or (7) of the [School Standards and Framework Act 1998](#) (dismissal of teachers because of failure to give religious education efficiently);
 - (b) section 60(4) and (5) of that Act (religious considerations relating to certain appointments);
 - (c) section 124A of that Act (preference for certain teachers at independent schools of a religious character).

Crown employment, etc.

- 5 (1) A person does not contravene this Act—
- (a) by making or continuing in force rules mentioned in sub-paragraph (2);
 - (b) by publishing, displaying or implementing such rules;
 - (c) by publishing the gist of such rules.
- (2) The rules are rules restricting to persons of particular birth, nationality, descent or residence—
- (a) employment in the service of the Crown;
 - (b) employment by a prescribed public body;
 - (c) holding a public office (within the meaning of section 50).
- (3) The power to make regulations for the purpose of sub-paragraph (2)(b) is exercisable by the Minister for the Civil Service.
- (4) In this paragraph “public body” means a body (whether corporate or unincorporated) exercising public functions (within the meaning given by section 31(4)).

SCHEDULE 23

Section 196

GENERAL EXCEPTIONS

Acts authorised by statute or the executive

- 1 (1) This paragraph applies to anything done—
- (a) in pursuance of an enactment;
 - (b) in pursuance of an instrument made by a member of the executive under an enactment;
 - (c) to comply with a requirement imposed (whether before or after the passing of this Act) by a member of the executive by virtue of an enactment;
 - (d) in pursuance of arrangements made (whether before or after the passing of this Act) by or with the approval of, or for the time being approved by, a Minister of the Crown;
 - (e) to comply with a condition imposed (whether before or after the passing of this Act) by a Minister of the Crown.
- (2) A person does not contravene Part 3, 4, 5 or 6 by doing anything to which this paragraph applies which discriminates against another because of the other's nationality.
- (3) A person (A) does not contravene Part 3, 4, 5 or 6 if, by doing anything to which this paragraph applies, A discriminates against another (B) by applying to B a provision, criterion or practice which relates to—
- (a) B's place of ordinary residence;
 - (b) the length of time B has been present or resident in or outside the United Kingdom or an area within it.

Organisations relating to religion or belief

- 2 (1) This paragraph applies to an organisation the purpose of which is—
- (a) to practise a religion or belief,
 - (b) to advance a religion or belief,
 - (c) to teach the practice or principles of a religion or belief,
 - (d) to enable persons of a religion or belief to receive any benefit, or to engage in any activity, within the framework of that religion or belief, or
 - (e) to foster or maintain good relations between persons of different religions or beliefs.
- (2) This paragraph does not apply to an organisation whose sole or main purpose is commercial.
- (3) The organisation does not contravene Part 3, 4 or 7, so far as relating to religion or belief or sexual orientation, only by restricting—
- (a) membership of the organisation;
 - (b) participation in activities undertaken by the organisation or on its behalf or under its auspices;
 - (c) the provision of goods, facilities or services in the course of activities undertaken by the organisation or on its behalf or under its auspices;
 - (d) the use or disposal of premises owned or controlled by the organisation.

Status: This is the original version (as it was originally enacted).

- (4) A person does not contravene Part 3, 4 or 7, so far as relating to religion or belief or sexual orientation, only by doing anything mentioned in sub-paragraph (3) on behalf of or under the auspices of the organisation.
- (5) A minister does not contravene Part 3, 4 or 7, so far as relating to religion or belief or sexual orientation, only by restricting—
 - (a) participation in activities carried on in the performance of the minister’s functions in connection with or in respect of the organisation;
 - (b) the provision of goods, facilities or services in the course of activities carried on in the performance of the minister’s functions in connection with or in respect of the organisation.
- (6) Sub-paragraphs (3) to (5) permit a restriction relating to religion or belief only if it is imposed—
 - (a) because of the purpose of the organisation, or
 - (b) to avoid causing offence, on grounds of the religion or belief to which the organisation relates, to persons of that religion or belief.
- (7) Sub-paragraphs (3) to (5) permit a restriction relating to sexual orientation only if it is imposed—
 - (a) because it is necessary to comply with the doctrine of the organisation, or
 - (b) to avoid conflict with strongly held convictions within sub-paragraph (9).
- (8) In sub-paragraph (5), the reference to a minister is a reference to a minister of religion, or other person, who—
 - (a) performs functions in connection with a religion or belief to which the organisation relates, and
 - (b) holds an office or appointment in, or is accredited, approved or recognised for the purposes of the organisation.
- (9) The strongly held convictions are—
 - (a) in the case of a religion, the strongly held religious convictions of a significant number of the religion’s followers;
 - (b) in the case of a belief, the strongly held convictions relating to the belief of a significant number of the belief’s followers.
- (10) This paragraph does not permit anything which is prohibited by section 29, so far as relating to sexual orientation, if it is done—
 - (a) on behalf of a public authority, and
 - (b) under the terms of a contract between the organisation and the public authority.
- (11) In the application of this paragraph in relation to sexual orientation, sub-paragraph (1)(e) must be ignored.
- (12) In the application of this paragraph in relation to sexual orientation, in sub-paragraph (3)(d), “disposal” does not include disposal of an interest in premises by way of sale if the interest being disposed of is—
 - (a) the entirety of the organisation’s interest in the premises, or
 - (b) the entirety of the interest in respect of which the organisation has power of disposal.
- (13) In this paragraph—

Status: This is the original version (as it was originally enacted).

- (a) “disposal” is to be construed in accordance with section 38;
- (b) “public authority” has the meaning given in section 150(1).

Communal accommodation

- 3 (1) A person does not contravene this Act, so far as relating to sex discrimination or gender reassignment discrimination, only because of anything done in relation to—
- (a) the admission of persons to communal accommodation;
 - (b) the provision of a benefit, facility or service linked to the accommodation.
- (2) Sub-paragraph (1)(a) does not apply unless the accommodation is managed in a way which is as fair as possible to both men and women.
- (3) In applying sub-paragraph (1)(a), account must be taken of—
- (a) whether and how far it is reasonable to expect that the accommodation should be altered or extended or that further accommodation should be provided, and
 - (b) the frequency of the demand or need for use of the accommodation by persons of one sex as compared with those of the other.
- (4) In applying sub-paragraph (1)(a) in relation to gender reassignment, account must also be taken of whether and how far the conduct in question is a proportionate means of achieving a legitimate aim.
- (5) Communal accommodation is residential accommodation which includes dormitories or other shared sleeping accommodation which for reasons of privacy should be used only by persons of the same sex.
- (6) Communal accommodation may include—
- (a) shared sleeping accommodation for men and for women;
 - (b) ordinary sleeping accommodation;
 - (c) residential accommodation all or part of which should be used only by persons of the same sex because of the nature of the sanitary facilities serving the accommodation.
- (7) A benefit, facility or service is linked to communal accommodation if—
- (a) it cannot properly and effectively be provided except for those using the accommodation, and
 - (b) a person could be refused use of the accommodation in reliance on sub-paragraph (1)(a).
- (8) This paragraph does not apply for the purposes of Part 5 (work) unless such arrangements as are reasonably practicable are made to compensate for—
- (a) in a case where sub-paragraph (1)(a) applies, the refusal of use of the accommodation;
 - (b) in a case where sub-paragraph (1)(b) applies, the refusal of provision of the benefit, facility or service.

Training provided to non-EEA residents, etc.

- 4 (1) A person (A) does not contravene this Act, so far as relating to nationality, only by providing a non-resident (B) with training, if A thinks that B does not intend to exercise in Great Britain skills B obtains as a result.

Status: This is the original version (as it was originally enacted).

- (2) A non-resident is a person who is not ordinarily resident in an EEA state.
- (3) The reference to providing B with training is—
 - (a) if A employs B in relevant employment, a reference to doing anything in or in connection with the employment;
 - (b) if A as a principal allows B to do relevant contract work, a reference to doing anything in or in connection with allowing B to do the work;
 - (c) in a case within paragraph (a) or (b) or any other case, a reference to affording B access to facilities for education or training or ancillary benefits.
- (4) Employment or contract work is relevant if its sole or main purpose is the provision of training in skills.
- (5) In the case of training provided by the armed forces or Secretary of State for purposes relating to defence, sub-paragraph (1) has effect as if—
 - (a) the reference in sub-paragraph (2) to an EEA state were a reference to Great Britain, and
 - (b) in sub-paragraph (4), for “its sole or main purpose is” there were substituted “it is for purposes including”.
- (6) “Contract work” and “principal” each have the meaning given in section 41.

SCHEDULE 24

Section 203

HARMONISATION: EXCEPTIONS

- Part 1 (public sector duty regarding socio-economic inequalities)
- Chapter 2 of Part 5 (occupational pensions)
- Section 78 (gender pay gap)
- Section 106 (election candidates: diversity information)
- Chapters 1 to 3 and 5 of Part 9 (enforcement), except section 136
- Sections 142 and 146 (unenforceable terms, declaration in respect of void terms)
- Chapter 1 of Part 11 (public sector equality duty)
- Part 12 (disabled persons: transport)
- Part 13 (disability: miscellaneous)
- Section 197 (power to specify age exceptions)
- Part 15 (family property)
- Part 16 (general and miscellaneous)
- Schedule 1 (disability: supplementary provision)
- In Schedule 3 (services and public functions: exceptions)—
 - (a) in Part 3 (health and care), paragraphs 13 and 14;
 - (b) Part 4 (immigration);
 - (c) Part 5 (insurance);
 - (d) Part 6 (marriage);
 - (e) Part 7 (separate and single services), except paragraph 30;
 - (f) Part 8 (television, radio and on-line broadcasting and distribution);
 - (g) Part 9 (transport);
 - (h) Part 10 (supplementary)

Schedule 4 (premises: reasonable adjustments)
Schedule 5 (premises: exceptions), except paragraph 1
Schedule 6 (office-holders: excluded offices), except so far as relating to colour or nationality or marriage and civil partnership
Schedule 8 (work: reasonable adjustments)
In Schedule 9 (work: exceptions)—
 (a) Part 1 (general), except so far as relating to colour or nationality;
 (b) Part 2 (exceptions relating to age);
 (c) Part 3 (other exceptions), except paragraph 19 so far as relating to colour or nationality
Schedule 10 (education: accessibility for disabled pupils)
Schedule 13 (education: reasonable adjustments), except paragraphs 2, 5, 6 and 9
Schedule 17 (education: disabled pupils: enforcement)
Schedule 18 (public sector equality duty: exceptions)
Schedule 19 (list of public authorities)
Schedule 20 (rail vehicle accessibility: compliance)
Schedule 21 (reasonable adjustments: supplementary)
In Schedule 22 (exceptions: statutory provisions), paragraphs 2 and 5
Schedule 23 (general exceptions), except paragraph 2
Schedule 25 (information society services)

SCHEDULE 25

Section 206

INFORMATION SOCIETY SERVICES

Service providers

- 1 (1) This paragraph applies where a person concerned with the provision of an information society service (an “information society service provider”) is established in Great Britain.
(2) This Act applies to anything done by the person in an EEA state (other than the United Kingdom) in providing the service as this Act would apply if the act in question were done by the person in Great Britain.
- 2 (1) This paragraph applies where an information society service provider is established in an EEA state (other than the United Kingdom).
(2) This Act does not apply to anything done by the person in providing the service.

Exceptions for mere conduits

- 3 (1) An information society service provider does not contravene this Act only by providing so much of an information society service as consists in—
 - (a) the provision of access to a communication network, or
 - (b) the transmission in a communication network of information provided by the recipient of the service.
(2) But sub-paragraph (1) applies only if the service provider does not—

Status: This is the original version (as it was originally enacted).

- (a) initiate the transmission,
 - (b) select the recipient of the transmission, or
 - (c) select or modify the information contained in the transmission.
- (3) For the purposes of sub-paragraph (1), the provision of access to a communication network, and the transmission of information in a communication network, includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is solely for the purpose of carrying out the transmission in the network.
- (4) Sub-paragraph (3) does not apply if the information is stored for longer than is reasonably necessary for the transmission.

Exception for caching

- 4 (1) This paragraph applies where an information society service consists in the transmission in a communication network of information provided by a recipient of the service.
- (2) The information society service provider does not contravene this Act only by doing anything in connection with the automatic, intermediate and temporary storage of information so provided if—
- (a) the storage of the information is solely for the purpose of making more efficient the onward transmission of the information to other recipients of the service at their request, and
 - (b) the condition in sub-paragraph (3) is satisfied.
- (3) The condition is that the service-provider—
- (a) does not modify the information,
 - (b) complies with such conditions as are attached to having access to the information, and
 - (c) (where sub-paragraph (4) applies) expeditiously removes the information or disables access to it.
- (4) This sub-paragraph applies if the service-provider obtains actual knowledge that—
- (a) the information at the initial source of the transmission has been removed from the network,
 - (b) access to it has been disabled, or
 - (c) a court or administrative authority has required the removal from the network of, or the disablement of access to, the information.

Exception for hosting

- 5 (1) An information society service provider does not contravene this Act only by doing anything in providing so much of an information society service as consists in the storage of information provided by a recipient of the service, if—
- (a) the service provider had no actual knowledge when the information was provided that its provision amounted to a contravention of this Act, or
 - (b) on obtaining actual knowledge that the provision of the information amounted to a contravention of that section, the service provider expeditiously removed the information or disabled access to it.

- (2) Sub-paragraph (1) does not apply if the recipient of the service is acting under the authority of the control of the service provider.

Monitoring obligations

- 6 An injunction or interdict under Part 1 of the Equality Act 2006 may not impose on a person concerned with the provision of a service of a description given in paragraph 3(1), 4(1) or 5(1)—
- (a) a liability the imposition of which would contravene Article 12, 13 or 14 of the E-Commerce Directive;
 - (b) a general obligation of the description given in Article 15 of that Directive.

Interpretation

- 7 (1) This paragraph applies for the purposes of this Schedule.
- (2) “Information society service”—
- (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive [98/34/EC](#) of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations), and
 - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”.
- (3) “The E-Commerce Directive” means Directive [2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce).
- (4) “Recipient” means a person who (whether for professional purposes or not) uses an information society service, in particular for seeking information or making it accessible.
- (5) An information society service-provider is “established” in a country or territory if the service-provider—
- (a) effectively pursues an economic activity using a fixed establishment in that country or territory for an indefinite period, and
 - (b) is a national of an EEA state or a body mentioned in Article 48 of the EEC treaty.
- (6) The presence or use in a particular place of equipment or other technical means of providing an information society service is not itself sufficient to constitute the establishment of a service-provider.
- (7) Where it cannot be decided from which of a number of establishments an information society service is provided, the service is to be regarded as provided from the establishment at the centre of the information society service provider’s activities relating to that service.
- (8) Section 212(4) does not apply to references to providing a service.

Status: This is the original version (as it was originally enacted).

SCHEDULE 26

Section 211

AMENDMENTS

Local Government Act 1988

- 1 Part 2 of the Local Government Act 1988 (public supply or works contracts) is amended as follows.
- 2 In section 17 (local and other public authority contracts: exclusion of non-commercial considerations)—
- (a) omit subsection (9), and
 - (b) after that subsection insert—

“(10) This section does not prevent a public authority to which it applies from exercising any function regulated by this section with reference to a non-commercial matter to the extent that the authority considers it necessary or expedient to do so to enable or facilitate compliance with—

 - (a) the duty imposed on it by section 149 of the Equality Act 2010 (public sector equality duty), or
 - (b) any duty imposed on it by regulations under section 153 or 154 of that Act (powers to impose specific duties).”
- 3 Omit section 18 (exceptions to section 17 relating to race relations matters).
- 4 In section 19 (provisions supplementary to or consequential on section 17) omit subsection (10).

Employment Act 1989

- 5 (1) Section 12 of the Employment Act 1989 (Sikhs: requirements as to safety helmets) is amended as follows.
- (2) In subsection (1), for “requirement or condition”, in the first three places, substitute “provision, criterion or practice”.
 - (3) In that subsection, for the words from “section 1(1)(b)” to the end substitute “section 19 of the Equality Act 2010 (indirect discrimination), the provision, criterion or practice is to be taken as one in relation to which the condition in subsection (2) (d) of that section (proportionate means of achieving a legitimate aim) is satisfied”.
 - (4) In subsection (2), for the words from “the Race Relations Act” to the end substitute “section 13 of the Equality Act 2010 as giving rise to discrimination against any other person”.

Equality Act 2006

- 6 The Equality Act 2006 is amended as follows.
- 7 (1) Section 8 (equality and diversity) is amended as follows.
- (2) In subsection (1)—
 - (a) in paragraph (d) for “equality enactments” substitute “Equality Act 2010”, and

- (b) in paragraph (e) for “the equality enactments” substitute “that Act”.
- (3) In subsection (4) for “Disability Discrimination Act 1995 (c. 50)” substitute “Equality Act 2010”.
- 8 In section 10(2) (meaning of group) for paragraph (d) substitute—
“(d) gender reassignment (within the meaning of section 7 of the Equality Act 2010).”.
- 9 For section 11(3)(c) (interpretation) substitute—
“(c) a reference to the equality and human rights enactments is a reference to the Human Rights Act 1998, this Act and the Equality Act 2010.”
- 10 (1) Section 14 (codes of practice) is amended as follows.
(2) For subsection (1) substitute—
“(1) The Commission may issue a code of practice in connection with any matter addressed by the Equality Act 2010.”
- (3) In subsection (2)(a) for “a provision or enactment listed in subsection (1)” substitute “the Equality Act 2010 or an enactment made under that Act”.
- (4) In subsection (3)—
(a) in paragraph (a) for “section 49G(7) of the Disability Discrimination Act 1995 (c. 50)” substitute “section 190(7) of the Equality Act 2010”, and
(b) for paragraph (c)(iv) substitute—
“(iv) section 190 of the Equality Act 2010.”
- (5) In subsection (5)(a) for “listed in subsection (1)” substitute “a matter addressed by the Equality Act 2010”.
- (6) In subsection (9) for “section 76A” to “duties)” substitute “section 149, 153 or 154 of the Equality Act 2010 (public sector equality duty)”.
- 11 In section 16(4) (inquiries: matters which the Commission may consider and report on) for “equality enactments” substitute “Equality Act 2010”.
- 12 In section 21(2)(b) (unlawful act notice: specification of legislative provision) for “equality enactments” substitute “Equality Act 2010”.
- 13 After section 24 insert—

“24A Enforcement powers: supplemental

- (1) This section has effect in relation to—
- (a) an act which is unlawful because, by virtue of any of sections 13 to 18 of the Equality Act 2010, it amounts to a contravention of any of Parts 3, 4, 5, 6 or 7 of that Act,
- (b) an act which is unlawful because it amounts to a contravention of section 60(1) of that Act (or to a contravention of section 111 or 112 of that Act that relates to a contravention of section 60(1) of that Act) (enquiries about disability and health),
- (c) an act which is unlawful because it amounts to a contravention of section 106 of that Act (information about diversity in range of election candidates etc.),

Status: This is the original version (as it was originally enacted).

- (d) an act which is unlawful because, by virtue of section 108(1) of that Act, it amounts to a contravention of any of Parts 3, 4, 5, 6 or 7 of that Act, or
 - (e) the application of a provision, criterion or practice which, by virtue of section 19 of that Act, amounts to a contravention of that Act.
- (2) For the purposes of sections 20 to 24 of this Act, it is immaterial whether the Commission knows or suspects that a person has been or may be affected by the unlawful act or application.
- (3) For those purposes, an unlawful act includes making arrangements to act in a particular way which would, if applied to an individual, amount to a contravention mentioned in subsection (1)(a).
- (4) Nothing in this Act affects the entitlement of a person to bring proceedings under the Equality Act 2010 in respect of a contravention mentioned in subsection (1).”
- 14 Omit section 25 (restraint of unlawful advertising etc.).
- 15 Omit section 26 (supplemental).
- 16 (1) Section 27 (conciliation) is amended as follows.
- (2) For subsection (1) (disputes in relation to which the Commission may make arrangements for the provision of conciliation services) substitute—
- “(1) The Commission may make arrangements for the provision of conciliation services for disputes in respect of which proceedings have been or could be determined by virtue of section 114 of the Equality Act 2010.”
- 17 (1) Section 28 (legal assistance) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a) for “equality enactments” substitute “Equality Act 2010”, and
 - (b) in paragraph (b) for “the equality enactments” substitute “that Act”.
- (3) In subsection (5) for “Part V of the Disability Discrimination Act 1995 (c. 50) (public)” substitute “Part 12 of the Equality Act 2010 (disabled persons)”.
- (4) In subsection (6)—
- (a) for “the equality enactments”, on the first occasion it appears, substitute “the Equality Act 2010”, and
 - (b) for “the equality enactments”, on each other occasion it appears, substitute “that Act”.
- (5) In subsection (7)—
- (a) in paragraph (a) for “equality enactments” substitute “Equality Act 2010”, and
 - (b) in paragraph (b) for “the equality enactments” substitute “that Act”.
- (6) In subsection (8) for “Part V of the Disability Discrimination Act 1995 (c. 50)” substitute “Part 12 of the Equality Act 2010”.
- (7) In subsection (9) for “equality enactments” substitute “Equality Act 2010”.

- (8) In subsection (12)—
- (a) for “A reference in” to “includes a reference” substitute “This section applies”, and
 - (b) after paragraph (b) add “as it applies to the Equality Act 2010.”
- 18 For section 31(1) (duties in respect of which Commission may assess compliance) substitute—
- “(1) The Commission may assess the extent to which or the manner in which a person has complied with a duty under or by virtue of section 149, 153 or 154 of the Equality Act 2010 (public sector equality duty).”
- 19 (1) Section 32 (public sector duties: compliance notice) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies where the Commission thinks that a person has failed to comply with a duty under or by virtue of section 149, 153 or 154 of the Equality Act 2010 (public sector equality duty).”
- (3) In subsection (4) for “section 76A” to “Disability Discrimination Act 1995” substitute “section 149 of the Equality Act 2010”.
- (4) In subsection (9)(a) for “section 76A” to “Disability Discrimination Act 1995 (c. 50)” substitute “section 149 of the Equality Act 2010”.
- (5) In subsection (9)(b) for “in any other case” substitute “where the notice related to a duty by virtue of section 153 or 154 of that Act”.
- (6) In subsection (11) for “section 76B” to “Disability Discrimination Act 1995” substitute “section 153 or 154 of the Equality Act 2010”.
- 20 Omit section 33 (equality and human rights enactments).
- 21 (1) Section 34 (meaning of unlawful) is amended as follows.
- (2) In subsection (1) for “equality enactments” substitute “Equality Act 2010”.
- (3) In subsection (2)—
- (a) after “virtue of” insert “any of the following provisions of the Equality Act 2010”, and
 - (b) for paragraphs (a) to (c) substitute—
 - “(a) section 1 (public sector duty regarding socio-economic inequalities),
 - (b) section 149, 153 or 154 (public sector equality duty),
 - (c) Part 12 (disabled persons: transport), or
 - (d) section 190 (disability: improvements to let dwelling houses).”
- 22 (1) Section 35 (general: definitions) is amended as follows.
- (2) In the definition of “religion or belief”, for “Part 2 (as defined by section 44)” substitute “section 10 of the Equality Act 2010”.
- (3) For the definition of “sexual orientation” substitute—
- ““sexual orientation” has the same meaning as in section 12 of the Equality Act 2010.”

Status: This is the original version (as it was originally enacted).

- 23 In section 39(4) (orders subject to affirmative resolution procedure) for “, 27(10) or 33(3)” substitute “or 27(10)”.
- 24 Omit section 43 (transitional: rented housing in Scotland).
- 25 Omit Part 2 (discrimination on grounds of religion or belief).
- 26 Omit section 81 (regulations).
- 27 Omit Part 4 (public functions).
- 28 In section 94(3) (extent: Northern Ireland)—
- (a) omit “and 41 to 56”, and
- (b) omit “and the Disability Discrimination Act 1995 (c. 50)”.
- 29 (1) Schedule 1 (the Commission: constitution, etc.) is amended as follows.
- (2) In paragraph 52(3)(a) for “Parts 1, 3, 4, 5 and 5B of the Disability Discrimination Act 1995 (c. 50)” substitute “Parts 2, 3, 4, 6, 7, 12 and 13 of the Equality Act 2010, in so far as they relate to disability”.
- (3) In paragraph 53 for “Part 2 of the Disability Discrimination Act 1995 (c. 50)” substitute “Part 5 of the Equality Act 2010”.
- (4) In paragraph 54 for “Part 2 of the Disability Discrimination Act 1995” substitute “Part 5 of the Equality Act 2010”.
- 30 In Schedule 3 (consequential amendments), omit paragraphs 6 to 35 and 41 to 56.

SCHEDULE 27

Section 211

REPEALS AND REVOCATIONS

PART 1

REPEALS

<i>Short title</i>	<i>Extent of repeal</i>
Equal Pay Act 1970	The whole Act.
Sex Discrimination Act 1975	The whole Act.
Race Relations Act 1976	The whole Act.
Sex Discrimination Act 1986	The whole Act.
Local Government Act 1988	Section 17(9).
	Section 18.
	Section 19(10).
Employment Act 1989	Sections 1 to 7.
	Section 9.
Social Security Act 1989	In Schedule 5, paragraph 5.

Status: This is the original version (as it was originally enacted).

<i>Short title</i>	<i>Extent of repeal</i>
Disability Discrimination Act 1995	The whole Act.
Pensions Act 1995	Sections 62 to 65.
Greater London Authority Act 1999	Section 404.
Sex Discrimination (Election Candidates) Act 2002	Section 1.
Civil Partnership Act 2004	Section 6(1)(b) and (2).
Education (Additional Support for Learning) (Scotland) Act 2004	In section 17(1) “to exercise the functions which are conferred on a Tribunal by virtue of this Act”.
Equality Act 2006	Section 25. Section 26. Section 33. Section 43. Part 2. Section 81. Part 4. In section 94(3) “and 41 to 56” and “and the Disability Discrimination Act 1995 (c. 50)”. In Schedule 3— (a) paragraphs 6 to 35; (b) paragraphs 41 to 56.

PART 2

REVOCATIONS

<i>Title</i>	<i>Extent of revocation</i>
Occupational Pension Schemes (Equal Treatment) Regulations 1995 (S.I. 1995/3183)	The whole Regulations.
Employment Equality (Religion or Belief) Regulations 2003 (S.I. 2003/1660)	The whole Regulations.
Employment Equality (Sexual Orientation) Regulations 2003 (S.I. 2003/1661)	The whole Regulations.
Disability Discrimination Act 1995 (Pensions) Regulations 2003 (S.I. 2003/2770)	The whole Regulations.

Status: This is the original version (as it was originally enacted).

<i>Title</i>	<i>Extent of revocation</i>
Occupational Pension Schemes (Equal Treatment) (Amendment) Regulations 2005 (S.I. 2005/1923)	The whole Regulations.
Employment Equality (Age) Regulations 2006 (S.I. 2006/1031)	The whole Regulations (other than Schedules 6 and 8).
Equality Act (Sexual Orientation) Regulations 2007 (S.I. 2007/1263)	The whole Regulations.
Sex Discrimination (Amendment of Legislation) Regulations 2008 (S.I. 2008/963)	The whole Regulations.

SCHEDULE 28

Section 214

INDEX OF DEFINED EXPRESSIONS

<i>Expression</i>	<i>Provision</i>
Accrual of rights, in relation to an occupational pension scheme	Section 212(12)
Additional maternity leave	Section 213(6) and (7)
Additional maternity leave period	Section 213(8)
Age discrimination	Section 25(1)
Age group	Section 5(2)
Armed forces	Section 212(1)
Association	Section 107(2)
Auxiliary aid	Section 20(11)
Belief	Section 10(2)
Breach of an equality clause or rule	Section 212(8)
The Commission	Section 212(1)
Commonhold	Section 38(7)
Compulsory maternity leave	Section 213(3)
Contract work	Section 41(6)
Contract worker	Section 41(7)
Contravention of this Act	Section 212(9)
Crown employment	Section 83(9)
Detriment	Section 212(1) and (5)
Disability	Section 6(1)
Disability discrimination	Section 25(2)

Status: This is the original version (as it was originally enacted).

<i>Expression</i>	<i>Provision</i>
Disabled person	Section 6(2) and (4)
Discrimination	Sections 13 to 19, 21 and 108
Disposal, in relation to premises	Section 38(3) to (5)
Education Acts	Section 212(1)
Employer, in relation to an occupational pension scheme	Section 212(11)
Employment	Section 212(1)
Enactment	Section 212(1)
Equality clause	Section 212(1)
Equality rule	Section 212(1)
Firm	Section 46(2)
Gender reassignment	Section 7(1)
Gender reassignment discrimination	Section 25(3)
Harassment	Section 26(1)
Independent educational institution	Section 89(7)
LLP	Section 46(4)
Man	Section 212(1)
Marriage and civil partnership	Section 8
Marriage and civil partnership discrimination	Section 25(4)
Maternity equality clause	Section 212(1)
Maternity equality rule	Section 212(1)
Maternity leave	Section 213(2)
Member, in relation to an occupational pension scheme	Section 212(10)
Member of the executive	Section 212(7)
Non-discrimination rule	Section 212(1)
Occupation, in relation to premises	Section 212(6)
Occupational pension scheme	Section 212(1)
Offshore work	Section 82(3)
Ordinary maternity leave	Section 213(4) and (5)
Parent	Section 212(1)
Pension credit member	Section 212(11)
Pensionable service	Section 212(11)
Pensioner member	Section 212(11)
Personal office	Section 49(2)

Status: This is the original version (as it was originally enacted).

<i>Expression</i>	<i>Provision</i>
Physical feature	Section 20(10)
Pregnancy and maternity discrimination	Section 25(5)
Premises	Section 38(2)
Prescribed	Section 212(1)
Profession	Section 212(1)
Proposed firm	Section 46(3)
Proposed LLP	Section 46(5)
Proprietor, in relation to a school	Section 89(4)
Protected characteristics	Section 4
Protected period, in relation to pregnancy	Section 18(6)
Provision of a service	Sections 31 and 212(4)
Public function	Sections 31(4) and 150(5)
Public office	Sections 50(2) and 52(4)
Pupil	Section 89(3)
Race	Section 9(1)
Race discrimination	Section 25(6)
Reasonable adjustments, duty to make	Section 20
Relevant member of the House of Commons staff	Section 83(5)
Relevant member of the House of Lords staff	Section 83(6)
Relevant person, in relation to a personal or public office	Section 52(6)
Religion	Section 10(1)
Religious or belief-related discrimination	Section 25(7)
Requirement, the first, second or third	Section 20
Responsible body, in relation to a further or higher education institution	Section 91(12)
Responsible body, in relation to a school	Section 85(9)
School	Section 89(5) and (6)
Service-provider	Section 29(1)
Sex	Section 11
Sex discrimination	Section 25(8)
Sex equality clause	Section 212(1)
Sex equality rule	Section 212(1)
Sexual orientation	Section 12(1)

Status: This is the original version (as it was originally enacted).

<i>Expression</i>	<i>Provision</i>
Sexual orientation discrimination	Section 25(9)
Student	Section 94(3)
Subordinate legislation	Section 212(1)
Substantial	Section 212(1)
Taxi, for the purposes of Part 3 (services and public functions)	Schedule 2, paragraph 4
Taxi, for the purposes of Chapter 1 of Part 12 (disabled persons: transport)	Section 173(1)
Tenancy	Section 38(6)
Trade	Section 212(1)
Transsexual person	Section 7(2)
Trustees or managers, in relation to an occupational pension scheme	Section 212(11)
University	Section 94(4)
Victimisation	Section 27(1)
Vocational training	Section 56(6)
Woman	Section 212(1)