

SCHEDULES

SCHEDULE 3

SERVICES AND PUBLIC FUNCTIONS: EXCEPTIONS

PART 4

IMMIGRATION

Disability

- 16 (1) This paragraph applies in relation to disability discrimination.
- (2) Section 29 does not apply to—
- (a) a decision within sub-paragraph (3);
 - (b) anything done for the purposes of or in pursuance of a decision within that sub-paragraph.
- (3) A decision is within this sub-paragraph if it is a decision (whether or not taken in accordance with immigration rules) to do any of the following on the ground that doing so is necessary for the public good—
- (a) to refuse entry clearance;
 - (b) to refuse leave to enter or remain in the United Kingdom;
 - (c) to cancel leave to enter or remain in the United Kingdom;
 - (d) to vary leave to enter or remain in the United Kingdom;
 - (e) to refuse an application to vary leave to enter or remain in the United Kingdom.
- (4) Section 29 does not apply to—
- (a) a decision taken, or guidance given, by the Secretary of State in connection with a decision within sub-paragraph (3);
 - (b) a decision taken in accordance with guidance given by the Secretary of State in connection with a decision within that sub-paragraph.

Nationality and ethnic or national origins

- 17 (1) This paragraph applies in relation to race discrimination so far as relating to—
- (a) nationality, or
 - (b) ethnic or national origins.
- (2) Section 29 does not apply to anything done by a relevant person in the exercise of functions exercisable by virtue of a relevant enactment.
- (3) A relevant person is—
- (a) a Minister of the Crown acting personally, or

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- (b) a person acting in accordance with a relevant authorisation.
- (4) A relevant authorisation is a requirement imposed or express authorisation given—
 - (a) with respect to a particular case or class of case, by a Minister of the Crown acting personally;
 - (b) with respect to a particular class of case, by a relevant enactment or by an instrument made under or by virtue of a relevant enactment.
- (5) The relevant enactments are—
 - (a) the Immigration Acts,
 - (b) the Special Immigration Appeals Commission Act 1997,
 - (c) a provision made under section 2(2) of the European Communities Act 1972 which relates to immigration or asylum, and
 - (d) a provision of Community law which relates to immigration or asylum.
- (6) The reference in sub-paragraph (5)(a) to the Immigration Acts does not include a reference to—
 - (a) sections 28A to 28K of the Immigration Act 1971 (powers of arrest, entry and search, etc.), or
 - (b) section 14 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (power of arrest).

Religion or belief

- 18 (1) This paragraph applies in relation to religious or belief-related discrimination.
- (2) Section 29 does not apply to a decision within sub-paragraph (3) or anything done for the purposes of or in pursuance of a decision within that sub-paragraph.
- (3) A decision is within this sub-paragraph if it is a decision taken in accordance with immigration rules—
 - (a) to refuse entry clearance or leave to enter the United Kingdom, or 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, or
 - (b) to vary leave to enter or remain in the United Kingdom, or 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.
- (4) Section 29 does not apply to a decision within sub-paragraph (5), or anything done for the purposes of or in pursuance of a decision within that sub-paragraph, if the decision is taken on grounds mentioned in sub-paragraph (6).
- (5) A decision is within this sub-paragraph if it is a decision (whether or not taken in accordance with immigration rules) in connection with an application for entry clearance or for leave to enter or remain in the United Kingdom.
- (6) The grounds referred to in sub-paragraph (4) are—
 - (a) the grounds that a person holds an office or post in connection with a religion or belief or provides a service in connection with a religion or belief,
 - (b) the grounds that a religion or belief is not to be treated in the same way as certain other religions or beliefs, or

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- (c) the grounds that the exclusion from the United Kingdom of a person to whom paragraph (a) applies is conducive to the public good.
- (7) Section 29 does not apply to—
- (a) a decision taken, or guidance given, by the Secretary of State in connection with a decision within sub-paragraph (3) or (5);
 - (b) a decision taken in accordance with guidance given by the Secretary of State in connection with a decision within either of those sub-paragraphs.

Interpretation

- 19 A reference to entry clearance, leave to enter or remain or immigration rules is to be construed in accordance with the Immigration Act 1971.