

Status: Point in time view as at 13/05/2014.

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SCHEDULES

SCHEDULE 3

SERVICES AND PUBLIC FUNCTIONS: EXCEPTIONS

PART 7

[^{F1}SEPARATE, SINGLE AND CONCESSIONARY SERVICES, ETC]

Textual Amendments

- F1** Sch. 3 Pt. 7 heading substituted (1.10.2012) by virtue of [The Equality Act 2010 \(Age Exceptions\) Order 2012 \(S.I. 2012/2466\)](#), [art. 4](#)

Separate services for the sexes

- 26 (1) A person does not contravene section 29, so far as relating to sex discrimination, by providing separate services for persons of each sex if—
- (a) a joint service for persons of both sexes would be less effective, and
 - (b) the limited provision is a proportionate means of achieving a legitimate aim.
- (2) A person does not contravene section 29, so far as relating to sex discrimination, by providing separate services differently for persons of each sex if—
- (a) a joint service for persons of both sexes would be less effective,
 - (b) the extent to which the service is required by one sex makes it not reasonably practicable to provide the service otherwise than as a separate service provided differently for each sex, and
 - (c) the limited provision is a proportionate means of achieving a legitimate aim.
- (3) This paragraph applies to a person exercising a public function in relation to the provision of a service as it applies to the person providing the service.

Commencement Information

- II** Sch. 3 wholly in force at 1.10.2012; Sch. 3 not in force at Royal assent see s. 216; Sch. 3 in force at 1.10.2010 for certain purposes by [S.I. 2010/2317](#), [art. 2\(3\)](#); Sch. 3 in force so far as not already in force at 1.10.2012 by [S.I. 2012/1569](#), [art. 2\(d\)](#)

Single-sex services

- 27 (1) A person does not contravene section 29, so far as relating to sex discrimination, by providing a service only to persons of one sex if—
- (a) any of the conditions in sub-paragraphs (2) to (7) is satisfied, and

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- (b) the limited provision is a proportionate means of achieving a legitimate aim.
- (2) The condition is that only persons of that sex have need of the service.
- (3) The condition is that—
 - (a) the service is also provided jointly for persons of both sexes, and
 - (b) the service would be insufficiently effective were it only to be provided jointly.
- (4) The condition is that—
 - (a) a joint service for persons of both sexes would be less effective, and
 - (b) the extent to which the service is required by persons of each sex makes it not reasonably practicable to provide separate services.
- (5) The condition is that the service is provided at a place which is, or is part of—
 - (a) a hospital, or
 - (b) another establishment for persons requiring special care, supervision or attention.
- (6) The condition is that—
 - (a) the service is provided for, or is likely to be used by, two or more persons at the same time, and
 - (b) the circumstances are such that a person of one sex might reasonably object to the presence of a person of the opposite sex.
- (7) The condition is that—
 - (a) there is likely to be physical contact between a person (A) to whom the service is provided and another person (B), and
 - (b) B might reasonably object if A were not of the same sex as B.
- (8) This paragraph applies to a person exercising a public function in relation to the provision of a service as it applies to the person providing the service.

Commencement Information

I2 Sch. 3 wholly in force at 1.10.2012; Sch. 3 not in force at Royal assent see s. 216; Sch. 3 in force at 1.10.2010 for certain purposes by *S.I. 2010/2317, art. 2(3)*; Sch. 3 in force so far as not already in force at 1.10.2012 by *S.I. 2012/1569, art. 2(d)*

Gender reassignment

- 28 (1) A person does not contravene section 29, so far as relating to gender reassignment discrimination, only because of anything done in relation to a matter within subparagraph (2) if the conduct in question is a proportionate means of achieving a legitimate aim.
- (2) The matters are—
- (a) the provision of separate services for persons of each sex;
 - (b) the provision of separate services differently for persons of each sex;
 - (c) the provision of a service only to persons of one sex.

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Commencement Information

- I3** Sch. 3 wholly in force at 1.10.2012; Sch. 3 not in force at Royal assent see s. 216; Sch. 3 in force at 1.10.2010 for certain purposes by [S.I. 2010/2317](#), [art. 2\(3\)](#); Sch. 3 in force so far as not already in force at 1.10.2012 by [S.I. 2012/1569](#), [art. 2\(d\)](#)

Services relating to religion

- 29 (1) A minister does not contravene section 29, so far as relating to sex discrimination, by providing a service only to persons of one sex or separate services for persons of each sex, if—
- (a) the service is provided for the purposes of an organised religion,
 - (b) it is provided at a place which is (permanently or for the time being) occupied or used for those purposes, and
 - (c) the limited provision of the service is necessary in order to comply with the doctrines of the religion or is for the purpose of avoiding conflict with the strongly held religious convictions of a significant number of the religion's followers.
- (2) The reference to a minister is a reference to a minister of religion, or other person, who—
- (a) performs functions in connection with the religion, and
 - (b) holds an office or appointment in, or is accredited, approved or recognised for purposes of, a relevant organisation in relation to the religion.
- (3) An organisation is a relevant organisation in relation to a religion if its purpose is—
- (a) to practise the religion,
 - (b) to advance the religion,
 - (c) to teach the practice or principles of the religion,
 - (d) to enable persons of the religion to receive benefits, or to engage in activities, within the framework of that religion, or
 - (e) to foster or maintain good relations between persons of different religions.
- (4) But an organisation is not a relevant organisation in relation to a religion if its sole or main purpose is commercial.

Commencement Information

- I4** Sch. 3 wholly in force at 1.10.2012; Sch. 3 not in force at Royal assent see s. 216; Sch. 3 in force at 1.10.2010 for certain purposes by [S.I. 2010/2317](#), [art. 2\(3\)](#); Sch. 3 in force so far as not already in force at 1.10.2012 by [S.I. 2012/1569](#), [art. 2\(d\)](#)

Services generally provided only for persons who share a protected characteristic

- 30 If a service is generally provided only for persons who share a protected characteristic, a person (A) who normally provides the service for persons who share that characteristic does not contravene section 29(1) or (2)—
- (a) by insisting on providing the service in the way A normally provides it, or
 - (b) if A reasonably thinks it is impracticable to provide the service to persons who do not share that characteristic, by refusing to provide the service.

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Commencement Information

- I5** Sch. 3 wholly in force at 1.10.2012; Sch. 3 not in force at Royal assent see s. 216; Sch. 3 in force at 1.10.2010 for certain purposes by [S.I. 2010/2317](#), **art. 2(3)**; Sch. 3 in force so far as not already in force at 1.10.2012 by [S.I. 2012/1569](#), **art. 2(d)**

[^{F2}Concessions

Textual Amendments

- F2** Sch. 3 para. 30A and cross-heading inserted (1.10.2012) by [The Equality Act 2010 \(Age Exceptions\) Order 2012 \(S.I. 2012/2466\)](#), **art. 4**

- 30A (1) A person does not contravene section 29, so far as relating to age discrimination, by giving a concession in respect of a service to persons of a particular age group.
- (2) The reference to a concession in respect of a service is a reference to a benefit, right or privilege having the effect that the manner in which the service is provided is, or the terms on which it is provided are, more favourable than the manner in which, or the terms on which, it is usually provided to the public (or, where it is provided to a section of the public, that section).]

[^{F3}Age related holidays

Textual Amendments

- F3** Sch. 3 para. 30B and cross-heading inserted (1.10.2012) by [The Equality Act 2010 \(Age Exceptions\) Order 2012 \(S.I. 2012/2466\)](#), **art. 5**

- 30B (1) A person (P) does not contravene section 29, so far as relating to age discrimination, by providing a relevant holiday service to persons of a particular age group.
- (2) In sub-paragraph (1) “ relevant holiday service ” means a service—
- (a) which involves the provision of at least two of the following together for a single price—
 - (i) travel;
 - (ii) accommodation;
 - (iii) access to activities or services not ancillary to travel or accommodation which form a significant part of the service or its cost;
 - (b) the provision of which is for a period of more than 24 hours or includes the provision of overnight accommodation;
 - (c) which P provides only to persons of the age group in question; and
 - (d) an essential feature of which is the bringing together of persons of that age group with a view to facilitating their enjoyment of facilities or services designed with particular regard to persons of that age group.

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- (3) P may not rely on sub-paragraph (1) unless, before providing a person with a relevant holiday service, P provides the person with a written statement that the service is provided only to persons of the age group in question.
- (4) For the purpose of sub-paragraph (2)(a)(i), “ travel ” includes an option for an individual to make alternative travel arrangements to those included in the relevant holiday service as offered by P.]

[^{F4} Age restricted services

Textual Amendments

F4 Sch. 3 para. 30C and cross-heading inserted (1.10.2012) by [The Equality Act 2010 \(Age Exceptions\) Order 2012 \(S.I. 2012/2466\)](#), [art. 6](#)

- 30C (1) This paragraph applies where a person (P)—
- (a) provides a service the provision of which is prohibited by or under an enactment to persons under the age specified in or under the enactment (“the statutory age”), and
 - (b) displays on the premises on which the service is provided an age warning in relation to the provision of the service.
- (2) An age warning in relation to the provision of a service is a statement to the effect that the service will not be provided to a person who—
- (a) appears to P, or an employee or agent of P's, to be under the age specified in the statement, and
 - (b) on being required to do so by P or the employee or agent, fails to produce satisfactory identification.
- (3) P does not contravene section 29, so far as relating to age discrimination, by not providing the service to a person, who—
- (a) appears to P, or an employee or agent of P's, to be under the age specified in the age warning in relation to the provision of the service, and
 - (b) on being required to do so by P or the employee or agent, fails to produce satisfactory identification.
- (4) In this paragraph—
- (a) a reference to the provision of a service includes a reference to provision of access to the service, and
 - (b) “ satisfactory identification ”, in relation to a person, means a valid document which—
 - (i) in the case of licensed premises where an age condition applies, meets that condition, and
 - (ii) in any other case includes a photograph of the person and establishes that the person has attained the statutory age in relation to the provision of a service;
“ licensed premises ” means premises in respect of which a relevant premises licence within the meaning of section 19A of the Licensing Act 2003 (mandatory conditions where alcohol sold) has effect; and

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“ age condition ” means a condition specified in an order under subsection (1) of section 19A of that Act requiring the age of certain persons to be verified in the manner specified in the condition before they are served alcohol in premises where the condition applies.]

[^{F5} Residential mobile homes

Textual Amendments

F5 Sch. 3 para. 30D and cross-heading inserted (1.10.2012) by [The Equality Act 2010 \(Age Exceptions\) Order 2012 \(S.I. 2012/2466\)](#), [art. 7](#)

- 30D (1) A person (A) who is the owner of a protected site does not contravene section 29, so far as relating to age discrimination, by—
- (a) entering into a mobile home agreement with a person (B) that entitles only persons who have attained a particular age to station and occupy a mobile home on land forming part of the site, or
 - (b) refusing to permit assignment by B of a mobile home agreement to any person other than a person who has attained a particular age.
- (2) A does not contravene section 29, so far as relating to age discrimination, by imposing a requirement in park rules that mobile homes stationed on land forming part of the site and occupied under mobile home agreements may be occupied only by persons who have attained a particular age.
- (3) A does not contravene section 29, so far as relating to age discrimination, by—
- (a) imposing in or under a mobile home rental agreement with a person (C) a requirement that the mobile home to which the agreement relates may be occupied only by persons who have attained a particular age, or
 - (b) refusing to permit assignment by C of a mobile home rental agreement to any person other than a person who has attained a particular age.
- (4) But A may not rely on sub-paragraph (1) or (3) unless, before doing something mentioned in that sub-paragraph, A provides B or C, as the case may be, with a written statement to the effect that the mobile home in question may be occupied only by persons who have attained the age in question.
- (5) In this paragraph,
- “ mobile home agreement ” means an agreement to which the Mobile Homes Act 1983 [^{F6} or Part 4 of the Mobile Homes (Wales) Act 2013] applies; and “ owner ”, “ protected site ” and “ mobile home ” have the same meaning as in that Act [^{F7} or that Part of that Act] ;
- “ park rules ” means rules applying to residents of mobile homes on the protected site and required to be observed by a term in the mobile home agreement or the mobile home rental agreement as the case may be;
- “ mobile home rental agreement ” means an agreement (other than an arrangement to occupy a mobile home for the purposes of a holiday) under which a person (“ the occupier ”) is entitled to occupy a mobile home on the protected site as the occupier's residence whether for a specified period or for successive periods of a specified duration subject to payment of money and the performance of other obligations.]

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Textual Amendments

- F6** Words in Sch. 3 para. 30D(5) inserted (E.W.) (5.11.2013) by [Mobile Homes \(Wales\) Act 2013 \(anaw 6\)](#), s. 64(1), [Sch. 4 para. 11\(a\)](#) (with [Sch. 5 para. 7](#)) (this amendment is to be treated as not having effect until 1.10.2014 by virtue of [S.I. 2014/11](#), art. 3(2))
- F7** Words in Sch. 3 para. 30D(5) inserted (E.W.) (5.11.2013) by [Mobile Homes \(Wales\) Act 2013 \(anaw 6\)](#), s. 64(1), [Sch. 4 para. 11\(b\)](#) (with [Sch. 5 para. 7](#)) (this amendment is to be treated as not having effect until 1.10.2014 by virtue of [S.I. 2014/11](#), art. 3(2))

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