

APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 13: General

Section 262: Orders and regulations

887. **Section 262** contains general provisions about orders and regulations under this Act. All orders or regulations are to be made by statutory instrument apart from any made under Chapter 1 of Part 1, or Part 3 or 4 which are exercisable by the Department for Employment and Learning in Northern Ireland, which are to be made by statutory rule.
888. Affirmative resolution procedure is required for any orders made by the Secretary of State under the sections listed in *subsection (6)*. These have been noted in the Commentary on Sections section of these Explanatory Notes. All other statutory instruments have to follow the negative resolution procedure apart from commencement orders which require no Parliamentary procedure. There is also an exception for the orders within *subsection (7)*, which are required only to be laid before Parliament.

Section 264: General interpretation of Act

889. This section provides that Parts 3, 4, 5, 7, 8, Chapter 4 of Part 10 and sections 248, 251, and 252 are to be construed as if they were contained in the Education Act 1996 unless a different meaning is given in the sections of the Act in which case that meaning prevails. *Subsection (4)* provides that section 562 of the 1996 Act (as amended by section 49), which provides that the Act does not apply to certain persons detained under order of a court, does not apply for the purposes of Part 4 of the Act. The effect will be that the Secretary of State's functions in respect of Part 4 (which relate to the Chief Executive of Skills Funding) apply to those persons.

Section 265: Power to make consequential and transitional provision etc

890. This section enables the Secretary of State to make supplementary, incidental, consequential, transitory, transitional or saving provision for the purposes of, in consequence of, or giving full effect to, any provision of the Act. Where such an order amends or repeals primary legislation it is subject to the affirmative resolution procedure.