



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART IV

#### MISCELLANEOUS AND GENERAL

##### *Academic tenure*

#### **203 Duty of Commissioners**

- (1) The Commissioners shall exercise the powers conferred by section 204 of this Act with a view to securing that the statutes of each qualifying institution include—
- (a) provision enabling an appropriate body, or any delegate of such a body, to dismiss any member of the academic staff by reason of redundancy;
  - (b) provision enabling an appropriate officer, or any delegate of such an officer, acting in accordance with procedures determined by the Commissioners, to dismiss any member of the academic staff for good cause;
  - (c) provision establishing disciplinary procedures determined by the Commissioners for dealing with any complaints made against any member of the academic staff relating to his appointment or employment;
  - (d) provision establishing procedures determined by the Commissioners for hearing and determining appeals by any members of the academic staff who are dismissed or under notice of dismissal (whether or not in pursuance of such provision as is mentioned in paragraph (a) or (b) above) or who are otherwise disciplined; and
  - (e) provision establishing procedures determined by the Commissioners for affording to any member of the academic staff opportunities for seeking redress for any grievances relating to his appointment or employment.
- (2) No provision such as is mentioned in subsection (1)(a) or (b) above which is included in the statutes of a qualifying institution by virtue of section 204 of this Act shall enable any member of the academic staff to be dismissed unless the reason for his dismissal may in the circumstances (including the size and administrative resources of the institution) reasonably be treated as a sufficient reason for dismissing him.

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*Status: This is the original version (as it was originally enacted).*

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- (3) Where any such provision as is mentioned in subsection (1) above is included in the statutes of a qualifying institution (whether by virtue of section 204 of this Act or otherwise) and—
- (a) there is no requirement for any instrument which would have the effect of modifying the provision to be approved by Her Majesty in Council or to be laid before both Houses of Parliament; and
  - (b) but for this subsection, there would be no requirement for such an instrument to be approved by the Privy Council;
- the Commissioners shall exercise the powers conferred by that section with a view to securing that no instrument which would have the effect of modifying the provision shall have that effect unless it has been approved by the Privy Council.
- (4) Any reference in this section to academic staff includes a reference to persons whose terms of appointment or contracts of employment are, in the opinion of the Commissioners, so similar to those of academic staff as to justify their being treated as academic staff for the purposes of this section.
- (5) For the purposes of this section the dismissal of a member of staff shall be taken to be a dismissal by reason of redundancy if it is attributable wholly or mainly to—
- (a) the fact that the institution has ceased, or intends to cease, to carry on the activity for the purposes of which he was appointed or employed by the institution, or has ceased, or intends to cease, to carry on that activity in the place in which he carried out his work; or
  - (b) the fact that the requirements of that activity for members of staff to carry out work of a particular kind, or for members of staff to carry out work of a particular kind in that place, have ceased or diminished or are expected to cease or diminish.
- (6) For the purposes of this section “good cause”, in relation to a member of the academic staff of a qualifying institution, means a reason which is related to his conduct or to his capability or qualifications for performing work of the kind which he was appointed or employed to do; and in this subsection—
- (a) “capability”, in relation to such a member, means capability assessed by reference to skill, aptitude, health or any other physical or mental quality; and
  - (b) “qualifications”, in relation to such a member, means any degree, diploma or other academic, technical or professional qualification relevant to the office or position held by him.
- (7) In this section—
- “appropriate”, in relation to a body or officer of a qualifying institution, means appearing to the Commissioners to be appropriate having regard to the nature and circumstances of the institution;
- “dismiss” and “dismissal”—
- (a) include remove or, as the case may be, removal from office; and
  - (b) in relation to employment under a contract, shall be construed in accordance with section 55 of the Employment Protection (Consolidation) Act 1978.
- (8) In this section and sections 204 to 206 of this Act “statutes”, in relation to an institution, includes any regulations, ordinances or other instruments which, in the opinion of the Commissioners, serve as statutes for the purposes of that institution and are designated as such by the Commissioners.