



# Apprenticeships, Skills, Children and Learning Act 2009

## 2009 CHAPTER 22

### PART 13

#### GENERAL

#### 262 Orders and regulations

- (1) A power to make an order or regulations under Chapter 1 of Part 1, or Part 3 or 4—
  - (a) so far as exercisable by the Secretary of State, the Welsh Ministers or the Scottish Ministers, is exercisable by statutory instrument;
  - (b) so far as exercisable by the Department for Employment and Learning in Northern Ireland, is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (2) Any other power of the Secretary of State to make an order or regulations under this Act is exercisable by statutory instrument.
- (3) A power of the Secretary of State or the Welsh Ministers to make an order or regulations under this Act (except a power conferred by section 17, 22 or 269) includes power—
  - (a) to make different provision for different purposes (including different areas);
  - (b) to make provision generally or in relation to specific cases;
  - (c) to make incidental, consequential, supplementary, transitional, transitory or saving provision.
- [<sup>F1</sup>(3A) An order under section 83A(12) may amend, repeal or revoke any provision of, or in an instrument made under, this or any other Act.]
- <sup>F2</sup>(4) .....
- (5) Subject to subsections (6) to (8), a statutory instrument containing an order or regulations made by the Secretary of State under any provision of this Act (other than

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- an order under section 269) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) A statutory instrument which contains (whether alone or with other provision) any of the following may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament—
- (aa) regulations under section 1(5);
  - [<sup>F3</sup>(ab) an order under section 83A(12);]
  - (b) an order under section 88 or paragraph 9 of Schedule 5;
  - <sup>F4</sup>(c) .....
  - (d) an order under section 130(5);
  - (e) an order under section 141(1);
  - [<sup>F5</sup>(ea) an order under section 151B(2);]
  - <sup>F6</sup>(f) .....
  - (g) an order under section 252(5);
  - (h) an order under section 265 which amends or repeals any provision of an Act.
- (7) Subsections (5) and (6) do not apply to a statutory instrument which contains only—
- (a) an order revoking an order under section 141(1), or
  - (b) an order amending an order under section 141(1) for the purpose only of removing a qualification or description of qualification from the application of the order.
- (8) A statutory instrument within subsection (7) must be laid before Parliament.
- (9) Subject to subsection (10), a statutory instrument containing an order or regulations made by the Welsh Ministers under Chapter 1 of Part 1 (other than an order under section 10) or under section 68 or 107 is subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (10) A statutory instrument which contains (whether alone or with other provision) regulations under section 2(5) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (11) A statutory instrument containing an order made by the Scottish Ministers under section 68 or 107 is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (12) A statutory rule containing an order made by the Department for Employment and Learning in Northern Ireland under section 68 or 107 is to be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)) as if it were a statutory instrument within the meaning of that Act.
- (13) If a draft of an instrument containing an order under paragraph 9 of Schedule 5 would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not a hybrid instrument.

#### Textual Amendments

**F1** S. 262(3A) inserted (1.9.2012) by [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 18 para. 13\(2\)](#); S.I. 2012/1087, art. 3

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- F2** S. 262(4) omitted (1.9.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 18 para. 13(3)**; S.I. 2012/1087, art. 3
- F3** S. 262(6)(ab) inserted (1.9.2012) by Education Act 2011 (c. 21), s. 82(3), **Sch. 18 para. 13(4)(a)**; S.I. 2012/1087, art. 3
- F4** S. 262(6)(c) omitted (1.9.2012) by virtue of Education Act 2011 (c. 21), s. 82(3), **Sch. 18 para. 13(4)(b)**; S.I. 2012/1087, art. 3
- F5** S. 262(6)(ea) inserted (1.5.2012) by Education Act 2011 (c. 21), **ss. 23(7)**, 82(3); S.I. 2012/924, art. 3
- F6** S. 262(6)(f) omitted (1.8.2012) by virtue of Education Act 2011 (c. 21), **ss. 45(2)(f)**, 82(3); S.I. 2012/1087, art. 2 (with art. 6)

## 263 Directions

A direction given under this Act—

- (a) may be amended or revoked by the person or body by whom it is given;
- (b) may make different provision for different purposes.

## 264 General interpretation of Act

- (1) In this Act, unless the context otherwise requires—
  - “prescribed” means prescribed by regulations;
  - “regulations” means regulations made by the Secretary of State.
- (2) Subject to subsections (4) and (5), the Education Act 1996 (c. 56) and the provisions of this Act specified in subsection (3) are to be construed as if those provisions were contained in that Act.
- (3) The provisions are—
  - (a) Parts 3, 4 and 5;
  - (b) Parts 7 and 8;
  - (c) Chapter 4 of Part 10;
  - (d) sections 248, 251 and 252.
- (4) Section 562 of the Education Act 1996 (Act not to apply to certain persons detained under order of a court) does not apply to functions of the Secretary of State under Part 4.
- (5) If—
  - (a) an expression is given a meaning for the purposes of a provision within subsection (3) (its “local meaning”), and
  - (b) that meaning is different from the meaning given to it for the purposes of the Education Act 1996 (its “1996 Act meaning”),the expression's local meaning applies instead of its 1996 Act meaning.
- (6) Unless the context otherwise requires, a reference in this Act to—
  - (a) a community, foundation or voluntary school, or
  - (b) a community or foundation special school,is to such a school within the meaning of the School Standards and Framework Act 1998 (c. 31).

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## 265 Power to make consequential and transitional provision etc.

- (1) The Secretary of State may by order make—
  - (a) such supplementary, incidental or consequential provision, or
  - (b) such transitory, transitional or saving provision,
 as the Secretary of State thinks appropriate for the general purposes, or any particular purpose, of this Act or in consequence of, or for giving full effect to, any provision made by this Act.
- (2) An order under this section may in particular—
  - (a) provide for any provision of this Act which comes into force before another provision made by or under this or any other Act has come into force to have effect, until that other provision has come into force, with specified modifications;
  - (b) amend, repeal, revoke or otherwise modify any provision of—
    - (i) an Act passed before or in the same Session as this Act, or
    - (ii) an instrument made under an Act before the passing of this Act.
- (3) Nothing in this section limits the powers conferred by section 262(3)(c) or 269(8)(b).
- (4) The amendments that may be made by virtue of subsection (2)(b) are in addition to those that are made by any other provision of this Act.

## 266 Repeals and revocations

Schedule 16 contains repeals and revocations (including repeals and revocations of spent provisions).

### Commencement Information

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| <b>I1</b> | <a href="#">S. 266</a> in force at 12.1.2010 for specified purposes by <a href="#">S.I. 2009/3317</a> , <a href="#">art. 2</a> , <a href="#">Sch.</a>  |
| <b>I2</b> | <a href="#">S. 266</a> in force at 1.4.2010 for specified purposes by <a href="#">S.I. 2010/1151</a> , <a href="#">art. 2</a> , <a href="#">Sch. 1</a>   |
| <b>I3</b> | <a href="#">S. 266</a> in force at 1.4.2010 for specified purposes by <a href="#">S.I. 2010/303</a> , <a href="#">art. 3</a> , <a href="#">Sch. 2</a> (with <a href="#">arts. 9-11</a> , <a href="#">13</a> , <a href="#">14</a> ) (as amended (30.3.2010) by <a href="#">S.I. 2010/1151</a> , <a href="#">art. 22</a> ) |
| <b>I4</b> | <a href="#">S. 266</a> in force at 1.11.2010 for specified purposes by <a href="#">S.I. 2010/2413</a> , <a href="#">art. 2(b)</a> (with <a href="#">arts. 3-5</a> )  |

## 267 Financial provisions

- (1) There are to be paid out of money provided by Parliament—
  - (a) any expenditure incurred by virtue of this Act by the Secretary of State,
  - (b) any expenditure incurred by virtue of this Act by the Office of Qualifications and Examinations Regulation, and
  - (c) any increase attributable to this Act in the sums payable by virtue of any other Act out of money provided by Parliament.
- (2) Any sums received by the Secretary of State by virtue of Chapter 1 of Part 1, section 78(3)(c), paragraph 18(3)(d) of Schedule 3 or paragraph 6(3)(d) of Schedule 4 are to be paid into the Consolidated Fund.

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## **268 Extent**

- (1) This Act extends to England and Wales only, subject to subsections (2) to (4).
- (2) Sections 40, 68, 69, 107, 108 and this Part also extend to Scotland.
- (3) Sections 68, 70, 107, 109, Part 7, sections 257 and 258 and this Part also extend to Northern Ireland.
- (4) An amendment, repeal or revocation made by this Act has the same extent as the provision to which it relates.

## **269 Commencement**

- (1) This Part (except section 266) comes into force on the day on which this Act is passed.
- (2) The following provisions of this Act come into force at the end of two months beginning with the day on which this Act is passed—
  - (a) section 58 (and the associated entries in Schedule 16);
  - (b) sections 198 to 201.
- (3) The following provisions of this Act come into force on such day as the Welsh Ministers may by order appoint—
  - (a) sections 2 and 7 to 10;
  - (b) sections 11 and 12, so far as relating to Wales;
  - (c) sections 18 to 22;
  - (d) sections 28 to 31;
  - (e) section 39, so far as relating to Wales;
  - (f) sections 48 to 52, so far as relating to Wales;
  - (g) paragraphs 54 to 56 of Schedule 6, so far as relating to Wales;
  - (h) paragraphs 11, 13 and 27 of Schedule 12, so far as relating to Wales (and the associated entries in Schedule 16);
  - (i) paragraphs 14 to 19 and 29 of Schedule 12 (and the associated entries in Schedule 16);
  - (j) sections 174 and 192 so far as they relate to the paragraphs of Schedule 12 mentioned in paragraphs (h) and (i);
  - (k) section 205 and Schedule 14;
  - (l) section 259 (and the associated entry in Schedule 16);
  - (m) section 260;
  - (n) section 266, so far as it relates to the entries in Schedule 16 mentioned in paragraphs (h), (i) and (l).
- (4) The other provisions of this Act come into force on such day as the Secretary of State may by order appoint.

<sup>F7</sup>(5) .....

- (6) Before making an order under subsection (4) bringing into force any provision of Part 7 which confers functions on the Office of Qualifications and Examinations Regulation in relation to Northern Ireland, the Secretary of State must consult the Department for Employment and Learning in Northern Ireland.

- (7) The powers conferred by this section are exercisable by statutory instrument.

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- (8) An order under this section may—
- (a) appoint different days for different purposes (including different areas);
  - (b) contain transitional, transitory or saving provision in connection with the coming into force of this Act.

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**Textual Amendments**

**F7** S. 269(5) omitted (1.9.2012) by virtue of [Education Act 2011 \(c. 21\)](#), s. 82(3), [Sch. 18 para. 14](#); [S.I. 2012/1087](#), art. 3

**270 Short title**

- (1) This Act may be cited as the Apprenticeships, Skills, Children and Learning Act 2009.
- (2) This Act is to be included in the list of Education Acts set out in section 578 of the Education Act 1996 (c. 56).

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**Changes to legislation:**

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