



Education (No. 2) Act 1986

1986 CHAPTER 61

PART IV

MISCELLANEOUS

43 Freedom of speech in universities, polytechnics and colleges.

- (1) Every individual and body of persons concerned in the government of any establishment to which this section applies shall take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers.
- (2) The duty imposed by subsection (1) above includes (in particular) the duty to ensure, so far as is reasonably practicable, that the use of any premises of the establishment is not denied to any individual or body of persons on any ground connected with—
 - (a) the beliefs or views of that individual or of any member of that body; or
 - (b) the policy or objectives of that body.
- (3) The governing body of every such establishment shall, with a view to facilitating the discharge of the duty imposed by subsection (1) above in relation to that establishment, issue and keep up to date a code of practice setting out—
 - (a) the procedures to be followed by members, students and employees of the establishment in connection with the organisation—
 - (i) of meetings which are to be held on premises of the establishment and which fall within any class of meeting specified in the code; and
 - (ii) of other activities which are to take place on those premises and which fall within any class of activity so specified; and
 - (b) the conduct required of such persons in connection with any such meeting or activity;and dealing with such other matters as the governing body consider appropriate.
- (4) Every individual and body of persons concerned in the government of any such establishment shall take such steps as are reasonably practicable (including where appropriate the initiation of disciplinary measures) to secure that the requirements of

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the code of practice for that establishment, issued under subsection (3) above, are complied with.

- [^{F1}(4A) The establishments in England to which this section applies are—
- (a) any registered higher education provider;
 - (b) any establishment of higher or further education which is maintained by a local authority;
 - (c) any institution within the further education sector.]
- (5) The establishments [^{F2} in Wales] to which this section applies are—
- (a) any university;
 - [^{F3}(aa) any institution other than a university within the higher education sector]
 - [^{F4}(b) any establishment of higher or further education which is maintained by a [^{F5}local authority];]
 - [^{F6}(ba) any institution within the further education sector]
 - ^{F7}(c)
- (6) In this section—
- “governing body” [^{F8}—
 - (a) in relation to a registered higher education provider, has the meaning given by section 85(1) of the Higher Education and Research Act 2017;
 - (b) in relation to a university in Wales,] means the executive governing body which has responsibility for the management and administration of its revenue and property and the conduct of its affairs (that is to say the body commonly called the council of the university);
 - [^{F9}“registered higher education provider” has the meaning given by section 3(10) of the Higher Education and Research Act 2017;]
 - “university” includes a university college and any college, or institution in the nature of a college, in a university.
- [^{F10}(6A) For the purposes of this section—
- (a) an establishment is taken to be in England if its activities are carried on, or principally carried on, in England;
 - (b) an establishment is taken to be in Wales if its activities are carried on, or principally carried on, in Wales.]
- (7) Where any establishment—
- (a) falls within subsection [^{F11}(4A)(b) or] (5)(b) above; or
 - ^{F12}(b)
- the [^{F5}local authority][^{F13}. . .] shall, for the purposes of this section, be taken to be concerned in its government.
- (8) Where a students’ union occupies premises which are not premises of the establishment in connection with which the union is constituted, any reference in this section to the premises of the establishment shall be taken to include a reference to the premises occupied by the students’ union.

Textual Amendments

- F1** S. 43(4A) inserted (1.8.2019) by [Higher Education and Research Act 2017 \(c. 29\), s. 124\(5\), Sch. 11 para. 5\(2\)](#); [S.I. 2018/1226, reg. 4\(p\)](#)

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- F2** Words in s. 43(5) inserted (1.8.2019) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 5(3)**; S.I. 2018/1226, reg. 4(p)
- F3** S. 43(5)(aa) substituted (1.4.1993) (for s. 43(5)(aa) which was inserted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 100(2)**) by Further and Higher Education Act 1992 (c. 13), s. 93(1), **Sch. 8** para. Pt. I 22(a)(i); S.I. 1992/831, art. 2, **Sch. 3**
- F4** S. 43(5)(b) substituted by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 100(3)**
- F5** Words in Act substituted (5.5.2010) by The Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), **Sch. 2 para. 3**
- F6** S. 43(5)(ba) inserted (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93, **Sch. 8 Pt. I para. 22(a)(ii)**; S.I. 1992/831, art. 2, **Sch.3**
- F7** S. 43(5)(c) repealed (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 22(a)(iii), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**Appendix
- F8** Words in s. 43(6) substituted (1.8.2019) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 5(4)**; S.I. 2018/1226, reg. 4(p)
- F9** Words in s. 43(6) inserted (1.8.2019) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 5(5)**; S.I. 2018/1226, reg. 4(p)
- F10** S. 43(6A) inserted (1.8.2019) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 5(6)**; S.I. 2018/1226, reg. 4(p)
- F11** Words in s. 43(7)(a) inserted (1.8.2019) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 11 para. 5(7)**; S.I. 2018/1226, reg. 4(p)
- F12** S. 43(7)(b) repealed (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I, para. 22(b), **Sch. 9**; S.I. 1992/831, art. 2, **Sch. 3**Appendix
- F13** Words in s. 43(7) repealed (1.4.1993) by Further and Higher Education Act 1992 (c. 13), s. 93, Sch. 8 Pt. I para. 22(b), **Sch.9**; S.I. 1992/831, art. 2, **Sch. 3**Appendix

Modifications etc. (not altering text)

- C1** S. 43 modified (W.) (1.9.2013) by The Operation of the Local Curriculum (Wales) Regulations 2013 (S.I. 2013/1793), regs. 1(1), **3(a)**

F1444

Textual Amendments

- F14** Ss. 44-47 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39)

F1545

Textual Amendments

- F15** Ss. 44-47 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39)

F1646

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Textual Amendments

F16 Ss. 44-47 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39)

F17 **46A**

Textual Amendments

F17 Ss. 44-47 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39)

F18 **47**

Textual Amendments

F18 Ss. 44-47 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39)

48 Abolition of corporal punishment: Scotland.

After section 48 of the ^{M1}Education Act (Scotland) 1980, there shall be inserted the following new section—

“ Corporal Punishment

48A Abolition of corporal punishment of pupils.

- (1) Where, in any proceedings, it is shown that corporal punishment has been given to a pupil by or on the authority of a member of the staff, giving the punishment cannot be justified on the ground that it was done in pursuance of a right exercisable by the member of the staff by virtue of his position as such.
- (2) Subject to subsection (3) below, references in this section to giving corporal punishment are references to doing anything for the purposes of punishing the pupil concerned (whether or not there are also other reasons for doing it) which, apart from any justification, would constitute physical assault upon the person.
- (3) A person is not to be taken for the purposes of this section as giving corporal punishment by virtue of anything done for reasons which include averting an immediate danger of personal injury to, or an immediate danger to the property of, any person (including the pupil concerned).
- (4) A person does not commit an offence by reason of any conduct relating to a pupil which would, apart from this section, be justified on the ground that it was done in pursuance of a right exercisable by a member of the staff by virtue of his position as such.

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- (5) In this section “pupil” means a person—
- (a) for whom education is provided—
 - (i) at a public school,
 - (ii) at a grant-aided school, or
 - (iii) at an independent school, maintained or assisted by a Minister of the Crown, which is a school prescribed by regulations made under this section or falls within a category of schools so prescribed.
 - (b) for whom school education is provided by an education authority otherwise than at a school, or
 - (c) to whom subsection (6) below applies and for whom education is provided at an independent school which does not fall within paragraph (a)(iii) above.
- (6) This subsection applies to a person if—
- (a) he holds an assisted place under a scheme operated by the Secretary of State under section 75A of this Act.
 - (b) any of the fees or expenses payable in respect of his attendance at school are paid by the Secretary of State under section 73(f) of this Act.
 - (c) any of the fees payable in respect of his attendance at school are paid by an education authority under section 24(1)(c), 49(2)(b), 50(1) or 64(3) of this Act, or
 - (d) he falls within a category, prescribed by regulations made under this section, of persons appearing to the Secretary of State to be persons in respect of whom any fees are paid out of public funds.
- (7) In this section “member of the staff” means—
- (a) in relation to a person who is a pupil by reason of the provision of education for him at any school, any teacher who works at the school and any other person who has lawful control or charge of the pupil and works there, and
 - (b) in relation to a person who is a pupil by reason of the provision of school education for him by an education authority at a place other than a school, any teacher employed by the authority who works at that place and any other person employed by the authority who has lawful control or charge of the pupil and works there.
- (8) The Secretary of State may, by order made by statutory instrument, prescribe—
- (a) schools or categories of school for the purposes of subsection (5)(a)(iii) above; and
 - (b) categories of persons for the purposes of subsection (6)(d) above.
- (9) A person shall not be debarred from receiving education (whether by refusing him admission to, or excluding him from, a school or otherwise) by reason of the fact that this section applies in relation to him, or if he were admitted might so apply.
- (10) The power conferred on the Secretary of State by paragraph 4 of Schedule 1A to this Act to revoke a determination under section 75A of this Act if he is not satisfied that appropriate educational standards are being maintained includes

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power to do so if he is not satisfied that subsection (9) above is being complied with.”

Marginal Citations

M1 1980 c. 44.

49 Appraisal of performance of teachers.

F19

Textual Amendments

F19 S. 49 repealed (1.10.2002 for E., 19.12.2002 for W.) by [Education Act 2002 \(c. 32\)](#), [ss. 131\(8\)](#), [215\(2\)](#), [216\(4\)](#) {Sch. 22 Pt. 3} (with [ss. 210\(8\)](#), [214\(4\)](#)); [S.I. 2002/2439](#), [art. 3](#) (with transitional provisions and savings in [art. 4](#), [Sch.](#)); [S.I. 2002/3185](#), [art. 4](#), [Sch. Pt. 1](#)

F20 50 Grants for teacher training, etc.

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Textual Amendments

F20 S. 50 omitted (1.9.2005) by virtue of [Education Act 2005 \(c. 18\)](#), [s. 125\(3\)\(a\)](#), [Sch. 14 para. 10](#), [Sch. 19 Pt. 3](#)

F21 51

Textual Amendments

F21 [Ss. 51-60](#) repealed (1.11.1996) by [1996 c. 56](#), [ss. 582\(2\)\(3\)](#), [583\(2\)](#), [Sch. 38 Pt.I](#), [Sch. 39](#) (with [ss. 1\(4\)](#), [561](#), [562](#), [Sch. 39](#))

F22 52

Textual Amendments

F22 [Ss. 51-60](#) repealed (1.11.1996) by [1996 c. 56](#), [ss. 582\(2\)\(3\)](#), [583\(2\)](#), [Sch. 38 Pt.I](#), [Sch. 39](#) (with [ss. 1\(4\)](#), [561](#), [562](#), [Sch. 39](#))

F23 53

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Textual Amendments

F23 Ss. 51-60 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39)

F24 **54**

Textual Amendments

F24 Ss. 51-60 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39)

F25 **55**

Textual Amendments

F25 Ss. 51-60 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39)

F26 **56**

Textual Amendments

F26 Ss. 51-60 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39)

F27 **57**

Textual Amendments

F27 Ss. 51-60 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39)

F28 **58**

Textual Amendments

F28 Ss. 51-60 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39)

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F29 **59**

Textual Amendments

F29 Ss. 51-60 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39)

F30 **60**

Textual Amendments

F30 Ss. 51-60 repealed (1.11.1996) by 1996 c. 56, ss. 582(2)(3), 583(2), Sch. 38 Pt.I, **Sch. 39** (with ss. 1(4), 561, 562, Sch. 39)

F31 **61** **Minimum age for governors of establishments of further education.**

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Textual Amendments

F31 S. 61 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 2(2)**

F32 **62** **Access to papers etc. of governing bodies.**

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Textual Amendments

F32 S. 62 omitted (26.5.2015) by virtue of Deregulation Act 2015 (c. 20), s. 115(3)(h), **Sch. 15 para. 2(3)**

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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. 43(6)(b) substituted by [2022 asc 1 Sch. 4 para. 3\(2\)\(b\)](#)