Draft Order laid before Parliament under section 208(2) and (8) of the Equality Act 2010, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2012 No. 0000

EQUALITY

The Equality Act 2010 (Age Exceptions) Order 2012

Made - - - -	*****
Coming into force - -	*1st October 2012*

This Order is made in exercise of the powers conferred by sections 197(1) and 207(4) and (6) of the Equality Act 2010(**1**).

In accordance with section 208(2) and (8) of that Act, a draft of this Order has been laid before and approved by resolution of each House of Parliament.

The Secretary of State makes the following Order in exercise of those powers:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Equality Act 2010 (Age Exceptions) Order 2012 and comes into force on 1st October 2012.

(2) In this Order "the Act" means the Equality Act 2010.

Immigration

2. In Part 4 of Schedule 3 to the Act (Immigration), before paragraph 16 insert—

"**Age**

15A.—(1) This paragraph applies in relation to age discrimination.

(2) Section 29 does not apply to anything done by a relevant person in the exercise of functions exercisable by virtue of a relevant enactment.

(3) A relevant person is —

(a) a Minister of the Crown acting personally, or

(b) a person acting in accordance with a relevant authorisation.

(4) A relevant authorisation is a requirement imposed or express authorisation given—

(**1**) 2010 c.15.

(a) with respect to a particular case or class of case, by a Minister of the Crown acting personally;

(b) with respect to a particular class of case, by a relevant enactment or by an instrument made under or by virtue of a relevant enactment.

(5) The relevant enactments are—

(a) the Immigration Acts,

(b) the Special Immigration Appeals Commission Act 1997(**2**),

(c) a provision made under section 2(2) of the European Communities Act 1972(**3**) which relates to immigration or asylum, and

(d) a provision of EU law which relates to immigration or asylum.

(6) The reference in sub-paragraph (5)(a) to the Immigration Acts does not include a reference to—

(a) sections 28A to 28K of the Immigration Act 1971(**4**) (powers of arrest, entry and search, etc.), or

(b) section 14 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004(**5**) (power of arrest).".

Financial services

3. In Part 5 of Schedule 3 to the Act (the title to which becomes "Insurance and other financial services"), after paragraph 20 insert—

"**Age**

20A.—(1) A person (A) does not contravene section 29, so far as relating to age discrimination, by doing anything in connection with the provision of a financial service.

(2) Where A conducts an assessment of risk for the purposes of providing the financial service to another person (B), A may rely on sub-paragraph (1) only if the assessment of risk, so far as it involves a consideration of B's age, is carried out by reference to information which is relevant to the assessment of risk and from a source on which it is reasonable to rely.

(3) In this paragraph, "financial service" includes a service of a banking, credit, insurance, personal pension, investment or payment nature.".

Concessionary services

4.—(1) In Part 7 of Schedule 3 to the Act (the title to which becomes "Separate, single and concessionary services, etc"), after paragraph 30 insert—

"**Concessions**

30A.—(1) A person does not contravene section 29, so far as relating to age discrimination, by giving a concession in respect of a service to persons of a particular age group.

(2) The reference to a concession in respect of a service is a reference to a benefit, right or privilege having the effect that the manner in which the service is provided is, or the terms on

(**2**) 1997 c.68.
(**3**) 1972 c.68. Section 2(2) was amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7).
(**4**) 1971 c.77. Sections 28A to 28K were inserted by section 128 of the Immigration and Asylum Act 1999 (c.33).
(**5**) 2004 c.19. Section 14 has been the subject of amendments which are not relevant to this Order.

which it is provided are, more favourable than the manner in which, or the terms on which, it is usually provided to the public (or, where it is provided to a section of the public, that section).".

Holidays

5. In Part 7 of Schedule 3 to the Act, after paragraph 30A insert—

"**Age related holidays**

30B.—(1) A person (P) does not contravene section 29, so far as relating to age discrimination, by providing a relevant holiday service to persons of a particular age group.

(2) In sub-paragraph (1) "relevant holiday service" means a service—

(a) which involves the provision of at least two of the following together for a single price—

(i) travel;

(ii) accommodation;

(iii) access to activities or services not ancillary to travel or accommodation which form a significant part of the service or its cost;

(b) the provision of which is for a period of more than 24 hours or includes the provision of overnight accommodation;

(c) which P provides only to persons of the age group in question; and

(d) an essential feature of which is the bringing together of persons of that age group with a view to facilitating their enjoyment of facilities or services designed with particular regard to persons of that age group.

(3) P may not rely on sub-paragraph (1) unless, before providing a person with a relevant holiday service, P provides the person with a written statement that the service is provided only to persons of the age group in question.

(4) For the purpose of sub-paragraph (2)(a)(i), "travel" includes an option for an individual to make alternative travel arrangements to those included in the relevant holiday service as offered by P.".

Age restricted services

6. In Part 7 of Schedule 3 to the Act, after paragraph 30B insert—

"**Age restricted services**

30C.—(1) This paragraph applies where a person (P)—

(a) provides a service the provision of which is prohibited by or under an enactment to persons under the age specified in or under the enactment ("the statutory age"), and

(b) displays on the premises on which the service is provided an age warning in relation to the provision of the service.

(2) An age warning in relation to the provision of a service is a statement to the effect that the service will not be provided to a person who—

(a) appears to P, or an employee or agent of P's, to be under the age specified in the statement, and

(b) on being required to do so by P or the employee or agent, fails to produce satisfactory identification.

(3) P does not contravene section 29, so far as relating to age discrimination, by not providing the service to a person, who—

(a) appears to P, or an employee or agent of P's, to be under the age specified in the age warning in relation to the provision of the service, and

(b) on being required to do so by P or the employee or agent, fails to produce satisfactory identification.

(4) In this paragraph—

(a) a reference to the provision of a service includes a reference to provision of access to the service, and

(b) "satisfactory identification", in relation to a person, means a valid document which—

(i) in the case of licensed premises where an age condition applies, meets that condition, and

(ii) in any other case includes a photograph of the person and establishes that the person has attained the statutory age in relation to the provision of a service;

"licensed premises" means premises in respect of which a relevant premises licence within the meaning of section 19A of the Licensing Act 2003(**6**) (mandatory conditions where alcohol sold) has effect; and

"age condition" means a condition specified in an order under subsection (1) of section 19A of that Act requiring the age of certain persons to be verified in the manner specified in the condition before they are served alcohol in premises where the condition applies.".

Residential mobile homes

7. In Part 7 of Schedule 3 to the Act, after paragraph 30C insert—

"**Residential mobile homes**

30D.—(1) A person (A) who is the owner of a protected site does not contravene section 29, so far as relating to age discrimination, by—

(a) entering into a mobile home agreement with a person (B) that entitles only persons who have attained a particular age to station and occupy a mobile home on land forming part of the site, or

(b) refusing to permit assignment by B of a mobile home agreement to any person other than a person who has attained a particular age.

(2) A does not contravene section 29, so far as relating to age discrimination, by imposing a requirement in park rules that mobile homes stationed on land forming part of the site and occupied under mobile home agreements may be occupied only by persons who have attained a particular age.

(3) A does not contravene section 29, so far as relating to age discrimination, by—

(**6**) 2003 c.17. Section 19A was inserted by section 32 of and paragraph 2 in Part 1 of Schedule 4 to the Policing and Crime Act 2009 (c.26). The Licensing Act 2003 (Mandatory Licensing Conditions) Order (S.I. 2010/860) specifies mandatory conditions including an age condition.