



# Teaching and Higher Education Act 1998

## 1998 CHAPTER 30

### PART IV

#### MISCELLANEOUS AND GENERAL

##### *General*

#### **42 Orders and regulations**

- (1) Any power of the Secretary of State to make an order or regulations under this Act shall be exercised by statutory instrument.
- (2) A statutory instrument containing—
  - (a) an order under section 7 or 8, or
  - (b) (subject to the following provisions of this section) any regulations under this Act,shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Subsection (2) does not apply to the first regulations to be made—
  - (a) in relation to the Council under section 1(5), or
  - (b) in relation to the General Teaching Council for Wales under section 1(5) as applied by an order under section 8(1),and no such regulations shall be made (whether alone or with other regulations) unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Subsection (2) does not apply to the first regulations to be made under section 22; and no such regulations shall be made (whether alone or with other regulations) unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (5) That subsection also does not apply to—
  - (a) any regulations in relation to which paragraph (b) of section 22(7) applies, or

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- (b) any other regulations under section 22 a draft of which has been laid before, and approved by a resolution of, each House of Parliament.
- (6) Any order 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 Secretary of State thinks fit.
- (7) Any order or regulations under this Act may make different provision in relation to England and Wales respectively.
- (8) Nothing in this Act shall be read as affecting the generality of subsection (6).
- (9) Once the Council or (as the case may be) the General Teaching Council for Wales have been established, the Secretary of State shall, before making regulations under Chapter I of Part I of this Act, consult the Council to which the regulations will relate.

### **43 General interpretation**

- (1) In this Act—
  - “the Council” means the body corporate referred to in section 1(1);
  - “functions” includes powers and duties;
  - “modifications” includes additions, alterations and omissions, and
  - “modify” shall be construed accordingly;
  - “prescribed” means prescribed by regulations;
  - “registered teacher” means (subject to paragraph 8 of Schedule 2) a person for the time being registered under section 3;
  - “regulations” means regulations made by the Secretary of State under this Act.
- (2) In the following provisions of this Act, namely—
  - (a) sections 12, 15 and 19, and
  - (b) Schedule 2,
 “employer”, in relation to a teacher, includes a local education authority, governing body or other person who engage (or make arrangements for the engagement of) that person to provide his services as a teacher otherwise than under a contract of employment, and “employed”, “employment” and any expressions relating to the termination of employment shall be construed accordingly.

### **44 Minor and consequential amendments and repeals**

- (1) The minor and consequential amendments set out in Schedule 3 shall have effect.
- (2) The enactments specified in Schedule 4 are repealed to the extent specified.

### **45 Northern Ireland**

An Order in Council under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is made only for purposes corresponding to those of sections 22 to 26 and 28 or sections 32 and 33—

- (a) shall not be subject to paragraph 1(4) and (5) of that Schedule (affirmative resolution of both Houses of Parliament); but

- (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **46 Short title, commencement and extent**

- (1) This Act may be cited as the Teaching and Higher Education Act 1998.
- (2) This Act shall be included in the list of Education Acts set out in section 578 of the Education Act 1996.
- (3) In this Act—  
sections 22 to 31,  
sections 42 and 43,  
section 45, and  
this section,  
come into force on the day on which this Act is passed.
- (4) The remaining provisions of this Act shall come into force on such day as the Secretary of State may by order appoint, and different days may be appointed for different provisions and for different purposes.
- (5) Subject to subsections (6) to (9), this Act extends to England and Wales only.
- (6) The following provisions extend to Scotland only—  
sections 16 and 17,  
section 21,  
sections 29 and 30, except that subsections (3) and (11) of section 73B, and section 73A so far as relating to any function exercisable by virtue of those subsections, of the Education (Scotland) Act 1980 (which are inserted by section 29) shall also extend to England and Wales and Northern Ireland,  
section 31, and  
sections 37 and 38.
- (7) The following provisions also extend to Scotland—  
section 22 so far as relating to the making of any provision authorised by subsection (2)(a), (c), (j) or (k), (3)(e) or (5) of that section,  
section 23 so far as relating to any function exercisable by virtue of any provision so authorised,  
sections 32 and 33,  
section 39,  
section 42, and  
this section.
- (8) The following provisions extend to Northern Ireland—  
section 22 so far as relating to the making of any provision authorised by subsection (2)(a), (c), (j) or (k), (3)(e) or (5) of that section,  
section 23 so far as relating to any function exercisable by virtue of any provision so authorised,  
section 39,  
section 45, and  
this section.

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- (9) The amendment or repeal by this Act of an enactment extending to Scotland or Northern Ireland extends also to Scotland or, as the case may be, Northern Ireland.