

*Status: Point in time view as at 01/01/2024.*

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## SCHEDULES

### SCHEDULE 18

Section 149

#### PUBLIC SECTOR EQUALITY DUTY: EXCEPTIONS

##### *Children*

- 1 (1) Section 149, so far as relating to age, does not apply to the exercise of a function relating to—
- (a) the provision of education to pupils in schools;
  - (b) the provision of benefits, facilities or services to pupils in schools;
  - (c) the provision of accommodation, benefits, facilities or services in community homes pursuant to section 53(1) of the Children Act 1989;
  - (d) the provision of accommodation, benefits, facilities or services pursuant to arrangements under section 82(5) of that Act (arrangements by the Secretary of State relating to the accommodation of children);
  - (e) the provision of accommodation, benefits, facilities or services in residential establishments pursuant to section 26(1)(b) of the Children (Scotland) Act 1995.
- (2) “Pupil” and “school” each have the same meaning as in Chapter 1 of Part 6.

##### *Immigration*

- 2 (1) In relation to the exercise of immigration and nationality functions, section 149 has effect as if subsection (1)(b) did not apply to the protected characteristics of age, race or religion or belief; but for that purpose “race” means race so far as relating to—
- (a) nationality, or
  - (b) ethnic or national origins.
- (2) “Immigration and nationality functions” means functions exercisable by virtue of—
- (a) the Immigration Acts (excluding sections 28A to 28K of the Immigration Act 1971 so far as they relate to criminal offences),
  - (b) the British Nationality Act 1981,
  - (c) the British Nationality (Falkland Islands) Act 1983,
  - (d) the British Nationality (Hong Kong) Act 1990,
  - (e) the Hong Kong (War Wives and Widows) Act 1996,
  - (f) the British Nationality (Hong Kong) Act 1997,
  - (g) the Special Immigration Appeals Commission Act 1997, or
  - (h) [<sup>F1</sup>anything which forms part of [<sup>F2</sup>assimilated law and was made under section 2(2) of, or paragraph 1A of Schedule 2 to, the European Communities Act 1972 or forms part of assimilated law by virtue of section 3] of the European Union (Withdrawal) Act 2018 and [<sup>F3</sup>(in either case)]] relates to the subject matter of an enactment within paragraphs (a) to (g).

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### Textual Amendments

- F1** Words in Sch. 18 para. 2(2)(h) substituted (31.12.2020) by [The Equality \(Amendment and Revocation\) \(EU Exit\) Regulations 2019 \(S.I. 2019/305\)](#), regs. 1, **5(8)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Sch. 18 para. 2(2)(h) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 72(3)(a)**
- F3** Words in Sch. 18 para. 2(2)(h) inserted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 72(3)(b)**

### *Judicial functions, etc.*

- 3 (1) Section 149 does not apply to the exercise of—
- (a) a judicial function;
  - (b) a function exercised on behalf of, or on the instructions of, a person exercising a judicial function.
- (2) The references to a judicial function include a reference to a judicial function conferred on a person other than a court or tribunal.

### *Exceptions that are specific to section 149(2)*

- 4 (1) Section 149(2) (application of section 149(1) to persons who are not public authorities but by whom public functions are exercisable) does not apply to—
- (a) a person listed in sub-paragraph (2);
  - (b) the exercise of a function listed in sub-paragraph (3).
- (2) Those persons are—
- (a) the House of Commons;
  - (b) the House of Lords;
  - (c) the Scottish Parliament;
  - (d) the National Assembly for Wales;
  - (e) the General Synod of the Church of England;
  - (f) the Security Service;
  - (g) the Secret Intelligence Service;
  - (h) the Government Communications Headquarters;
  - (i) a part of the armed forces which is, in accordance with a requirement of the Secretary of State, assisting the Government Communications Headquarters.
- (3) Those functions are—
- (a) a function in connection with proceedings in the House of Commons or the House of Lords;
  - (b) a function in connection with proceedings in the Scottish Parliament (other than a function of the Scottish Parliamentary Corporate Body);
  - (c) a function in connection with proceedings in the National Assembly for Wales (other than a function of the Assembly Commission).

### *Power to amend Schedule*

- 5 (1) A Minister of the Crown may by order amend this Schedule so as to add, vary or omit an exception to section 149.

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- (2) But provision by virtue of sub-paragraph (1) may not amend this Schedule—
- (a) so as to omit an exception in paragraph 3;
  - (b) so as to omit an exception in paragraph 4(1) so far as applying for the purposes of paragraph 4(2)(a) to (e) or (3);
  - (c) so as to reduce the extent to which an exception referred to in paragraph (a) or (b) applies.

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