
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the procedure to be followed by the Welsh Ministers in making an order or orders designating voluntary schools as schools which have a religious character under section 69 of the School Standards and Framework Act 1998 (“the 1998 Act”).

Designation as a school which has a religious character is relevant for a number of purposes, including:

- (a) as part of the mechanism for determining the form of religious education to be provided under Schedule 19 to the 1998 Act;
- (b) as part of the mechanism for determining the form of collective worship to be provided under Schedule 20 to the 1998 Act;
- (c) as part of the mechanism for determining school staffing matters under sections 58 to 60 of the 1998 Act;
- (d) as part of the mechanism for determining the criteria for the admission of pupils to schools under the Code issued under section 84 of the 1998 Act;
- (e) for the purposes of the disposition of assets under paragraph 5 of Schedule 3 to the 1998 Act, so that assets can be re-assigned for the benefit of schools of the same religion or religious denomination; and
- (f) the inclusion of a description of the ethos of the school in the instrument of government under regulations made under section 20 of the Education Act 2002.

It should be noted that section 554 of the Education Act 1996 (power to make new provision as to the use of endowments held or used wholly or partly for or in connection with the provision at a school of religious education in accordance with the tenets of a particular religion or religious denomination) makes no reference to a school having a religious character.

Religious character is not acquired or lost by virtue of being designated or not designated under the procedure set out in these Regulations. Designation is the recognition of a religious character which a school already has as a question of fact. Under the School Standards and Organisation (Wales) Act 2013 a school must first close if it wishes to acquire or change religious character.

A statement in relation to a school that the religious denomination in accordance with whose tenets religious education is, or may be, required to be provided at the school in accordance with Schedule 19 to the 1998 Act, is Roman Catholic does not determine whether or not the school is a Catholic school according to canon law.

The Welsh Ministers’ Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.