



# 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 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) or 142(1); or
  - (b) paragraph 5 of Schedule 5, paragraph 2 or 3 of Schedule 7, [<sup>F1</sup>paragraph 3(5) or 4 of Schedule 10], paragraph 1 of Schedule 14, paragraph 10 of Schedule 21, paragraph 4(2) or 7(3)(c) 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 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), [<sup>F2</sup>45C(2),] 69(3), 85(5), 104, 110(10) or 145; or
  - (b) [<sup>F3</sup>paragraph 4 or 8 of Schedule 23 or] paragraph 1 of Schedule 32.
- (5) Subsection (3) also does not apply to—
  - (a) any order under—
    - (i) section 1(5),
    - (ii) paragraph 18 of Schedule 18, or
    - (iii) paragraph 17 of Schedule 24 or paragraph 14 of Schedule 25; or

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; or

- (b) the first regulations to be made under—
- (i) section 38(3) or 39(1),
  - (ii) section [F446], 47 or 48(1), or
  - (iii) section 105 or 108(2);

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 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(2)(b) repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)
- F2** Words in s. 138(4)(a) inserted (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(1), 216, Sch. 21 para. 111 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)
- F3** Words in s. 138(4)(b) repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)
- F4** Word in s. 138(5)(b)(ii) repealed (1.10.2002 for E. otherwise prosp.) by Education Act 2002 (c. 32), ss. 215(2), 216, Sch. 22 Pt. 3 (with ss. 210(8), 214(4)); S.I. 2002/2439, art. 3 (with Sch.)

## 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

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- (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
- (b) any fees received by Her Majesty’s Chief Inspector of Schools in England, or [<sup>F5</sup>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

- F5** 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 <sup>M1</sup>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

- I1** 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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