
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations insert two new sections in the School Standards and Framework Act 1998. The new sections enable independent schools which have a religious character to give preference in employment matters to teachers whose religious beliefs are in accordance with the religious tenets on which the school is based. These amendments are similar to provisions found at sections 60 and 69 of the School Standards and Framework Act 1998 which permit those maintained schools which are voluntary aided schools and have been designated as having a religious character by order under section 69(3) of the Act to give preference in employment matters to teachers whose religious beliefs are in accordance with the religious tenets on which the school is based. These amendments are related to the implementation of Council Directive [2000/78/EC](#) of 27th November 2000 establishing a general framework for equal treatment in employment (OJ L 303, 2.12.2000, p.16) and in particular to Article 4(2) of that Directive.

The effect of the new section 124A is that preference may be given, in connection with the appointment or remuneration of teachers at independent schools with a religious character, to teachers whose religious beliefs are in accordance with the tenets of the religion or religious denomination on which the school is based. An independent school with a religious character may also have regard to any conduct on the part of a teacher, which is incompatible with the upholding of the tenets of the religion or the religious denomination in accordance with whose tenets education is provided at the school or the school is conducted, in connection with the termination of the employment of teacher.

Section 124B (1) applies sections 69(3) to (5) of the 1998 Act with modifications. Section 69(3) provides that a foundation or voluntary school has a religious character if it is designated by an order made by the Secretary of State (if the school is in England) or the National Assembly for Wales (if the school is in Wales). Subsection (2) of section 124B provides that an order under section 69(3) in respect of an independent school must state the religion or religious denomination in accordance with whose tenets education is provided at the school or the school is conducted.

The amendments to section 142 amend the definitions of three terms so that they only refer to maintained schools. Those three terms are “Church in Wales school”, “Church of England school” and “Roman Catholic Church school”.

The regulations also make a consequential amendment to the Employment Equality (Religion or Belief) Regulations 2003.