



Further and Higher Education Act 1992

1992 CHAPTER 13

PART III

MISCELLANEOUS AND GENERAL

89 Orders, regulations and directions.

- (1) Any power ^{F1}...to make orders or regulations under this Act (other than under any of the excepted provisions) shall be exercised by statutory instrument.
 - (2) For the purposes of subsection (1) above the excepted provisions are [^{F2}sections 28 and 29(1)(b) so far as the power under each of those provisions is exercisable by the Secretary of State, and] sections ^{F3}... 29A(3)(c), ^{F3}... [^{F4}30(2)(b),]^{F5}33A(5) (b),]^{F6}33J(2), 33K(1),] 38, [^{F7}44(2)(c),] 46 and 57; but section 14 of the ^{M1}Interpretation Act 1978 (implied power to amend) applies to orders made under those sections ^{F8}... as it applies to orders made by statutory instrument.
 - (3) A statutory instrument containing any order or regulations under this Act, other than [^{F9}one falling within subsection (3A) [^{F10}or (3B)] or] an order under section 94, shall be subject to annulment in pursuance of [^{F11}—
 - (a) in the case of an order or regulations made by the Secretary of State, a resolution of either House of Parliament;
 - (b) in the case of an order or regulations made by the Welsh Ministers, a resolution of the National Assembly for Wales.]
- ^{F12}(3A) A statutory instrument which contains (whether alone or with other provision) regulations under section 85AA or 85AC may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.]
- ^{F13}(3B) An order falls within this subsection if—
 - (a) it is an order revoking (wholly or in part) an order under section 15 or 16 and is made by virtue of section 27A(4), or
 - (b) it is an order revoking (wholly or in part) an order under section 33A, 33B or 33C and is made by virtue of section 33O(4).]

Changes to legislation: Further and Higher Education Act 1992, Section 89 is up to date with all changes known to be in force on or before 29 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- [^{F14}(3C) An order made by the Secretary of State under section 28 or 29(1)(b) is to be published in such manner as the Secretary of State considers appropriate.]
- (4) Orders or regulations under this Act may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the [^{F15}person or body making the order or regulations] thinks fit.
- [^{F16}(5) Section 570 of the Education Act 1996 (revocation and variation) applies to directions given by any person or body under this Act as it applies to directions given by the Secretary of State or a [^{F17}local authority] under that Act.]
- [^{F18}(6) This section applies in relation to an order made by the Secretary of State under section 28 or 29(1)(b) that revokes or varies an order under those provisions made before the coming into force of section 32(3) of the Skills and Post-16 Education Act 2022 as if—
- (a) in subsection (2), the words “sections 28 and 29(1)(b) so far as the power under each of those provisions is exercisable by the Secretary of State, and” were omitted, and
- (b) subsection (3C) were omitted.]

Textual Amendments

- F1** Words in s. 89(1) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 2 para. 1(d)(i)**; S.I. 2014/1706, art. 3(h)
- F2** Words in s. 89(2) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 32(3)(a), 36(2)**
- F3** Words in s. 89(2) omitted (1.9.2014) by virtue of Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 2 para. 1(d)(ii)**; S.I. 2014/1706, art. 3(h)
- F4** Words in s. 89(2) inserted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 40(a)** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**
- F5** Word in s. 89(2) inserted (12.1.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 11(2)(a)**; S.I. 2009/3317, art. 2, Sch.
- F6** Words in s. 89(2) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 40(2)(b)**; S.I. 2012/924, art. 2
- F7** Words in s. 89(2) inserted (1.4.2001) by 2000 c. 21, s. 149, **Sch. 9 para. 40(b)** (with s. 150); S.I. 2001/654, art. 2, **Sch. Pt. II** (with transitional provisions in art. 3); S.I. 2001/1274, art. 2, **Sch. Pt. I**
- F8** Words in s. 89(2) omitted (1.4.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 40(2)(c)**; S.I. 2012/924, art. 2
- F9** Words in s. 89(3) inserted (1.9.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 244(2)(a), 269(4)**; S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))
- F10** Words in s. 89(3) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 40(3)**; S.I. 2012/924, art. 2
- F11** Words in s. 89(3) substituted (1.9.2014) by Further and Higher Education (Governance and Information) (Wales) Act 2014 (anaw 1), s. 11(2), **Sch. 2 para. 1(d)(iii)**; S.I. 2014/1706, art. 3(h)
- F12** S. 89(3A) inserted (1.9.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), **ss. 244(2)(b), 269(4)**; S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))
- F13** S. 89(3B) inserted (1.4.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 12 para. 40(4)**; S.I. 2012/924, art. 2
- F14** S. 89(3C) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 32(3)(b), 36(2)**

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- F15** Words in s. 89(4) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 11(3)**; S.I. 2010/303, art. 3, **Sch. 2**
- F16** S. 89(5) substituted (1.4.2010) by Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), s. 269(4), **Sch. 8 para. 11(4)**; S.I. 2010/303, art. 3, Sch. 2
- F17** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 5(2)**
- F18** S. 89(6) inserted (28.6.2022) by Skills and Post-16 Education Act 2022 (c. 21), **ss. 32(3)(c)**, 36(2)

Commencement Information

- I1** S. 89 wholly in force at 6.5.1992 see s. 94(3) and S.I. 1992/831, art. 2, **Sch. 1**

Marginal Citations

- M1** 1978 c. 30.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16(6) inserted by [2007 c. 25 s. 14\(4\)](#)
- s. 17(2)(aa) inserted by [2007 c. 25 s. 14\(5\)\(b\)](#)
- s. 27(3A)(3B) inserted by [2007 c. 25 s. 15\(4\)](#)
- s. 27(9) inserted by [2007 c. 25 s. 15\(7\)](#)
- s. 51(1)-(2A) substituted for s. 51(1)(2) by [2007 c. 25 s. 16\(2\)](#)
- s. 76(8)(9) inserted by [2017 c. 29 s. 52\(4\)](#)
- s. 85D inserted by [2009 c. 22 s. 247](#)
- s. 85D(7) words inserted by [S.I. 2016/413 reg. 140](#) (This amendment comes into force on the day that section 85D of the Further and Higher Education Act 1992 (c. 13) comes into force. That provision is still prospective.)