

# EQUALITY ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 16: General and Miscellaneous**

#### *Schedule 3: Services and public functions: exceptions*

#### **Part 3: Health and care**

#### **Blood services: paragraph 13**

##### **Effect**

696. [Paragraph 13](#) provides that it is not unlawful for a person operating a blood service to refuse to accept someone's donation of blood provided they have reliable evidence that accepting it would put the public or the individual donor at risk and that such a refusal would not be unreasonable.
697. A blood service is a service that collects donations of human blood and blood components to use for medical purposes, for example the NHS Blood and Transplant Special Health Authority.
698. "Blood" includes components, for instance plasma or red blood cells.

##### **Background**

699. This provision is designed to replicate the effect of Regulation 28 of the Equality Act (Sexual Orientation) Regulations 2007, and extend the exception to the other protected characteristics. It also provides that a refusal to allow somebody to donate blood or blood components because of a risk to the donor's own health would not be unlawful.

##### **Examples**

- If there is evidence that people who have been sexually active in a particular country are more likely to be infected with HIV, the operator of the blood service can refuse to accept donations of blood or blood components from people who have been sexually active there, even if that disproportionately affects members of a particular nationality and so might otherwise be unlawful indirect discrimination because of race.
- If there is evidence that women who have recently given birth are likely to suffer detrimental effects from giving blood or blood components, then a blood service can refuse to accept donations from them. This would not be unlawful direct discrimination because of maternity.

#### **Health and safety: paragraph 14**

##### **Effect**

700. [Paragraph 14](#) provides that it is not unlawful for a person to discriminate against a pregnant woman by refusing to provide her with a service or only providing the service

*These notes refer to the Equality Act 2010 (c.15)  
which received Royal Assent on 8 April 2010*

to her on certain conditions if he or she reasonably believes that to do otherwise would create a risk to her health or safety and he or she would take similar measures in respect of persons with other physical conditions.

#### Background

701. Provisions making it unlawful for a person to discriminate against a pregnant woman in the provision of services were introduced into the Sex Discrimination Act 1975 by the Sex Discrimination Act 1975 (Amendment) Regulations 2008. Those provisions contained an equivalent exception on health and safety grounds.

#### Examples

- A leisure centre could refuse to allow a pregnant woman to use certain gym equipment (for example, a rowing machine) after a certain point in her pregnancy if it reasonably believed that allowing her to use the equipment would create a risk to her health and safety and it would also refuse, for example, to allow a man with a serious heart condition to use the equipment.
- An airline could refuse to allow a pregnant woman to travel beyond her 35th week of pregnancy if it reasonably believed that allowing her to travel would create a risk to her health and safety and it would also refuse people with other physical conditions that affect their health and safety to travel.

#### **Care within the family: [paragraph 15](#)**

##### Effect

702. [Paragraph 15](#) is designed to ensure that people who provide foster care, or other similar forms of care, in their own home are not subject to the prohibitions on discriminating against, harassing or victimising a person in the provision of services while providing that care.

703. It applies irrespective of whether or not the person is paid for providing the care service.

##### Background

704. Similar provisions existed in previous legislation for race, religion or belief and sexual orientation. This provision extends the exception to all of the protected characteristics.

##### Examples

- A Muslim family could choose to foster only a Muslim child. This would not constitute discrimination against a non-Muslim child.
- A woman who is the main carer for her mother decides to provide care for another person too, and decides to restrict any offer of care to another woman. This would not constitute discrimination against a man who needed similar care.