



Children Act 1989

1989 CHAPTER 41

PART XII

MISCELLANEOUS AND GENERAL

General

104 Regulations and orders.

- (1) Any power of the Lord Chancellor [^{F1}, the Treasury][^{F2}, the Secretary of State or the National Assembly for Wales] under this Act to make an order, regulations, or rules, except an order under section [^{F3}54(2)], 56(4)(a), 57(3), 84 or 97(4) or paragraph 1(1) of Schedule 4, shall be exercisable by statutory instrument.
- (2) Any such statutory instrument, except one made under section [^{F4}4(1B), [^{F5}4ZA(3),] 17(4), 107 or 108(2) [^{F6}or one containing regulations which fall within subsection [^{F7}(3AA),][^{F8}(3AB),] (3B) [^{F9}, (3BA)] or (3C)], shall be subject to annulment in pursuance of a resolution of either House of Parliament.
^{F10}(2A) Subsection (2) does not apply to a statutory instrument made solely by the National Assembly for Wales.]
- ^{F11}(3) An order under section [^{F12}4(1B) [^{F13}, 4ZA(3)]][^{F14}. . . shall not be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
(3A) An order under section 4(1B) [^{F15}, 4ZA(3)] or 17(4) or regulations which fall within subsection [^{F16}(3AA),][^{F8}(3AB),] (3B) [^{F17}, (3BA)] [^{F18}, (3BB)] or (3C) shall not be made by the Secretary of State 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.
^{F19}(3AA) Regulations fall within this subsection if they are regulations made in the exercise of the power conferred by section 17ZB(9).]
^{F20}(3AB) Regulations fall within this subsection if they are regulations made in the exercise of the power conferred by section 17ZE(5).]

Changes to legislation: Children Act 1989, Section 104 is up to date with all changes known to be in force on or before 19 April 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

- (3B) Regulations fall within this subsection if they are the first regulations to be made by the Secretary of State in the exercise of the power conferred by section 23C(5B)(b).
- [^{F21}(3BA) Regulations fall within this subsection if they are regulations made in the exercise of the power conferred by section 31(3C) or 32(9).]
- [^{F22}(3BB) Regulations fall within this subsection if they are regulations made in the exercise of the power conferred by paragraph 3B(4) of Schedule A1.]
- (3C) Regulations fall within this subsection if they are the first regulations to be made by the Secretary of State in the exercise of the power conferred by paragraph 6(2) of Schedule 2.]
- (4) Any statutory instrument made under this Act may—
- (a) make different provision for different cases;
 - (b) provide for exemptions from any of its provisions; and
 - (c) contain ^{F23} . . . incidental, supplemental and transitional provisions ^{F23}

Textual Amendments

- F1** Words in s. 104 inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, Sch. 3 para. 19; S.I. 2003/962, **art. 2(3)(d)(iii)** (subject to savings and transitional provisions in arts. 3, 4)
- F2** Words in s. 104(1) substituted (8.12.2008) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, **Sch. 2 para. 10(a)**; S.I. 2008/2870, **art. 2(2)(e)**
- F3** Words in s. 104(1) repealed (1.4.2002 (E.W.)) by 2000 c. 14, ss. 117(2), 122, **Sch. 6**; S.I. 2001/4150, **art. 3(3)(c)(viii)** (subject to transitional provision in art. 4 of the commencing S.I. and to the amendment of art. 3 by S.I. 2002/1493, **art. 6**; S.I. 2002/920, **art. 3(3)(g)** (with art. 3(5)-(10) and transitional provisions in Schs. 1-3)
- F4** Word in s. 104(2) inserted (1.12.2003) by 2002 c. 38, ss. 111(6)(a), 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, **art. 2(2)(a)**
- F5** Words in s. 104(2) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 30(a)**; S.I. 2009/479, **art. 6(1)(e)**
- F6** Words in s. 104(2) inserted (E.W.) (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 25(2)**
- F7** Word in s. 104(2) inserted (1.4.2015) by Children and Families Act 2014 (c. 6), **ss. 96(2)(a)**, 139(6); S.I. 2015/375, **art. 2(c)**
- F8** Word in s. 104(2) inserted (1.4.2015) by Children and Families Act 2014 (c. 6), **ss. 97(2)(a)**, 139(6); S.I. 2015/375, **art. 2(c)**
- F9** Words in s. 104(2) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), **ss. 16(1)(a)**, 139(6); S.I. 2014/889, **art. 4(e)** (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F10** S. 104(2A) inserted (8.12.2008 for S.) by Children and Adoption Act 2006 (c. 20), ss. 15, 17, **Sch. 2 para. 10(b)** and omitted (E.W.) (13.11.2008) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 25(3)** and repealed (E.W.) (1.4.2011 for E., otherwise prosp.) by s. 42, {Sch. 4} of the same Act; S.I. 2008/2870, **art. 2(2)(e)**; S.I. 2010/2891, **art. 4(l)**
- F11** S. 104(3A)-(3C) substituted (E.W.) (13.11.2008) for s. 104(3) by Children and Young Persons Act 2008 (c. 23), ss. 39, 44, **Sch. 3 para. 25(4)**
- F12** Words in s. 104(3) inserted (1.12.2003) by 2002 c. 38, ss. 111(6)(b), 148 (with Sch. 4 paras. 6-8); S.I. 2003/3079, **art. 2(2)(a)**
- F13** Words in s. 104(3) inserted (6.4.2009) by Human Fertilisation and Embryology Act 2008 (c. 22), ss. 56, 68, **Sch. 6 para. 30(b)**; S.I. 2009/479, **art. 6(1)(e)**
- F14** Words in s. 104(3) repealed (28.3.2011 for W., 1.4.2011 for E.) by Children and Young Persons Act 2008 (c. 23), ss. 42, 44, **Sch. 4**; S.I. 2010/2981, **art. 4(l)**; S.I. 2011/949, **art. 3(d)(i)**

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- F15** Words in s. 104(3A) inserted (1.9.2009) by The Human Fertilisation and Embryology (Consequential Amendments and Transitional and Saving Provisions) Order 2009 (S.I. 2009/1892), art. 2, **Sch. 1 para. 2**
- F16** Word in s. 104(3A) inserted (1.4.2015) by Children and Families Act 2014 (c. 6), **ss. 96(2)(a)**, 139(6); S.I. 2015/375, art. 2(c)
- F17** Words in s. 104(3A) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), **ss. 16(1)(a)**, 139(6); S.I. 2014/889, art. 4(e) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F18** Words in s. 104(3A) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 110(a)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F19** S. 104(3AA) inserted (1.4.2015) by Children and Families Act 2014 (c. 6), **ss. 96(2)(b)**, 139(6); S.I. 2015/375, art. 2(c)
- F20** S. 104(3AB) inserted (1.4.2015) by Children and Families Act 2014 (c. 6), **ss. 97(2)(b)**, 139(6); S.I. 2015/375, art. 2(c)
- F21** S. 104(3BA) inserted (22.4.2014) by Children and Families Act 2014 (c. 6), **ss. 16(1)(b)**, 139(6); S.I. 2014/889, art. 4(e) (with transitional provisions in S.I. 2014/1042, arts. 3, 4, 6-10)
- F22** S. 104(3BB) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), **Sch. 24 para. 110(b)** (with Sch. 27); S.I. 2020/1236, reg. 2
- F23** Words in s. 104(4)(c) repealed (E.W.) (13.11.2008) by Children and Young persons Act 2008 (c. 23), ss. 39, 42, 44, {Sch. 3 para. 25(5)}, {Sch. 4}

Commencement Information

- I1** S. 104 wholly in force at 14.10.1991 see s. 108(2)(3) and S.I. 1991/828, **art. 3(2)**

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Changes and effects yet to be applied to :

- s. 104(1) word repealed by [2000 c. 14 Sch. 6](#)
- s. 104(1) words substituted by [2010 c. 26 Sch. 3 para. 11](#) (This amendment not applied to legislation.gov.uk. Sch. 3 Pt. 2 repealed (4.9.2013) without ever being in force by [2013 c. 22, s. 17\(4\)](#) ; S.I. 2013/2200 art. 2(a))

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. 4(1A)(aa) inserted by [2009 c. 24 Sch. 6 para. 21\(3\)](#)
- s. 4(1C) inserted by [2009 c. 24 Sch. 6 para. 21\(4\)](#)
- s. 4ZA(2)(aa) inserted by [2009 c. 24 Sch. 6 para. 22\(3\)](#)
- s. 4ZA(3A) inserted by [2009 c. 24 Sch. 6 para. 22\(4\)](#)
- s. 8(4)(k) inserted by [2021 c. 17 s. 52\(1\)](#)
- s. 31A(4A) inserted by [2014 c. 6 s. 15\(2\)\(b\)](#)