



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, ^{F1}..., 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), [^{F2}29(9A)], [^{F3}45C(2)], 69(3), 85(5), 104, 110(10) or 145; or
 - (b) ^{F4}... paragraph 1 of Schedule 32.
- (5) Subsection (3) also does not apply to—
 - (a) any order under—
 - (i) section 1(5),
 - ^{F5}(ii)
 - ^{F5}(iii)

Status: Point in time view as at 01/09/2006. This version of this provision has been superseded.

Changes to legislation: School Standards and Framework Act 1998, Section 138 is up to date with all changes known to be in force on or before 26 June 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)

- ; or
- (b) the first regulations to be made under—
- (i) section 38(3) or 39(1),
 - (ii) section ^{F6}... , 47 or 48(1), or
 - (iii) section 105 or 108(2);^{F7} 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 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., 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.
- F2** Word in s. 138(4) inserted (1.9.2006 for E.) by [Education Act 2005 \(c. 18\)](#), s. 125(4), [Sch. 12 para. 9](#); [S.I. 2006/2129](#), art. 5
- F3** 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.)
- F4** 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
- F5** 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
- F6** 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
- F7** 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

Status:

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