

**2004 No. 2262**

**EDUCATION, ENGLAND**

**The Religious Character of Schools (Designation Procedure)  
(Independent Schools) (England) (Amendment) Regulations  
2004**

<i>Made</i> - - - -	<i>2nd September 2004</i>
<i>Laid before Parliament</i>	<i>9th September 2004</i>
<i>Coming into force</i> - -	<i>1st October 2004</i>

In exercise of the powers conferred upon the Secretary of State by section 69(5), as it applies to independent schools, and section 138(7) of the School Standards and Framework Act 1998(a), the Secretary of State for Education and Skills hereby makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Religious Character of Schools (Designation Procedure) (Independent Schools) (England) (Amendment) Regulations 2004 and shall come into force on 1<sup>st</sup> October 2004.

(2) These Regulations apply in relation to England only.

**Amendments**

2. The Religious Character of Schools (Designation Procedure) (Independent Schools) (England) Regulations 2003(b) are amended in accordance with regulations 3 to 6.

3. In regulation 5 replace paragraphs (1) and (2) with the following paragraphs—

“(1) If a school’s proprietor applies for an order in accordance with these Regulations after it has admitted its first pupils, the Secretary of State must designate the school as a school which has a religious character if he is satisfied that—

- (a) the conduct of the school or the provision of education at the school is in accordance with the tenets of one or more religions or religious denominations; and
- (b) at least one of the conditions specified in paragraph (2C) is fulfilled.

(2) If a school’s proprietor applies for an order in accordance with these Regulations after it has admitted its first pupils but the Secretary of State is not satisfied that at least one of the conditions specified in paragraph (2C) is fulfilled, he may nevertheless designate the school as a school having a religious character, having regard to any representations made

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(a) 1998 c. 31; section 69(5) applies to independent schools by virtue of, and as modified by, section 124B inserted by S.I.2003/2037.  
(b) S.I. 2003/2314.

by any religious body on behalf of the school, provided he is satisfied that the condition specified in paragraph (1)(a) is fulfilled.

(2A) If a school's proprietor applies for an order in accordance with these Regulations prior to the admission of its first pupils, the Secretary of State must designate the school as a school which has a religious character if—

- (a) he has been provided with the name of the school and address of its premises or, in the case of an Academy, an agreement under section 482 of the Education Act 1996(a) has been entered into; and
- (b) he is satisfied that when its first pupils are admitted—
  - (i) the conduct of the school or the provision of education at the school will be in accordance with the tenets of one or more religions or religious denominations; and
  - (ii) at least one of the conditions specified in paragraph (2C) will be fulfilled.

(2B) If a school's proprietor applies for an order in accordance with these Regulations prior to the admission of its first pupils but the Secretary of State is not satisfied that at least one of the conditions specified in paragraph (2C) will be fulfilled, he may nevertheless designate the school as a school having a religious character, having regard to any representations made by any religious body on behalf of the school, provided the conditions specified in paragraph (2A)(a) and (b)(i) are fulfilled.

(2C) The conditions referred to in paragraphs (1) to (2B) of this regulation are—

- (a) some or all of the premises currently occupied by the school were provided on trust in connection with the conduct of an educational institution or the provision of education in accordance with the tenets of one or more religions or religious denominations;
- (b) at least one member of the governing body is a person appointed as a governor to represent the interests of one or more religions or religious denominations;
- (c) the governing instrument of the school provides that the conduct of the school or the provision of education at the school must be in accordance with the tenets of one or more religions or religious denominations.”.

4. In regulation 6 replace paragraph (1) with the following paragraph—

“(1) Subject to paragraph (2), where the Secretary of State is at any time of the opinion that—

- (a) a school which was refused designation as a school which has a religious character ought to have been so designated;
- (b) there is a material error in an order made under section 69(3); or
- (c) the designation of a school in an order made under that section ought to be revoked,

he must make such order or further order under section 69(3) as he considers appropriate.”.

5. In regulation 6(2)—

- (a) insert the words “Subject to paragraph (3),” at the beginning; and
- (b) for the word “effects”, substitute the word “affects”.

6. After regulation 6(2) insert the following paragraph—

“(3) Paragraph (2) shall not apply where the school has closed or is designated in accordance with regulation 5(2A) and subsequently fails to achieve registration as an independent school under section 161 of the Education Act 2002(b).”.

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(a) 1996 c.56.  
(b) 2002 c.32.

2nd September 2004

*David Miliband*  
Minister of State  
Department for Education and Skills

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Religious Character of Schools (Designation Procedure) (Independent Schools) (England) Regulations 2003.

The principal amendments will—

- (a) allow schools which have not yet become operational to be designated as having a religious character, so as to allow account to be taken of their intended religious ethos in the recruitment of teaching staff (*regulation 3*); and
- (b) provide for the Secretary of State to revoke the designation of any school where he considers it appropriate to do so; for example, where a school closes, or cannot open because it fails to achieve registration (*regulation 4*).

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