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## SCHEDULES

### SCHEDULE 23

#### GENERAL EXCEPTIONS

##### *Organisations relating to religion or belief*

- 2 (1) This paragraph applies to an organisation the purpose of which is—
- (a) to practise a religion or belief,
  - (b) to advance a religion or belief,
  - (c) to teach the practice or principles of a religion or belief,
  - (d) to enable persons of a religion or belief to receive any benefit, or to engage in any activity, within the framework of that religion or belief, or
  - (e) to foster or maintain good relations between persons of different religions or beliefs.
- (2) This paragraph does not apply to an organisation whose sole or main purpose is commercial.
- (3) The organisation does not contravene Part 3, 4 or 7, so far as relating to religion or belief or sexual orientation, only by restricting—
- (a) membership of the organisation;
  - (b) participation in activities undertaken by the organisation or on its behalf or under its auspices;
  - (c) the provision of goods, facilities or services in the course of activities undertaken by the organisation or on its behalf or under its auspices;
  - (d) the use or disposal of premises owned or controlled by the organisation.
- (4) A person does not contravene Part 3, 4 or 7, so far as relating to religion or belief or sexual orientation, only by doing anything mentioned in sub-paragraph (3) on behalf of or under the auspices of the organisation.
- (5) A minister does not contravene Part 3, 4 or 7, so far as relating to religion or belief or sexual orientation, only by restricting—
- (a) participation in activities carried on in the performance of the minister's functions in connection with or in respect of the organisation;
  - (b) the provision of goods, facilities or services in the course of activities carried on in the performance of the minister's functions in connection with or in respect of the organisation.
- (6) Sub-paragraphs (3) to (5) permit a restriction relating to religion or belief only if it is imposed—
- (a) because of the purpose of the organisation, or
  - (b) to avoid causing offence, on grounds of the religion or belief to which the organisation relates, to persons of that religion or belief.

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- (7) Sub-paragraphs (3) to (5) permit a restriction relating to sexual orientation only if it is imposed—
- (a) because it is necessary to comply with the doctrine of the organisation, or
  - (b) to avoid conflict with strongly held convictions within sub-paragraph (9).
- (8) In sub-paragraph (5), the reference to a minister is a reference to a minister of religion, or other person, who—
- (a) performs functions in connection with a religion or belief to which the organisation relates, and
  - (b) holds an office or appointment in, or is accredited, approved or recognised for the purposes of the organisation.
- (9) The strongly held convictions are—
- (a) in the case of a religion, the strongly held religious convictions of a significant number of the religion's followers;
  - (b) in the case of a belief, the strongly held convictions relating to the belief of a significant number of the belief's followers.
- [<sup>F1</sup>(9A) An organisation does not contravene Part 3, 4 or 7 only by refusing to allow premises owned or controlled by the organisation to be used—
- (a) to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex;
  - [ to solemnise a relevant Scottish marriage for the reason that the marriage is
  - <sup>F2</sup>(aa) a marriage of two persons of the opposite sex who are in a civil partnership with each other;]
  - (b) to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex [<sup>F3</sup>or that it is between two persons of the opposite sex].
- (9B) A person (or a group of persons) does not contravene Part 3, 4 or 7 only by refusing to allow premises owned or controlled by the person (or the group) on behalf of an organisation to be used—
- (a) to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the same sex;
  - [ to solemnise a relevant Scottish marriage for the reason that the marriage is
  - <sup>F4</sup>(aa) a marriage of two persons of the opposite sex who are in a civil partnership with each other;]
  - (b) to register a relevant Scottish civil partnership for the reason that the civil partnership is between two persons of the same sex [<sup>F5</sup>or that it is between two persons of the opposite sex].
- (9C) An organisation does not contravene section 29 only by allowing an approved celebrant of the organisation to act as set out in sub-paragraph (1)[<sup>F6</sup>, (1A)] or (2) of paragraph 25B of Schedule 3.
- (9D) In sub-paragraphs (9A) to (9C), “approved celebrant”, “relevant Scottish marriage” and “relevant Scottish civil partnership” have the same meaning as in paragraph 25B of Schedule 3.]
- (10) This paragraph does not permit anything which is prohibited by section 29, so far as relating to sexual orientation, if it is done—
- (a) on behalf of a public authority, and

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- (b) under the terms of a contract between the organisation and the public authority.
- (11) In the application of this paragraph in relation to sexual orientation, sub-paragraph (1)(e) must be ignored.
- (12) In the application of this paragraph in relation to sexual orientation, in sub-paragraph (3)(d), “disposal” does not include disposal of an interest in premises by way of sale if the interest being disposed of is—
  - (a) the entirety of the organisation's interest in the premises, or
  - (b) the entirety of the interest in respect of which the organisation has power of disposal.
- (13) In this paragraph—
  - (a) “disposal” is to be construed in accordance with section 38;
  - (b) “public authority” has the meaning given in section 150(1).

#### Textual Amendments

- F1** Sch. 23 para. 2(9A)-(9D) inserted (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 19(6)**
- F2** Sch. 23 para. 2(9A)(aa) inserted (27.1.2022) by The Civil Partnership (Scotland) Act 2020 and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Modifications) Order 2022 (S.I. 2022/74), art. 1, **Sch. 1 para. 3(5)(a)(i)**
- F3** Words in Sch. 23 para. 2(9A)(b) inserted (27.1.2022) by The Civil Partnership (Scotland) Act 2020 and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Modifications) Order 2022 (S.I. 2022/74), art. 1, **Sch. 1 para. 3(5)(a)(ii)**
- F4** Sch. 23 para. 2(9B)(aa) inserted (27.1.2022) by The Civil Partnership (Scotland) Act 2020 and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Modifications) Order 2022 (S.I. 2022/74), art. 1, **Sch. 1 para. 3(5)(b)(i)**
- F5** Words in Sch. 23 para. 2(9B)(b) inserted (27.1.2022) by The Civil Partnership (Scotland) Act 2020 and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Modifications) Order 2022 (S.I. 2022/74), art. 1, **Sch. 1 para. 3(5)(b)(ii)**
- F6** Word in Sch. 23 para. 2(9C) inserted (27.1.2022) by The Civil Partnership (Scotland) Act 2020 and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Modifications) Order 2022 (S.I. 2022/74), art. 1, **Sch. 1 para. 3(5)(c)**

#### Commencement Information

- I1** Sch. 23 para. 2 wholly in force at 1.10.2012; Sch. 23 not in force at Royal Assent see s. 216; Sch. 23 in force for certain purposes at 1.10.2010 by S.I. 2010/2317, **art. 2(14)(e)** (with art. 15); Sch. 23 in force for remaining purposes at 1.10.2012 by S.I. 2012/1569, art. 3(g)

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