



# Equality Act 2006

## 2006 CHAPTER 3

### PART 2

#### DISCRIMINATION ON GROUNDS OF RELIGION OR BELIEF

##### *Prohibited discrimination*

#### **46 Goods, facilities and services**

- (1) It is unlawful for a person (“A”) concerned with the provision to the public or a section of the public of goods, facilities or services to discriminate against a person (“B”) who seeks to obtain or use those goods, facilities or services—
- (a) by refusing to provide B with goods, facilities or services,
  - (b) by refusing to provide B with goods, facilities or services of a quality which is the same as or similar to the quality of goods, facilities or services that A normally provides to—
    - (i) the public, or
    - (ii) a section of the public to which B belongs,
  - (c) by refusing to provide B with goods, facilities or services in a manner which is the same as or similar to that in which A normally provides goods, facilities or services to—
    - (i) the public, or
    - (ii) a section of the public to which B belongs, or
  - (d) by refusing to provide B with goods, facilities or services on terms which are the same as or similar to the terms on which A normally provides goods, facilities or services to—
    - (i) the public, or
    - (ii) a section of the public to which B belongs.
- (2) Subsection (1) applies, in particular, to—
- (a) access to and use of a place which the public are permitted to enter,
  - (b) accommodation in a hotel, boarding house or similar establishment,

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- (c) facilities by way of banking or insurance or for grants, loans, credit or finance,
  - (d) facilities for entertainment, recreation or refreshment,
  - (e) facilities for transport or travel, and
  - (f) the services of a profession or trade.
- (3) Where a skill is commonly exercised in different ways in relation to or for the purposes of different religions or beliefs, a person who normally exercises it in relation to or for the purpose of a religion or belief does not contravene subsection (1) by—
- (a) insisting on exercising the skill in the way in which he exercises it in relation to or for the purposes of that religion or belief, or
  - (b) if he reasonably considers it impracticable to exercise the skill in that way in relation to or for the purposes of another religion or belief, refusing to exercise it in relation to or for the purposes of that other religion or belief.
- (4) Subsection (1)—
- (a) does not apply in relation to the provision of goods, facilities or services by a person exercising a public function, and
  - (b) does not apply to discrimination in relation to the provision of goods, facilities or services if discrimination in relation to that provision—
    - (i) is unlawful by virtue of another provision of this Part or by virtue of a provision of the Employment Equality (Religion or Belief) Regulations 2003 ([S.I. 2003/1660](#)), or
    - (ii) would be unlawful by virtue of another provision of this Part or of those regulations but for an express exception.
- (5) For the purposes of subsection (1) it is immaterial whether or not a person charges for the provision of goods, facilities or services.

#### **47 Premises**

- (1) It is unlawful for a person to discriminate against another—
- (a) in the terms on which he offers to dispose of premises to him,
  - (b) by refusing to dispose of premises to him, or
  - (c) in connection with a list of persons requiring premises.
- (2) It is unlawful for a person managing premises to discriminate against an occupier—
- (a) in the manner in which he provides access to a benefit or facility,
  - (b) by refusing access to a benefit or facility,
  - (c) by evicting him, or
  - (d) by subjecting him to another detriment.
- (3) It is unlawful for a person to discriminate against another by refusing permission for the disposal of premises to him.
- (4) This section applies only to premises in Great Britain.

#### **48 Section 47: exceptions**

- (1) Section 47 shall not apply to anything done in relation to the disposal or management of part of premises by a person (“the landlord”) if—

- (a) the landlord or a near relative resides, and intends to continue to reside, in another part of the premises,
  - (b) the premises include parts (other than storage areas and means of access) shared by residents of the premises, and
  - (c) the premises are not normally sufficient to accommodate—
    - (i) in the case of premises to be occupied by households, more than two households in addition to that of the landlord or his near relative, or
    - (ii) in the case of premises to be occupied by individuals, more than six individuals in addition to the landlord or his near relative.
- (2) In subsection (1) “near relative” means—
- (a) spouse or civil partner,
  - (b) parent or grandparent,
  - (c) child or grandchild (whether or not legitimate),
  - (d) the spouse or civil partner of a child or grandchild,
  - (e) brother or sister (whether of full blood or half-blood), and
  - (f) any of the relationships listed in paragraphs (b) to (e) above that arises through marriage, civil partnership or adoption.
- (3) Section 47(1) and (3) shall not apply to the disposal of premises by a person who—
- (a) owns an estate or interest in the premises,
  - (b) occupies the whole of the premises,
  - (c) does not use the services of an estate agent for the purposes of the disposal, and
  - (d) does not arrange for the publication of an advertisement for the purposes of the disposal.

#### **49 Educational establishments**

- (1) It is unlawful for the responsible body of an educational establishment listed in the Table to discriminate against a person—
- (a) in the terms on which it offers to admit him as a pupil,
  - (b) by refusing to accept an application to admit him as a pupil, or
  - (c) where he is a pupil of the establishment—
    - (i) in the way in which it affords him access to any benefit, facility or service,
    - (ii) by refusing him access to a benefit, facility or service,
    - (iii) by excluding him from the establishment, or
    - (iv) by subjecting him to any other detriment.
- (2) In the application of this section to England and Wales—
- (a) an expression also used in any of the Education Acts (within the meaning of section 578 of the Education Act 1996 (c. 56)) has the same meaning as in that Act, and
  - (b) “pupil” in relation to an establishment includes any person who receives education at the establishment.
- (3) In the application of this section to Scotland, an expression also used in the Education (Scotland) Act 1980 (c. 44) has the same meaning as in that Act.

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<i>Establishment</i>	<i>Responsible body</i>
<b>ENGLAND AND WALES</b>	
School maintained by a local education authority.	Local education authority or governing body.
Independent school (other than a special school).	Proprietor.
Special school (not maintained by local education authority).	Proprietor.
<b>SCOTLAND</b>	
Public school.	Education authority.
Grant-aided school.	Manager.
Independent school.	Proprietor.

## 50 Section 49: exceptions

- (1) Section 49(1)(a), (b) and (c)(i) and (ii) shall not apply in relation to—
- (a) a school designated under section 69(3) of the School Standards and Framework Act 1998 (c. 31) (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, or
  - (f) a school registered in the register of independent schools for Scotland if the school—
    - (i) admits only pupils who belong, or whose parents belong, to one or more particular denominations, or
    - (ii) is conducted in the interest of a church or denominational body.
- (2) Section 49(1)(c)(i), (ii) or (iv) shall not apply in relation to anything done in connection with—
- (a) the content of the curriculum, or
  - (b) acts of worship or other religious observance organised by or on behalf of an educational establishment (whether or not forming part of the curriculum).
- (3) The Secretary of State may by order—
- (a) amend or repeal an exception in subsection (1) or (2);
  - (b) provide for an additional exception to section 49;
  - (c) make provision about the construction or application of section 45(3)(d) in relation to section 49.

- (4) An order under subsection (3)—
- (a) may include transitional, incidental or consequential provision (including provision amending an enactment (including an enactment in or under an Act of the Scottish Parliament)),
  - (b) may make provision generally or only in respect of specified cases or circumstances (which may, in particular, be defined by reference to location),
  - (c) may make different provision in respect of different cases or circumstances (which may, in particular, be defined by reference to location),
  - (d) shall be made by statutory instrument,
  - (e) may not be made unless the Secretary of State has consulted the Scottish Ministers, the National Assembly for Wales and such other persons as he thinks appropriate, and
  - (f) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

## **51 Local education authorities and education authorities**

- (1) It is unlawful for a local education authority (in England and Wales) or an education authority (in Scotland) in the exercise of their functions to discriminate against a person.
- (2) In its application to local education authorities the prohibition in subsection (1) shall not apply to—
- (a) the exercise of an authority's functions under section 14 of the Education Act 1996 (c. 56) (provision of schools),
  - (b) the exercise of an authority's functions in relation to transport,
  - (c) the exercise of an authority's functions under section 13 of that Act (general responsibility for education) in so far as they relate to a matter specified in paragraph (a) or (b) above, or
  - (d) the exercise of functions as the responsible body for an establishment listed in the Table in section 49.
- (3) In its application to education authorities the prohibition in subsection (1) shall not apply to—
- (a) the exercise of an authority's functions under section 17 of the Education (Scotland) Act 1980 (c. 44) (provision etc. of schools),
  - (b) the exercise of an authority's functions in relation to transport,
  - (c) the exercise of an authority's functions under section 1 of that Act, section 2 of the Standards in Scotland's Schools etc. Act 2000 (asp 6) and sections 4 and 5 of the Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4) (duties in relation to provision of education) in so far as they relate to a matter specified in paragraph (a) or (b) above,
  - (d) the exercise of an authority's functions under section 50(1) of the Education (Scotland) Act 1980 (education of pupils in exceptional circumstances) in so far as they consist of making arrangements of the kind referred to in subsection (2) of that section, or
  - (e) the exercise of functions as the responsible body for an establishment listed in the Table in section 49.

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## **52 Public authorities: general**

- (1) It is unlawful for a public authority exercising a function to do any act which constitutes discrimination.
- (2) In subsection (1)—
  - (a) “public authority” includes any person who has functions of a public nature (subject to subsections (3) and (4)), and
  - (b) “function” means function of a public nature.
- (3) The prohibition in subsection (1) shall not apply to—
  - (a) the House of Commons,
  - (b) the House of Lords,
  - (c) the authorities of either House of Parliament,
  - (d) the Security Service,
  - (e) the Secret Intelligence Service,
  - (f) the Government Communications Headquarters, or
  - (g) a part of the armed forces of the Crown which is, in accordance with a requirement of the Secretary of State, assisting the Government Communications Headquarters.
- (4) The prohibition in subsection (1) shall not apply to—
  - (a) the exercise of a judicial function (whether in connection with a court or a tribunal),
  - (b) anything done on behalf of or on the instructions of a person exercising a judicial function (whether in connection with a court or a tribunal),
  - (c) preparing, passing (or making), confirming, approving or considering an enactment (including legislation made by or by virtue of a Measure of the General Synod of the Church of England),
  - (d) the making of an instrument by a Minister of the Crown under an enactment,
  - (e) the making of an instrument by the Scottish Ministers or a member of the Scottish Executive under an enactment,
  - (f) a decision of any of the following kinds taken in accordance with rules under section 3(2) of the Immigration Act 1971 (c. 77) (“immigration rules”) or anything done for the purposes of or in pursuance of a decision of any of those kinds—
    - (i) a decision to refuse entry clearance or leave to enter the United Kingdom on the grounds that the exclusion of the person from the United Kingdom is conducive to the public good,
    - (ii) a decision 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,
    - (iii) a decision 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,
    - (iv) a decision 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,
  - (g) a decision in connection with an application for entry clearance or for leave to enter or remain in the United Kingdom or anything done for the purposes of or in pursuance of a decision of that kind (whether or not the decision is

taken in pursuance of a provision of immigration rules) if the decision is taken on the grounds—

- (i) that a person holds an office or position in connection with a religion or belief or provides services in connection with a religion or belief,
  - (ii) that a religion or belief is not to be treated in the same way as certain other religions or beliefs, or
  - (iii) that the exclusion from the United Kingdom of a person to whom paragraph (i) applies is conducive to the public good,
- (h) a decision taken, or guidance given, by the Secretary of State in connection with a decision of a kind specified in paragraph (f) or (g),
- (i) a decision taken in accordance with guidance given by the Secretary of State in connection with a decision of a kind specified in paragraph (f) or (g),
- (j) a decision not to institute or continue criminal proceedings (and anything done for the purpose of reaching, or in pursuance of, such a decision),
- (k) action in relation to—
- (i) the curriculum of an educational institution,
  - (ii) admission to an educational institution which has a religious ethos,
  - (iii) acts of worship or other religious observance organised by or on behalf of an educational institution (whether or not forming part of the curriculum),
  - (iv) the governing body of an educational institution which has a religious ethos,
  - (v) transport to or from an educational institution, or
  - (vi) the establishment, alteration or closure of educational institutions,
- (l) the exercise of the power under section 2 of the Local Government Act 2000 (c. 22) (promotion of well-being), or
- (m) action which—
- (i) is unlawful by virtue of another provision of this Part or by virtue of a provision of the Employment Equality (Religion or Belief) Regulations 2003 (S.I. 2003/1660), or
  - (ii) would be unlawful by virtue of another provision of this Part other than section 46, or by virtue of a provision of those regulations, but for an express exception.
- (5) In an action under section 66 in respect of a contravention of this section—
- (a) the court shall not grant an injunction unless satisfied that it will not prejudice criminal proceedings or a criminal investigation, and
  - (b) the court shall grant any application to stay the section 66 proceedings on the grounds of prejudice to criminal proceedings or to a criminal investigation, unless satisfied that the proceedings or investigation will not be prejudiced.
- (6) Section 70(4) shall not apply in relation to a reply, or a failure to reply, to a question in connection with an alleged contravention of this section—
- (a) if the respondent or potential respondent reasonably asserts that to have replied differently or at all might have prejudiced criminal proceedings or a criminal investigation,
  - (b) if the respondent or potential respondent reasonably asserts that to have replied differently or at all would have revealed the reason for not instituting or not continuing criminal proceedings,

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- (c) where the reply is of a kind specified for the purposes of this paragraph by order of the Secretary of State,
  - (d) where the reply is given in circumstances specified for the purposes of this paragraph by order of the Secretary of State, or
  - (e) where the failure occurs in circumstances specified for the purposes of this paragraph by order of the Secretary of State.
- (7) In this section—
- “criminal investigation” means—
    - (a) an investigation into the commission of an alleged offence, and
    - (b) a decision whether to institute criminal proceedings, and
  - “enactment” includes an enactment in or under an Act of the Scottish Parliament.
- (8) An order under subsection (6)(c) to (e)—
- (a) may include transitional or incidental provision,
  - (b) may make provision generally or only for specified cases or circumstances,
  - (c) may make different provision for different cases or circumstances,
  - (d) shall be made by statutory instrument, and
  - (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In the application of this section to proceedings in Scotland—
- (a) a reference to the court shall be taken as a reference to the sheriff,
  - (b) a reference to an injunction shall be taken as a reference to an interdict,
  - (c) a reference to staying proceedings shall be taken as a reference to sisting proceedings, and
  - (d) a reference to the respondent or potential respondent shall be taken as a reference to the defender or potential defender.