



Further and Higher Education Act 1992

1992 CHAPTER 13

PART III

MISCELLANEOUS AND GENERAL

[^{F1}85AC Power to seize items found during search under section 85AA

- (1) A person carrying out a search under section 85AA may seize any of the following found in the course of the search—
 - (a) anything which that person has reasonable grounds for suspecting is a prohibited item;
 - (b) any other thing which that person has reasonable grounds for suspecting is evidence in relation to an offence,but may not seize alcohol from S under this section where S is aged 18 or over.
- (2) A person exercising the power in subsection (1) may use such force as is reasonable in the circumstances for exercising that power.
- (3) A person who seizes alcohol under subsection (1) may retain or dispose of the alcohol and its container.
- (4) A person who seizes a controlled drug under subsection (1)—
 - (a) must (subject to paragraph (b)) deliver it to a police constable as soon as reasonably practicable; but
 - (b) may dispose of it if the person thinks that there is a good reason to do so.
- (5) A person who seizes a stolen article under subsection (1)—
 - (a) must (subject to paragraph (b)) deliver it to a police constable as soon as reasonably practicable; but
 - (b) may return it to its owner (or, if returning it to its owner is not practicable, may retain it or dispose of it) if the person thinks that there is a good reason to do so.

Changes to legislation: Further and Higher Education Act 1992, Section 85AC is up to date with all changes known to be in force on or before 31 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (6) In determining, for the purposes of subsections (4) and (5), whether there is a good reason to dispose of a controlled drug or to return a stolen article to its owner, retain it or dispose of it, the person must have regard to any guidance issued by the Secretary of State.
- [A person who seizes an item that is a prohibited item by virtue of section 85AA(3)
- ^{F2}(6A) (ea) (article used in commission of offence or to cause personal injury or damage to property) under subsection (1) must—
- (a) deliver the item to a police constable as soon as reasonably practicable,
 - (b) return the item to its owner,
 - (c) retain the item, or
 - (d) dispose of the item.
- In deciding what to do with an item under this subsection, the person who seized it must have regard to guidance issued for the purpose of this section by the Secretary of State.
- (6B) Subsections (6C) and (6D) apply to an item that—
- (a) has been seized under subsection (1),
 - (b) is a prohibited item by virtue of section 85AA(3)(ea), and
 - (c) is an electronic device.
- (6C) The person who seized the item may examine any data or files on the device, if the person thinks there is a good reason to do so.
- (6D) Following an examination under subsection (6C), if the person has decided to return the item to its owner, retain it or dispose of it, the person may erase any data or files from the device if the person thinks there is a good reason to do so.
- (6E) In determining whether there is a good reason for the purposes of subsection (6C) or (6D), the person must have regard to any guidance issued for the purposes of this section by the Secretary of State.]
- (7) Regulations may prescribe what must or may be done by a person who, under subsection (1), seizes an article of a kind specified in regulations under section 85AA(3)(f) (or an article which the person has reasonable grounds for suspecting to be such an article).
- (8) A person who, under subsection (1), seizes—
- (a) an article to which section 139 of the Criminal Justice Act 1988 applies (knives and blades etc);
 - (b) an offensive weapon; or
 - (c) anything which that person has reasonable grounds for suspecting is evidence in relation to an offence;
- must deliver it to a police constable as soon as reasonably practicable.
- (9) Subsection (8)(c) is subject to subsections (3), (4) [^{F3}and (5)] and regulations made under subsection (7).
- (10) In subsections (3) to (8), references to alcohol, a controlled drug, a stolen article, an article to which section 139 of the Criminal Justice Act 1988 applies and an offensive weapon include references to anything which a person has reasonable grounds for suspecting is alcohol, a controlled drug, a stolen article, an article to which section 139 of the Criminal Justice Act 1988 applies or an offensive weapon.]

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Textual Amendments

- F1** Ss. 85AA-85AD inserted (1.9.2010) by [Apprenticeships, Skills, Children and Learning Act 2009](#) (c. 22), [ss. 244\(1\)](#), 269(4); S.I. 2010/303, art. 6, Sch. 5 (as amended (26.7.2010) by S.I. 2010/1891, art. 2(2) (with art. 3))
- F2** Ss. 85AC(6A)-(6E) inserted (1.4.2012) by [Education Act 2011](#) (c. 21), [ss. 3\(4\)\(a\)](#), 82(3); S.I. 2012/924, art. 2
- F3** Words in s. 85AC(9) substituted (1.4.2012) by [Education Act 2011](#) (c. 21), [ss. 3\(4\)\(b\)](#), 82(3); S.I. 2012/924, art. 2

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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. 16(6) inserted by [2007 c. 25 s. 14\(4\)](#)
- s. 17(2)(aa) inserted by [2007 c. 25 s. 14\(5\)\(b\)](#)
- s. 27(3A)(3B) inserted by [2007 c. 25 s. 15\(4\)](#)
- s. 27(9) inserted by [2007 c. 25 s. 15\(7\)](#)
- s. 51(1)-(2A) substituted for s. 51(1)(2) by [2007 c. 25 s. 16\(2\)](#)
- s. 76(8)(9) inserted by [2017 c. 29 s. 52\(4\)](#)
- s. 85D inserted by [2009 c. 22 s. 247](#)
- s. 85D(7) words inserted by [S.I. 2016/413 reg. 140](#) (This amendment comes into force on the day that section 85D of the Further and Higher Education Act 1992 (c. 13) comes into force. That provision is still prospective.)