



# Education Act 1994

## 1994 CHAPTER 30

### PART II

#### STUDENTS' UNIONS

#### **20 Meaning of “students’ union”.**

- (1) In this Part a “students’ union” means—
  - (a) an association of the generality of students at an establishment to which this Part applies whose principal purposes include promoting the general interests of its members as students; or
  - (b) a representative body (whether an association or not) whose principal purposes include representing the generality of students at an establishment to which this Part applies in academic, disciplinary or other matters relating to the government of the establishment.
- (2) References in this Part to a students’ union include an association or body which would fall within subsection (1) if for the references to the generality of students at the establishment there were substituted a reference to—
  - (a) the generality of undergraduate students, or graduate students, at the establishment; or
  - (b) the generality of students at a particular hall of residence of the establishment.
- (3) References in this Part to a students’ union include an association or body which consists wholly or mainly of—
  - (a) constituent or affiliated associations or bodies which are themselves students’ unions within subsection (1) or (2), or
  - (b) representatives of such constituent or affiliated associations,  
and which fulfils the functions of a students’ union within subsection (1) or (2) in relation to students at an establishment to which this Part applies.
- (4) An association or body may be a students’ union within the meaning of this Part in relation to more than one establishment but not in relation to establishments generally in the United Kingdom or a part of the United Kingdom.

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- (5) References in this section to an association of the generality of students, or of any description of students, include—
- (a) any association which the generality of students, or of students of that description, may join, whether or not it has in membership a majority of them, and
  - (b) any association which would fall within paragraph (a) if the references there to students were confined to full-time students;
- and references to a representative body whose principal purposes include representing the generality of students, or of any description of students, shall be similarly construed.

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

- C1** S. 20 modified (W.) (1.9.2013) by [The Operation of the Local Curriculum \(Wales\) Regulations 2013](#) (S.I. 2013/1793), regs. 1(1), 3(e)

**21 Establishments to which Part II applies.**

- (1) The establishments in England and Wales to which this Part applies are—
- [<sup>F1</sup>(za) any registered higher education provider of a description prescribed by regulations made for the purposes of section 39(1) of the Higher Education and Research Act 2017;]
  - (a) any university receiving financial support under section 65 of the <sup>M1</sup>Further and Higher Education Act 1992;
  - (b) any institution [<sup>F2</sup>in Wales] conducted by a higher education corporation or further education corporation within the meaning of that Act;
  - [<sup>F3</sup>(ba) any sixth form college;]
  - (c) any institution designated under section 129 of the <sup>M2</sup>Education Reform Act 1988 as eligible to receive support from funds administered by a higher education funding council;
  - (d) any institution designated under section 28 of the <sup>M3</sup>Further and Higher Education Act 1992 as eligible to receive support from funds administered by a further education funding council;
  - (e) any institution substantially dependent on financial support under section 6(5) of that Act (certain institutions providing facilities for part-time, or adult, further education);
  - (f) any institution designated, or of a description designated, by order of the Secretary of State;
  - (g) any college, school or hall in an establishment within any of the above paragraphs.
- (2) The establishments in Scotland to which this Part applies are—
- (a) any institution within the higher education sector for the purposes of section 56(2) of the <sup>M4</sup>Further and Higher Education (Scotland) Act 1992;
  - (b) any college of further education (within the meaning of section 36(1) of that Act), the board of management of which [<sup>F4</sup>is established in pursuance of Part I] of that Act;
  - (c) any central institution within the meaning of section 135(1) of the <sup>M5</sup>Education (Scotland) Act 1980;

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(d) any institution designated, or of a description designated, by order of the Secretary of State.

[<sup>F5</sup>(2A) For the purposes of subsection (1)(b), institution in Wales has the meaning given by section 62(7) of the Further and Higher Education Act 1992.]

(3) For the purposes of subsection (1)(e) an institution is substantially dependent on financial support under section 6(5) of the <sup>M6</sup>Further and Higher Education Act 1992 in any year in which such support amounts to 25 per cent. or more of its income.

For this purpose “year” means an accounting year of the institution, and “income” means receipts of any description, including capital receipts.

(4) In subsection (1)(g) “college” includes any institution in the nature of a college.

(5) References in this Part to the governing body of an establishment are to the executive governing body which has responsibility for the conduct of affairs of the establishment and the management and administration of its revenue and property.

#### Textual Amendments

- F1** S. 21(1)(za) inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **6(2)(a)**
- F2** Words in s. 21(1)(b) inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **6(2)(b)**
- F3** S. 21(1)(ba) inserted (1.4.2010) by The Apprenticeships, Skills, Children and Learning Act 2009 (Consequential Amendments) (England and Wales) Order 2010 (S.I. 2010/1080), art. 1(2)(a), **Sch. 1 para. 95** (with art. 2(3))
- F4** Words in s. 21(2)(b) substituted (S.) (10.10.2013) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **sch. para. 3**; S.S.I. 2013/281, art. 2, sch.
- F5** S. 21(2A) inserted (1.8.2019) by The Higher Education and Research Act 2017 (Further Implementation etc.) Regulations 2019 (S.I. 2019/1027), regs. 1, **6(3)**

#### Marginal Citations

- M1** 1992 c. 13.
- M2** 1988 c. 40.
- M3** 1992 c. 13.
- M4** 1992 c. 37.
- M5** 1980 c. 44.
- M6** 1992 c. 13.

## 22 Requirements to be observed in relation to students’ unions.

(1) The governing body of every establishment to which this Part applies shall take such steps as are reasonably practicable to secure that any students’ union for students at the establishment operates in a fair and democratic manner and is accountable for its finances.

(2) The governing body shall in particular take such steps as are reasonably practicable to secure that the following requirements are observed by or in relation to any students’ union for students at the establishment—

(a) the union should have a written constitution;

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- (b) the provisions of the constitution should be subject to the approval of the governing body and to review by that body at intervals of not more than five years;
- (c) a student should have the right—
  - (i) not to be a member of the union, or
  - (ii) in the case of a representative body which is not an association, to signify that he does not wish to be represented by it,
 and students who exercise that right should not be unfairly disadvantaged, with regard to the provision of services or otherwise, by reason of their having done so;
- (d) appointment to major union offices should be by election in a secret ballot in which all members are entitled to vote;
- (e) the governing body should satisfy themselves that the elections are fairly and properly conducted;
- (f) a person should not hold sabbatical union office, or paid elected union office, for more than two years in total at the establishment;
- (g) the financial affairs of the union should be properly conducted and appropriate arrangements should exist for the approval of the union's budget, and the monitoring of its expenditure, by the governing body;
- (h) financial reports of the union should be published annually or more frequently, and should be made available to the governing body and to all students, and each such report should contain, in particular—
  - (i) a list of the external organisations to which the union has made donations in the period to which the report relates, and
  - (ii) details of those donations;
- (i) the procedure for allocating resources to groups or clubs should be fair and should be set down in writing and freely accessible to all students;
- (j) if the union decides to affiliate to an external organisation, it should publish notice of its decision stating—
  - (i) the name of the organisation, and
  - (ii) details of any subscription or similar fee paid or proposed to be paid, and of any donation made or proposed to be made, to the organisation,
 and any such notice should be made available to the governing body and to all students;
- (k) where the union is affiliated to any external organisations, a report should be published annually or more frequently containing—
  - (i) a list of the external organisations to which the union is currently affiliated, and
  - (ii) details of subscriptions or similar fees paid, or donations made, to such organisations in the past year (or since the last report),
 and such reports should be made available to the governing body and to all students;
- (l) there should be procedures for the review of affiliations to external organisations under which—
  - (i) the current list of affiliations is submitted for approval by members annually or more frequently, and
  - (ii) at such intervals of not more than a year as the governing body may determine, a requisition may be made by such proportion of members (not exceeding 5 per cent.) as the governing body may determine, that

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- the question of continued affiliation to any particular organisation be decided upon by a secret ballot in which all members are entitled to vote;
- (m) there should be a complaints procedure available to all students or groups of students who—
- (i) are dissatisfied in their dealings with the union, or
  - (ii) claim to be unfairly disadvantaged by reason of their having exercised the right referred to in paragraph (c)(i) or (ii) above,
- which should include provision for an independent person appointed by the governing body to investigate and report on complaints;
- (n) complaints should be dealt with promptly and fairly and where a complaint is upheld there should be an effective remedy.
- (3) The governing body of every establishment to which this Part applies shall for the purposes of this section prepare and issue, and when necessary revise, a code of practice as to the manner in which the requirements set out above are to be carried into effect in relation to any students' union for students at the establishment, setting out in relation to each of the requirements details of the arrangements made to secure its observance.
- (4) The governing body of every establishment to which this Part applies shall as regards any students' union for students at the establishment bring to the attention of all students, at least once a year—
- (a) the code of practice currently in force under subsection (3),
  - (b) any restrictions imposed on the activities of the union by the law relating to charities, and
  - (c) where the establishment is one to which section 43 of the <sup>M7</sup>Education (No.2) Act 1986 applies (freedom of speech in universities and colleges), the provisions of that section, and of any code of practice issued under it, relevant to the activities or conduct of the union.
- (5) The governing body of every establishment to which this Part applies shall bring to the attention of all students, at least once a year, and shall include in any information which is generally made available to persons considering whether to become students at the establishment—
- (a) information as to the right referred to in subsection (2)(c)(i) and (ii), and
  - (b) details of any arrangements it has made for services of a kind which a students' union at the establishment provides for its members to be provided for students who are not members of the union.
- (6) In subsections (2), (4) and (5) the expression “all students” shall be construed as follows—
- (a) in relation to an association or body which is a students' union by virtue of section 20(1), the reference is to all students at the establishment;
  - (b) in relation to an association or body which is a students' union by virtue of section 20(2), the reference is to all undergraduate, or all graduate, students at the establishment or to all students at the hall of residence in question, as the case may be;
  - (c) in relation to an association or body which is a students' union by virtue of section 20(3), the reference is to all the students who by virtue of section 20(1) or (2) are comprehended by that expression in relation to its constituent or affiliated associations or bodies.

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- (7) In this section the expression “members”, in relation to a representative body which is not an association, means those whom it is the purpose of the union to represent, excluding any student who has exercised the right referred to in subsection (2)(c)(ii).
- (8) In subsection (2)(j) to (l) the references to affiliation to an external organisation, in relation to a students' union for students at an establishment, include any form of membership of, or formal association with, an organisation whose purposes are not confined to purposes connected with that establishment.
- (9) Subsection (2)(d) and (1)(ii) (elections and affiliations: requirements to hold secret ballot of all members) do not apply in the case of an open or distance learning establishment, that is, an establishment where the students, or the great majority of them, are provided with materials for private study and are not required to attend the establishment to any significant extent or at all.

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

**C2** [S. 22](#) modified (W.) (1.9.2013) by [The Operation of the Local Curriculum \(Wales\) Regulations 2013](#) (S.I. 2013/1793), regs. 1(1), **3(c)**

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**Commencement Information**

**I1** [S. 22](#) wholly in force at 1.4.1995: s. 22 not in force at Royal Assent see [s. 26](#); [s. 22\(1\)\(2\)\(6\)-\(9\)](#) in force at 21.9.1994 and s. 22(3)-(5) in force at 1.4.1995 by [S.I. 1994/2204](#), **art.2(2)**.

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**Marginal Citations**

**M7** [1986 c. 61](#).

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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. 21(1)(da) inserted by [2022 asc 1 Sch. 4 para. 7\(4\)\(a\)\(iv\)](#)