



Education and Skills Act 2008

2008 CHAPTER 25

PART 4 **E+W**

REGULATION AND INSPECTION OF INDEPENDENT EDUCATIONAL PROVISION IN ENGLAND

CHAPTER 1 **E+W**

INDEPENDENT EDUCATIONAL INSTITUTIONS IN ENGLAND

Transitional provision

139 **Continuity of the law** **E+W**

- (1) This section applies where—
 - (a) by virtue of one or more amendments made by paragraphs 15 to 24 of Schedule 1, a provision of or made under Chapter 1 of Part 10 of the Education Act 2002 (c. 32) (“the old provision”) that applied in relation to independent schools in England has ceased so to apply, and
 - (b) a provision of or made under this Chapter (“the new provision”) re-enacts, with or without modification, the old provision as it so applied.
- (2) The amendment or amendments mentioned in subsection (1)(a) and the re-enactment mentioned in subsection (1)(b) do not affect the continuity of the law.
- (3) Anything done (including any subordinate legislation made), or having effect as if done, under or for the purposes of the old provision that—
 - (a) could have been done under or for the purposes of the new provision (had the new provision then been in force), and
 - (b) is in force or effective immediately before the coming into force of the new provision,has effect from that time as if done under or for the purposes of the new provision.

Changes to legislation: Education and Skills Act 2008, Cross Heading: Transitional provision is up to date with all changes known to be in force on or before 12 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) View outstanding changes

- (4) Any reference (express or implied) in this Chapter or any other enactment, instrument or document to the new provision is to be construed (so far as the context permits) as including, as respects times, circumstances or purposes in relation to which the old provision had effect, a reference to the old provision.
- (5) Any reference (express or implied) in any enactment, instrument or document to the old provision is to be construed (so far as the context permits), as respects times, circumstances and purposes in relation to which the new provision has effect, as being or (according to the context) including a reference to the new provision.
- (6) This section has effect subject to any specific transitional provision of or made under this Act.
- (7) In this section “subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30).

Commencement Information

II [S. 139](#) in force at 5.1.2015 by [S.I. 2014/3364](#), [art. 2\(w\)](#)

140 The register and fees E+W

- (1) On the coming into force of section 95, the register of independent schools in England becomes the register of independent educational institutions in England.
- (2) The power in section 111(3)(d) to make provision prescribing circumstances in which the amount of a fee may be waived includes power to make such provision in relation to a fee (or any part of a fee) payable by virtue of section 162B(6) of the Education Act 2002 (fees payable to Chief Inspector).

Commencement Information

I2 [S. 140](#) in force at 19.6.2009 for specified purposes by [S.I. 2009/1513](#), [art. 2\(2\)](#)
I3 [S. 140\(1\)](#) in force at 5.1.2015 in so far as not already in force by [S.I. 2014/3364](#), [art. 2\(x\)](#)
I4 [S. 140\(2\)](#) in force at 1.9.2009 in so far as not already in force by [S.I. 2009/1606](#), [art. 3](#)

141 Prohibition on participation in management E+W

- (1) A person falls within this subsection if—
 - (a) immediately before the relevant day the person is subject to a direction under section 142 of the Education Act 2002 (c. 32) given on grounds prescribed for the purposes of this section, and
 - (b) prescribed conditions (which may include conditions relating to decisions taken on or after the relevant day by the [F1Disclosure and Barring Service] under the Safeguarding Vulnerable Groups Act 2006 (c. 47)) are satisfied in relation to the person.
- (2) Regulations may provide that, as from a time specified in or determined in accordance with the regulations, persons who fall within subsection (1) are to be treated for prescribed purposes as if the direction given under section 142 of the Education Act 2002 were a direction given by the appropriate authority under section 128 of this Act.

Changes to legislation: Education and Skills Act 2008, Cross Heading: Transitional provision is up to date with all changes known to be in force on or before 12 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) [View outstanding changes](#)

- (3) Regulations under this section may make provision in connection with the determination of any appeal under subsection (1) of section 144 of the Education Act 2002, or application for review under subsection (2) of that section, which is pending on the relevant day.
- (4) Regulations made by virtue of subsection (3) may, in particular, provide for an appeal, or application for review, under section 144 of the Education Act 2002 to be treated as an appeal under section 129 of this Act.
- (5) In this section—
- “appropriate authority” has the same meaning as in sections 128 to 131 (see section 128(6));
- “the relevant day” means the day on which section 128 comes into force.

Textual Amendments

- F1** Words in s. 141(1)(b) substituted (1.12.2012) by [The Protection of Freedoms Act 2012 \(Disclosure and Barring Service Transfer of Functions\) Order 2012 \(S.I. 2012/3006\)](#), arts. 1(1), [13\(1\)\(2\)\(g\)](#) (with Pt. 4)
-

Commencement Information

- I5** S. 141 in force at 19.6.2009 for specified purposes by [S.I. 2009/1513](#), [art. 2\(2\)](#)
- I6** S. 141 in force at 5.1.2015 in so far as not already in force by [S.I. 2014/3364](#), [art. 2\(y\)](#)

Changes to legislation:

Education and Skills Act 2008, Cross Heading: Transitional provision is up to date with all changes known to be in force on or before 12 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.

[View outstanding changes](#)

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. 91(3)(c) inserted by [2022 asc 1 Sch. 4 para. 22\(3\)](#)