



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)**

Changes to legislation:

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Changes and effects yet to be applied to :

- s. 43(4A)(a) omitted by [2023 c. 16 Sch. para. 18\(a\)](#)
- s. 43(5)(aa) substituted by [2022 asc 1 Sch. 4 para. 3\(2\)\(a\)](#)
- s. 43(6) words omitted by [2023 c. 16 Sch. para. 18\(b\)\(i\)](#)
- s. 43(6) words omitted by [2023 c. 16 Sch. para. 18\(b\)\(ii\)](#)

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\(2\)\(b\)](#)