

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

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EXPLANATORY NOTES

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 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”.

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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.