



# 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.

(5) The establishments to which this section applies are—

(a) any university;

[<sup>F1</sup>(aa) any institution other than a university within the higher education sector]

[<sup>F2</sup>(b) any establishment of higher or further education which is maintained by a local education authority;]

[<sup>F3</sup>(ba) any institution within the further education sector]

<sup>F4</sup>(c) .....

(6) In this section—

“governing body”, in relation to any university, 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);

“university” includes a university college and any college, or institution in the nature of a college, in a university.

(7) Where any establishment—

(a) falls within subsection (5)(b) above; or

<sup>F5</sup>(b) .....

the local education authority [<sup>F6</sup> . . .] 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(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**
- F2** 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)**
- F3** 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**
- F4** 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
- F5** 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
- F6** 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

<sup>F7</sup>44 .....

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**Textual Amendments**

**F7** 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)

**F8** **45** .....

**Textual Amendments**

**F8** 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)

**F9** **46** .....

**Textual Amendments**

**F9** 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)

**F10** **46A** .....

**Textual Amendments**

**F10** 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)

**F11** **47** .....

**Textual Amendments**

**F11** 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 <sup>M1</sup>Education Act (Scotland) 1980, there shall be inserted the following new section—

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## *“ 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.
- (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—

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- (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 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.

[<sup>F12</sup>(1) The Secretary of State may by regulations make provision requiring local education authorities, or such other persons as may be prescribed, to secure that the performance of teachers to whom the regulations apply—

- (a) in discharging their duties; and
- (b) in engaging in other activities connected with the establishments at which they are employed;

is regularly appraised in accordance with such requirements as may be prescribed.

(2) The regulations may, in particular, make provision—

- (a) requiring the governing bodies of such categories of schools or other establishments as may be prescribed—
  - (i) to secure, so far as it is reasonably practicable for them to do so, that any arrangements made in accordance with the regulations are complied with in relation to their establishments; and
  - (ii) to provide such assistance to the local education authority as the authority may reasonably require in connection with their obligations under the regulations;

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- (b) with respect to the disclosure to teachers of the results of appraisals and the provision of opportunities for them to make representations with respect to those results; and
  - (c) requiring local education authorities to have regard to the results of appraisals in the exercise of such of their functions as may be prescribed.
- (3) The regulations may be expressed to apply to any of the following categories of teacher, that is to say teachers employed—
- (a) at any school maintained by a local education authority;
  - [<sup>F13</sup>(b) at any special school which is not so maintained but is for the time being approved by the Secretary of State under section 342 of the <sup>M2</sup>Education Act 1996 (approval of special schools);]
  - [<sup>F14</sup><sup>F15</sup>(ba) at any grant-maintained school;]
  - (c) at any [<sup>F16</sup>establishment of higher or further education maintained] by a local education authority;
  - <sup>F17</sup>(d) .....
  - <sup>F17</sup>(da) .....
  - [<sup>F18</sup>(db) at any institution within the further education sector]
  - (e) at any school or other establishment which falls within any prescribed class of school, or other establishment, of a kind mentioned in any of paragraphs (a) to [<sup>F19</sup>(db)] above; or
  - (f) by a local education authority otherwise than at a school or [<sup>F20</sup>establishment of higher or further education].
- (4) Before making any regulations under subsection (1) above, the Secretary of State shall consult—
- (a) such associations of local authorities, and representatives of teachers, as appear to him to be concerned; and
  - (b) any other person with whom consultation appears to him to be desirable.]

#### Textual Amendments

- F12** 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
- F13** S. 49(3)(b) substituted (1.4.1999) by 1998 c. 31, s. 140(1), **Sch. 30 para. 14(a)** (with ss. 138(9), 144(6)); S.I. 1999/1016, [art. 2\(1\)](#), **Sch.1**
- F14** S. 49(3)(ba) inserted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 36**
- F15** S. 49(3)(ba) repealed (1.4.1999) by 1998 c. 31, s. 140(1)(3), [Sch. 30 para. 14\(b\)](#), **Sch. 31** (with ss. 138(9), 144(6)); S.I. 1999/1016, [art. 2\(1\)](#), **Sch.1**
- F16** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 101(2)**
- F17** S. 49(3)(d)(da) repealed (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93, [Sch. 8, Pt. I para. 23\(a\)](#), **Sch. 9**; S.I. 1992/831, [art. 2](#), **Sch. 3 Appendix**
- F18** S. 49(3)(db) inserted (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(1), **Sch. 8 Pt. I, para. 23(b)**; S.I. 1992/831, [art. 2](#), **Sch. 3**
- F19** Words in 49(3)(e) substituted (1.4.1993) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(1), **Sch. 8 Pt. I para. 23(c)**; S.I. 1992/831, [art. 2](#), **Sch. 3**,
- F20** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), **Sch. 12 para. 101(6)**

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**Modifications etc. (not altering text)**

**C1** S. 49 excluded (1.10.1998) by 1998 c. 30 s. 19(7) (with s. 42(8)); S.I. 1998/2215, art. 2

**Marginal Citations**

**M2** 1996 c. 56.

**50 Grants for teacher training, etc.**

- (1) The Secretary of State may by regulations make provision for the payment <sup>F21</sup> . . . to [<sup>F22</sup>persons other than local education authorities] of grants to facilitate and encourage the training of—
- (a) teachers; [<sup>F23</sup>and
  - (b) such other classes of person as may be prescribed]
- (2) For the purposes of this section “training” includes—
- (a) further training, whether or not the person undergoing it is already qualified;
  - (b) the provision of experience (whether or not within education) which is likely to benefit a person in his [<sup>F24</sup>employment];
  - (c) training a person with a view to his continuing to be employed in education but in a different capacity; and
  - (d) the study of matters connected with, or relevant to, education.
- (3) Regulations under this section may, in particular—
- (a) provide for grants to be payable only in respect of training approved by the Secretary of State for the purposes of the regulations;
  - (b) make provision whereby the making of payments <sup>F25</sup> . . . in pursuance of the regulations is dependent on the fulfilment of such conditions as may be prescribed or otherwise determined [<sup>F26</sup>in accordance with the regulations]; and
  - (c) make provision requiring <sup>F27</sup> . . . persons, to whom payments have been made in pursuance of the regulations to comply with such requests as may be prescribed or so determined.

[<sup>F28</sup>(3A) Grants shall be payable in accordance with the regulations by the Secretary of State or, in the case of grants to facilitate and encourage the training of teachers, by the Teacher Training Agency or the Secretary of State according as the regulations may provide.]

<sup>F29</sup>(4) . . . . .

**Textual Amendments**

- F21** Words in s. 50(1) omitted (21.9.1994) by virtue of 1994 c. 30, s. 13(2); S.I. 1994/2204, art. 2(1)
- F22** Words in s. 50(1) substituted (1.4.1994) by 1993 c. 35, s. 278(6)(a); S.I. 1994/507, art. 4, Sch. 2 (which substitution fell (1.11.1996) by reason of the repeal of the said 1993 Act by 1996 c. 56, s. 582(2)(3), Sch. 38 Pt. I, Sch. 39 paras. 9, 13, 21, 26 but continues to have effect (1.11.1996) by virtue of 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 65(2)(a) (with ss. 1(4), 561, 562, Sch. 39))
- F23** S. 50(1)(b) substituted (1.4.1994) for s. 50(1)(b)-(g) and preceding word by 1993 c. 35, s. 278(6)(b); S.I. 1994/507, art. 4, Sch. 2 (which substitution fell (1.11.1996) by reason of the repeal of the said 1993 Act by 1996 c. 56, s. 582(2)(3), Sch. 38 Pt. I, Sch. 39 paras. 9, 13, 21, 26 but continues to have effect (1.11.1996) by virtue of 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 65(2)(b) (with ss. 1(4), 561, 562, Sch. 39))

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- F24** Words in s. 50(2)(b) substituted (1.4.1994) by 1993 c. 35, s. 307(1)(3), **Sch. 19 para. 102(a)**; S.I. 1994/507, art. 4, **Sch. 2** (which substitution fell (1.11.1996) by reason of the repeal of the said 1993 Act by 1996 c. 56, s. 582(2)(3), Sch. 38 Pt. I, Sch. 39 paras. 9, 13, 21, **26** but continues to have effect (1.11.1996) by virtue of 1996 c. 56, ss. 582(1), 583(2), Sch. 37 Pt. I para. 65(3) (with ss. 1(4), 561, 562, **Sch. 39**))
- F25** Words in s. 50(3)(b) omitted (21.9.1994) by virtue of 1994 c. 30, s. **13(3)(b)**; S.I. 1994/2204, art. **2(1)**
- F26** Words in s. 50(3)(b) substituted (21.9.1994) by 1994 c. 30, s. **13(3)(b)**; S.I. 1994/2204, art. **2(1)**
- F27** Words in s. 50(3)(c) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 102(b)(i), **Sch. 21 Pt. II**; S.I. 1994/507, art. 4, **Sch. 2** Appendix
- F28** S. 50(3A) inserted (21.9.1994) by 1994 c. 30, s. **13(4)**; S.I. 1994/2204, art. **2(1)**
- F29** S. 50(4) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 102(b)(ii), **Sch. 21 Pt. II**; S.I. 1994/507, art. 4, **Sch. 2** Appendix

<sup>F30</sup>**51** .....

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**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)

<sup>F31</sup>**52** .....

.....

**Textual Amendments**

**F31** 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)

<sup>F32</sup>**53** .....

.....

**Textual Amendments**

**F32** 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)

<sup>F33</sup>**54** .....

.....

**Textual Amendments**

**F33** 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)

<sup>F34</sup>**55** .....



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**Textual Amendments**

**F34** 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)

**F35** **56** .....

**Textual Amendments**

**F35** 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)

**F36** **57** .....

**Textual Amendments**

**F36** 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)

**F37** **58** .....

**Textual Amendments**

**F37** 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)

**F38** **59** .....

**Textual Amendments**

**F38** 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)

**F39** **60** .....

**Textual Amendments**

**F39** 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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## 61 Minimum age for governors of establishments of further education.

- (1) No person shall be qualified for membership of the governing body of any institution [<sup>F40</sup>which is maintained by a local education authority and which provides higher education or further education (or both)];

unless he is a student of the institution or is aged eighteen or over at the date of his election or appointment.

- (2) The Secretary of State may by regulations make provision restricting—

- (a) in relation to such matters or classes of matter as may be prescribed;
- (b) in such circumstances as may be prescribed; and
- (c) to such extent as may be prescribed;

the participation of any student of such an institution who is a member of its governing body in the proceedings of that body.

- (3) The instrument of government for any such institution may make such provision in relation to restricting the participation of any such student in the proceedings of its governing body (in addition to that made by the regulations) as the regulations may authorise.

### Textual Amendments

**F40** Words substituted by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(1), [Sch. 12 para. 104](#)

## 62 Access to papers etc. of governing bodies.

- (1) The Secretary of State may make regulations requiring the governing body—

<sup>F41</sup>(a) .....

<sup>F41</sup>... of every institution of a kind mentioned in section 61 of this Act;

to make available, to such persons or classes of person as may be prescribed, such documents and information relating to the meetings and proceedings of the governing body as may be prescribed.

- (2) Documents and information required by the regulations to be made available shall be made available in such form and manner, and at such times, as may be prescribed.

### Textual Amendments

**F41** [S. 62\(1\)\(a\)](#) and the (b) immediately following it 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](#))

### Modifications etc. (not altering text)

**C2** [S. 62](#) applied (with modifications) (1.4.1994) by [S.I. 1994/653, regs. 2\(2\), 42\(1\), Sch. Pt. I](#)  
[S. 62](#) applied (9.4.1994) by [S.I. 1994/1064, reg. 8\(1\), Sch. 2 Pt. I](#)

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