

HIGHER EDUCATION GOVERNANCE (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Academic Freedom

Section 23: Upholding academic freedom

47. **Section 23** of the Act substitutes a new section 26 into the 2005 Act. The new section strengthens the obligation on post-16 education bodies by providing that such bodies must aim to uphold, so far as the body considers reasonable, the academic freedom of persons engaged in teaching, the provision of learning or research at that body (section 26(1)(a)). In particular, the new section 26(1)(b) provides that post-16 education bodies must aim to ensure, so far as the body considers reasonable, that appointments of such persons (whether held or sought) and any entitlements or privileges enjoyed by such persons are not adversely affected by the exercise of a person's academic freedom. The new section 26(4) expands the current definition of academic freedom to clarify that it includes the freedom, within the law, to develop and advance new ideas or innovative proposals. This adds to the existing freedom to hold and express opinions, question and test established ideas or received wisdom, and present controversial or unpopular points of view.