



School Standards and Framework Act 1998

1998 CHAPTER 31

PART VII

MISCELLANEOUS AND GENERAL

Supplementary

138 Orders and regulations.

- (1) Subject to subsection (2), any power of the Secretary of State [^{F1}or the Assembly] to make an order or regulations under this Act shall be exercised by statutory instrument.
- (2) Subsection (1) does not apply to any order under—
 - (a) section 11(5), 20(5), 21(8), 73, 82, 111(3)(a) [^{F2}, 124AA(2)] or 142(1); or
 - (b) paragraph 5 of Schedule 5, paragraph 2 or 3 of Schedule 7, ^{F3}..., paragraph 1 of Schedule 14, paragraph 10 of Schedule 21, paragraph 4(2) [^{F4}, 7(3)(c) or 8A] of Schedule 22 or paragraph 5(3) of Schedule 32.
- (3) Subject to subsections (4) and (5), a statutory instrument containing any order or regulations [^{F5}made by the Secretary of State] under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) does not apply to any order under—
 - (a) section 20(7), ^{F6}... [^{F7}45C(2),] 69(3), 85(5), 104^{F8}... or 145; or
 - (b) ^{F9}... paragraph 1 of Schedule 32.
- (5) Subsection (3) also does not apply to—
 - (a) any order under—
 - (i) section 1(5),
 - ^{F10}(ii)
 - ^{F10}(iii)

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- ; or
- (b) the first regulations to be made under—
- (i) section 38(3) or 39(1),
 - (ii) section ^{F11}... , 47 or 48(1), or
 - (iii) section 105 or 108(2);^{F12} or
- (c) the first regulations to be made under section 45AA, or
- (d) the first regulations to be made under section 47 in relation to England after the coming into force of paragraph 6 of Schedule 16 to the Education Act 2005,] and no such order or regulations shall be made (whether alone or with other provisions) unless a draft of the statutory instrument containing the order or regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (6) If a draft of the statutory instrument containing any such regulations under section 105 would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it shall proceed in that House as if it were not such an instrument.
- (7) 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 [^{F13}or the Assembly] thinks fit.
- (8) Any order or regulations under this Act may make different provision in relation to England and Wales respectively.
- (9) Nothing in this Act shall be read as affecting the generality of subsection (7).

Subordinate Legislation Made

- P1** S. 138(7) power partly exercised (9.9.1998): different days appointed for specified provisions by [S.I. 1998/2212](#).
- S. 138(7) power partly exercised (15.12.1998): different days appointed for specified provisions by [S.I. 1998/3198](#).
- S. 138(7) power partly exercised (20.1.1999): different days appointed for specified provisions by [S.I. 1999/120](#).
- S. 138(7) power partly exercised (13.8.1999): different days appointed for specified provisions by [S.I. 1999/2323](#).

Textual Amendments

- F1** Words in s. 138(1) inserted (30.6.2008) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 17 para. 3\(2\)](#); [S.I. 2008/1429](#), art. 3(2), [Sch. Pt. 2](#)
- F2** Word in s. 138(2)(a) inserted (1.2.2012) by [Education Act 2011 \(c. 21\)](#), [ss. 62\(4\)\(b\)](#), 82(3); [S.I. 2012/84](#), art. 3
- F3** Words in s. 138(2)(b) repealed (1.10.2002 for E., 31.10.2005 for W.) by [Education Act 2002 \(c. 32\)](#), s. 216(4), [Sch. 22 Pt. 3](#) (with [ss. 210\(8\)](#), 214(4)); [S.I. 2002/2439](#), art. 3; [S.I. 2005/2910](#), art. 4, [Sch.](#)
- F4** Words in s. 138(2)(b) substituted (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 4 para. 21](#); [S.I. 2007/935](#), art. 7(p)
- F5** Words in s. 138(3) inserted (30.6.2008) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 17 para. 3\(3\)](#); [S.I. 2008/1429](#), art. 3(2), [Sch. Pt. 2](#)
- F6** Word in s. 138(4) repealed (25.5.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), [Sch. 18 Pt. 3](#); [S.I. 2007/935](#), art. 7(q)

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- F7** Word in s. 138(4)(a) inserted (1.10.2002 for E., 2.1.2008 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 21 para. 111** (with ss. 210(8), 214(4)); S.I. 2002/2439, **art. 3**; S.I. 2007/3611, art. 4(1), **Sch. Pt. 1**
- F8** Word in s. 138(4)(a) omitted (1.1.2016) by virtue of Deregulation Act 2015 (c. 20), s. 115(7), **Sch. 16 para. 2(2)(a)**; S.I. 2015/2074, art. 2
- F9** Words in s. 138(4)(b) repealed (1.10.2002 for E., 1.9.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/1728, art. 5, Sch. Pt. 2
- F10** S. 138(5)(a)(ii)(iii) repealed (1.4.2003 for E., 1.9.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2003/124, art. 4; S.I. 2004/1728, art. 5, Sch. Pt. 2
- F11** Word in s. 138(5)(b)(ii) repealed (1.10.2002 for E., 1.9.2004 for W.) by Education Act 2002 (c. 32), s. 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3; S.I. 2004/1728, art. 5, Sch. Pt. 2
- F12** S. 138(5)(c)(d) and preceding word inserted (1.11.2005) by Education Act 2005 (c. 18), s. 125(4), **Sch. 16 para. 8** (with s. 119); S.I. 2005/2034, art. 9
- F13** Words in s. 138(7) inserted (30.6.2008) by Education and Inspections Act 2006 (c. 40), s. 188(3), **Sch. 17 para. 3(4)**; S.I. 2008/1429, art. 3(2), Sch. Pt. 2

[^{F14}**138A**Regulations made by Welsh Ministers under [^{F15}section 71(7A) or] sections 89 to 90

- (1) Any power of the Welsh Ministers to make regulations under [^{F16}section 71(7A) or] sections 89 to 90 shall be exercisable by statutory instrument.
- (2) A statutory instrument containing any such regulations made by the Welsh Ministers shall be subject to annulment in pursuance of a resolution of the National Assembly for Wales.
- (3) Any such regulations may make different provision for different cases, circumstances or areas and may contain such incidental, supplemental, saving or transitional provisions as the Welsh Ministers think fit.]

Textual Amendments

- F14** S. 138A inserted (2.12.2008) by Education and Skills Act 2008 (c. 25), s. 173(4), **Sch. 1 para. 71**; S.I. 2008/3077, art. 2(d)
- F15** Words in s. 138A heading inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), **Sch. 2 para. 38(a)**
- F16** Words in s. 138A(1) inserted (30.4.2021) by Curriculum and Assessment (Wales) Act 2021 (asc 4), ss. 73, 84(1), **Sch. 2 para. 38(b)**

139 Financial provisions.

- (1) There shall be paid out of money provided by Parliament—
 - (a) any sums required for the making by the Secretary of State of grants or loans under this Act;
 - (b) any other expenses of the Secretary of State under this Act; and
 - (c) any increase attributable to this Act in the sums so payable by virtue of any other Act.
- (2) There shall be paid into the Consolidated Fund—
 - (a) any sums received by the Secretary of State under or by virtue of this Act; and

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- (b) any fees received by ^{F17}... [^{F18}Her Majesty's Chief Inspector of Education and Training in Wales or Prif Arolygydd Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru], under Schedule 26.

Textual Amendments

- F17** Words in s. 139(2)(b) repealed (1.4.2007) by [Education and Inspections Act 2006 \(c. 40\)](#), s. 188(3), Sch. 14 para. 34, [Sch. 18 Pt. 5](#); S.I. 2007/935, art. 5(gg)(ii)
- F18** Words in s. 139(2)(b) substituted (W.) (1.1.2001) by [2000 c. 21](#), s. 73(3)(a); S.I. 2000/3230, art. 2, [Sch.](#)

140 Minor and consequential amendments and repeals.

- (1) The minor and consequential amendments set out in Schedule 30 shall have effect.
- (2) Unless the context otherwise requires, any reference in any enactment amended by this Act—
 - (a) to a maintained school, or
 - (b) to a community, foundation or voluntary school or a community or foundation special school,
 is a reference to such a school within the meaning of this Act.
- (3) The enactments specified in Schedule 31 (which include certain spent enactments) are repealed to the extent specified.
- (4) Any articles of government of a school which are in force under the ^{M1}Education Act 1996 immediately before the appointed day shall cease to have effect on that day.

Extent Information

- E1** S. 140 extends to Scotland or Northern Ireland in so far as it amends or repeals an enactment extending to Scotland or Northern Ireland.

Commencement Information

- II** S. 140 wholly in force at 1.9.1999; s. 140 not in force at Royal Assent see s. 145(3); s. 140(1)(3) in force for certain purposes at 1.10.1998, 1.2.1999 and 1.4.1999 by [S.I. 1998/2212](#), art. 2, [Sch. 1 Pts. I, III and IV](#); s. 140(1)(3) in force for certain purposes at 1.4.1999 by [S.I. 1999/1016](#), art. 2(1), [Sch. 1](#) (with arts. 3-6, [Sch. 4](#)); s. 140(1) in force for a certain purpose at 1.6.1999 by [S.I. 1999/1016](#), art. 2(2), [Sch. 2](#) (with arts. 3-6, [Sch. 4](#)); s. 140 in force at 1.9.1999 in so far as not already in force by [S.I. 1999/2323](#), art. 2(1), [Sch. 1](#) (with arts. 3-5, [Schs. 5-7](#)).

Marginal Citations

- M1** [1996 c. 56](#).

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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. 14(3)(aa) inserted by [2011 nawm 7 s. 16\(2\)](#) (Amendment not applied to [legislation.gov.uk](#) - s.16(02) of 2011 nawm007 omitted by 2013 nawm001 s. 100(4), Sch. 5 para. 13(2); S.I. 2014/178, art. 2(f) (with art. 3) prior to commencement)
- s. 18B inserted by [2011 nawm 7 s. 16\(3\)](#) (Amendment not applied to [legislation.gov.uk](#) - s.16(02) of 2011 nawm007 omitted by 2013 nawm001 s. 100(4), Sch. 5 para. 13(2); S.I. 2014/178, art. 2(f) (with art. 3) prior to commencement)
- Sch. 22 para. 5(1B) inserted by [2023 c. 55 s. 235\(4\)](#)