



# Education and Skills Act 2008

## 2008 CHAPTER 25

### PART 5

#### MISCELLANEOUS AND GENERAL

### CHAPTER 3

#### GENERAL

#### **166 Orders and regulations**

- (1) The following are to be made by statutory instrument—
  - (a) orders and regulations made by the Secretary of State or Lord Chancellor under this Act;
  - (b) orders made by the Welsh Ministers under section 173.
- (2) A statutory instrument containing—
  - (a) an order under section 3(5),
  - (b) regulations under section 5(1)(b),
  - (c) regulations under section 22(2) or 31(3), other than regulations for the purpose only of making provision within subsection (4),
  - (d) an order under section 56(9) or 58(3),
  - (e) regulations under section 61,
  - (f) an order under section 67,
  - (g) regulations under section 132(1), or
  - (h) regulations under section 170 which amend or repeal any provision of an Act, may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (3) A statutory instrument containing any other order or regulations under this Act, other than an order under section 173, is subject to annulment in pursuance of a resolution of either House of Parliament.

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**Changes to legislation:** Education and Skills Act 2008, Section 166 is up to date with all changes known to be in force on or before 27 May 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](#)

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- (4) Provision contained in regulations under section 22(2) or 31(3) falls within this subsection if it substitutes, for an amount for the time being specified in such regulations, a smaller amount.
- (5) Before a draft of an instrument containing an order under section 67 is laid before either House of Parliament, the Secretary of State must consult the Welsh Ministers.
- (6) Any power of the Secretary of State or Lord Chancellor to make an order or regulations under this Act includes power—
  - (a) to make different provision for different cases, circumstances or areas,
  - (b) to make provision generally or in relation to specific cases, and
  - (c) to make such incidental, supplementary, transitional, transitory or saving provision as the Secretary of State or Lord Chancellor thinks fit.

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