

*Status: Point in time view as at 01/10/2010.*

*Changes to legislation: Equality Act 2010, SCHEDULE 5 is up to date with all changes known to be in force on or before 23 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 5

Section 38

#### PREMISES: EXCEPTIONS

##### *Owner-occupier*

- 1 (1) This paragraph applies to the private disposal of premises by an owner-occupier.
  - (2) A disposal is a private disposal only if the owner-occupier does not—
    - (a) use the services of an estate agent for the purpose of disposing of the premises, or
    - (b) publish (or cause to be published) an advertisement in connection with their disposal.
  - (3) Section 33(1) applies only in so far as it relates to race.
  - (4) Section 34(1) does not apply in so far as it relates to—
    - (a) religion or belief, or
    - (b) sexual orientation.
  - (5) In this paragraph—

“estate agent” means a person who, by way of profession or trade, provides services for the purpose of—

    - (a) finding premises for persons seeking them, or
    - (b) assisting in the disposal of premises;

“owner-occupier” means a person who—

    - (a) owns an estate or interest in premises, and
    - (b) occupies the whole of them.
- 2 (1) Section 36(1)(a) does not apply if—
    - (a) the premises are, or have been, the only or main home of a person by whom they are let, and
    - (b) since entering into the letting, neither that person nor any other by whom they are let has used a manager for managing the premises.
  - (2) A manager is a person who, by profession or trade, manages let premises.
  - (3) Section 36(1)(b) does not apply if—
    - (a) the premises are, or have been, the only or main home of a person who has them to let, and
    - (b) neither that person nor any other who has the premises to let uses the services of an estate agent for letting the premises.
  - (4) “Estate agent” has the meaning given in paragraph 1.

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### *Small premises*

- 3 (1) This paragraph applies to anything done by a person in relation to the disposal, occupation or management of part of small premises if—
- (a) the person or a relative of that person resides, and intends to continue to reside, in another part of the premises, and
  - (b) the premises include parts (other than storage areas and means of access) shared with residents of the premises who are not members of the same household as the resident mentioned in paragraph (a).
- (2) Sections 33(1), 34(1) and 35(1) apply only in so far as they relate to race.
- (3) Premises are small if—
- (a) the only other persons occupying the accommodation occupied by the resident mentioned in sub-paragraph (1)(a) are members of the same household,
  - (b) the premises also include accommodation for at least one other household,
  - (c) the accommodation for each of those other households is let, or available for letting, on a separate tenancy or similar agreement, and
  - (d) the premises are not normally sufficient to accommodate more than two other households.
- (4) Premises are also small if they are not normally sufficient to provide residential accommodation for more than six persons (in addition to the resident mentioned in sub-paragraph (1)(a) and members of the same household).
- (5) In this paragraph, “relative” means—
- (a) spouse or civil partner,
  - (b) unmarried partner,
  - (c) parent or grandparent,
  - (d) child or grandchild (whether or not legitimate),
  - (e) the spouse, civil partner or unmarried partner of a child or grandchild,
  - (f) brother or sister (whether of full blood or half-blood), or
  - (g) a relative within paragraph (c), (d), (e) or (f) whose relationship arises as a result of marriage or civil partnership.
- (6) In sub-paragraph (5), a reference to an unmarried partner is a reference to the other member of a couple consisting of—
- (a) a man and a woman who are not married to each other but are living together as husband and wife, or
  - (b) two people of the same sex who are not civil partners of each other but are living together as if they were.
- 4 (1) Section 36(1) does not apply if—
- (a) the premises in question are small premises,
  - (b) the relevant person or a relative of that person resides, and intends to continue to reside, in another part of the premises, and
  - (c) the premises include parts (other than storage areas and means of access) shared with residents of the premises who are not members of the same household as the resident mentioned in paragraph (b).
- (2) The relevant person is the person who, for the purposes of section 36(1), is—
- (a) the controller of the premises, or

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- (b) the responsible person in relation to the common parts to which the premises relate.
  - (3) “Small premises” and “relative” have the same meaning as in paragraph 3.
- 5 A Minister of the Crown may by order amend paragraph 3 or 4.

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