

TU Delft Regulations for the Use of Buildings, Premises and Facilities by Students and Visitors

This is a translation of the Dutch 'Regeling gebruik gebouwen, terreinen en voorzieningen studenten en bezoekers TU Delft'. In the case of differences in interpretation between the English and Dutch text, the Dutch text shall prevail.

Article 1 Definitions

- 1.1 WHW
the Higher Education and Research Act (*Bulletin of Acts and Decrees* 1992, 593)
- 1.2 TU Delft
TU Delft, possessing legal personality in accordance with Article 1.8 paragraph 2 of the WHW;
- 1.3 Executive Board
the TU Delft Executive Board, as meant in Article 9.2 of the WHW;
- 1.4 Manager
an official designated by the Executive Board in accordance with Article 34 of the Executive and Management Regulations;
- 1.5 Student
anyone who has enrolled at TU Delft for a study programme provided by TU Delft and who in that capacity receives tuition and takes examinations;
- 1.6 Visitor
anyone who is not a student and occupies no position at TU Delft, as meant in Article 1.1 of the Collective Labour Agreement for Dutch Universities.

Article 2 Obligation to comply with rules, guidelines, and instructions

- 2.1 Students and visitors on TU Delft's premises or those who use the facilities or amenities of TU Delft must comply immediately and in full with rules or instructions issued by or on behalf of the Executive Board or manager relating to the upholding of order and proper conduct on the premises and with rules relating to the correct use of the facilities and amenities at TU Delft, and should conduct themselves in such a way that:
 - a. they do not cause, neither directly nor indirectly, unacceptable harm or disruption to TU Delft or to other people on TU Delft's premises or who are using the facilities or amenities of TU Delft;
 - b. they do not infringe any rights of TU Delft or of other people on TU Delft's premises or who are using the facilities or amenities of TU Delft;
 - c. they are not in breach of any legal obligation;
 - d. is generally deemed appropriate, in relation to other people or their property.
- 2.2 The wearing of clothing or other items that cover the face, and which seriously impede non-verbal communication between the teacher and the student, between students, or between teachers, is not allowed in the university buildings during lectures, tutorials, or other types of lesson, or when taking an examination, or when entering or being in a building if so doing makes it difficult for the person to be identified.
- 2.3 The manager may issue instructions on behalf of the Executive Board with a view to maintaining order in the areas of TU Delft's premises that are under the control of the managers, as well as in relation to the TU Delft facilities and amenities under their control.

Article 3 Measures in the event of a breach

- 3.1 The Executive Board or a manager may take the following measures against any student or visitor who does not comply with these regulations, in accordance with the procedure described in these regulations:
 - a. denial of access to TU Delft's premises or any part thereof or termination of the student's enrolment at TU Delft, on the understanding that a student may be denied

- access to said premises either wholly or in part for no more than one year, and that a student's enrolment may be terminated for no more than one year;
- b. a ban on the use of TU Delft facilities and amenities;
 - c. a fine, if this is agreed and if there is a legal basis for the imposition thereof;
 - d. a written reprimand.
- 3.2 the Executive Board may deny access permanently to, or definitively terminate the enrolment of, any student who does not comply with these regulations, who has caused a serious public nuisance on TU Delft premises and has continued to do so even after a warning by or on behalf of the Executive Board.

Article 4 Denial of access by the manager

- 4.1 A manager may deny access to any student or visitor who acts in contravention of these regulations or the rules referred to in Article 2, with immediate effect and for a period of no more than twelve months, to any premises, in whole or in part, that form part of his management unit, or prohibit them from using any university or faculty facility or amenity that form part of his management unit, if any such immediate measure is, in his judgement, necessary, given the circumstances of the particular case.
- 4.2 Any person against whom any measure as meant in the first paragraph is taken shall be given an opportunity by the manager, or by a party acting on his behalf, for a hearing as soon as possible, if this was not possible prior to the measure being imposed as a result of the urgency thereof.
- 4.3 A manager may make a reasoned request to the Executive Board for further measures to be taken, with due regard for the provisions of Article 5.

Article 5 Measures by the Executive Board

- 5.1 A manager may make a reasoned request to the Executive Board that a student or visitor who has contravened these regulations or the rules in Article 2, or who has not met the conditions attached to a particular measure, be denied access to all or part of the premises of TU Delft, be prohibited from using the facilities and amenities at TU Delft, or in the case of a student, have their enrolment terminated.
- 5.2 A copy of any such request by the manager shall be sent to the person to whom it relates.
- 5.3 The Executive Board shall give its ruling on the request as meant in the first paragraph of this article within a reasonable period of time.
- 5.4 A measure as meant in this article entails at least the following:
- a. the identification of the TU Delft premises (or parts thereof) and/or the facilities and amenities to which the ban relates;
 - b. the period of time during which the measure shall apply;
 - c. the reasons for the measure;
 - d. the conditions, non-compliance with which will result in the measure being effectuated;
- 5.5 If, in the view of the Executive Board, the seriousness of the situation makes an immediate measure necessary, it may extend the ban, meant in Article 4, first paragraph - in anticipation of the decision-making process meant in the first paragraph - by no more than four weeks, or impose a measure of no more than twelve weeks' duration, with the party affected being given a hearing.

Article 6 Termination of the measure

- 6.1 The Executive Board may, at its own initiative or as the result of a request from the party against whom a measure, as meant in these regulations, has been taken, lift the measure before the end of the period for which it was imposed, or reduce the scope of the measure, or decide that the student in question may be re-enrolled, if in its view there are sound reasons for doing so.
- 6.2 The Executive Board may attach conditions to the termination of the measure mentioned in the first paragraph.
- 6.3 If the Executive Board is of the opinion that the person to whom the termination proposal relates has not complied with the conditions imposed by the Executive Board, the measure

originally imposed shall be re-imposed; the period that has elapsed since the lifting of the measure shall not be deducted from the original period for which the measure was imposed.

Article 7 Entry into force

These regulations enter into force on the first day after the date of the edition of Delta in which the content of the regulations are published.

Article 8 Official title

These regulations may be referred to as 'the TU Delft Regulations for the use of Buildings, Grounds and Facilities by Students and Visitors'.

EXPLANATORY NOTES

General

The Management Regulations are based on Article 7.57h of the WHW, which stipulates that the administrative body may make regulations relating to proper procedures in its buildings and on its grounds. From the position of this article in Chapter 3, 'Students and External Students', and the content of this chapter, it may be inferred that this provision relates solely to those who are studying. According to the text of Article 7.57h of the WHW, the regulations referred to in said article concern house rules and order-related measures, which should be given in the form of generally binding regulations.

In general terms, TU Delft has not yet fulfilled this provision. However, with a reference to Article 7.57h of the WHW, it has adopted its 'Management Regulations for the use of Educational ICT facilities by Students'. These regulations can therefore be regarded as regulations as meant by Article 7.57h of the WHW.

The TU Delft Regulations for the use of Buildings, Grounds and Facilities by Students and Visitors (hereinafter: 'the Regulations') serve to fill this regulatory gap. The purpose of the Regulations is, firstly, to apply a generally binding regulation for upholding the house rules and order-related measures for TU Delft premises. In the case of students, a decision is as defined by the meaning of the General Administrative Law Act, based on the authority invested in the Executive Board by Article 7.57h of the WHW.

Given that the premises of TU Delft are visited not just by students and TU Delft employees, but also by third parties (visitors), the Regulations also relate to this latter category. Visitors are persons who are neither students nor TU Delft employees as meant by the Regulations. In the case of visitors, TU Delft generally acts in a private legal capacity as the manager. It is desirable to set down standards in relation to visitors, too. The basis for this can be found in Article 9.2, first paragraph of the WHW. Given that these standards do not differ in essence from those that apply to students, the Regulations are aimed at both groups.

Employees are defined in Article 1 of the Collective Labour Agreement for Dutch Universities (part 1 – Public Universities) as those who have an employment relationship with an educational institute.

Article 11 of the Collective Labour Agreement for Dutch Universities (part 1 - Public Universities) states that employees must adhere to their employer's regulations, any breach of which entitles the employer to impose disciplinary measures. Separate house rules and order-related measures are not needed for employers, although the imposition of sanctions should take the special employer-employee relationship into account. The Regulations do not therefore apply to employees.

The Regulations basically mean that students and visitors on TU Delft premises should comply with rules and instructions issued by or on behalf of the Executive Board, and that the Executive Board or manager may impose sanctions on these individuals if they do not comply with said rules and instructions or if they behave in any way that is improper or negligent. The Regulations also set out the range of sanctions available. The Regulations therefore serve to regulate the procedures

concerning the maintaining of order. House rules should be included in separate regulations, as explained below, in Article 2.

2010 change

The current Regulations should be adapted to the amendments to the WHW, which will take effect on 1 September 2010 (Act of 4 February 2010 (Bulletin of Acts and Decrees 2010/119)). The amendment to the law has led to the amendment of Article 7.57h of the WHW, which article forms the basis for the regulations to be drawn up by the university. The amended article now means it is possible to terminate the enrolment of any student who has contravened the house rules and order-related measures for up to one year; this is in addition to the existing measure whereby students may be denied access to the premises. In the case of serious misconduct that continues even after a warning, the student concerned may be denied access definitively or have his enrolment permanently terminated. The amendments that relate to an extension of the range of available sanctions have been incorporated into the Regulations. The sanction of terminating a student's enrolment has been included, and from now on the term 'measure' will be used, which covers both denial of access and termination of enrolment.

Article by article

Article 1

This article defines the terms used in the Regulations. Article 1.3 defines the term 'Executive Board'. The Executive Board is the board of the institute, as referred to in Art. 7.57h of the WHW.

The definition of 'managers' (Article 1.4) is based on the Management Regulations. The manager of the faculties is the dean. Article 4 of the Regulations allows the manager the option of imposing a temporary sanction in urgent cases where a contravention has taken place; by virtue of Article 5, he can also request the Executive Board to impose an additional sanction. A manager may also set additional rules, according to Article 2.3, as described in said article.

Article 1.5 of the Regulations sets out the definition of 'student'. From the description it may be inferred that it not necessary to receive tuition at TU Delft to be covered by this definition. An external student can also be a student as meant by Article 1.5.

The 'visitor' category should be regarded as a 'remainder' category, based on Article 1.6. People who come under this category should therefore not be students as meant by Article 1.5 or TU Delft employees. Employees are defined in Article 1.1 of the Collective Labour Agreement for Dutch Universities (part 1 – Public Universities) as those who have an employment relationship with TU Delft.

Article 2

This article defines the compliance obligation on students and visitors. From the description in Article 2.1, it can be inferred that not just rules, guidelines, and instructions should be complied with, but also that students and visitors should refrain from acting in conflict with any legal obligation and from behaving in an inappropriate fashion. Inappropriate behaviour shall generally only be deemed objectionable if the person concerned has also acted unlawfully as meant by Article 6:162 of the Netherlands Civil Code. Article 2.1 subsection d relates to this type of unlawful behaviour. Violation of paragraphs a to c of this article will generally also be deemed as unlawful acts.

The rules meant in Article 2, first paragraph, includes those that relate to fire and other security regulations, health, safety and environmental legislation, the traffic regulations at TU Delft, the rules concerning the smoking ban in TU Delft rooms and spaces, the rules relating to the use of the TU Delft computer and network facilities, rules concerning identification and clothing regulations. This list is not exhaustive. It states that other regulations should be consulted for the purpose of reference to household rules.

The opportunity has been used to include household regulations of a general nature in these Regulations; Article 2.2 contains clothing regulations, including a ban on items of clothing that cover the face. The objectively justifiable purposes of this ban are to guarantee good-quality

communications during teaching and to make it possible to establish the identity of the person concerned whenever they are in a building and, in the case of students, while they are taking exams. The formulation of the ban is based on '*Leidraad kleding op scholerf*' by the Minister of Education, Culture and Science.

Article 2.3 invests managers with the authority to issue instructions at local level on behalf of the Executive Board. This emphatically does not extend to rules that apply throughout TU Delft, now that this authority lies with the Executive Board. Instructions at local level could include, for example, the organisation of proper procedures in a computer room.

Article 3

This article describes the available sanctions. Denials of access may be temporary, conditional, or permanent. In the case of students, denials of access are always temporary, of a maximum duration of one year (WHW). Only visitors may be denied access permanently, but only in very serious cases.

Bans by managers are regulated in Article 4, and those by the Executive Board in Article 5. Conditional bans only take effect if the conditions attached to the ban have been breached. Verbal and written warnings are also available options.

From Article 4 it may be inferred that managers may impose an urgent measure in the form of a ban of up to twelve weeks, which the Executive Board may extend at the request of the manager. Pursuant to Article 5, managers may ask the Executive Board to impose a ban immediately.

The aforementioned does not affect the authority to take an actual disciplinary measure, followed possibly by a written decision.

2010 change

The updated article 7.57h of the WHW, updated by force of law on 4 February 2010 (Bulletins of Acts and Decrees 2010, 119) has led to an extension of the range of sanctions available. The extensions, which cover the termination of the enrolment of students and the duration of measures taken, have been incorporated in Article 3.

Article 4

It is not impossible that a situation may occur in a management unit that necessitates an immediate denial of access by the manager to the premises or to university or faculty facilities and amenities in the form of a temporary measure. This provision regulates such a ban and includes the procedural aspects.

Managers may impose measures of no more than twelve weeks' duration. Article 4:8 of the General Administrative Law Act makes the holding of hearings compulsory, which also applies to decisions affecting students that have been taken in accordance with the Regulations. For the sake of correctness, visitors and students should be treated equally, which also applies in the case of the provisions in Article 5 of the Regulations. The second paragraph states that, if an affected party cannot have a hearing in advance because of the urgent nature of the measure – Article 4:11 of the General Administrative Law Act allows for exceptions in these cases – the affected party must be given a hearing as soon as possible after the imposition of the measure.

It can therefore be inferred from the article that managers may only impose bans that are limited by time. However, they can make reasoned requests to the Executive Board to impose a further ban, according to the third paragraph. The Executive Board shall take the provisions of Article 5 into account when making its decision. Managers are free to approach the Executive Board directly on the basis of Article 5 with reasoned requests for bans - in other words, without the managers themselves taking measures in accordance with Article 4.

Article 5

The first three paragraphs of this provision set out the procedure in the event that the manager requests the Executive Board to deny access or deny use (whether Article 4 has been applied or not)

to anyone who has acted in contravention of Article 2 of the Regulations or, in the case of students, to terminate their enrolment.

It is stated in Article 4.8 of the General Administrative Law Act that a party affected by a measure must be given a hearing by the Executive Board beforehand.

The fourth paragraph determines which criteria a ban or termination of enrolment must fulfil. The provisions of subsection d apply to the conditional measure.

The fifth paragraph enables the Executive Board to extend the period of Article 4, first paragraph, by a maximum of four weeks or, if Article 4 has not been applied by the manager, to determine a measure for a maximum of twelve weeks, if the seriousness of the situation requires it. Given the urgency of the measures to be taken, the hearing can take place retrospectively (Article 4:11 of the General Administrative Law Act). The affected party will in any case be granted a hearing before the imposition of a definitive measure.

2010 change

The article has been modified as a result of the amendment to Article 7.57h of the WHW.

Article 6

This article sets out the procedure for terminating a measure (a ban or termination of enrolment) by the Executive Board. The Executive Board may decide upon a termination at its own initiative or at that of the party concerned.

2010 change

The article has been modified as a result of the amendment to Article 7.57h of the WHW.

Articles 7 and 8

These articles determine respectively the date on which the Regulations come into force and the way in which they should be cited. It is recommended that information be displayed at the main entrances to buildings that these Regulations and house rules apply on TU Delft premises and to TU Delft facilities and amenities, and that the Regulations are available for viewing from the receptionist or manager of the building.