

# EQUALITY ACT 2010

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 16: General and Miscellaneous**

#### *Schedule 22: Statutory provisions*

#### **Educational appointments, etc: religious belief: paragraphs 3 and 4**

##### Effect

980. [Paragraph 3](#) provides an exception from the provisions on sex or religious discrimination for certain posts in schools or institutions of further or higher education where their governing instrument requires the head teacher or principal to be of a particular religious order, or that a particular academic position must be held by a woman, or where the legislation or instrument which establishes a professorship requires the holder to be an ordained priest. In the case of academic positions reserved to women, the exception only applies where the governing instrument was made before 16 January 1990.
981. There is an order-making power conferred on a Minister of the Crown to withdraw the exception either in relation to a particular institution or a class of institutions.
982. [Paragraph 4](#) provides that it is not unlawful discrimination for schools which have a religious character or ethos (often referred to as faith schools) to do certain things which are permitted by the School Standards and Framework Act 1998. This includes:
- allowing teachers who have been appointed to give religious education to be dismissed if they fail to give it competently;
  - allowing a faith school to take account of religious considerations when appointing a head teacher; and
  - allowing a voluntary aided school or an independent school to take account of religious considerations in employment matters.

##### Background

983. [Paragraph 3](#) is designed to replicate the effect of provisions in section 5 of the Employment Act 1989.
984. Universities restrict Canon Professorships to certain religions since such posts can only be held by ordained Ministers.
985. [Paragraph 4](#) is designed to replicate the effect of regulation 39 of the Employment Equality (Religion or Belief) Regulations 2003.

##### Examples

- Voluntary controlled and foundation schools with a religious ethos may appoint a head teacher on the basis of his ability and fitness to preserve and develop the religious character of the school.

*These notes refer to the Equality Act 2010 (c.15)  
which received Royal Assent on 8 April 2010*

- Voluntary aided schools with a religious ethos can restrict employment of teachers to applicants who share the same faith. For example most Catholic schools may require that applicants to teaching positions be of the Catholic faith.