

EQUALITY ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 16: General and Miscellaneous

Schedule 9: Work: exceptions

Part 1: Occupational requirements

Religious requirements relating to sex, marriage etc., sexual orientation: paragraph 2

Effect

790. This specific exception applies to employment for the purposes of an organised religion, which is intended to cover a very narrow range of employment: ministers of religion and a small number of lay posts, including those that exist to promote and represent religion. Where employment is for the purposes of an organised religion, this paragraph allows the employer to apply a requirement to be of a particular sex or not to be a transsexual person, or to make a requirement related to the employee's marriage or civil partnership status or sexual orientation, but only if –
- appointing a person who meets the requirement in question is a proportionate way of complying with the doctrines of the religion; or,
 - because of the nature or context of the employment, employing a person who meets the requirement is a proportionate way of avoiding conflict with a significant number of the religion's followers' strongly held religious convictions.
791. The requirement must be crucial to the post, and not merely one of several important factors. It also must not be a sham or pretext. Applying the requirement must be a proportionate way of meeting either of the two criteria described in paragraph 790 above.
792. The requirement can also be applied by a qualifications body in relation to a relevant qualification (within the meaning of section 54), if the qualification is for employment for the purposes of an organised religion and either of the criteria described in paragraph 790 above is met.