

These notes refer to the Fair Employment (School Teachers) Act (Northern Ireland) 2022 (c.23) which received Royal Assent on 12 May 2022

Fair Employment (School Teachers) Act (Northern Ireland) 2022

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Fair Employment (School Teachers) Act (Northern Ireland) 2022 which received Royal Assent on 12 May 2022. They have been prepared by the Northern Ireland Assembly Bill Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So, where a section or part of a section or Schedule does not seem to require any explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Fair Employment (NI) Act (FEA) was introduced in 1976. This outlawed discrimination on the grounds of religious belief or political opinion in respect of employment. Section 37 of this Act contained a number of employments to be excepted from the main provisions of the legislation including employment as a clergyman or minister of religion, employment for the purposes of a private household and employment as a teacher in a school. It also contained provision for exceptions, other than those mentioned above, for employment where “the essential nature of the job requires it be done by a person holding, or not holding, a particular religious belief”. This Act was amended and supplemented by the Fair Employment (NI) Act 1989 which introduced provisions relating to indirect discrimination and employment monitoring and review requirements on employers but the teachers’ exception remained in place.
4. The Fair Employment and Treatment (NI) Order (FETO) 1998 consolidated the earlier Acts, continuing their prohibition of discrimination in the field of employment and also extending it by applying it to the provision of goods, facilities and services and to the selling and leasing of premises. It was brought into being following the Belfast/Good Friday Agreement and the White Paper, Partnership for Equality. Part 8: Article 71: Paragraph (1) states “this Order does not apply to or in relation to employment as a teacher in a school”. In 2003, this provision was narrowed so it only applies to recruitment and promotion

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as a teacher to meet the requirements of Article 15(2) of the EU Directive [2000/78/EC](#) on equal treatment in employment and occupation. Other aspects of teachers' employment, for example, terms and conditions and access to training, are therefore covered by the fair employment legislation.

5. The Northern Ireland Assembly passed a motion on 17 May 2021 “That this Assembly notes the exemption in fair employment law allowing discrimination on the grounds of religious belief when appointing teachers; acknowledges that it is unacceptable that teachers should be excluded from protection from discrimination in employment on the grounds of religious belief; and calls on the First Minister and deputy First Minister to repeal urgently this exemption to ensure equal opportunities in employment are afforded to all without exception”.
6. The policy objective of the Act is to remove the exception of teachers from the Fair Employment and Treatment (NI) Order 1998 to ensure that schools are not permitted to use religious belief as grounds on which to discriminate between candidates for teaching posts.

OVERVIEW

7. The Act amends the Fair Employment and Treatment (Northern Ireland) Order 1998 (“the 1998 Order”) to revoke Article 71 (exception in relation to school teachers). Article 71 disapplies Part VII of the Order to employment of teachers in schools, and disapplies the other provisions of the Order to recruitment of teachers. The primary effects of the disapplication are that employers of teachers do not have obligations to monitor the community composition of persons applying for jobs, persons appointed to jobs and persons promoted to jobs and that teachers are not able to bring complaints of religious discrimination relating to their recruitment. Revocation of Article 71 will put school teachers in the same position as other employees. The Act has 4 sections and 1 schedule. A commentary on each of the sections follows below.

COMMENTARY ON SECTIONS

Section 1

Revokes Article 71 of the 1998 Order.

Section 2 and the Schedule

Make consequential amendments to the 1998 Order and the Fair Employment and Treatment Order (Amendment) Regulations (Northern Ireland) 2003.

Section 3

Provides for the Act to be brought into force by the Executive Office.

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Section 4

Gives the Act its short title, the Fair Employment (School Teachers) Act (Northern Ireland) Act 2022.

HANSARD REPORTS

8. The following table sets out the dates of the Hansard reports for each stage of the Act's passage through the Assembly and the date Royal Assent was received.

<i>Northern Ireland Assembly Bill Office</i>	<i>DATE</i>
First Stage	17 January 2022
Briefing on the proposed Bill to the Committee for the Executive by Chris Lyttle, MLA	26 January 2022
Second Stage	2 March 2022
Committee's report on the Act - Report number 195/17-22	11 March 2022
Consideration Stage	15 March 2022
Further Consideration Stage	21 March 2022
Final Stage	24 March 2022
Royal Assent	12 May 2022