



# Education and Inspections Act 2006

## 2006 CHAPTER 40

### PART 10

#### GENERAL

#### **179 Restrictions on framework power conferred by section 178**

- (1) The power conferred by section 178 does not include power—
  - (a) to make any provision imposing or increasing taxation;
  - (b) to make provision taking effect from a date earlier than that of the making of the instrument containing the provision;
  - (c) to confer any power to legislate by means of orders, rules, regulations or other subordinate instrument, other than rules of procedure for any court or tribunal;
  - (d) to create any new indictable offence;
  - (e) except in relation to any of the matters mentioned in section 178(1)(e), to create any new summary offence;
  - (f) to create (in relation to any of those excepted matters) any new summary offence that is punishable with imprisonment or with a fine exceeding level 3 on the standard scale;
  - (g) to make provision extending otherwise than to England and Wales;
  - (h) to make provision applying in relation to England, except with the consent of the Secretary of State.
- (2) Subsection (1)(c) does not preclude the modification of a power to legislate conferred otherwise than under section 178, or the extension of any such power to purposes of the like nature as those for which it was conferred.
- (3) A power to give directions as to matters of administration is not to be regarded as a power to legislate within the meaning of subsection (1)(c).
- (4) Paragraphs (d) and (e) of subsection (1) do not preclude the modification of existing offences.

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*Status: This is the original version (as it was originally enacted).*

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- (5) The power conferred by section 178(1)(e) may not, except with the consent of the Secretary of State, be exercised so as to make provision about any of the following—
- (a) the use of force,
  - (b) powers of search,
  - (c) powers to seize, detain or dispose of property, or
  - (d) the functions of chief officers of police or persons under their direction or control.
- (6) The power conferred by section 178(1)(h) may not, except with the consent of the Secretary of State, be exercised so as to make provision about the functions of any of the following—
- (a) a chief officer of police,
  - (b) a police authority,
  - (c) a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000 (c. 43), or
  - (d) a youth offending team established under section 39 of the Crime and Disorder Act 1998 (c. 37).
- (7) The power conferred by section 178(1)(i) may not be exercised so as to make provision about—
- (a) a matter falling within any of the exceptions specified in paragraph 10 of Part 1 of Schedule 7 to the Government of Wales Act 2006 (c. 32), or
  - (b) the registration of local bus services.