

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 16: General and Miscellaneous

Schedule 3: Services and public functions: exceptions

679. This Schedule sets out exceptions from the prohibitions on discriminating against, harassing or victimising a person when providing services or exercising a public function set out in section 29 of the Act.

Part 1: Constitutional matters: paragraphs 1-5

Effect

680. **Part 1** of this Schedule provides that the prohibitions do not apply to:
- the exercise of parliamentary functions and functions linked to the undertaking of parliamentary business;
 - preparing, making, approving or considering primary legislation or particular forms of secondary legislation, including legislation of the Scottish Parliament and the National Assembly for Wales;
 - exercising judicial functions or deciding not to commence or continue criminal proceedings.
681. **Part 1** also provides that the prohibition on discriminating against a person when exercising a public function does not apply to the armed forces in respect of the protected characteristics of age, disability, gender reassignment and sex when the reason for such acts is to ensure combat effectiveness.
682. It also provides that the prohibitions on discriminating against, harassing or victimising a person when providing a service or exercising a public function do not apply to the Security Service, the Security Intelligence Service, the Government Communications Headquarters (GCHQ) or any part of the armed forces assisting GCHQ.

Background

683. **Part 1** of this Schedule is designed to replicate the effect of exceptions contained in previous legislation where discrimination, harassment and victimisation in the exercise of a public function are already prohibited, and apply the exception to relevant protected characteristics.

Examples

- Activity related to the preparation and making of primary legislation, such as this Act, would be excepted from the prohibition on discrimination. However, activity related to the making of a bye-law by a local authority would not be within the exceptions in this Schedule.

- A decision of a judge on the merits of a case would be within the exceptions in this Schedule. An administrative decision of court staff, about which contractor to use to carry out maintenance jobs or which supplier to use when ordering stationery would not be.

Part 2: Education

Education: paragraph 6

Effect

684. **Paragraph 6** provides that the prohibitions on discrimination in Part 3 do not, so far as they relate to age, or religion or belief, apply to a local authority performing its function under sections 13 and 14 of the Education Act 1996, which relate to providing primary and secondary schools for children in a given catchment area.

Background

685. Similar exceptions for religion or belief were in the Equality Act 2006. The age exceptions are new because of the extension of age discrimination law in this Act.
686. The reason for the provision in paragraph 6 is to prevent a local authority being bound to provide schools for pupils of different faiths, or no faith, or for particular age groups, in every catchment area.

Examples

- Catholic parents will not be able to claim that their local authority is discriminating unlawfully if there is no Catholic school in their catchment area, or if there are fewer places in Catholic schools than in Church of England schools.
- Parents of secondary age children will not be able to claim that it is age discrimination if their children have to travel further than younger ones to reach their school.

Education: paragraph 7

Effect

687. **Paragraph 7** makes similar provision for Scotland as is made by paragraph 6 for England and Wales.

Education: paragraph 8

Effect

688. This paragraph provides an exception from the prohibition on sex discrimination in Part 3 in relation only to the establishment of a school. A local authority will not be prevented from establishing single-sex schools, but must provide similar numbers of places for boys and girls.

Background

689. This provision is designed to replicate the effect of provisions in the Sex Discrimination Act 1975.

Education: paragraph 9

Effect

690. **Paragraph 9** excepts from the prohibition on age discrimination in Part 3 (to the extent that it is not excepted elsewhere), the exercise by any public authority of functions in a number of areas that relate to schools.

Background

691. These exceptions ensure that policies and practices which relate to things which schools are allowed to do under the Act do not become unlawful when carried out by public authorities.

Examples

- School admissions policies can continue to be based on the ages of prospective pupils.
- School transport can be provided for children of a particular age only.

Education: paragraph 10

Effect

692. [Paragraph 10](#) provides an exception for local authorities from the provisions requiring reasonable adjustments in Part 3, in respect of their activities in relation to school education, from the requirement to alter physical features of premises when making reasonable adjustments for disabled people.

Background

693. These exceptions are designed to replicate the effect of provisions in the Disability Discrimination Act 1995 and ensure that local authorities, when carrying out their education functions, do not have to take account of altering physical features since such things will fall within the requirements on them to produce accessibility strategies as set out in Schedule 12. This mirrors the requirements placed on schools themselves.

Education: paragraph 11

Effect

694. [Paragraph 11](#) provides an exception from the prohibition on religious or belief-related discrimination in Part 3 (to the extent that it is not excepted elsewhere), in relation to the exercise by any public body of functions in a number of areas that relate to faith and non-faith educational institutions. In relation to all schools those areas are the curriculum, collective worship, school transport and the establishment, alteration and closure of schools; and in relation to schools which have a religious ethos the exception also applies to admission of pupils and the responsible body of such a school.

Background

695. This provision is designed to replicate the effect of provisions in Part 2 of the Equality Act 2006. It ensures that policies and practices which relate to things which schools are allowed to do under the Act do not become unlawful when carried out by public authorities.

Examples

- A public body will not be open to claims of religious discrimination as a result of its decision to establish, alter or close a faith school.
- A local authority can select a person of a particular religion or belief to be a governor of a school with a religious ethos.

Part 3: Health and care

Blood services: paragraph 13

Effect

696. [Paragraph 13](#) provides that it is not unlawful for a person operating a blood service to refuse to accept someone's donation of blood provided they have reliable evidence that accepting it would put the public or the individual donor at risk and that such a refusal would not be unreasonable.

697. A blood service is a service that collects donations of human blood and blood components to use for medical purposes, for example the NHS Blood and Transplant Special Health Authority.

698. “Blood” includes components, for instance plasma or red blood cells.

Background

699. This provision is designed to replicate the effect of Regulation 28 of the Equality Act (Sexual Orientation) Regulations 2007, and extend the exception to the other protected characteristics. It also provides that a refusal to allow somebody to donate blood or blood components because of a risk to the donor’s own health would not be unlawful.

Examples

- If there is evidence that people who have been sexually active in a particular country are more likely to be infected with HIV, the operator of the blood service can refuse to accept donations of blood or blood components from people who have been sexually active there, even if that disproportionately affects members of a particular nationality and so might otherwise be unlawful indirect discrimination because of race.
- If there is evidence that women who have recently given birth are likely to suffer detrimental effects from giving blood or blood components, then a blood service can refuse to accept donations from them. This would not be unlawful direct discrimination because of maternity.

Health and safety: paragraph 14

Effect

700. [Paragraph 14](#) provides that it is not unlawful for a person to discriminate against a pregnant woman by refusing to provide her with a service or only providing the service to her on certain conditions if he or she reasonably believes that to do otherwise would create a risk to her health or safety and he or she would take similar measures in respect of persons with other physical conditions.

Background

701. Provisions making it unlawful for a person to discriminate against a pregnant woman in the provision of services were introduced into the Sex Discrimination Act 1975 by the Sex Discrimination Act 1975 (Amendment) Regulations 2008. Those provisions contained an equivalent exception on health and safety grounds.

Examples

- A leisure centre could refuse to allow a pregnant woman to use certain gym equipment (for example, a rowing machine) after a certain point in her pregnancy if it reasonably believed that allowing her to use the equipment would create a risk to her health and safety and it would also refuse, for example, to allow a man with a serious heart condition to use the equipment.
- An airline could refuse to allow a pregnant woman to travel beyond her 35th week of pregnancy if it reasonably believed that allowing her to travel would create a risk to her health and safety and it would also refuse people with other physical conditions that affect their health and safety to travel.

Care within the family: paragraph 15

Effect

702. [Paragraph 15](#) is designed to ensure that people who provide foster care, or other similar forms of care, in their own home are not subject to the prohibitions on discriminating against, harassing or victimising a person in the provision of services while providing that care.

703. It applies irrespective of whether or not the person is paid for providing the care service.
Background

704. Similar provisions existed in previous legislation for race, religion or belief and sexual orientation. This provision extends the exception to all of the protected characteristics.

Examples

- A Muslim family could choose to foster only a Muslim child. This would not constitute discrimination against a non-Muslim child.
- A woman who is the main carer for her mother decides to provide care for another person too, and decides to restrict any offer of care to another woman. This would not constitute discrimination against a man who needed similar care.

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

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.

Part 5: Insurance, etc.

Services arranged by employer: [paragraph 20](#)

Effect

- Paragraph 20 provides an exception to section 29 (provision of services, etc) for group insurance schemes and group personal pensions (“group schemes”). As group schemes are offered to employees as part of the employment relationship:
- the employer is responsible for ensuring that the provision of benefits under group schemes complies with the requirements of Part 5 (work); and
- the insurer or pension provider is not responsible for ensuring that the provision of benefits complies with the requirements of Part 3 (services and public functions).

Background

712. Group policies and schemes are arrangements between an employer and an insurer for the benefit of the employees, their partners and their dependants. They are entered into not on the basis of the individual characteristics of each employee but on the basis of the employer’s business and the profile of the employees. Employees can sign up to the benefits under such policies on standard terms that are the same for all employees. This is a new provision but one that reflects current practice.

Example

713. An employer enters into a contract with an insurer for the provision of health insurance to employees. As the health insurance is part of the package of benefits provided by the employer to the employee, the employer must ensure that the provision complies with Part 5. So, if benefits under the health insurance policy differ between men and women, the employer may have to justify the difference by reference to paragraph 20 of Schedule 9 (insurance contracts, etc.).

Disability: [paragraph 21](#)

Effect

714. [Paragraph 21](#) provides an exception from the prohibition on discriminating against disabled people in the provision of services connected with insurance business (as defined) where the decision in question is based on relevant and reliable information. It

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

enables insurance providers to offer different premiums and benefits to disabled people where it is reasonable to do so.

Background

715. These provisions are designed to replicate the effect of provisions in the Disability Discrimination (Service Providers and Public Authorities Carrying Out Functions) Regulations 2005. This exception has been carried forward into the Act because it is recognised that insurers may need to distinguish between people on the basis of the risks against which they are insuring. The consensus is that it works well.

Examples

- A disabled person with cancer applies for a life insurance policy. The insurance company refuses to provide life insurance cover based on a medical report from the person's doctor which provides a prognosis on the person's condition.
- An insurer charges higher premiums for travel insurance for a person with a particular disability because actuarial evidence suggests that people with this disability are at increased risk of having a heart attack.

Sex, gender reassignment, pregnancy and maternity: [paragraph 22](#)

716. [Paragraph 22](#) provides exceptions to allow insurers to calculate different premiums and benefits for men and women, relating to pregnancy and maternity or gender reassignment on the basis of actuarial data.
717. Sub-paragraph (1) provides an exception for an annuity, life assurance policy, accident insurance policy or similar matter which involves the assessment of risk. Under this exception, the difference in treatment must be done by reference to actuarial or other reliable data, and must be reasonable in all the circumstances. Sub-paragraph (2) applies to a contract of insurance, or for related financial services, entered into before 6 April 2008. In such a case, the exception only applies in relation to differences in premiums and benefits applicable to a person under that contract.
718. Sub-paragraph (3) applies sub-paragraph (1) to contracts of insurance, or for related financial services, entered into on or after 6 April 2008. It permits differences in treatment which are proportionate having regard to relevant and accurate data, which the insurance industry has compiled, published and updated in accordance with Treasury guidance. For contracts entered into on or after 22 December 2008, the differences must not result from costs related to a woman's pregnancy or her having given birth within the previous 26 weeks.
719. Insurers must calculate premiums and benefits based on the sex of the person seeking such services (sub-paragraph (5)).

Background

720. This paragraph is designed to replicate the effect of section 45 of the Sex Discrimination Act 1975 in respect of insurance and financial services. Services relating to premises or education are dealt with under Parts 4 and 6 of the Act.

Example

- An insurer can lawfully quote higher motor insurance premiums for young men if this is based on actuarial and statistical up-to-date data that is published so that customers can see the information that justifies proportionate differences in male and female premiums and benefits.

Existing insurance policies: [paragraph 23](#)

Effect

721. [Paragraph 23](#) provides an exception so that insurers will not be discriminating unlawfully if they continue to apply terms of insurance policies entered into before the date on which this paragraph comes into force. Where pre-existing policies are renewed,

or have their terms reviewed, on or after the date this paragraph comes into force, the exception no longer applies to them.

Background

722. This paragraph provides an exception for existing insurance policies, which may not comply with subsequently altered discrimination law. But where such a policy is renewed or reviewed, it would need to be amended to meet the requirements of this Act.

Examples

- An existing life insurance policy which was taken out in 1989, and has not been subsequently renewed or reviewed, continues to be lawful and does not have to be altered to comply with current relevant discrimination law.
- A company has a death in service benefit insurance policy for its employees which has been in place for many years and whose terms have not been reviewed. It benefits from the exception unless and until the policy is reviewed or renewed.

Part 6: Marriage

Gender reassignment: England and Wales: [paragraph 24](#)

Effect

723. [Paragraph 24](#) contains exceptions from the general prohibition of gender reassignment discrimination in section 29 of the Act for the religious solemnisation of marriages.

724. A person with a full Gender Recognition Certificate acquired under the Gender Recognition Act 2004 is able to marry someone of the opposite gender to his or her acquired gender. The Marriage Act 1949 imposes an obligation on a clergyman in the Church of England or a clerk in Holy Orders of the Church in Wales to marry anyone residing in his or her parish, or who fits other stated connection criteria. However, section 5B of that Act contains an exception where the clergyman or clerk reasonably believes one of the parties' gender is acquired under the Gender Recognition Act. The legislation that preceded this Act did not prohibit discrimination because of gender reassignment in the field of public functions. As this Act now prohibits this, [paragraph 24](#) provides an exception for Anglican clergy in England and Wales, as well as those of other faiths in England and Wales whose consent is required to conduct marriages in religious premises registered under the Marriage Act, and others who may solemnise marriages.

Background

725. This paragraph is new. There was previously no prohibition on discriminating against people because of gender reassignment in the exercise of public functions, hence there was no exception in relation to solemnising marriages.

Example

- A clergyman in the Church of England advises an engaged couple that he will not solemnise their marriage as he reasonably believes that one of the couple has acquired his or her gender under the Gender Recognition Act 2004. This would not be unlawful discrimination because of gender reassignment.

Gender reassignment: Scotland: [paragraph 25](#)

Effect

726. [Paragraph 25](#), which applies to Scotland, contains a similar exception to [paragraph 24](#).

727. An "approved celebrant" is not obliged to marry a person if he or she reasonably believes the person to have acquired his or her gender under the Gender Recognition

Act 2004. An “approved celebrant” is a person defined in the Marriage (Scotland) Act 1977 as a person entitled under that Act to solemnise religious marriages.

Background

728. This paragraph is new. There is currently no prohibition on discriminating against people because of gender reassignment in the exercise of public functions, hence there is no exception in relation to solemnising marriages.

Example

- A Roman Catholic priest, who is recognised as an “approved celebrant” in Scotland, advises an engaged couple that he will not solemnise their marriage as he reasonably believes that one of the couple has acquired his or her legal gender under the Gender Recognition Act 2004. This would not be unlawful discrimination because of gender reassignment.

Part 7: Separate and single services

Separate services for the sexes: paragraph 26

Effect

729. This paragraph contains exceptions to the general prohibition of sex discrimination which allow the provision of separate services for men and women.

730. A provider can deliver separate services for men and women where providing a combined service would not be as effective. A provider can deliver separate services for men and women in different ways or to a different extent where providing a combined service would not be as effective and it would not be reasonably practicable to provide the service otherwise than as a separate service provided differently for each sex. In each case such provision has to be justified.

731. The exceptions also cover the exercise of public functions in respect of the “back-room” managerial, administrative and finance decisions which allow separate services to be provided.

Background

732. This paragraph replaces similar provisions in the Sex Discrimination Act 1975 that only cover public functions. The exceptions have been extended to cover all services, whether privately or publicly provided.

Example

- It would not be unlawful for a charity to set up separate hostels, one for homeless men and one for homeless women, where the hostels provide the same level of service to men and women because the level of need is the same but a unisex hostel would not be as effective.

Single-sex services: paragraph 27

Effect

733. This paragraph contains exceptions to the general prohibition of sex discrimination to allow the provision of single-sex services.

734. Single sex services are permitted where:

- only people of that sex require it;
- there is joint provision for both sexes but that is not sufficient on its own;
- if the service were provided for men and women jointly, it would not be as effective and it is not reasonably practicable to provide separate services for each sex;

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- they are provided in a hospital or other place where users need special attention (or in parts of such an establishment);
- they may be used by more than one person and a woman might object to the presence of a man (or vice versa); or
- they may involve physical contact between a user and someone else and that other person may reasonably object if the user is of the opposite sex.

735. In each case, the separate provision has to be objectively justified.

736. These exceptions also cover public functions in respect of the “back-room” managerial, administrative and finance decisions which allow such single-sex services to be provided.

Background

737. This paragraph replaces some similar provisions that only covered public functions and some that applied to services in the Sex Discrimination Act 1975. These exceptions have been extended to cover both services and public functions.

Examples

738. These exceptions would allow:

- a cervical cancer screening service to be provided to women only, as only women need the service;
- a fathers’ support group to be set up by a private nursery as there is insufficient attendance by men at the parents’ group;
- a domestic violence support unit to be set up by a local authority for women only but there is no men-only unit because of insufficient demand;
- separate male and female wards to be provided in a hospital;
- separate male and female changing rooms to be provided in a department store;
- a massage service to be provided to women only by a female massage therapist with her own business operating in her clients’ homes because she would feel uncomfortable massaging men in that environment.

Gender reassignment: [paragraph 28](#)

Effect

739. This paragraph contains an exception to the general prohibition of gender reassignment discrimination in relation to the provision of separate- and single-sex services. Such treatment by a provider has to be objectively justified.

Background

740. This paragraph replaces a similar provision in the Sex Discrimination Act 1975.

Example

- A group counselling session is provided for female victims of sexual assault. The organisers do not allow transsexual people to attend as they judge that the clients who attend the group session are unlikely to do so if a male-to-female transsexual person was also there. This would be lawful.

Services relating to religion: [paragraph 29](#)

Effect

741. This paragraph contains an exception to the general prohibition of sex discrimination to allow ministers of religion to provide separate and single-sex services.

742. The minister can provide such services so long as this is done for religious purposes, at a place occupied or used for those purposes and it is either necessary to comply with the tenets of the religion or for the purpose of avoiding conflict with the strongly held religious views of a significant number of the religion's followers. This does not apply to acts of worship (which are not themselves "services" within the meaning of the Act so no exception is required).

Background

743. This paragraph replaces a similar provision in the Sex Discrimination Act 1975. The requirement regarding avoiding conflict with the religion's followers has been altered in order to give consistency within the Act and some explanatory provisions have been added for the same reason.

Example

- A synagogue can have separate seating for men and women at a reception following a religious service.

Services generally provided only for persons who share a protected characteristic: [paragraph 30](#)

Effect

744. [Paragraph 30](#) provides that a service provider does not breach the requirement in section 29 not to discriminate in the provision of a service if he or she supplies the service in such a way that it is commonly only used by people with a particular protected characteristic (for example, women or people of Afro-Caribbean descent) and he or she continues to provide that service in that way. If it is impracticable to provide the service to someone who does not share that particular characteristic, a service provider can refuse to provide the service to that person.

Background

745. This is designed to replicate the effect of provisions previously contained in the Sex Discrimination Act 1975 and the Equality Act 2006, and extends the clarification they provide across all other protected characteristics for the first time.

Examples

- A hairdresser who provides Afro-Caribbean hairdressing services would not be required to provide European hairdressing services as well. However, if a white English person wanted his hair braided and there was no technical difficulty to prevent that, it would be unlawful for the hairdresser to refuse to provide her services to him.
- A butcher who sells halal meat is not required also to sell non-halal meat or kosher meat. However, if a non-Muslim customer wanted to purchase the meat that was on offer, he could not refuse to sell it to her.

Part 8: Television, radio and on-line broadcasting and distribution

[Paragraph 31](#)

Effect

746. [Paragraph 31](#) makes it clear that claims for discrimination, harassment and victimisation cannot be brought in relation to broadcasting and distribution of content, as defined in the Communications Act 2003. This would include, for example, editorial decisions on the content of a television programme or the distribution of on-line content.
747. This paragraph does not, however, extend to the provision of an electronic communications network, service or associated facility, which are also defined in the Communications Act 2003. This will ensure that the act of sending signals is not excluded by the exception in sub-paragraph (1), only the content of what is broadcast.

Background

748. This provision is new and is intended to safeguard the editorial independence of broadcasters when broadcasting or distributing content, whether on television, radio or on-line.

Examples

- An aggrieved person is not entitled to bring a claim for discrimination against a broadcaster in relation to an editorial decision about what programmes to commission; on what day a specific programme should be shown; or who should appear in a particular programme.
- An aggrieved person is, however, entitled to bring a claim for discrimination against a broadcaster in relation to a decision to refuse to send a signal to his house purely on the basis that he has a particular protected characteristic.

Part 9: Transport

Application to disability: [paragraph 32](#)

Effect

749. [Paragraph 32](#) applies the exceptions listed in paragraphs 33 and 34 in relation to disability, thereby stipulating the extent to which providers of transport services are bound by the disability provisions of the Act.

Background

750. These provisions replicate the effect of provisions contained in the Disability Discrimination Act 1995.

Transport by air: [paragraph 33](#)

Effect

751. [Paragraph 33\(1\)](#) provides an exception to the prohibition of discrimination, so far as it relates to disability, in respect of the provision of services in connection with air transport.

752. [Paragraph 33\(2\)](#) ensures that there is no duplication where there would otherwise be an overlap between the disability provisions of the Act and Regulation (EC) No1107/2006 of the European Parliament and of the Council of 5 July 2006 concerning the rights of disabled persons and persons with reduced mobility when travelling by air (“EC Regulation 1107/2006”).

Background

753. These provisions replicate the effect of provisions in the Disability Discrimination Act 1995.

Examples

- An airline is required to make reasonable adjustments to its booking services to ensure that they are accessible to disabled people. It is not required to make any structural adjustments to the cabin environment inside an aircraft by reason of the derogation in Article 4(1)(a) of EC Regulation 1107/2006.
- An airport owner charges a disabled person for wheelchair assistance to board an aircraft. This would be a breach of EC Regulation 1107/2006, so section 29 of the Act would not apply. However, if the same airport owner fails to make adjustments to allow disabled people to access car parks at the airport, this would fall within the scope of the Act.

Transport by land: [paragraph 34](#)

Effect

754. **Paragraph 34** provides an exception from section 29 for all services of transporting people by land, except those listed. The definitions of the vehicles listed are contained in paragraph 4 of Schedule 2.

Background

755. This paragraph replicates the effect of provisions in the Disability Discrimination Act 1995.

Example

- A train operating company is required to provide a reasonable alternative when a disabled person is unable to access the buffet car due to his or her disability.

Part 10: Supplementary

Power to amend: paragraph 35

Effect

756. **Paragraph 35** contains a power for a Minister of the Crown to add, vary, or remove exceptions in this Schedule relating to both services and public functions in respect of disability, religion or belief and sexual orientation. It allows a Minister of the Crown also to add, vary or remove the exceptions that relate to the provision of public functions only, in relation to gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

757. This power cannot, however, be used to omit or reduce the scope of the exceptions in respect of the functions of Parliament; the preparation, making, consideration or approval of legislation; and the functions of the courts which are set out in paragraphs 1 to 3 of this Schedule.

758. In relation to transport by air, a Minister of the Crown can also vary, remove or add exceptions in relation to the provision of services and the exercise of public functions for disability only. For these purposes, it does not matter where the transport in fact takes place.

759. The Minister must consult the Equality and Human Rights Commission before exercising the power under this paragraph.

Background

760. This paragraph broadly reflects the substance of powers contained in previous legislation.