



# Equality Act 2010

## 2010 CHAPTER 15

### PART 14

#### GENERAL EXCEPTIONS

#### 191 Statutory provisions

Schedule 22 (statutory provisions) has effect.

#### Commencement Information

- II** S. 191 partly in force; s. 191 not in force at Royal Assent see s. 216; s. 191 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, art. 2(1)(14)(a) (with art. 15)

#### 192 National security

A person does not contravene this Act only by doing, for the purpose of safeguarding national security, anything it is proportionate to do for that purpose.

#### 193 Charities

- (1) A person does not contravene this Act only by restricting the provision of benefits to persons who share a protected characteristic if—
  - (a) the person acts in pursuance of a charitable instrument, and
  - (b) the provision of the benefits is within subsection (2).
- (2) The provision of benefits is within this subsection if it is—
  - (a) a proportionate means of achieving a legitimate aim, or
  - (b) for the purpose of preventing or compensating for a disadvantage linked to the protected characteristic.
- (3) It is not a contravention of this Act for—

*Status: Point in time view as at 06/09/2015.*

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- (a) a person who provides supported employment to treat persons who have the same disability or a disability of a prescribed description more favourably than those who do not have that disability or a disability of such a description in providing such employment;
  - (b) a Minister of the Crown to agree to arrangements for the provision of supported employment which will, or may, have that effect.
- (4) If a charitable instrument enables the provision of benefits to persons of a class defined by reference to colour, it has effect for all purposes as if it enabled the provision of such benefits—
- (a) to persons of the class which results if the reference to colour is ignored, or
  - (b) if the original class is defined by reference only to colour, to persons generally.
- (5) It is not a contravention of this Act for a charity to require members, or persons wishing to become members, to make a statement which asserts or implies membership or acceptance of a religion or belief; and for this purpose restricting the access by members to a benefit, facility or service to those who make such a statement is to be treated as imposing such a requirement.
- (6) Subsection (5) applies only if—
- (a) the charity, or an organisation of which it is part, first imposed such a requirement before 18 May 2005, and
  - (b) the charity or organisation has not ceased since that date to impose such a requirement.
- (7) It is not a contravention of section 29 for a person, in relation to an activity which is carried on for the purpose of promoting or supporting a charity, to restrict participation in the activity to persons of one sex.
- (8) A charity regulator does not contravene this Act only by exercising a function in relation to a charity in a manner which the regulator thinks is expedient in the interests of the charity, having regard to the charitable instrument.
- (9) Subsection (1) does not apply to a contravention of—
- (a) section 39;
  - (b) section 40;
  - (c) section 41;
  - (d) section 55, so far as relating to the provision of vocational training.
- (10) Subsection (9) does not apply in relation to disability.

## **194 Charities: supplementary**

- (1) This section applies for the purposes of section 193.
- (2) That section does not apply to race, so far as relating to colour.
- (3) “Charity”—
  - (a) in relation to England and Wales, has the meaning given by [F1section 1(1) of the Charities Act 2011];
  - (b) in relation to Scotland, means a body entered in the Scottish Charity Register.

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- (4) “Charitable instrument” means an instrument establishing or governing a charity (including an instrument made or having effect before the commencement of this section).
- (5) The charity regulators are—
  - (a) the Charity Commission for England and Wales;
  - (b) the Scottish Charity Regulator.
- (6) Section 107(5) applies to references in subsection (5) of section 193 to members, or persons wishing to become members, of a charity.
- (7) “Supported employment” means facilities provided, or in respect of which payments are made, under section 15 of the Disabled Persons (Employment) Act 1944.

#### Textual Amendments

- F1** Words in s. 194(3)(a) substituted (14.3.2012) by [Charities Act 2011 \(c. 25\)](#), ss. 354(1), 355, [Sch. 7 para. 144](#)

## 195 Sport

- (1) A person does not contravene this Act, so far as relating to sex, only by doing anything in relation to the participation of another as a competitor in a gender-affected activity.
- (2) A person does not contravene section 29, 33, 34 or 35, so far as relating to gender reassignment, only by doing anything in relation to the participation of a transsexual person as a competitor in a gender-affected activity if it is necessary to do so to secure in relation to the activity—
  - (a) fair competition, or
  - (b) the safety of competitors.
- (3) A gender-affected activity is a sport, game or other activity of a competitive nature in circumstances in which the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage compared to average persons of the other sex as competitors in events involving the activity.
- (4) In considering whether a sport, game or other activity is gender-affected in relation to children, it is appropriate to take account of the age and stage of development of children who are likely to be competitors.
- (5) A person who does anything to which subsection (6) applies does not contravene this Act only because of the nationality or place of birth of another or because of the length of time the other has been resident in a particular area or place.
- (6) This subsection applies to—
  - (a) selecting one or more persons to represent a country, place or area or a related association, in a sport or game or other activity of a competitive nature;
  - (b) doing anything in pursuance of the rules of a competition so far as relating to eligibility to compete in a sport or game or other such activity.
- <sup>F2</sup>(7) A person does not contravene this Act, so far as relating to age discrimination, only by doing anything in relation to the participation of another as a competitor in an age-banded activity if it is necessary to do so—

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- (a) to secure in relation to the activity fair competition or the safety of competitors,
  - (b) to comply with the rules of a national or international competition, or
  - (c) to increase participation in that activity.
- (8) For the purposes of subsection (7), an age-banded activity is a sport, game or other activity of a competitive nature in circumstances in which the physical or mental strength, agility, stamina, physique, mobility, maturity or manual dexterity of average persons of a particular age group would put them at a disadvantage compared to average persons of another age group as competitors in events involving the activity.]

#### Textual Amendments

- F2** [S. 195\(7\)\(8\)](#) inserted (1.10.2012) by [The Equality Act 2010 \(Age Exceptions\) Order 2012 \(S.I. 2012/2466\)](#), [art. 9](#)

## 196 General

Schedule 23 (general exceptions) has effect.

#### Commencement Information

- I2** [S. 196](#) partly in force; [s. 196](#) not in force at Royal Assent see [s. 216](#); [s. 196](#) in force for certain purposes at 1.10.2010 by [S.I. 2010/2317](#), [art. 2\(1\)\(14\)\(c\)](#) (with [art. 15](#))

## 197 Age

- (1) A Minister of the Crown may by order amend this Act to provide that any of the following does not contravene this Act so far as relating to age—
- (a) specified conduct;
  - (b) anything done for a specified purpose;
  - (c) anything done in pursuance of arrangements of a specified description.
- (2) Specified conduct is conduct—
- (a) of a specified description,
  - (b) carried out in specified circumstances, or
  - (c) by or in relation to a person of a specified description.
- (3) An order under this section may—
- (a) confer on a Minister of the Crown or the Treasury a power to issue guidance about the operation of the order (including, in particular, guidance about the steps that may be taken by persons wishing to rely on an exception provided for by the order);
  - (b) require the Minister or the Treasury to carry out consultation before issuing guidance under a power conferred by virtue of paragraph (a);
  - (c) make provision (including provision to impose a requirement) that refers to guidance issued under a power conferred by virtue of paragraph (a).

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- (4) Guidance given by a Minister of the Crown or the Treasury in anticipation of the making of an order under this section is, on the making of the order, to be treated as if it has been issued in accordance with the order.
- (5) For the purposes of satisfying a requirement imposed by virtue of subsection (3)(b), the Minister or the Treasury may rely on consultation carried out before the making of the order that imposes the requirement (including consultation carried out before the commencement of this section).
- (6) Provision by virtue of subsection (3)(c) may, in particular, refer to provisions of the guidance that themselves refer to a document specified in the guidance.
- (7) Guidance issued (or treated as issued) under a power conferred by virtue of subsection (3)(a) comes into force on such day as the person who issues the guidance may by order appoint; and an order under this subsection may include the text of the guidance or of extracts from it.
- (8) This section is not affected by any provision of this Act which makes special provision in relation to age.
- (9) The references to this Act in subsection (1) do not include references to—
  - (a) Part 5 (work);
  - (b) Chapter 2 of Part 6 (further and higher education).

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