

# EQUALITY ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

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

#### *Schedule 5: Premises: exceptions*

#### **Effect**

765. This Schedule sets out limited exceptions to the prohibitions on discrimination and harassment contained in the premises provisions in Part 4 of the Act.
766. The first exception applies where a person who owns and lives in a property disposes of all or part of it privately (for example by selling, letting or subletting) without using the services of an estate agent, or publishing an advertisement.
767. This exception does not apply to race discrimination in disposing of premises. It only applies to discrimination in relation to permission to dispose of premises where it is based on religion or belief or sexual orientation.
768. This exception also exempts a controller of leasehold premises (as defined in section 36) from the duty to make reasonable adjustments provided that:
- where the premises have been let, the premises are (or have been) the controller's main or only home and he or she has not used the services of a manager since letting the premises (paragraph 2(1));
  - where the premises are to let, they are the controller's main or only home and he or she has not used the service of an estate agent for letting purposes (paragraph 2(3)).
769. The second exception applies to disposal, management or occupation of part of small premises. It applies where a person engaging in the conduct in question, or a relative of that person, lives in another part of the premises and the premises include facilities shared with other people who are not part of their household.
770. This exception does not apply to race discrimination when disposing of or giving permission for the disposal of premises, or in the management of premises.
771. The small premises exception also exempts a controller of premises or a person responsible in relation to common parts (as defined in section 36) from the duty to make reasonable adjustments where the premises are small, where that person or a relative of that person lives in one part of the premises and residents who are not members of that person's household live in another part of the premises. The definitions of "small premises" and "relative" in paragraph 3 apply.
772. [Paragraph 5](#) contains a power for a Minister of the Crown to amend or repeal the small premises exception.

#### **Background**

773. This Schedule replaces similar provisions in previous legislation.

## **Examples**

- A homeowner makes it known that she is preparing to sell her flat privately. A work colleague expresses an interest in buying it but she refuses to sell it to him because he is black. That refusal would not be covered by this exception and so would be unlawful.
- A homeowner makes it known socially that he wants to sell his house privately. Various prospective buyers come forward and the homeowner opts to sell it to a fellow Christian. The other prospective buyers cannot claim that they were discriminated against because the homeowner's actions were covered by this exception.
- A single woman owns a large house in London and lives on the top floor, although the bathroom and toilet facilities are on the first floor. The ground floor is unoccupied and she decides to take in a lodger, sharing the bathroom and toilet facilities. Various prospective tenants apply but she chooses only to let the ground floor to another woman. This would be permissible under this exception.
- A Jewish family own a large house but only live in part of it. They decide to let out an unoccupied floor but any new tenant will have to share kitchen and cooking facilities. The family choose only to let the unoccupied floor to practising Jews as they are concerned that otherwise their facilities for keeping their food kosher may be compromised. This would be permissible under this exception.