



Further and Higher Education (Scotland) Act 2005

2005 asp 6

PART 1 **S**

FURTHER AND HIGHER EDUCATION ETC.

Funding of further and higher education etc.

9 **Funding of the Council** **S**

- (1) The Scottish Ministers may make grants to the Council.
- (2) A grant made under subsection (1) is subject to such terms and conditions as the Scottish Ministers consider it appropriate to impose.
- (3) Terms and conditions imposed under subsection (2) may, in particular—
 - (a) relate to—
 - (i) the repayment (in whole or in part) of a grant in such circumstances as they may specify;
 - (ii) the interest payable in respect of any period during which a sum due to the Scottish Ministers is outstanding;
 - (b) include [^{F1}any of the conditions referred to in subsections (4) to (5A)].
 - [^{F2}(c) include any terms or conditions referred to in sections 9A to 9D.]
- (4) The condition is that, before the Council makes a payment to a fundable body under section 12(1) of such amount or description as the Scottish Ministers may in the condition specify, the fundable body [^{F3}—
 - (a) where it is a fundable post-16 education body, is to comply with any matters concerning fundable post-16 education bodies or any class of them as the Scottish Ministers may specify;
 - (b) where it is a regional strategic body, is—
 - (i) to comply with any matters concerning regional strategic bodies generally as the Scottish Ministers may specify; or

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- (ii) when making a payment to any of its colleges under section 12B(1), to impose on the college a requirement to comply with any matters concerning post-16 education bodies or any class of them as the Scottish Ministers may specify.]
- (5) The condition is that—
- (a) when making a payment to a fundable [^{F4}post-16 education] body under subsection (1) of section 12; and
 - (b) in such cases as the Scottish Ministers may in the condition specify, the Council is (under subsection (2) of that section) to impose on the body a condition making the requirement referred to in subsection (6).
- [^{F5}(5A) The condition is that—
- (a) when making a payment to a regional strategic body under subsection (1) of section 12; and
 - (b) in such cases as the Scottish Ministers may in the condition specify, the Council is (under subsection (2) of section 12) to impose on the regional strategic body a condition that it must, when making a payment to any of its colleges under section 12B(1), impose on the college a condition making the requirement referred to in subsection (6).]

(6) The requirement is that the [^{F6}post-16 education] body to whom the payment is being made is to secure that the fees paid to the [^{F6}post-16 education] body—

 - (a) by such class of persons as the Scottish Ministers may by order specify; and
 - (b) in connection with their attending—
 - (i) such programmes of learning as the Scottish Ministers may by order specify; or
 - (ii) such courses of education as the Scottish Ministers may by order specify,
 are equal to such fees as are, in relation to those persons attending those programmes and courses, payable under subsection (7).

(7) For the purposes of subsection (6), the Scottish Ministers may (in relation to those persons attending those programmes and courses) by order—

 - (a) specify, by reference to a particular academic year (“year A”), fees payable; and
 - (b) make provision authorising the Scottish Ministers to determine, in relation to subsequent academic years, fees payable that are—
 - (i) in each case, no higher than the fees specified by reference to year A; or
 - (ii) in any case, higher than the fees specified by reference to year A provided that any increase in fees is no greater than is required in order to maintain the value in real terms of the fees specified by reference to year A.

(8) A condition imposed on a fundable [^{F7}post-16 education] body by virtue of subsection (5) is to make provision that is to apply if the fundable [^{F7}post-16 education] body fails to comply with the requirement referred to in subsection (6).

(9) A condition imposed on a fundable [^{F8}post-16 education] body by virtue of subsection (5) does not apply in relation to any fees which are payable, in accordance with regulations under section 1 (fees at universities and further education

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- establishments) of the Education (Fees and Awards) Act 1983 (c. 40), by students other than those falling within any class of persons prescribed by such regulations for the purposes of subsection (1) or (2) of that section.
- (10) The Scottish Ministers may not specify programmes or courses under subsection (6) (b) in such a way as to discriminate between different programmes or courses which are—
- (a) for the training of persons preparing to be teachers; and
 - (b) open only to persons holding a degree,
- on the basis of the subject in which such training is given.
- (11) Terms and conditions imposed under subsection (2) may not, except [^{F9}where imposed in pursuance of subsection (4)(a) or (b)(ii) or section 9A or 9B], relate to the provision of financial support by the Council [^{F10}or a regional strategic body] in respect of activities carried on by any particular ^{F11}... body or bodies.
- (12) Terms and conditions imposed under subsection (2) may not—
- (a) except in so far as provided for in subsections (5) to (7) [^{F12}and in section 9D], be framed by reference to particular programmes of learning, courses of education or research (including the contents of such programmes or courses or the manner in which they are taught, supervised or assessed); ^{F13}...
 - (b) be framed by reference to the criteria for—
 - (i) the selection or appointment of academic staff; or
 - ^{F14}(...)
 - [^{F15}(c) except where imposed in pursuance of section 9C, be framed by reference to the criteria for the admission of students.]
- (13) Before laying a draft of an order under subsection (6) or (7) before the Parliament in pursuance of section 34(4), the Scottish Ministers must—
- (a) lay before the Parliament—
 - (i) a copy of the proposed draft order; and
 - (ii) a statement of their reasons for proposing to make the order;
 - (b) publicise the proposed draft order in such manner as they consider appropriate;
 - (c) invite written representations on the proposed draft order, in particular from—
 - (i) the Council;
 - (ii) at least one body of persons which appears to them to be representative of students of the [^{F16}post-16 education] bodies; and
 - (iii) such governing bodies of [^{F17}post-16 education bodies, and such regional strategic bodies,] as they consider appropriate; and
 - (d) have regard to any written representations about the proposed draft order that are made to them within 60 days of the date on which the invitation under paragraph (c) was issued.
- (14) When laying a draft of an order under subsection (6) or (7) before the Parliament in pursuance of section 34(4), the Scottish Ministers must also lay a statement summarising—
- (a) all representations about the proposed draft order to which they have had regard under subsection (13)(d);
 - (b) the changes (if any) made to the proposed draft order in light of the representations; and

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- (c) any reasons for making, or not making, changes in light of the representations.
- (15) The body known as the National Union of Students Scotland is to be invited under subsection (13)(c)(ii) to make representations.
- (16) The Scottish Ministers may by order modify subsection (15).
- (17) For the purposes of subsection (7)(b)(ii), the Scottish Ministers may have regard to any retail price index.

Textual Amendments

- F1** Words in s. 9(3)(b) substituted (1.5.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(a\)\(i\)](#); S.S.I. 2014/79, art. 2(1), Sch. 1
- F2** S. 9(3)(c) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(a\)\(ii\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F3** Words in s. 9(4) substituted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(b\)](#); S.S.I. 2014/21, art. 2, Sch. 1 (with art. 3(2))
- F4** Words in s. 9(5)(a) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(c\)](#); S.S.I. 2014/21, art. 2, Sch. 1 (with art. 3(2))
- F5** S. 9(5A) inserted (1.5.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(d\)](#); S.S.I. 2014/79, art. 2(1), Sch. 1
- F6** Words in s. 9(6) substituted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(e\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F7** Words in s. 9(8) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(f\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F8** Words in s. 9(9) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(g\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F9** Words in s. 9(11) substituted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(h\)\(i\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F10** Words in s. 9(11) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(h\)\(ii\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F11** Word in s. 9(11) omitted (3.3.2014) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(h\)\(iii\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F12** Words in s. 9(12)(a) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(i\)\(i\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F13** Word in s. 9(12) omitted (3.3.2014) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(i\)\(ii\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F14** S. 9(12)(b)(ii) omitted (3.3.2014) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(i\)\(iii\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F15** S. 9(12)(c) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(i\)\(iv\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F16** Words in s. 9(13)(c)(ii) substituted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(j\)\(i\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F17** Words in s. 9(13)(c)(iii) substituted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(7\)\(j\)\(ii\)](#); S.S.I. 2014/21, art. 2, Sch. 1

Commencement Information

- I1** S. 9 in force at 3.10.2005 by [S.S.I. 2005/419](#), [art. 2\(1\)](#)

Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 2005, Cross Heading: Funding of further and higher education etc.. (See end of Document for details)

[^{F18}9A Higher education institutions: good governance S

The Scottish Ministers may, under section 9(2), impose a condition that the Council must, when making a payment to a higher education institution under section 12(1), require the institution to comply with any principles of governance which appear to the Council to constitute good practice in relation to higher education institutions.]

Textual Amendments

F18 S. 9A inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 2, 23(2)**; S.S.I. 2014/21, **art. 2, Sch. 1**

[^{F19}9B Further education institutions: good governance S

- (1) The Scottish Ministers may, under section 9(2), impose a condition that the Council must, when making a payment under section 12(1) to a college of further education which is a fundable post-16 education body, require it to comply with any principles of governance which appear to the Council to constitute good practice in relation to colleges of further education.
- (2) The Scottish Ministers may, under section 9(2), impose a condition that the Council must, when making a payment to a regional strategic body under section 12(1), require it—
 - (a) to comply with any principles of governance which appear to the Council to be appropriate in relation to such a body; or
 - (b) to impose, when making a payment to any of its colleges under section 12B(1), a condition requiring the college to comply with any principles of governance which appear to the Council to constitute good practice in relation to colleges of further education.]

Textual Amendments

F19 S. 9B inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 14, 23(2)**; S.S.I. 2014/21, **art. 2, Sch. 1 (with art. 3(2))**

[^{F20}9C Widening access to fundable higher education S

- (1) The Scottish Ministers may, under section 9(2), impose terms and conditions for the purposes of enabling, encouraging or increasing participation in fundable higher education by persons belonging to any socio-economic group which they reasonably consider to be under-represented in such education.
- (2) The Scottish Ministers may, in particular, impose a condition that the Council, when making a payment to a higher education institution under section 12(1), must require the institution to comply with a widening access agreement which makes provision in relation to—
 - (a) any socio-economic group which the Scottish Ministers reasonably consider to be under-represented in fundable higher education; and
 - (b) other socio-economic groups, if any, which the Council and the institution agree are under-represented in fundable higher education.

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- (3) A “widening access agreement” is an agreement between a higher education institution and the Council under which the institution is to take actions specified in the agreement for the purposes of enabling, encouraging or increasing participation in fundable higher education provided by the institution by persons belonging to socio-economic groups which are under-represented in fundable higher education (either generally or in such education provided by the institution).
- (4) Before entering into a widening access agreement in pursuance of this section, a higher education institution must consult—
- (a) the representatives of any trade union which the institution recognises or which otherwise appears to it to be representative of its staff; and
 - (b) the institution's students' association.
- (5) For the purposes of this section, a socio-economic group is to be treated as under-represented in fundable higher education if participation in such education by persons in that group is disproportionately low.
- (6) The Scottish Ministers, the Council and higher education institutions may take into account any social or economic characteristics which they consider appropriate when determining which groups are to constitute “ socio-economic groups ” for the purposes of this section.]

Textual Amendments

F20 S. 9C inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 3, 23(2)**; [S.S.I. 2014/21](#), **art. 2, Sch. 1**

[^{F21}9D] **Fee cap: students liable for higher education fees** **S**

- (1) The Scottish Ministers may, under section 9(2), impose a condition that the Council must, when making a payment under section 12(1)—
- (a) where the payment is made to a fundable post-16 education body which provides fundable higher education, impose on that body a condition that it complies with the requirement set out in subsection (2);
 - (b) where the payment is made to a regional strategic body, impose on that body a condition that it must, when making a payment under section 12B(1) to any of its colleges which provides fundable higher education, impose on the college a condition that it complies with the requirement set out in subsection (2).
- (2) The requirement is that the post-16 education body to whom the payment is made is to secure that the fees paid to it—
- (a) by persons in respect of whom it is authorised or required to charge higher fees by virtue of regulations made under section 1 of the Education (Fees and Awards) Act 1983 (or by such class of such persons as the Scottish Ministers may by order specify);
 - (b) in connection with their attending in an academic year such courses of education as the Scottish Ministers may by order specify,
- do not exceed such amount as the Scottish Ministers may by order specify.
- (3) The Scottish Ministers, when making an order under this section, must seek to ensure—

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- (a) that, subject to any exceptions which they consider appropriate, it applies only in relation to fees payable by persons who have a connection with the United Kingdom; and
 - (b) that the amount of fees payable by a person attending any course of education provided by a post-16 education body in any particular academic year does not exceed the maximum amount of fees which that person would by virtue of any enactment be liable to pay if attending any higher education course provided elsewhere in the United Kingdom during that year.
- (4) The Scottish Ministers may not specify courses under subsection (2)(b) in such a way as to discriminate between different courses which are—
- (a) for the training of persons preparing to be teachers; and
 - (b) open only to persons holding a degree,
- on the basis of the subject in which such training is given.
- (5) References in this section to the United Kingdom include references to the Channel Islands and the Isle of Man.]

Textual Amendments

F21 S. 9D inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), ss. 4, 23\(2\); S.S.I. 2014/21, art. 2, Sch. 1 \(with art. 3\(2\)\)](#)

10 Additional grants **S**

- (1) In addition to any grants made under section 9, the Scottish Ministers may make further grants to the Council.
- (2) In particular, a grant under subsection (1) may be made for the purposes of supporting—
- (a) restructuring among [^{F22}post-16 education] bodies (including the merger or demerger of such bodies [^{F23}and restructuring involving regional strategic bodies]);
 - (b) innovation in the provision of fundable further education and fundable higher education; or
 - (c) collaboration between [^{F24}post-16 education bodies and, where appropriate, between those bodies and regional strategic bodies].
- (3) In making a grant under subsection (1), the Scottish Ministers must specify the purposes for which the grant is made.
- (4) A grant made under subsection (1) is subject to such terms and conditions as the Scottish Ministers consider it appropriate to impose.
- (5) Terms and conditions imposed under subsection (4) may, in particular—
- (a) relate to—
 - (i) the repayment (in whole or in part) of a grant in such circumstances as they may specify;
 - (ii) the interest payable in respect of any period during which a sum due to the Scottish Ministers is outstanding;
 - (b) include the condition referred to in subsection (4) of section 9.

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- (6) But, except in the case of a grant made for the purposes of supporting any of the matters referred to in paragraphs (a) to (c) of subsection (2)—
- (a) the purposes specified under subsection (3);
 - (b) terms and conditions imposed under subsection (4),
- may not be framed by reference to a particular [^{F25}post-16 education] body.

Textual Amendments

- F22** Words in s. 10(2)(a) substituted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 8(8)(a)(i)**; S.S.I. 2014/21, art. 2, Sch. 1
- F23** Words in s. 10(2)(a) inserted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 8(8)(a)(ii)**; S.S.I. 2014/21, art. 2, Sch. 1
- F24** Words in s. 10(2)(c) substituted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 8(8)(b)**; S.S.I. 2014/21, art. 2, Sch. 1
- F25** Words in s. 10(6) substituted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 8(8)(c)**; S.S.I. 2014/21, art. 2, Sch. 1

Commencement Information

- I2** S. 10 in force at 3.10.2005 by S.S.I. 2005/419, art. 2(1)

11 Administration of funds **S**

- (1) The Council is, for the purposes of—
- (a) providing support (whether financial or otherwise) for the activities specified in subsection (3); ^{F26} ...
 - [^{F27}(aa) providing support (whether financial or otherwise) to regional strategic bodies; and]
 - (b) exercising its other functions,
- responsible for administering the funds mentioned in subsection (2).
- (2) The funds are—
- (a) all grants made to it under sections 9 and 10; and
 - (b) any other funds made available to it for those purposes.
- (3) The activities are—
- (a) the provision of fundable further education and fundable higher education by the fundable [^{F28}post-16 education] bodies;
 - (b) the undertaking of research among the fundable [^{F29}post-16 education] bodies;
 - (c) the—
 - (i) provision of such facilities; and
 - (ii) the carrying on of such other activities,
 by the fundable [^{F30}post-16 education] bodies or any other person as are necessary or desirable for the purposes of or in connection with an activity specified in paragraph (a) or (b);
 - (d) the provision of services by the fundable [^{F31}post-16 education] bodies or any other person for the purposes of or in connection with an activity specified in paragraph (a) or (b).

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Textual Amendments

- F26** Word in s. 11(1) omitted (3.3.2014) by virtue of Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 8(9)(a)(i)**; S.S.I. 2014/21, art. 2, Sch. 1
- F27** S. 11(1)(aa) inserted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 8(9)(a)(ii)**; S.S.I. 2014/21, art. 2, Sch. 1
- F28** Words in s. 11(3)(a) inserted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 8(9)(b)(i)**; S.S.I. 2014/21, art. 2, Sch. 1
- F29** Words in s. 11(3)(b) inserted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 8(9)(b)(ii)**; S.S.I. 2014/21, art. 2, Sch. 1
- F30** Words in s. 11(3)(c) inserted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 8(9)(b)(iii)**; S.S.I. 2014/21, art. 2, Sch. 1
- F31** Words in s. 11(3)(d) inserted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 8(9)(b)(iv)**; S.S.I. 2014/21, art. 2, Sch. 1

Commencement Information

- I3** S. 11 in force at 3.10.2005 by S.S.I. 2005/419, art. 2(1)

12 Funding of fundable bodies **S**

- (1) The Council may make grants, loans or other payments—
- to the governing body of any fundable [^{F32}post-16 education] body in respect of expenditure incurred or to be incurred by the body for the purposes of any of the activities specified in subsection (3)(a) and (b) of section 11;
 - to—
 - the governing body of any fundable [^{F33}post-16 education] body; or
 - any other person,in respect of expenditure incurred or to be incurred by the body or person for the purposes of any of the activities specified in subsection (3)(c) and (d) of that section.
- [^{F34}(c) to a regional strategic body.]
- (2) A payment made under subsection (1) may (in addition to any condition which is imposed by virtue of ^{F35}... section 9) be subject to such terms and conditions as the Council considers it appropriate to impose.
- (3) Terms and conditions imposed under subsection (2) may, in particular, relate to—
- the repayment (in whole or in part) of a payment in such circumstances as they may specify;
 - the interest payable in respect of any period during which a sum due to the Council is outstanding.
- (4) But terms and conditions imposed under subsection (2) may not relate to the application by the body of any sums which were not derived from the Scottish Ministers.
- (5) Before imposing terms and conditions under subsection (2), the Council must—
- except where it considers that it is not expedient to do so, consult the governing body of the fundable body to which the payment is to be made; and

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- (b) if it considers it appropriate to do so, consult such persons as appear to it to represent the interests of [^{F36}post-16 education bodies, or regional strategic bodies,] or any class of them.
- (6) In making payments under subsection (1), the Council is to have regard to the desirability of—
- (a) encouraging fundable bodies to maintain or develop funding from other sources;
 - (b) preserving any distinctive characteristics of particular fundable bodies.

Textual Amendments

- F32** Words in s. 12(1)(a) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 9(1)(a)(i), 23(2)**; [S.S.I. 2014/21](#), **art. 2, Sch. 1**
- F33** Words in s. 12(1)(b)(i) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 9(1)(a)(ii), 23(2)**; [S.S.I. 2014/21](#), **art. 2, Sch. 1**
- F34** S. 12(1)(c) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 9(1)(a)(iii), 23(2)**; [S.S.I. 2014/21](#), **art. 2, Sch. 1**
- F35** Words in s. 12(2) omitted (3.3.2014) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 9(1)(b), 23(2)**; [S.S.I. 2014/21](#), **art. 2, Sch. 1**
- F36** Words in s. 12(5)(b) substituted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 9(1)(c), 23(2)**; [S.S.I. 2014/21](#), **art. 2, Sch. 1**

Commencement Information

- I4** S. 12 in force at 3.10.2005 by [S.S.I. 2005/419](#), **art. 2(1)**

[^{F37}12A **Regional strategic bodies: administration of funds** **S**

- (1) A regional strategic body is, for the purposes of—
- (a) providing support (whether financial or otherwise) for the activities specified in subsection (3); and
 - (b) exercising its other functions,
- responsible for administering the funds mentioned in subsection (2).
- (2) The funds are—
- (a) all funds made available to it under section 12(1)(c); and
 - (b) any other funds made available to it for those purposes.
- (3) The activities are—
- (a) the provision of fundable further education and fundable higher education by the regional strategic body's colleges;
 - (b) the undertaking of research among those colleges;
 - (c) the—
 - (i) provision of such facilities; and
 - (ii) carrying on of such other activities,
 by those colleges or any other person as are necessary or desirable for the purposes of or in connection with an activity specified in paragraph (a) or (b);
 - (d) the provision of services by those colleges or any other person for the purposes of or in connection with an activity specified in paragraph (a) or (b).

Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 2005, Cross Heading: Funding of further and higher education etc.. (See end of Document for details)

Textual Amendments

F37 S. 12A, 12B inserted (1.5.2014 for the insertion of s. 12A) by [Post-16 Education \(Scotland\) Act 2013](#) (asp 12), [ss. 9\(2\), 23\(2\)](#); S.S.I. 2014/79, art. 2(1)(3), Sch. 1

12B Funding of assigned colleges **S**

- (1) A regional strategic body may make grants, loans or other payments—
 - (a) to any of its colleges in respect of expenditure incurred or to be incurred by the college for the purposes of any of the activities specified in subsection (3) (a) and (b) of section 12A;
 - (b) to—
 - (i) any of its colleges; or
 - (ii) any other person,in respect of expenditure incurred or to be incurred by the college or person for the purposes of any of the activities specified in subsection (3)(c) and (d) of that section.
- (2) A payment made under subsection (1) may (in addition to any condition which is imposed in pursuance of conditions imposed on the regional strategic body under section 9) be subject to such terms and conditions as the regional strategic body considers it appropriate to impose.
- (3) Terms and conditions imposed under subsection (2) may, in particular, relate to—
 - (a) the repayment (in whole or in part) of a payment in such circumstances as the regional strategic body may specify;
 - (b) the interest payable in respect of any period during which a sum due to the regional strategic body is outstanding.
- (4) A condition imposed on any of the regional strategic body's colleges in pursuance of section 9(5A) is to make provision that is to apply if the college fails to comply with the requirement referred to in section 9(6).
- (5) A condition imposed on any of the regional strategic body's colleges in pursuance of section 9(5A) does not apply in relation to any fees which are payable, in accordance with regulations under section 1 (fees at universities and further education establishments) of the Education (Fees and Awards) Act 1983, by students other than those falling within any class of persons prescribed by such regulations for the purposes of subsection (1) or (2) of that section.
- (6) Terms and conditions imposed under subsection (2) may not relate to the application by the college of any sums which were not derived from the Council.
- (7) Before imposing terms and conditions under subsection (2), a regional strategic body must—
 - (a) except where it considers that it is not expedient to do so, consult the college to which the payment is to be made; and
 - (b) if it considers it appropriate to do so, consult such persons as appear to it to represent the interests of its colleges or any class of them.
- (8) In making payments under subsection (1), the regional strategic body is to have regard to the desirability of—

Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 2005, Cross Heading: Funding of further and higher education etc.. (See end of Document for details)

- (a) encouraging its colleges to maintain or develop funding from other sources;
- (b) preserving any distinctive characteristics of particular colleges.]

Textual Amendments

F37 S. 12A, 12B inserted (1.5.2014 for the insertion of s. 12A) by [Post-16 Education \(Scotland\) Act 2013](#) (asp 12), **ss. 9(2), 23(2)**; S.S.I. 2014/79, art. 2(1)(3), Sch. 1

Changes to legislation:

There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 2005, Cross Heading: Funding of further and higher education etc..