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## SCHEDULES

### SCHEDULE 9 **E+W+S**

#### WORK: EXCEPTIONS

#### **PART 1 E+W+S**

#### OCCUPATIONAL REQUIREMENTS

##### *General*

- 1 (1) A person (A) does not contravene a provision mentioned in sub-paragraph (2) by applying in relation to work a requirement to have a particular protected characteristic, if A shows that, having regard to the nature or context of the work—
- (a) it is an occupational requirement,
  - (b) the application of the requirement is a proportionate means of achieving a legitimate aim, and
  - (c) the person to whom A applies the requirement does not meet it (or A has reasonable grounds for not being satisfied that the person meets it).
- (2) The provisions are—
- (a) section 39(1)(a) or (c) or (2)(b) or (c);
  - (b) section 41(1)(b);
  - (c) section 44(1)(a) or (c) or (2)(b) or (c);
  - (d) section 45(1)(a) or (c) or (2)(b) or (c);
  - (e) section 49(3)(a) or (c) or (6)(b) or (c);
  - (f) section 50(3)(a) or (c) or (6)(b) or (c);
  - (g) section 51(1);
  - <sup>[F1]</sup>(h) section 60A(1).]
- (3) The references in sub-paragraph (1) to a requirement to have a protected characteristic are to be read—
- (a) in the case of gender reassignment, as references to a requirement not to be a transsexual person (and section 7(3) is accordingly to be ignored);
  - (b) in the case of marriage and civil partnership, as references to a requirement not to be married or a civil partner (and section 8(2) is accordingly to be ignored).
- (4) In the case of a requirement to be of a particular sex, sub-paragraph (1) has effect as if in paragraph (c), the words from “(or)” to the end were omitted.

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### Textual Amendments

- F1** Sch. 9 para. 1(2)(h) inserted (1.1.2024) by [The Equality Act 2010 \(Amendment\) Regulations 2023 \(S.I. 2023/1425\)](#), regs. 1(2), 4(6)(a)

#### *Religious requirements relating to sex, marriage etc., sexual orientation*

- 2 (1) A person (A) does not contravene a provision mentioned in sub-paragraph (2) by applying in relation to employment a requirement to which sub-paragraph (4) applies if A shows that—
- (a) the employment is for the purposes of an organised religion,
  - (b) the application of the requirement engages the compliance or non-conflict principle, and
  - (c) the person to whom A applies the requirement does not meet it (or A has reasonable grounds for not being satisfied that the person meets it).
- (2) The provisions are—
- (a) section 39(1)(a) or (c) or (2)(b) or (c);
  - (b) section 49(3)(a) or (c) or (6)(b) or (c);
  - (c) section 50(3)(a) or (c) or (6)(b) or (c);
  - (d) section 51(1);
  - [<sup>F2</sup>(e) section 60A(1).]
- (3) A person does not contravene section 53(1) or (2)(a) or (b) by applying in relation to a relevant qualification (within the meaning of that section) a requirement to which sub-paragraph (4) applies if the person shows that—
- (a) the qualification is for the purposes of employment mentioned in sub-paragraph (1)(a), and
  - (b) the application of the requirement engages the compliance or non-conflict principle.
- (4) This sub-paragraph applies to—
- (a) a requirement to be of a particular sex;
  - (b) a requirement not to be a transsexual person;
  - (c) a requirement not to be married or a civil partner;
  - [<sup>F3</sup>(ca) a requirement not to be married to [<sup>F4</sup>, or the civil partner of,] a person of the same sex;]
  - [<sup>F5</sup>(cb) a requirement not to be the civil partner of a person of the opposite sex;]
  - (d) a requirement not to be married to, or the civil partner of, a person who has a living former spouse or civil partner;
  - (e) a requirement relating to circumstances in which a marriage or civil partnership came to an end;
  - (f) a requirement related to sexual orientation.
- (5) The application of a requirement engages the compliance principle if the requirement is applied so as to comply with the doctrines of the religion.
- (6) The application of a requirement engages the non-conflict principle if, because of the nature or context of the employment, the requirement is applied so as to avoid

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conflicting with the strongly held religious convictions of a significant number of the religion's followers.

- (7) A reference to employment includes a reference to an appointment to a personal or public office.
- (8) In the case of a requirement within sub-paragraph (4)(a), sub-paragraph (1) has effect as if in paragraph (c) the words from “(or” to the end were omitted.

#### Textual Amendments

- F2** Sch. 9 para. 2(2)(e) inserted (1.1.2024) by [The Equality Act 2010 \(Amendment\) Regulations 2023 \(S.I. 2023/1425\)](#), regs. 1(2), **4(6)(b)**
- F3** Sch. 9 para. 2(4)(ca) inserted (13.3.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), [Sch. 7 para. 45](#); S.I. 2014/93, art. 3(k)(iv)
- F4** Words in Sch. 9 para. 2(4)(ca) inserted (E.W.S.) (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **11(a)**
- F5** Sch. 9 para. 2(4)(cb) inserted (E.W.S.) (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **11(b)**

#### *Other requirements relating to religion or belief*

- 3 A person (A) with an ethos based on religion or belief does not contravene a provision mentioned in paragraph 1(2) by applying in relation to work a requirement to be of a particular religion or belief if A shows that, having regard to that ethos and to the nature or context of the work—
- it is an occupational requirement,
  - the application of the requirement is a proportionate means of achieving a legitimate aim, and
  - the person to whom A applies the requirement does not meet it (or A has reasonable grounds for not being satisfied that the person meets it).

#### *Armed forces*

- 4 (1) A person does not contravene section 39(1)(a) or (c) or (2)(b) [<sup>F6</sup>or section 60A(1)] by applying in relation to service in the armed forces a relevant requirement if the person shows that the application is a proportionate means of ensuring the combat effectiveness of the armed forces.
- (2) A relevant requirement is—
- a requirement to be a man;
  - a requirement not to be a transsexual person.
- (3) This Part of this Act, so far as relating to age or disability, does not apply to service in the armed forces; and section 55, so far as relating to disability, does not apply to work experience in the armed forces.

#### Textual Amendments

- F6** Words in [Sch. 9 para. 4\(1\)](#) inserted (1.1.2024) by [The Equality Act 2010 \(Amendment\) Regulations 2023 \(S.I. 2023/1425\)](#), regs. 1(2), **4(6)(c)**

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### *Employment services*

- 5
- (1) A person (A) does not contravene section 55(1) or (2) [<sup>F7</sup>or section 60A(1)] if A shows that A's treatment of another person relates only to work the offer of which could be refused to that other person in reliance on paragraph 1, 2, 3 or 4.
  - (2) A person (A) does not contravene section 55(1) or (2) [<sup>F8</sup>or section 60A(1)] if A shows that A's treatment of another person relates only to training for work of a description mentioned in sub-paragraph (1).
  - (3) A person (A) does not contravene section 55(1) or (2) [<sup>F9</sup>or section 60A(1)] if A shows that—
    - (a) A acted in reliance on a statement made to A by a person with the power to offer the work in question to the effect that, by virtue of sub-paragraph (1) or (2), A's action would be lawful, and
    - (b) it was reasonable for A to rely on the statement.
  - (4) A person commits an offence by knowingly or recklessly making a statement such as is mentioned in sub-paragraph (3)(a) which in a material respect is false or misleading.
  - (5) A person guilty of an offence under sub-paragraph (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **Textual Amendments**

- F7** Words in Sch. 9 para. 5(1) inserted (1.1.2024) by [The Equality Act 2010 \(Amendment\) Regulations 2023 \(S.I. 2023/1425\)](#), regs. 1(2), **4(6)(d)**
- F8** Words in Sch. 9 para. 5(2) inserted (1.1.2024) by [The Equality Act 2010 \(Amendment\) Regulations 2023 \(S.I. 2023/1425\)](#), regs. 1(2), **4(6)(d)**
- F9** Words in Sch. 9 para. 5(3) inserted (1.1.2024) by [The Equality Act 2010 \(Amendment\) Regulations 2023 \(S.I. 2023/1425\)](#), regs. 1(2), **4(6)(d)**

### *Interpretation*

- 6
- (1) This paragraph applies for the purposes of this Part of this Schedule.
  - (2) A reference to contravening a provision of this Act is a reference to contravening that provision by virtue of section 13.
  - (3) A reference to work is a reference to employment, contract work, a position as a partner or as a member of an LLP, or an appointment to a personal or public office.
  - (4) A reference to a person includes a reference to an organisation.
  - (5) A reference to section 39(2)(b), 44(2)(b), 45(2)(b), 49(6)(b) or 50(6)(b) is to be read as a reference to that provision with the omission of the words “or for receiving any other benefit, facility or service”.
  - (6) A reference to section 39(2)(c), 44(2)(c), 45(2)(c), 49(6)(c), 50(6)(c), 53(2)(a) or 55(2)(c) (dismissal, etc.) does not include a reference to that provision so far as relating to sex.
  - (7) The reference to paragraph (b) of section 41(1), so far as relating to sex, is to be read as if that paragraph read—

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“(b) by not allowing the worker to do the work.”

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