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STATUTORY INSTRUMENTS

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**2008 No. 3077 (C.133)**

**EDUCATION, ENGLAND AND WALES**

**The Education and Skills Act 2008  
(Commencement No. 1 and Savings) Order 2008**

*Made - - - - 1st December 2008*

The Secretary of State for Children, Schools and Families makes the following Order in exercise of the powers conferred by section 173 of the Education and Skills Act 2008<sup>(1)</sup>.

In accordance with section 173(6) of that Act he has consulted the Scottish and Welsh Ministers on the proposal to commence sections 87 to 91.

**Citation and interpretation**

1.—(1) This Order may be cited as the Education and Skills Act 2008 (Commencement No. 1 and Savings) Order 2008.

(2) In this Order—

“the Act” means the Education and Skills Act 2008;

“SSFA 1998” means the School Standards and Framework Act 1998<sup>(2)</sup>;

“academic year” means the period commencing with 1st August and ending with the next 31st July.

**Provisions coming into force on 2nd December 2008**

2. The following provisions of the Act come into force on 2nd December 2008—

- (a) section 151(1) and (4), to the extent that those subsections insert sections 88B, 88C, 88D, 88E, 88F, 88G, 88H, 88I, 88K and 88L in SSFA 1998;
- (b) section 169(1) to the extent that it relates to the provisions in Schedule 1 specified below;
- (c) section 169(2) to the extent that it relates to the repeals in Schedule 2 specified below;
- (d) in Schedule 1, paragraphs 57, 58, 61, 62, 63, 64, 68, 69, 70, 71, 72, and 73, and, so far as relating to those paragraphs, paragraph 53;
- (e) in Schedule 2, the repeals so far as relating to sections 89, 89D, 90 and 90A of SSFA 1998.

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(1) 2008 c.25.

(2) 1998 c.31.

3. The following provisions of the Act come into force in relation to England only on 2nd December 2008–

- (a) section 169(1) to the extent that it relates to the provisions in Schedule 1 specified below,
- (b) in Schedule 1, paragraph 54(5), (6), and (7), and, so far as relating to those sub- paragraphs, paragraph 53.

**Provisions coming into force on 26th January 2009**

4. The following provisions of the Act come into force on 26th January 2009–

- (a) sections 68 to 78;
- (b) section 79 to the extent that it repeals sections 114(2), (3) and (5), 115, 116, 118 and 121 of the Learning and Skills Act 2000;
- (c) sections 87 to 91;
- (d) section 151 so far as not already in force;
- (e) section 169(1) to the extent that it relates to the provisions in Schedule 1 specified below;
- (f) section 169(2) to the extent that it relates to the repeals in Schedule 2 specified below;
- (g) in Schedule 1, paragraphs 44 to 47, paragraphs 56, 59(1) to (6), 60, 65, (and, so far as relating to those paragraphs, paragraph 53), and paragraphs 78, 81, 82 , 83, 84, 85 and 89;
- (h) in Schedule 2 –
  - (i) the repeal of section 94(7) of SSFA 1998;
  - (ii) the repeal relating to the Welfare Reform and Pensions Act 1999;
  - (iii) the repeals of the Learning and Skills Act 2000 so far as relating to sections 114(2), (3) and (5), 115, 116, 118 and 121;
  - (iv) the repeals relating to the Criminal Justice and Court Services Act 2000;
  - (v) the repeal relating to the Tax Credits Act 2002;
  - (vi) the repeal relating to section 106 of the Education Act 2005;
  - (vii) the repeal relating to sections 46, 47(5)(a), 50(3) and 52(2) of the Education and Inspections Act 2006;
  - (viii) the repeals relating to the National Health Service (Consequential Provisions) Act 2006.

5. The following provisions of the Act come into force, subject to article 6, in relation to England only on 26th January 2009 –

- (a) sections 150, 152 and 153;
- (b) section 165;
- (c) section 169(1) to the extent that it relates to the provisions in Schedule 1 specified below;
- (d) section 169(2) to the extent that it relates to the repeals in Schedule 2 specified below;
- (e) in Schedule 1, paragraphs 53 and 54 so far as not already in force, and paragraphs 55, 59(7), 66 and 67;
- (f) in Schedule 2, the repeals so far as relating to sections 86 and 94 of SSFA 1998.

6. Despite the coming into force of section 150 and the amendments and repeals to sections 86 and 94 of SSFA 1998 made by sections 152 and 169 of, and Schedules 1 and 2 to, the Act, sections 86 and 94 shall continue to apply without those amendments and repeals in relation to admission to the academic year 2009 - 2010.

1st December 2008

*Sarah McCarthy-Fry*  
Parliamentary Under Secretary of State  
Department for Children, Schools and Families

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is the first commencement order made under the Education and Skills Act 2008 (“the Act”). Articles 2 and 3 bring into force on 2<sup>nd</sup> December 2008 section 151(1) and (4) of the Act in so far as it inserts new sections 88B, 88C, 88D, 88E, 88F, 88G, 88H, 88I, 88K and 88L (which relate to England only) into the School Standards and Framework Act 1998 (“the SSFA 1998”). It also commences certain consequential amendments and repeals in particular to preserve the existing law in Wales in sections 89, 89A, and 90 of the SSFA 1998.

In England sections 88B to 88H re-enact for England the provisions about the procedure for determining admissions arrangements, determination of admission numbers, and variation and alteration of admission arrangements following establishment or expansion of schools, or in relation to adjudicators’ decisions, and reference of objections to the adjudicator. They replace the requirement in section 89(2) and (3) that admission authorities consult various bodies about their admission arrangements before determining them, with a power to make regulations about the consultation process. Sections 88I, 88J, 88K and 88L replace section 90 in relation to England and place a new duty on the adjudicator to consider admission arrangements referred to him by the Secretary of State or mentioned in a local authority report, and to decide whether they are lawful.

Article 4 commences on 26th January 2009 sections 68 to 78 of the Act in respect of the provision of support services to young people by local education authorities. It partially commences section 79 in respect of the repeal of sections 114(2), (3) and (5), 115, 116, 118 and 121 of the Learning and Skills Act 2000.

Article 4 also commences on 26th January 2009 sections 87 to 91 which allow for the sharing of information in order to assess the effectiveness of education or training of those aged 19 or over and related policy matters.

Article 5 commences sections 150, 152 and 153 which introduce new provisions about preferences relating to sixth form education from the academic year 2010 – 2011 and make other minor and consequential school admissions amendments, and section 165 which amends section 47A of SSFA 1998 in respect of the constitution of schools forums.

Provisions commenced under Articles 2 and 4 are fully commenced; provisions commenced under Articles 3 and 5 concern provisions which the Secretary of State has power to commence in relation to England only, and over which the Welsh Ministers have commencement powers in relation to Wales.

Article 6 provides that the amendments to sections 86 and 94 of the SSFA 1998 do not affect school admissions for the academic year 2009 -2010.