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## SCHEDULES

### 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.

#### **Commencement Information**

- II** [Sch. 23 para. 1](#) wholly in force at 1.10.2012; [Sch. 23](#) not in force at Royal Assent see [s. 216](#); [Sch. 23](#) in force for certain purposes at 1.10.2010 by [S.I. 2010/2317](#), [art. 2\(14\)\(e\)](#) (with [art. 15](#)); [Sch. 23](#) in force for remaining purposes at 1.10.2012 by [S.I. 2012/1569](#), [art. 3\(g\)](#)

##### *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

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- (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.
  - (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.
- [<sup>F1</sup>(9A) An organisation does not contravene Part 3, 4 or 7 only by refusing to allow premises owned or controlled by the organisation to be used—

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- (a) to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex;
    - [ to solemnise a relevant Scottish marriage for the reason that the marriage is a marriage of two persons of the opposite sex who are in a civil partnership with each other;]
  - <sup>F2</sup>(aa) (b) to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex [<sup>F3</sup>or that it is between two persons of the opposite sex].
- (9B) A person (or a group of persons) does not contravene Part 3, 4 or 7 only by refusing to allow premises owned or controlled by the person (or the group) on behalf of an organisation to be used—
- (a) to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex;
    - [ to solemnise a relevant Scottish marriage for the reason that the marriage is a marriage of two persons of the opposite sex who are in a civil partnership with each other;]
  - <sup>F4</sup>(aa) (b) to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex [<sup>F5</sup>or that it is between two persons of the opposite sex].
- (9C) An organisation does not contravene section 29 only by allowing an approved celebrant of the organisation to act as set out in sub-paragraph (1)[<sup>F6</sup>, (1A)] or (2) of paragraph 25B of Schedule 3.
- (9D) In sub-paragraphs (9A) to (9C), “approved celebrant”, “relevant Scottish marriage” and “relevant Scottish civil partnership” have the same meaning as in paragraph 25B of Schedule 3.]
- (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—
- (a) “disposal” is to be construed in accordance with section 38;
  - (b) “public authority” has the meaning given in section 150(1).

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### Textual Amendments

- F1** Sch. 23 para. 2(9A)-(9D) inserted (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), **Sch. 5 para. 19(6)**
- F2** Sch. 23 para. 2(9A)(aa) inserted (27.1.2022) by [The Civil Partnership \(Scotland\) Act 2020 and Marriage and Civil Partnership \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2022 \(S.I. 2022/74\)](#), art. 1, **Sch. 1 para. 3(5)(a)(i)**
- F3** Words in Sch. 23 para. 2(9A)(b) inserted (27.1.2022) by [The Civil Partnership \(Scotland\) Act 2020 and Marriage and Civil Partnership \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2022 \(S.I. 2022/74\)](#), art. 1, **Sch. 1 para. 3(5)(a)(ii)**
- F4** Sch. 23 para. 2(9B)(aa) inserted (27.1.2022) by [The Civil Partnership \(Scotland\) Act 2020 and Marriage and Civil Partnership \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2022 \(S.I. 2022/74\)](#), art. 1, **Sch. 1 para. 3(5)(b)(i)**
- F5** Words in Sch. 23 para. 2(9B)(b) inserted (27.1.2022) by [The Civil Partnership \(Scotland\) Act 2020 and Marriage and Civil Partnership \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2022 \(S.I. 2022/74\)](#), art. 1, **Sch. 1 para. 3(5)(b)(ii)**
- F6** Word in Sch. 23 para. 2(9C) inserted (27.1.2022) by [The Civil Partnership \(Scotland\) Act 2020 and Marriage and Civil Partnership \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2022 \(S.I. 2022/74\)](#), art. 1, **Sch. 1 para. 3(5)(c)**

### Commencement Information

- I2** Sch. 23 para. 2 wholly in force at 1.10.2012; Sch. 23 not in force at Royal Assent see s. 216; Sch. 23 in force for certain purposes at 1.10.2010 by [S.I. 2010/2317](#), **art. 2(14)(e)** (with [art. 15](#)); Sch. 23 in force for remaining purposes at 1.10.2012 by [S.I. 2012/1569](#), **art. 3(g)**

### *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—

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- (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.

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#### Commencement Information

- I3** Sch. 23 para. 3 wholly in force at 1.10.2012; Sch. 23 not in force at Royal Assent see s. 216; Sch. 23 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, art. 2(14)(e) (with art. 15); Sch. 23 in force for remaining purposes at 1.10.2012 by S.I. 2012/1569, art. 3(g)

*Training provided to non-<sup>F7</sup>... residents, etc.*

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#### Textual Amendments

- F7** Word in Sch. 23 para. 4 heading omitted (31.12.2020) by virtue of The Equality (Amendment and Revocation) (EU Exit) Regulations 2019 (S.I. 2019/305), regs. 1, 5(9)(a); 2020 c. 1, Sch. 5 para. 1(1)

- 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.
- (2) A non-resident is a person who is not ordinarily resident in [<sup>F8</sup>Great Britain].
- (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—

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<sup>F9</sup>(a) .....

(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.

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**Textual Amendments**

- F8** Words in Sch. 23 para. 4(2) substituted (31.12.2020) by [The Equality \(Amendment and Revocation\) \(EU Exit\) Regulations 2019 \(S.I. 2019/305\)](#), regs. 1, **5(9)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F9** Sch. 23 para. 4(5)(a) omitted (31.12.2020) by virtue of [The Equality \(Amendment and Revocation\) \(EU Exit\) Regulations 2019 \(S.I. 2019/305\)](#), regs. 1, **5(9)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
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**Commencement Information**

- I4** Sch. 23 para. 4 wholly in force at 1.10.2012; Sch. 23 not in force at Royal Assent see s. 216; Sch. 23 in force for certain purposes at 1.10.2010 by [S.I. 2010/2317](#), **art. 2(14)(e)** (with [art. 15](#)); Sch. 23 in force for remaining purposes at 1.10.2012 by [S.I. 2012/1569](#), [art. 3\(g\)](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 40A inserted by [2023 c. 51 s. 1](#)
- s. 120(9) inserted by [2023 c. 51 s. 2\(b\)](#)
- s. 124A inserted by [2023 c. 51 s. 3](#)