EXPLANATORY MEMORANDUM TO THE RELIGIOUS CHARACTER OF SCHOOLS (DESIGNATION PROCEDURE)(INDEPENDENT SCHOOLS) (ENGLAND)(AMENDMENT) REGULATIONS 2004 No.2262

1. This explanatory memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments and the Select Committee on Statutory Instruments.

2. Description

2.1 The principal amendment extends the arrangements for independent schools and Academies to be designated as having a religious character to allow designation prior to opening so that account can be taken of their intended religious ethos when they recruit staff. The amending regulations also provide for designation to be revoked where it is appropriate to do so. Other minor amendments clarify the meaning of the regulations.

3. Matters of special interest to the Joint Committee on Statutory Instruments and the Select Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The Independent Schools (Employment of Teachers in Schools with a Religious Character) Regulations 2003 extended the provisions, which already applied to voluntary aided schools with a religious character, to independent schools which have a religious character. The regulations allow independent schools to continue their existing employment practices in relation to teaching staff without contravention of the regulations which the Department of Trade and Industry have made implementing a European Directive establishing a framework for equal treatment in employment so far as it relates to discrimination on grounds of religion or belief. The Religious Character of Schools (Designation Procedure)(Independent Schools)(England) Regulations 2003 set out the procedure whereby a school could be designated as having a religious character but applied only to existing schools and now need to be applied to prospective schools.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 Not applicable

7. Policy background

7.1 These amending regulations will extend the arrangements for independent schools to be designated as having a religious character to enable them to employ teaching staff of the same religion as the school by applying the arrangements to schools which are not yet operational. This will help protect the intended religious ethos of the school.

7.2 The amendments will also allow designation to be revoked where a school closes or does not open as intended. The other amendments tidy up the wording of the regulations so as to clarify their meaning.

7.3 There has been no formal consultation on these amendments which extend the existing arrangements. Prospective Academies are the most likely category of school to use this facility as they often appoint staff, particularly to key senior management posts, well in advance of opening for planning purposes. It is this which has driven this amendment. As the Academy programme expands we expect several Academies a year will want to take advantage of this amendment and we have already had enquiries from Academies opening next year who will soon be appointing staff to take forward the planning of the Academy. The Academies programme is a key Government initiative and this amendment will be welcomed by prospective Academy promoters who want their Academy to have a religious ethos. The remaining amendments are of a technical nature.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 None

9. Contact

9.1 Margaret Pattinson at the Department of Education and Skills Tel: 01325 392172 or e-mail: Margaret.Pattinson@dfes.gsi.gov.uk can answer any queries regarding the instrument.