

## PART II

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

1992 c. 13.

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.

22.—(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.

Requirements to be observed in relation to students' unions.

(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;
- (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—

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- (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 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.

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(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 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.

1986 c. 61.

(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.

(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.

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(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.

## PART III

## GENERAL PROVISIONS

Orders and directions.

23.—(1) Any power of the Secretary of State to make orders under Part I or II shall be exercised by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Orders under Part I or II may make different provision for different cases, circumstances or areas and may contain such incidental, supplementary or transitional provisions as the Secretary of State thinks fit.

(3) Any power conferred by Part I to give directions includes power, exercisable in the same manner and subject to the same conditions or limitations, to revoke or vary directions previously given.

Consequential amendments.

24. The enactments specified in Schedule 2 are amended in accordance with that Schedule, the amendments being consequential on the provisions of this Act.

Extent.

25.—(1) The following provisions of this Act extend to England and Wales—

Part I (teacher training),

Part II (students' unions),

the provisions of Schedule 2 (consequential amendments) so far as relating to enactments which extend to England and Wales,

the other provisions of this Part so far as relating to the above provisions.

(2) The following provisions of this Act extend to Scotland—

Part II (students' unions),

the provisions of Schedule 2 (consequential amendments) so far as relating to enactments which extend to Scotland,

the other provisions of this Part so far as relating to the above provisions.

(3) The following provisions of this Act extend to Northern Ireland—

the provisions of Schedule 2 (consequential amendments) so far as relating to enactments which extend to Northern Ireland,

the other provisions of this Part so far as relating to the above provisions.

Commencement.

26. The provisions of this Act come into force on such day as the Secretary of State may appoint by order made by statutory instrument; and different days may be appointed for different provisions and for different purposes.