



Further and Higher Education (Scotland) Act 1992

1992 CHAPTER 37

PART I

FURTHER EDUCATION

CHAPTER III

COLLEGES OF FURTHER EDUCATION

Miscellaneous

^{F1}21 **Directions by Secretary of State.**

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Textual Amendments

- F1** S. 21 repealed (24.4.2006) by [Further and Higher Education \(Scotland\) Act 1992 Modification Order 2006 \(S.S.I. 2006/216\)](#), arts. 1, 2

^{F2}22 **College development plans.**

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Textual Amendments

- F2** S. 22 repealed (3.10.2005) by [Further and Higher Education \(Scotland\) Act 2005 \(asp 6\)](#), s. 36(2), [Sch. 3 para. 6\(2\)\(b\)](#); S.S.I. 2005/419, art. 2(1)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 1992, Cross Heading: Miscellaneous. (See end of Document for details)

F³23 Duty of boards of management as regards recorded children.

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Textual Amendments

F3 S. 23 repealed (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), s. 36(2), **Sch. 3 para. 6(2)(b)**; S.S.I. 2005/419, art. 2(1) and expressed to be repealed (14.11.2005) by Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), s. 35(1), **Sch. 3 para. 7(a)**; S.S.I. 2005/564, art. 2

[F⁴24 Mismanagement by boards.

- (1) This section applies where—
 - (a) it appears to the Scottish Ministers that the board of management of any college of further education—
 - (i) have committed or are committing a serious breach of any term or condition of a grant made to them under section 12 or 12B of the Further and Higher Education (Scotland) Act 2005 (“ the 2005 Act ”);
 - (ii) have committed or are committing repeated breaches of such terms or conditions;
 - (iii) have failed, or are failing, to provide or secure the provision of education of such standard as the Scottish Ministers consider appropriate;
 - (iv) have failed, or are failing, to discharge any of their duties properly; or
 - (v) have mismanaged, or are mismanaging, their financial or other affairs; or
 - (b) the Council has informed the Scottish Ministers that a college of further education whose board of management is established in pursuance of this Part is not, or is no longer, a body for which there are suitable provisions, procedures and arrangements of the type described by or under section 7(2) of the 2005 Act.
- (2) Where this section applies, the Scottish Ministers may by order—
 - (a) remove any or all of the members of the board (other than the principal of the college); and
 - (b) where a removed member was appointed under paragraph 3(2)(a) or (f) or 3A(2)(a) or (f) of Schedule 2, appoint another person in place of the removed member.
- (3) Before making an order under subsection (2)(a), the Scottish Ministers must consult the Council.
- (4) The Scottish Ministers must give notice of exercise of the power of removal conferred by subsection (2)(a) to the board and the member.
- (5) An appointment made under subsection (2)(b) has effect as if made under the provision of Schedule 2 under which the removed member was appointed.]

Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Cross Heading: Miscellaneous. (See end of Document for details)

Textual Amendments

F4 S. 24 substituted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), ss. 7, 23(2); S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(2), 5, Sch. 2)

25 Closure of colleges and dissolution of boards of management.

- (1) Where the Secretary of State determines, after such consultation as is required by section 5 of this Act, to make an order—
- (a) closing a college of further education; or
 - (b) designating a college such as is mentioned in paragraph (b) of subsection (2) of that section as a designated institution within the meaning of Part II of this Act,

the order shall contain provision winding-up the board of management of the college, and the provisions of this section shall have effect.

[^{F5}(1A) An order made for the purpose mentioned in subsection (1)(a) above—

- (a) shall include provision for the property and rights of the board of management to transfer to and vest in a charity; and
- (b) may include provision for the liabilities and obligations of the board of management to transfer to and vest in the Scottish Ministers or such other body or person as may be specified in the order.

(1B) An order made for the purpose mentioned in subsection (1)(b) above may include provision—

- (a) for the property and rights of the board of management to transfer to and vest in a charity; and
- (b) for the liabilities and obligations of the board of management to transfer to and vest in the Scottish Ministers or such other body or person as may be specified in the order.]

(2) An order made for the purposes mentioned in subsection (1) above may include provision—

- ^{F6}(a)
- (b) for the payment by the Secretary of State of any expenses incurred in the closure or winding-up;
- (c) imposing such duties or conferring such additional powers in relation to the closure or winding-up as the Secretary of State may consider appropriate;
- (d) for the exercise of any of the board's functions by any member of the board specified by the Secretary of State in the order;
- (e) for the appointment of a person to administer the closure or winding-up, and any person so appointed shall have such powers and duties as appear to the Secretary of State necessary or expedient for such purposes and as are specified in the order;
- (f) of such incidental, supplementary, transitional or ancillary nature as appears to the Secretary of State to be necessary or expedient for the purposes of the closure or winding-up.

^{F7}(3)

^{F8}(4)

Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Cross Heading: Miscellaneous. (See end of Document for details)

- (5) When the winding-up of the board of management of a college of further education under this section is completed, the Secretary of State shall by order dissolve the board of management of that college.
- (6) In this section, references to the closure of a college include references to the college being merged with one or more other colleges; and different provision may be made under this section as regards different colleges to be merged with one another.
- (7) An order ^[F9]as mentioned in subsection (1A) or (1B) above shall not contain provision for transferring and vesting property, rights, liabilities or obligations unless the body or person to whom the transfer is being made (apart from the Scottish Ministers)] has consented to the transfer and vesting.
- ^[F10](8) All property and rights vested in a charity by virtue of an order as mentioned in subsection (1A) or (1B) above shall be applied for the purpose of the advancement of education.
- (9) In this section, a “ charity ” means a body entered in the Scottish Charity Register.]

Textual Amendments

- F5** S. 25(1A)(1B) inserted (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), **ss. 29(1)(a), 36(2)**; S.S.I. 2005/419, art. 2(1)
- F6** S. 25(2)(a) repealed (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), **ss. 29(1)(b), 36(2)**; S.S.I. 2005/419, art. 2(1)
- F7** S. 25(3) repealed (24.4.2006) by Further and Higher Education (Scotland) Act 1992 Modification Order 2006 (S.S.I. 2006/216), arts. 1, 2
- F8** S. 25(4) repealed (24.4.2006) by Further and Higher Education (Scotland) Act 1992 Modification Order 2006 (S.S.I. 2006/216), arts. 1, 2
- F9** Words in s. 25(7) substituted (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), **ss. 29(1)(c), 36(2)**; S.S.I. 2005/419, art. 2(1)
- F10** S. 25(8)(9) added (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), **ss. 29(1)(d), 36(2)**; S.S.I. 2005/419, art. 2(1)

Commencement Information

- I1** S. 25 wholly in force at 1.4.1993 see s. 63(2) and S.I. 1992/817, art. 3(2), **Sch. 4**

26 Abolition of college councils.

- (1) This section applies to any college of further education within the meaning of the 1989 Act, not being a college which is prescribed under section 11 of this Act.
- (2) With effect from the first transfer date—
- the college council for every college of further education to which this section applies shall cease to exist;
 - any functions delegated to such college council by virtue of a delegation scheme under section 56 of the 1989 Act shall revert to the education authority in whose area the college is situated; and
 - any property, rights, liabilities and obligations of such college council shall, by virtue of this section, transfer to and vest in such education authority.

Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Cross Heading: Miscellaneous. (See end of Document for details)

Commencement Information

I2 S. 26 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

27 Information as to provision of further education.

- (1) The Secretary of State may by regulations require the board of management of a college of further education to publish such information as may be prescribed as to—
- (a) the educational provision made or proposed to be made for students of the college (including students with learning difficulties);
 - (b) the educational achievements of such students while students of the college (including the results of examinations, tests and other assessments);
 - (c) the careers of such students after leaving the college; and
 - (d) the facilities provided or proposed to be provided for students of the college who have learning difficulties and disabled staff of the college.
- (2) For the purposes of subsection (1)(c) above, a person's career includes any education, training, employment or occupation; and the regulations may in particular require the published information to show—
- (a) the numbers of students not undertaking any career; and
 - (b) the persons providing students with education, training or employment.
- (3) The information shall be published in such form and manner and at such times as may be prescribed.
- (4) The published information shall not disclose the name of any student to whom it relates without the prior consent, given in writing, of such student.

Commencement Information

I3 S. 27 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

Changes to legislation:

There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Cross Heading: Miscellaneous.