



# Equality Act 2010

## 2010 CHAPTER 15

### PART 6

#### EDUCATION

### CHAPTER 1

#### SCHOOLS

#### Modifications etc. (not altering text)

- C1** Pt. 6 Ch. 1: power to amend or repeal conferred (10.2.2012) by Education (Wales) Measure 2009 (nawm 5), s. 18(2)(c) (as amended by S.I. 2011/1651, art. 12(b)); S.I. 2012/320, art. 2(g)

#### 84 Application of this Chapter

This Chapter does not apply to the following protected characteristics—

- (a) age;
- (b) marriage and civil partnership.

#### 85 Pupils: admission and treatment, etc.

- (1) The responsible body of a school to which this section applies must not discriminate against a person—
  - (a) in the arrangements it makes for deciding who is offered admission as a pupil;
  - (b) as to the terms on which it offers to admit the person as a pupil;
  - (c) by not admitting the person as a pupil.
- (2) The responsible body of such a school must not discriminate against a pupil—
  - (a) in the way it provides education for the pupil;
  - (b) in the way it affords the pupil access to a benefit, facility or service;

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- (c) by not providing education for the pupil;
  - (d) by not affording the pupil access to a benefit, facility or service;
  - (e) by excluding the pupil from the school;
  - (f) by subjecting the pupil to any other detriment.
- (3) The responsible body of such a school must not harass—
- (a) a pupil;
  - (b) a person who has applied for admission as a pupil.
- (4) The responsible body of such a school must not victimise a person—
- (a) in the arrangements it makes for deciding who is offered admission as a pupil;
  - (b) as to the terms on which it offers to admit the person as a pupil;
  - (c) by not admitting the person as a pupil.
- (5) The responsible body of such a school must not victimise a pupil—
- (a) in the way it provides education for the pupil;
  - (b) in the way it affords the pupil access to a benefit, facility or service;
  - (c) by not providing education for the pupil;
  - (d) by not affording the pupil access to a benefit, facility or service;
  - (e) by excluding the pupil from the school;
  - (f) by subjecting the pupil to any other detriment.
- (6) A duty to make reasonable adjustments applies to the responsible body of such a school.
- (7) In relation to England and Wales, this section applies to—
- (a) a school maintained by a local authority;
  - (b) an independent educational institution (other than a special school);
  - [<sup>F1</sup>(ba) an alternative provision Academy that is not an independent educational institution;]
  - (c) a special school (not maintained by a local authority).
- (8) In relation to Scotland, this section applies to—
- (a) a school managed by an education authority;
  - (b) an independent school;
  - (c) a school in respect of which the managers are for the time being receiving grants under section 73(c) or (d) of the Education (Scotland) Act 1980.
- (9) The responsible body of a school to which this section applies is—
- (a) if the school is within subsection (7)(a), the local authority or governing body;
  - (b) if it is within subsection (7)(b) [<sup>F2</sup>, (ba)] or (c), the proprietor;
  - (c) if it is within subsection (8)(a), the education authority;
  - (d) if it is within subsection (8)(b), the proprietor;
  - (e) if it is within subsection (8)(c), the managers.
- (10) In the application of section 26 for the purposes of subsection (3), none of the following is a relevant protected characteristic—
- (a) gender reassignment;
  - (b) religion or belief;
  - (c) sexual orientation.

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#### Textual Amendments

- F1** S. 85(7)(ba) inserted (E.W.) (1.4.2012) by [The Alternative Provision Academies \(Consequential Amendments to Acts\) \(England\) Order 2012 \(S.I. 2012/976\)](#), arts. 1, 2, **Sch. para. 25(a)**
- F2** Word in s. 85(9)(b) inserted (E.W.) (1.4.2012) by [The Alternative Provision Academies \(Consequential Amendments to Acts\) \(England\) Order 2012 \(S.I. 2012/976\)](#), arts. 1, 2, **Sch. para. 25(b)**

### 86 Victimization of pupils, etc. for conduct of parents, etc.

- (1) This section applies for the purposes of section 27 in its application to section 85(4) or (5).
- (2) The references to B in paragraphs (a) and (b) of subsection (1) of section 27 include a reference to a parent or sibling of the child in question.
- (3) Giving false evidence or information, or making a false allegation, in good faith is not a protected act in a case where—
  - (a) the evidence or information is given, or the allegation is made, by a parent or sibling of the child, and
  - (b) the child has acted in bad faith.
- (4) Giving false evidence or information, or making a false allegation, in bad faith, is a protected act in a case where—
  - (a) the evidence or information is given, or the allegation is made, by a parent or sibling of the child, and
  - (b) the child has acted in good faith.
- (5) In this section—

“child” means a person who has not attained the age of 18;

“sibling” means a brother or sister, a half-brother or half-sister, or a stepbrother or stepsister.

### 87 [<sup>F3</sup>Application of enforcement powers under education legislation]

- (1) Sections 496 and 497 of the Education Act 1996 (powers to give directions where responsible body of school in default of obligations, etc.) [<sup>F4</sup> and section 70 of the Education (Scotland) Act 1980] apply to the performance of a duty under section 85.
- (2) But neither of sections 496 and 497 of [<sup>F5</sup>the Education Act 1996] applies to the performance of a duty under that section by the proprietor of an independent educational institution (other than a special school) [<sup>F6</sup> or an alternative provision Academy that is not an independent educational institution][<sup>F7</sup>; and section 70 of the Education (Scotland) Act 1980 does not apply to the performance of a duty under that section by the proprietor of an independent school].

#### Textual Amendments

- F3** S. 87 title substituted (1.10.2010) by virtue of [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), arts. 1(2), **3**
- F4** Words in s. 87(1) inserted (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), arts. 1(2), **3(a)**

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- F5** Words in s. 87(2) substituted (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), arts. 1(2), **3(b)(i)**
- F6** Words in s. 87(2) inserted (E.W.) (1.4.2012) by [The Alternative Provision Academies \(Consequential Amendments to Acts\) \(England\) Order 2012 \(S.I. 2012/976\)](#), arts. 1, 2, **Sch. para. 26**
- F7** Words in s. 87(2) inserted (1.10.2010) by [The Equality Act 2010 \(Consequential Amendments, Saving and Supplementary Provisions\) Order 2010 \(S.I. 2010/2279\)](#), arts. 1(2), **3(b)(ii)**

## 88 Disabled pupils: accessibility

Schedule 10 (accessibility) has effect.

## 89 Interpretation and exceptions

- (1) This section applies for the purposes of this Chapter.
- (2) Nothing in this Chapter applies to anything done in connection with the content of the curriculum.
- (3) “Pupil”—
  - (a) in relation to England and Wales, has the meaning given in section 3(1) of the Education Act 1996;
  - (b) in relation to Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.
- (4) “Proprietor”—
  - (a) in relation to a school in England and Wales, has the meaning given in section 579(1) of the Education Act 1996;
  - (b) in relation to a school in Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.
- (5) “School”—
  - (a) in relation to England and Wales, has the meaning given in section 4 of the Education Act 1996;
  - (b) in relation to Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.
- (6) A reference to a school includes a reference to an independent educational institution in England; and a reference to an independent educational institution in England is to be construed in accordance with Chapter 1 of Part 4 of the Education and Skills Act 2008.
- (7) A reference to an independent educational institution is a reference to—
  - (a) an independent educational institution in England, or
  - (b) an independent school in Wales.
- (8) “Independent school”—
  - (a) in relation to Wales, has the meaning given in section 463 of the Education Act 1996;
  - (b) in relation to Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.
- (9) “Special school” has the meaning given in section 337 of the Education Act 1996.

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- (10) “Local authority” means—
- (a) in relation to England, an English local authority within the meaning of section 162 of the Education and Inspections Act 2006;
  - (b) in relation to Wales, a Welsh local authority within the meaning of that section.
- (11) “Education authority”, in relation to Scotland, has the meaning given in section 135(1) of the Education (Scotland) Act 1980.
- (12) Schedule 11 (exceptions) has effect.

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