

SCHEDULES

SCHEDULE 9

WORK: EXCEPTIONS

PART 3

OTHER EXCEPTIONS

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.