



# Education Reform Act 1988

## 1988 CHAPTER 40

### PART IV

#### MISCELLANEOUS AND GENERAL

##### *Unrecognised degrees*

#### **214 Unrecognised degrees.**

- (1) Any person who, in the course of business, grants, offers to grant or issues any invitation relating to any award—
- (a) which may reasonably be taken to be an award granted or to be granted by a United Kingdom institution; and
  - (b) which either—
    - (i) is described as a degree; or
    - (ii) purports to confer on its holder the right to the title of bachelor, master or doctor and may reasonably be taken to be a degree;
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (2) Subsection (1) above does not apply as respects anything done in relation to any recognised award; and for the purposes of this section a “recognised award” means—
- (a) any award granted or to be granted by a university, college or other body which is authorised by Royal Charter or [<sup>F1</sup>by or under] Act of Parliament to grant degrees;
  - (b) any award granted or to be granted by any body for the time being permitted by any body falling within paragraph (a) above to act on its behalf in the granting of degrees; or
  - (c) such other award as the Secretary of State may by order designate as a recognised award for the purposes of this section.
- (3) An order under subsection (2)(c) above may designate as a recognised award either—
- (a) a specified award granted or to be granted by a person named in the order; or

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- (b) any award granted or to be granted by such a person.
- (4) Where in any proceedings for an offence under this section it is shown—
- (a) that the defendant granted, offered to grant or issued an invitation relating to an award; and
  - (b) that an address in the United Kingdom was given in any document issued by the defendant certifying the granting of the award or containing the offer or invitation in question;
- the award shall be presumed to fall within subsection (1)(a) above unless it is shown that the defendant took reasonable steps to inform the person to whom the award was granted or any member of the public or particular individual to whom the offer or invitation was addressed that the award was not granted or to be granted by a United Kingdom institution.
- (5) In any proceedings for an offence under this section it shall be a defence for the defendant to show—
- (a) that the award in question was granted or to be granted by virtue of authority conferred on or before 5th July 1988 by a foreign institution on the body granting the award; and
  - (b) that the defendant took reasonable steps to inform the person to whom the award was granted or any member of the public or particular individual to whom the offer was addressed that the award was granted or was to be granted by virtue of authority conferred by a foreign institution.
- (6) For the purposes of subsection (5) above, where—
- (a) on or before 5th July 1988 authority was conferred by a foreign institution on a body to grant awards of any description for a period expiring after that date; and
  - (b) new authority is conferred by the institution (whether before or after the expiry of that period) on the body to grant awards of that description;
- the new authority shall be taken to have been granted on or before that date.
- (7) Where an offence under this section which has been committed by a body corporate is proved to have been committed with the consent and connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (8) Proceedings for an offence under this section shall not, in England and Wales, be instituted except by or on behalf of a local weights and measures authority or the chief officer of police for a police area.
- (9) Nothing in this section shall apply in relation to the granting of an award to a candidate who—
- (a) before 12th May 1988 began to undertake a course of education approved by the person granting the award in preparation for an examination to qualify for the award; and
  - (b) whether before or after that date, passes the examination;
- and in this subsection “examination” includes any form of assessment and the reference to passing an examination shall be construed accordingly.

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[<sup>F2</sup>(9A) For the purposes of this section and section 215, as they extend to Scotland, the reference to the Secretary of State is to be read as a reference to the Scottish Ministers.]

(10) For the purposes of this section—

- (a) a “United Kingdom institution” means any institution established in the United Kingdom, other than one which is, or is affiliated to or forms part of, an institution whose principal establishment is situated outside the United Kingdom;
- (b) a “foreign institution” means any institution other than a United Kingdom institution; and
- (c) the reference to issuing an invitation relating to any award includes in particular the issuing of any circular, prospectus or advertisement relating to an award, whether addressed to the public generally, to any section of the public, or to any particular individual or individuals.

**Annotations:**

**Amendments (Textual)**

**F1** Words in s. 214(2)(a) inserted (6.5.1992) by [Further and Higher Education Act 1992 \(c. 13\)](#), s. 93(1), [Sch. 8 Pt. I para. 48](#); [S.I. 1992/831](#), art. 2, [Sch. 1](#).

**F2** [S. 214\(9A\)](#) inserted (1.7.1999) by [S.I. 1999/1820](#), art. 4, [Sch. 2 Pt. I para. 91\(2\)](#); [S.I. 1998/3178](#), [art. 3](#)

**215 Unrecognised degrees: enforcement.**

- (1) It shall be the duty of every local weights and measures authority to enforce the provisions of section 214 of this Act within their area; and such an authority shall, whenever the Secretary of State so directs, make to him a report on the exercise of their functions under this section and section 214 of this Act in such form and containing such particulars as he may direct.
- (2) A duly authorised officer of a local weights and measures authority may, at all reasonable hours and on production, if required, of his credentials, exercise the following powers, that is to say—
  - (a) he may, for the purpose of ascertaining whether any offence under section 214 of this Act has been committed, enter and search any premises which he reasonably believes may be used for or in connection with the carrying on of a business which is concerned with the granting of awards which are not recognised awards;
  - (b) he may, for that purpose, require any person carrying on or employed in connection with any such business to produce any documents or other items relating to the business and may take copies of any such document;
  - (c) he may require any information which is contained in a computer and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible if he has reason to believe that it may be evidence of the commission of an offence under that section; and
  - (d) he may seize and detain anything which he has reason to believe may be evidence of the commission of an offence under that section.
- (3) In subsection (2) above “recognised award” has the same meaning as in section 214 of this Act.

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- (4) If a justice of the peace, on sworn information in writing—
- (a) is satisfied that there is reasonable ground to believe that any documents or other items which a duly authorised officer has power under this section to inspect are on any premises and that their inspection is likely to disclose evidence of the commission of an offence under section 214 of this Act; and
  - (b) is also satisfied either—
    - (i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this subsection has been given to the occupier; or
    - (ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry or that the premises are unoccupied or that the occupier is temporarily absent and it might defeat the object of the entry to await his return;

the justice may by warrant under his hand, which shall continue in force for a period of one month, authorise an officer of a local weights and measures authority to enter the premises, if need be by force.

In the application of this subsection to Scotland, “justice of the peace” shall be construed as including a sheriff.
- (5) An officer seizing any documents or other items in the exercise of his powers under this section shall inform the person from whom they are seized.
- (6) An officer entering any premises by virtue of this section may take with him such other persons and such equipment as may appear to him necessary; and on leaving any premises which he has entered by virtue of a warrant under subsection (4) above he shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured against trespassers as he found them.
- (7) Section 29 of the <sup>M1</sup>Trade Descriptions Act 1968 (penalty for obstruction of authorised officers) shall apply as respects the obstruction of an officer acting in pursuance of this section as it applies as respects the obstruction of an officer acting in pursuance of that Act but with the substitution in subsection (1)—
- (a) of a reference to this section for the reference to section 28 of that Act; and
  - (b) of a reference to his functions under this section for the reference to his functions under that Act.
- (8) Nothing in this section shall be taken to compel the production by a solicitor of a document or other item containing a privileged communication made by or to him in that capacity or to authorise the taking of possession of any such item which is in his possession.
- (9) Nothing in this section shall be taken as authorising a local weights and measures authority in Scotland to institute proceedings for an offence.

**Annotations:**

**Marginal Citations**

**M1** 1968 c. 29.

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## 216 Identification of bodies granting or providing courses for recognised awards.

- (1) For the purposes of sections 214 and 215 of this Act, any body for the time being designated by order made by the Secretary of State as appearing to him to be a recognised body shall be conclusively presumed to be such a body.
- (2) The Secretary of State shall compile, maintain and publish by order a list including the name of every body which appears to him to fall for the time being within subsection (3) below.
- [<sup>F3</sup>(2A) For the purposes of this section, as it extends to Scotland, the references in subsections (1) and (2) above to the Secretary of State are to be read as references to the Scottish Ministers.]
- (3) A body falls within this subsection if it is not a recognised body and either—
  - (a) provides any course which is in preparation for a degree to be granted by a recognised body and is approved by or on behalf of the recognised body; or
  - (b) is a constituent college, school or hall or other institution of a university which is a recognised body.
- (4) In this section “recognised body” means a body falling within section 214(2)(a) or (b) of this Act.

### Annotations:

#### Amendments (Textual)

- F3** S. 216(2A) inserted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 91(3); S.I. 1998/3178, art. 3.

## 217 Unrecognised degrees: Northern Ireland and Channel Islands.

- (1) An Order in Council under paragraph 1(1)(b) of Schedule 1 to the <sup>M2</sup>Northern Ireland Act 1974 (legislation for Northern Ireland in the interim period) which contains a statement that it is only made for purposes corresponding to the purposes of sections 214 to 216 of this Act—
  - (a) shall not be subject to sub-paragraphs (4) and (5) of paragraph 1 of that Schedule; but
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Her Majesty may by Order in Council direct that those sections shall extend to any of the Channel Islands with such adaptations and modifications (if any) as may be specified in the Order.

### Annotations:

#### Marginal Citations

- M2** 1974 c. 28.

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**Changes and effects yet to be applied to :**

- s. 216 heading word inserted by 2017 c. 29 s. 54(12)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act Education Acts modified (temp.) by 2006 c. 40 Sch. 6 para. 3(3)
- Act applied by S.I. 2005/397 Sch. 2 para. 2
- Act modified by 2005 c. 18 s. 96(2)
- Act words substituted by S.I. 2010/1158 Sch. 2 para. 4(2)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 122ZA inserted by 2017 c. 29 Sch. 8 para. 3
- s. 123A 123B inserted by 2017 c. 29 Sch. 8 para. 6
- s. 124(2)(f) (fa) substituted for s. 124(2)(f) by 2007 c. 25 s. 26(2)
- s. 124(2)(fa) words substituted by 2011 c. 25 Sch. 7 para. 49
- s. 124(7) inserted by 2007 c. 25 s. 26(3)
- s. 124B(5A) inserted by 2004 c. 23 Sch. 2 para. 9(1) (3)
- s. 124E inserted by 2017 c. 29 Sch. 8 para. 12
- s. 124ZA 124ZB inserted by 2017 c. 29 Sch. 8 para. 8
- s. 127A inserted by 2017 c. 29 Sch. 8 para. 16
- s. 128(1)(b)(iia)(iib) inserted by S.I. 2010/1080 Sch. 1 para. 16(a)
- s. 128(1)(b) (iib) omitted by 2011 c. 21 Sch. 16 para. 8
- s. 128(1)(b)(iia) omitted by 2015 c. 20 Sch. 14 para. 35
- s. 161(1)(e)(f) inserted by 2017 c. 29 Sch. 8 para. 20(b)
- s. 161(1)(ba)(bb) inserted by 2017 c. 29 Sch. 8 para. 20(a)
- s. 198(1)(d) and word inserted by 2013 anaw 1 Sch. 5 para. 14(2)
- s. 214(2)(za)(zb) inserted by 2017 c. 29 s. 53(2)
- s. 214(9ZA) inserted by 2017 c. 29 s. 53(5)
- s. 214(10)(a)(ii) and word inserted by 2017 c. 29 s. 53(7)(b)
- s. 215(1A) inserted by 2015 c. 15 Sch. 6 para. 47(2)
- s. 215(1B) inserted by 2017 c. 29 s. 54(3)
- s. 216(1)(1A) substituted for s. 216(1) by 2017 c. 29 s. 54(5)
- s. 216(2ZA) inserted by 2017 c. 29 s. 54(7)
- s. 216(3)(za) inserted by 2017 c. 29 s. 54(9)(b)
- s. 216(5) words inserted by 2017 c. 29 s. 54(15)
- s. 216(14A) inserted by 2017 c. 29 s. 54(14)
- s. 219(3A) inserted by 2013 anaw 1 Sch. 5 para. 1(3)
- Sch. 7 para. 4(8) inserted by S.I. 2010/1158 Sch. 2 para. 4(7)
- Sch. 7A para. 3(7) inserted by S.I. 2010/1158 Sch. 2 para. 4(8)
- Sch. 10 para. 1(6) inserted by S.I. 2010/1158 Sch. 2 para. 4(9)(b)

**Commencement Orders yet to be applied to the Education Reform Act 1988**

Commencement Orders bringing legislation that affects this Act into force:

- S.I. 2003/124 art. 2-5 commences (2002 c. 32)
- S.I. 2003/1115 art. 2 3 commences (2002 c. 32)
- S.I. 2003/1667 art. 2-5 commences (2002 c. 32)
- S.I. 2003/1718 art. 4-6 Sch. commences (2002 c. 32)
- S.I. 2003/2961 art. 4-7 Sch. commences (2002 c. 32)
- S.I. 2004/2202 art. 2 3 commences (2004 c. 5)

- S.I. 2004/2593 art. 2 commences (2004 c. 5)
- S.I. 2004/2781 art. 2-4 commences (2004 c. 8)
- S.I. 2004/3144 art. 4 5 commences (2004 c. 8)
- S.I. 2005/558 art. 2 Sch. 1 commences (2004 c. 23)
- S.I. 2005/2034 art. 2-9 commences (2005 c. 18)
- S.I. 2006/879 art. 4 Sch. commences (2002 c. 32)
- S.I. 2006/2895 art. 2 commences (2002 c. 32)
- S.I. 2007/935 art. 2-7 commences (2006 c. 40)
- S.I. 2007/3611 art. 4 Sch. commences (2002 c. 32)
- S.I. 2008/172 art. 2-9 commences (2007 c. 28)
- S.I. 2008/3267 art. 2 Sch. commences (2006 c. 50)
- S.I. 2009/107 art. 2-5 Sch. 1-5 Commencement Order
- S.I. 2011/1725 Sch. para. 6 commences ( )
- S.S.I. 2005/419 art. 2 commences (2005 asp 6)