

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 16: General and Miscellaneous

Schedule 3: Services and public functions: exceptions

Part 4: Immigration

Disability: paragraph 16

Effect

705. [Paragraph 16](#) provides an exception from the prohibition on discriminating against a person when providing a service or exercising a public function because he or she has a disability, in relation to certain immigration decisions, including making a decision not to allow someone to enter the country or a decision not to allow him or her to remain in the country. However, this exception only applies where the decision is necessary for the public good.

Background

706. This is a new exception. An express exception was not previously needed since the Disability Discrimination Act 1995 did not prohibit direct disability discrimination in the provision of services or exercise of a public function and because disability-related discrimination, which did apply to the provision of services or exercise of a public function, could be justified if it was necessary for a number of reasons, including not to endanger the health or safety of any person.

Nationality and ethnic or national origins: paragraph 17

Effect

707. [Paragraph 17](#) provides an exception from the prohibition on discriminating against a person in the provision of services or the exercise of a public function because of his or her ethnic or national origins or nationality, in relation to the exercise of immigration functions.

Background

708. This is designed to replicate the effect of a provision in the Race Relations Act 1976.

Examples

- Different visa requirements for nationals of different countries, which arise for a variety of historical and political reasons, do not constitute unlawful race discrimination.
- Granting asylum to members of a minority ethnic group being targeted by the majority ethnic group in a country would similarly not be unlawful discrimination.

Religion or belief: paragraph 18

Effect

*These notes refer to the Equality Act 2010 (c.15)
which received Royal Assent on 8 April 2010*

709. Paragraph 18 provides an exception from the prohibition on discriminating against a person in the provision of services or the exercise of a public function because of their religion or belief in relation to decisions not to allow someone to enter the country or to remove someone from the country, if that decision is made on the grounds that it is conducive to the public good to exclude that person from the country or it is not desirable to permit the person to remain in United Kingdom.
710. It also provides an exception for decisions relating to an application for entry clearance or leave to enter to cover people entering the country to provide services in connection with religion or belief, such as a Minister or clergyman.

Background

711. This is designed to replicate the effect of provisions in the Equality Act 2006.

Examples

- The immigration services may differentiate between certain religious groups in order to allow a person such as a minister of religion to enter the UK to provide essential pastoral services, without being challenged by groups which could operate against the public interest, but which might also claim to represent a religion.
- A decision to prevent a person who holds extreme religious views from entering or remaining in the country if his or her presence is not conducive to the public good, for example, preachers who use the pulpit to incite violence, would not constitute unlawful discrimination because of religion or belief.