

The Employment Equality (Religion or Belief) Regulations 2003

1. INTRODUCTION

From 2 December 2003, when the Employment Equality (Religion or Belief) Regulations came into force, it became unlawful to discriminate against workers because of religion or similar belief.

These Regulations apply to vocational training and all facets of employment – including recruitment, terms and conditions, promotions, transfers, dismissals and training.

In Northern Ireland, the relevant legislation is the Fair Employment and Treatment Order (Amendment) Regulations (NI) 2003. For further information, please refer to the Equality Commission for Northern Ireland's website at: www.equalityni.org

2. WHAT DO THE REGULATIONS COVER?

The regulations apply to all employers, private/public sector vocational training providers, trade unions, professional organisations, employer organisations and trustees, etc.

They do NOT cover the provision of goods and services, unlike, for example, the race and sex discrimination provisions.

Religion or belief is not explicitly defined in the Regulations. In most applications to a tribunal it will be clear what is or is not a religion or belief. It will be for the tribunals and higher courts to decide when disputed. They may consider various factors when deciding what is a religion/belief, such as collective worship or a profound belief affecting the way of life or world view.

Employers should be aware that these Regulations extend beyond the more well-known religions to include beliefs,

such as Paganism and Humanism. The Regulations also cover those without religious or similar beliefs.

3. WHAT DO THE REGULATIONS SAY?

The regulation makes it unlawful on the grounds of religion or belief to:

- discriminate directly against anyone because of their religion or belief;
- discriminate indirectly against anyone because of their religion or belief, unless it can be objectively justified;
- subject someone to harassment; and
- victimise someone because they have made or intend to make a complaint or allegation.

Exceptions may be made in very limited circumstances if there is a genuine occupational requirement for the worker to be of a particular religion or belief or to comply with the religious or belief ethos of the organisation.

The Regulations do not say that organisations have to provide a **prayer room**. However, if employees request access to a quiet place to meet their religious obligations and such a place is available without it having any adverse impact on other staff, employers may be acting in a discriminatory way if they refuse such a request.

Many religions or beliefs have special festival or **spiritual observance days**. A worker may request holiday in order to celebrate festivals or attend ceremonies. An employer should sympathetically consider such a request where it is practical for the employee to be away from work, and they have sufficient holiday entitlement in hand.

If it is practical and safe to do so, staff may welcome the opportunity to wear **clothing consistent with their religion**. Where organisations adopt a specific dress code, consideration should be given to the proposed code to ensure it does not conflict with the dress requirements of some religions.

General dress codes which have the effect of conflicting with religious requirements may constitute indirect discrimination unless they can be justified for example, on the grounds of health and safety.

4. WHAT IS MEANT BY DIRECT AND INDIRECT AGE DISCRIMINATION?

Direct discrimination is defined in the Regulations as less favourable treatment because of their religion or belief in employment and vocational training, including education courses.

Indirect age discrimination means where a provision, criterion or practice is applied which puts people of a particular religion or belief at a particular disadvantage, unless it can be objectively justified.

5. WHAT IS MEANT BY HARASSMENT AND VICTIMISATION?

Harassment is unlawful according to the Regulations, and is defined as unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them, having regard to all the circumstances including the perception of the victim.

It is also unlawful to **victimise** someone because they have made, or intend to make, a complaint or allegation or have given, or intend to give, evidence in relation to a complaint of discrimination on the grounds of religion or belief.

6. POSITIVE ACTION

Selection for recruitment or promotion must be on merit, irrespective of religion or belief. However, it is possible to take steps to redress the effects of previous inequality of opportunity. Employers may give special encouragement to, or provide specific training for, people from religions or beliefs who are in a minority in the workplace.

7. WHAT DO I DO IF I FEEL DISCRIMINATED AGAINST?

If your manager is unable/unwilling to help you, you must use your organisation's grievance procedure to proceed with your complaint.

If you are not satisfied with the result of a grievance procedure, you may be able to bring a complaint to an employment tribunal. Complaints to a tribunal must normally be brought within three months of the act you are complaining about.

8. HOW DOES THIS AFFECT MY WORK IN THE SECTOR?

When carrying out your work, you should be asking yourself some of the following questions:

- Do individuals of a certain religion or belief have different needs, and is the work I am doing recognising and meeting these different needs?
- How do we recruit staff into the sector and do our policies or criterion put individuals of a certain religion or belief at a disadvantage?
- How can I use the marketing material I produce to promote positive attitudes towards individuals of a certain religion or belief and challenge negative stereotypes?