

*Changes to legislation:* There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, SCHEDULE 2. (See end of Document for details)

## SCHEDULES

### <sup>F1</sup> SCHEDULE 2

Section 12.

#### CONSTITUTION AND PROCEEDINGS OF BOARDS OF MANAGEMENT

##### Textual Amendments

**F1** Sch. 2 wholly in force at 16.5.1992 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), [Sch. 1](#).

##### *Status*

- <sup>F2</sup><sub>1</sub> A board of management (in this Schedule referred to as “the board”) shall not—
- (a) be regarded as the servants or agents of the Crown;
  - (b) have any status, immunity or privilege of the Crown,
- and their property shall not be regarded as property of, or held on behalf of, the Crown.

##### Textual Amendments

**F2** Sch. 2 para. 1 wholly in force at 16.5.1992 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), [Sch. 1](#).

##### *Membership*

<sup>F3</sup><sub>2</sub> .....

##### Textual Amendments

**F3** [Sch. 2 para. 2](#) omitted (3.3.2014) by virtue of [Post-16 Education \(Scotland\) Act 2013](#) (asp 12), s. 23(2), [Sch. para. 2\(7\)\(a\)](#); [S.S.I. 2014/21](#), art. 2, [Sch. 1](#)

<sup>F4</sup><sub>3</sub> (1) The board of a regional college is to consist of no fewer than 15 nor more than <sup>F5</sup><sub>20</sub> members.

- (2) The board is to be comprised of—
- (a) a person appointed by the Scottish Ministers to chair meetings of the board (the “chairing member”);
  - (b) the principal of the college;
  - (c) a person appointed by being elected by the teaching staff of the college from among their own number;
  - (d) a person appointed by being elected by the non-teaching staff of the college from among their own number;

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- [<sup>F6</sup>(da) a person appointed by being nominated by a trade union from among the teaching staff of the college who are members of a branch of a trade union that has a connection with the college;
- (db) a person appointed by being nominated by a trade union from among the non-teaching staff of the college who are members of a branch of a trade union that has a connection with the college;]
- (e) two persons appointed by being nominated by the students' association of the college from among the students of the college; and
- (f) other members appointed by the board.
- [<sup>F7</sup>(2A) For the purposes of sub-paragraph (2)(da) and (db), a trade union nominating a person from among a category of staff must be one that—
- (a) is recognised by the board in relation to the category of staff (within the meaning of section 178(3) of the Trade Union and Labour Relations (Consolidation) Act 1992); or
- (b) otherwise appears to the board to be representative of the category of staff, having regard to all relevant factors.]
- (3) An appointment made in pursuance of sub-paragraph (2)(f) has effect only if approved by—
- (a) the chairing member; and
- (b) the Scottish Ministers.
- (4) A person is not eligible for appointment as the chairing member under sub-paragraph (2)(a) if the person is—
- (a) a member of the Scottish Parliament;
- (b) a member of the House of Lords;
- (c) a member of the House of Commons; [<sup>F8</sup>or]
- (d) a member of the European Parliament; <sup>F9</sup>...
- <sup>F9</sup>(e) .....
- but such a person may otherwise be appointed as a member of the board.
- [<sup>F10</sup>(5) In relation to the board of New College Lanarkshire, this paragraph is to be read subject to the modifications set out in article 5(2) of the Lanarkshire Colleges Order 2014.]]

#### Textual Amendments

- F4** Sch. 2 paras. 3-3C substituted for Sch. 2 para. 3 (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 6(1), 23(2)**; S.S.I. 2014/21, art. 2, Sch. 1
- F5** Word in Sch. 2 para. 3(1) substituted (31.1.2024) by [The Colleges of Further Education and Regional Strategic Bodies \(Membership of Boards\) \(Scotland\) Order 2023 \(S.S.I. 2023/363\)](#), arts. 1, **2(2)(a)**
- F6** Sch. 2 para. 3(2)(da)(db) inserted (31.1.2024) by [The Colleges of Further Education and Regional Strategic Bodies \(Membership of Boards\) \(Scotland\) Order 2023 \(S.S.I. 2023/363\)](#), arts. 1, **2(2)(b)**
- F7** Sch. 2 para. 3(2A) inserted (31.1.2024) by [The Colleges of Further Education and Regional Strategic Bodies \(Membership of Boards\) \(Scotland\) Order 2023 \(S.S.I. 2023/363\)](#), arts. 1, **2(2)(c)**
- F8** Word in Sch. 2 para. 3(4)(c) inserted (31.3.2015) by [The Post-16 Education \(Scotland\) Act 2013 \(Modification of Legislation\) Order 2015 \(S.S.I. 2015/153\)](#), art. 1, **Sch. para. 2(3)(a)**
- F9** Sch. 2 para. 3(4)(e) and word preceding it omitted (31.3.2015) by virtue of [The Post-16 Education \(Scotland\) Act 2013 \(Modification of Legislation\) Order 2015 \(S.S.I. 2015/153\)](#), art. 1, **Sch. para. 2(3)(b)**

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**F10** Sch. 2 para. 3(5) inserted (1.10.2014) by The Lanarkshire Colleges Order 2014 (S.S.I. 2014/250), arts. 1(1), **5(1)(2)** (as amended (31.1.2024) by The Colleges of Further Education and Regional Strategic Bodies (Membership of Boards) (Scotland) Order 2023 (S.S.I. 2023/363), arts. 1, **4(2)**)

[<sup>F11</sup>3A (1) The board of a college which is not a regional college is to consist of no fewer than [<sup>F12</sup>15] nor more than [<sup>F13</sup>20] members.

(2) The board is to be comprised of—

- (a) a person appointed by the regional strategic body to chair meetings of the board (the “chairing member”);
- (b) the principal of the college;
- (c) a person appointed by being elected by the teaching staff of the college from among their own number;
- (d) a person appointed by being elected by the non-teaching staff of the college from among their own number;

[<sup>F14</sup>(da) a person appointed by being nominated by a trade union from among the teaching staff of the college who are members of a branch of a trade union that has a connection with the college;

(db) a person appointed by being nominated by a trade union from among the non-teaching staff of the college who are members of a branch of a trade union that has a connection with the college;]

- (e) two persons appointed by being nominated by the students' association of the college from among the students of the college; and
- (f) other members appointed by the regional strategic body.]

[<sup>F15</sup>(3) for the purposes of sub-paragraph (2)(da) and (db), a trade union nominating a person from among a category of staff must be one that—

- (a) is recognised by the board in relation to the category of staff (within the meaning of section 178(3) of the Trade Union and Labour Relations (Consolidation) Act 1992); or
- (b) otherwise appears to the board to be representative of the category of staff, having regard to all relevant factors.]

#### Textual Amendments

- F11** Sch. 2 paras. 3-3C substituted for Sch. 2 para. 3 (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), ss. **6(1)**, **23(2)**; S.S.I. 2014/21, art. 2, Sch. 1
- F12** Word in Sch. 2 para. 3A(1) substituted (31.1.2024) by The Colleges of Further Education and Regional Strategic Bodies (Membership of Boards) (Scotland) Order 2023 (S.S.I. 2023/363), arts. 1, **2(3)(a)(i)**
- F13** Word in Sch. 2 para. 3A(1) substituted (31.1.2024) by The Colleges of Further Education and Regional Strategic Bodies (Membership of Boards) (Scotland) Order 2023 (S.S.I. 2023/363), arts. 1, **2(3)(a)(ii)**
- F14** Sch. 2 para. 3A(2)(da)(db) inserted (31.1.2024) by The Colleges of Further Education and Regional Strategic Bodies (Membership of Boards) (Scotland) Order 2023 (S.S.I. 2023/363), arts. 1, **2(3)(b)**
- F15** Sch. 2 para. 3A(3) inserted (31.1.2024) by The Colleges of Further Education and Regional Strategic Bodies (Membership of Boards) (Scotland) Order 2023 (S.S.I. 2023/363), arts. 1, **2(3)(c)**

[<sup>F16</sup>3B (1) An election to appoint members in pursuance of paragraph 3(2)(c) or (d) or 3A(2)(c) or (d) is to be conducted in accordance with rules made by the board.

(2) Before making, varying or replacing rules about elections to be held in pursuance of paragraph 3(2)(c) or 3A(2)(c), the board must consult the representatives of any

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trade union which the board recognises as being, or which otherwise appears to the board to be, representative of the teaching staff of the college.

- (3) Before making, varying or replacing rules about elections to be held in pursuance of paragraph 3(2)(d) or 3A(2)(d), the board must consult the representatives of any trade union which the board recognises as being, or which otherwise appears to the board to be, representative of the non-teaching staff of the college.]

#### **Textual Amendments**

**F16** Sch. 2 paras. 3-3C substituted for Sch. 2 para. 3 (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013](#) (asp 12), [ss. 6\(1\), 23\(2\)](#); S.S.I. 2014/21, art. 2, Sch. 1

[<sup>F17</sup>3C (1) In appointing members under paragraph 3(2) or 3A(2) and in extending the period of appointment of any member so appointed, the board or, as the case may be, regional strategic body must have regard to any guidance issued by the Scottish Ministers in relation to the making of such appointments (including any guidance on the desirability of appointing members with particular skills and experience).

- (2) Before issuing guidance under sub-paragraph (1), the Scottish Ministers must consult—

- (a) any board to which the guidance relates;
- (b) where it relates to the board of a college which is not a regional college, the regional strategic body for the college;
- (c) the local authority for any area in which the board to which the guidance relates is situated;
- (d) the relevant students' associations;
- (e) the representatives of any trade union which is recognised by a board to which the guidance relates or which otherwise appears to the Scottish Ministers to be representative of its staff;
- (f) the Council;
- (g) any body which appears to the Scottish Ministers to be representative of colleges of further education;
- (h) any body which appears to the Scottish Ministers to be representative of local authorities;
- (i) any body which appears to the Scottish Ministers to be representative of students of colleges of further education generally; and
- (j) any body which appears to the Scottish Ministers to be representative of trade unions in Scotland.

- (3) Different guidance may be issued for different purposes.]

#### **Textual Amendments**

**F17** Sch. 2 paras. 3-3C substituted for Sch. 2 para. 3 (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013](#) (asp 12), [ss. 6\(1\), 23\(2\)](#); S.S.I. 2014/21, art. 2, Sch. 1

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### Textual Amendments

**F18** Sch. 2 para. 4 omitted (3.3.2014) by virtue of Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), Sch. para. 2(7)(a); S.S.I. 2014/21, art. 2, Sch. 1

### *Qualifications and tenure of office*

- 5 (1) Subject to this paragraph and paragraphs [F19]5A and 5B below, a member of the board—
- (a) if appointed in pursuance of paragraph 3(2)(a) as the chairing member of the board of a regional college, holds and vacates office on such terms and conditions as the Scottish Ministers may determine;
  - (b) if appointed in pursuance of paragraph 3(2)(c) to (f) as a member of the board of a regional college, holds and vacates office on such terms and conditions as the board may determine;
  - (c) if appointed in pursuance of paragraph 3A(2)(a) or (c) to (f) as a member of the board of a college which is not a regional college, holds and vacates office on such terms as the regional strategic body may determine; and
  - (d) is, on ceasing to hold office, eligible for re-appointment.]
- [F20](2) Subject to sub-paragraphs (2A) to (2G) below—
- (a) a member appointed by being elected in pursuance of paragraph 3(2)(c) or (d) or 3A(2)(c) or (d) is to hold office for 4 years;
  - [F21](aa) a member appointed in pursuance of paragraph 3(2)(da) or (db) or paragraph 3A(2)(da) or (db) is to hold office for 4 years;]
  - (b) a member appointed in pursuance of paragraph 3(2)(e) or 3A(2)(e) is to hold office until 31 August following appointment; and
  - (c) each other member of the board (including the chairing member) is to hold office for such period (not exceeding 4 years) as is specified in the member's terms of appointment.
- (2A) The Scottish Ministers may extend the period of appointment of the chairing member of a regional college for a single further period not exceeding 4 years.
- (2B) The board of a regional college may extend the period of appointment of a member appointed under paragraph 3(2)(f) for a single further period not exceeding 4 years (but such an extension has effect only if approved by the chairing member and the Scottish Ministers).
- (2C) A regional strategic body may extend the period of appointment of a member it appoints under paragraph 3A(2)(a) or (f) for a single further period not exceeding 4 years.
- (2D) The chairing member of a regional college is to vacate office if the member becomes a person of the type described in paragraph 3(4).
- (2E) The principal of a college is to vacate office on ceasing to be the principal.
- (2F) A member appointed under paragraph 3(2)(c) or (d) or 3A(2)(c) or (d) is to vacate office if the member ceases to be a member of the teaching or, as the case may be, non-teaching staff of the college before the member's period of appointment ends.

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- [<sup>F22</sup>(2FA) A member appointed in pursuance of paragraph 3(2)(da) or (db) or paragraph 3A(2)(da) or (db) is to vacate office if—
- (a) the member ceases to be a member of the teaching or, as the case may be, non-teaching staff of the college; or
  - (b) the member ceases to be a member of a branch of a trade union that has a connection with the college;
- before the member’s period of appointment ends.]
- (2G) A member appointed in pursuance of paragraph 3(2)(e) or 3A(2)(e) is to vacate office if the member ceases to be a student of the college before the member's period of appointment ends.]
- <sup>F23</sup>(3) . . . . .
- <sup>F23</sup>(4) . . . . .
- (5) A member of the board, other than the principal of the college, may resign his office at any time by giving notice in writing to [<sup>F24</sup>—
- (a) in the case of the chairing member of the board of a regional college, the Scottish Ministers;
  - (b) in the case of any other member of the board a regional college, the board;
  - (c) in the case of any member of the board of a college which is not a regional college, the regional strategic body.]
- [<sup>F25</sup>(6) In relation to the board of New College Lanarkshire, this paragraph is to be read subject to the modifications set out in article 5(4) of the Lanarkshire Colleges Order 2014.]

#### Textual Amendments

- F19** Sch. 2 para. 5(1)(a)-(d) substituted for words in Sch. 2 para. 5(1) (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\)](#), **Sch. para. 2(7)(b)(i)**; S.S.I. 2014/21, art. 2, Sch. 1
- F20** Sch. 2 para. 5(2)-(2G) substituted for Sch. 2 para. 5(2) (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\)](#), **Sch. para. 2(7)(b)(ii)**; S.S.I. 2014/21, art. 2, Sch. 1
- F21** Sch. 2 para. 5(2)(aa) inserted (31.1.2024) by [The Colleges of Further Education and Regional Strategic Bodies \(Membership of Boards\) \(Scotland\) Order 2023 \(S.S.I. 2023/363\)](#), arts. 1, **2(4)(a)**
- F22** Sch. 2 para. 5(2FA) inserted (31.1.2024) by [The Colleges of Further Education and Regional Strategic Bodies \(Membership of Boards\) \(Scotland\) Order 2023 \(S.S.I. 2023/363\)](#), arts. 1, **2(4)(b)**
- F23** Sch. 2 para. 5(3)(4) omitted (3.3.2014) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\)](#), **Sch. para. 2(7)(b)(iii)**; S.S.I. 2014/21, art. 2, Sch. 1
- F24** Sch. 2 para. 5(5)(a)-(c) substituted for words in Sch. 2 para. 5(5) (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\)](#), **Sch. para. 2(7)(b)(iv)**; S.S.I. 2014/21, art. 2, Sch. 1
- F25** Sch. 2 para. 5(6) inserted (1.10.2014) by [The Lanarkshire Colleges Order 2014 \(S.S.I. 2014/250\)](#), arts. 1(1), **5(3)(4)** (as amended (31.1.2024) by [The Colleges of Further Education and Regional Strategic Bodies \(Membership of Boards\) \(Scotland\) Order 2023 \(S.S.I. 2023/363\)](#), **art. 4(3)**)

#### Commencement Information

- II** Sch. 2 para. 5 wholly in force at 16.5.1992 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), **Sch. 1**.

- [<sup>F26</sup>5A(1) A person is not eligible for appointment as a member of the board if the person—
- (a) has within 5 years of the date on which the appointment would take effect, been sentenced (following conviction for an offence in the United Kingdom,

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the Channel Islands, the Isle of Man or the Irish Republic) to imprisonment for a period of not less than 3 months, whether suspended or not, without the option of a fine;

- (b) is an undischarged bankrupt; or
- (c) has been removed from office under section 24 of this Act (in relation to any college) or section 23Q of the Further and Higher Education (Scotland) Act 2005 (in relation to any regional board).

(2) For the purposes of sub-paragraph (1)(b), “undischarged bankrupt” means a person

- (a) whose estate has been sequestrated and who has not been discharged (or against whom a bankruptcy order has been made and is still in force);
- (b) who has granted a trust deed for, or made a composition or arrangement with, creditors (and has not been discharged in respect of it);
- (c) who is the subject of a bankruptcy restrictions order, or an interim bankruptcy restrictions order, made under the Bankruptcy (Scotland) Act 1985 or the Insolvency Act 1986;
- (d) who is the subject of a bankruptcy restrictions undertaking entered into under either of those Acts;
- (e) who has been adjudged bankrupt (and has not been discharged); or
- (f) who is subject to any other kind of order, arrangement or undertaking analogous to those described in paragraphs (a) to (d), anywhere in the world.

#### Textual Amendments

**F26** Sch. 2 paras. 5A-5C inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\), Sch. para. 2\(7\)\(c\)](#); S.S.I. 2014/21, art. 2, Sch. 1

- 5B (1) The relevant person must remove a member of the board from office (by giving notice in writing to the member) if—
- (a) the member—
    - (i) is sentenced as mentioned in paragraph 5A(1)(a); or
    - (ii) has become a person to whom paragraph 5A(1)(b) applies; or
  - (b) the relevant person is satisfied that the member—
    - (i) has been absent from meetings of the board for a period longer than 6 consecutive months without the permission of the board; or
    - (ii) is otherwise unable or unfit to discharge the member's functions.
- (2) In sub-paragraph (1), “relevant person”—
- (a) in the case of the chairing member of the board of a regional college, means the Scottish Ministers;
  - (b) in the case of any other member of the board of a regional college, means the board of management of that college;
  - (c) in the case of a member of the board of a college which is not a regional college, means the regional strategic body for that college.
- (3) The Scottish Ministers must, by giving notice in writing to the member, remove a member from office if the member is removed from office under section 24 of this Act (in relation to any other college) or section 23Q of the Further and Higher Education (Scotland) Act 2005 (in relation to any regional board).

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- (4) Where a member removed under sub-paragraph (3) was appointed under paragraph 3(2)(f) or [<sup>F27</sup>3A(2)(a) or (f)], the Scottish Ministers may appoint another person in place of the removed member.
- (5) An appointment made under sub-paragraph (4) has effect as if made under the provision under which the removed member was appointed.

**Textual Amendments**

**F26** Sch. 2 paras. 5A-5C inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 2\(7\)\(c\)](#); S.S.I. 2014/21, art. 2, Sch. 1

**F27** Words in Sch. 2 para. 5B(4) substituted (31.3.2015) by [The Post-16 Education \(Scotland\) Act 2013 \(Modification of Legislation\) Order 2015 \(S.S.I. 2015/153\)](#), art. 1, [Sch. para. 2\(4\)](#)

5C Paragraphs 5A and 5B do not apply in relation to the principal of the college.]

**Textual Amendments**

**F26** Sch. 2 paras. 5A-5C inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 2\(7\)\(c\)](#); S.S.I. 2014/21, art. 2, Sch. 1

[<sup>F28</sup>5D In relation to the board of New College Lanarkshire, paragraph 5C is to be read subject to the modification set out in article 5(6) of the Lanarkshire Colleges Order 2014.]

**Textual Amendments**

**F28** Sch. 2 para. 5D inserted (1.10.2014) by [The Lanarkshire Colleges Order 2014 \(S.S.I. 2014/250\)](#), arts. 1(1), [5\(5\)\(6\)](#)

<sup>F29</sup>6 .....

**Textual Amendments**

**F29** Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 2\(7\)\(d\)](#); S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

<sup>F29</sup>7 .....

**Textual Amendments**

**F29** Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 2\(7\)\(d\)](#); S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

<sup>F29</sup>8 .....



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**Textual Amendments**

**F29** Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 2\(7\)\(d\)](#); S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

**F29**<sup>9</sup> .....

**Textual Amendments**

**F29** Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 2\(7\)\(d\)](#); S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

**F29**<sup>10</sup> .....

**Textual Amendments**

**F29** Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 2\(7\)\(d\)](#); S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

*Proceedings*

- F30**<sup>11</sup> (1) Subject to <sup>F31</sup>[paragraph]<sup>F32</sup>[13] below, the board may regulate their own proceedings and those of any committee appointed by them.
- (2) The validity of any proceedings of the board or of any committee appointed by them shall not be affected by any defect in the appointment of any member of the board or any member of such committee or by a vacancy amongst the members of the board.
- (3) Subject to sub-paragraph (5) below, the board shall make available for inspection at the college at all reasonable times by anyone who wishes to inspect them copies of the documents to which this sub-paragraph applies.
- (4) The documents to which sub-paragraph (3) above applies are—
- (a) the agenda for any meeting of the board or of any committee of theirs;
  - (b) the draft minutes of any such meeting as approved by the chairman of the meeting;
  - (c) the minutes of such meeting as agreed by the board or, as the case may be, committee; and
  - (d) any report or other document considered by such meeting.
- (5) Sub-paragraph (3) above shall not apply to any document or part thereof which relates to—
- (a) an employee, former employee or applicant for employment in relation to the college;
  - (b) a person who is, has been, or is likely to be a student of the college;
  - (c) any information the disclosure of which is prohibited by anything in any enactment (including this Act and an enactment contained in a subordinate instrument) or rule of law;

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- (d) anything which it appears to the board should be treated as confidential because of its commercial nature or otherwise.

**Textual Amendments**

**F30** Sch. 2 para. 11 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), **sch. 1**.

**F31** Word in **Sch. 2 para. 11(1)** substituted (3.3.2014) by **Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), Sch. para. 2(7)(e)**; S.S.I. 2014/21, art. 2, Sch. 1

**F32** Number in Sch. 2 para. 11(1) substituted (1.5.2003) by **Ethical Standards in Public Life etc. (Scotland) Act 2000 (Modification of Enactments) Order 2003 (S.S.I. 2003/199), arts. 1, 2, Sch.**

*Chairman*

F33<sup>12</sup> .....

**Textual Amendments**

**F33** **Sch. 2 para. 12** omitted (3.3.2014) by virtue of **Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), Sch. para. 2(7)(f)**; S.S.I. 2014/21, art. 2, Sch. 1

*Committees*

- F34<sup>13</sup> (1) The board may establish committees for any purpose and any such committee may appoint sub-committees.
- (2) Such committees may include persons who are not members of the board; but such persons shall not be entitled to vote at meetings of a committee.
- (3) The principal of the college shall be entitled to attend and speak at any meeting of a committee of the board; but he shall be entitled to vote at such meeting only if he is a member of such committee.
- (4) The board may pay to the members of such committees (whether or not they are also members of the board) such allowances and expenses as they may determine; and any allowances and expenses to be paid by virtue of this sub-paragraph shall be calculated by reference to such criteria as the Secretary of State may determine.
- (5) Any reference in this Schedule to a committee of the board shall include a reference to any sub-committee appointed by such committee.

**Textual Amendments**

**F34** Sch. 2 para. 13 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), **Sch. 1**.

*Conflict of interest*

F35<sup>14</sup> .....

*Changes to legislation:* There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, SCHEDULE 2. (See end of Document for details)

**Textual Amendments**

**F35** Sch. 2 para. 14 omitted (1.5.2003) by virtue of [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(Modification of Enactments\) Order 2003 \(S.S.I. 2003/199\)](#), arts. 1, 2, **Sch.**

*Confidentiality of information*

<sup>F36</sup>15 .....

**Textual Amendments**

**F36** Sch. 2 para. 15 omitted (1.5.2003) by virtue of [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(Modification of Enactments\) Order 2003 \(S.S.I. 2003/199\)](#), arts. 1, 2, **Sch.**

*Staff*

<sup>F37</sup>16 Subject to section 15 of this Act [<sup>F38</sup>and paragraph 16A below], the board may appoint on such terms and conditions as they may determine such employees as they think fit.

**Textual Amendments**

**F37** Sch. 2 para. 16 wholly in force at 16.5.1992 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), **Sch. 1**.

**F38** Words in [Sch. 2 para. 16](#) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 2(7)(g)**; [S.S.I. 2014/21](#), art. 2, **Sch. 1**

[<sup>F39</sup>16A The appointment of a principal of a college which is not a regional college, and the terms and conditions of such an appointment, have effect only if approved by the regional strategic body for the college.]

**Textual Amendments**

**F39** [Sch. 2 para. 16A](#) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 2(7)(h)**; [S.S.I. 2014/21](#), art. 2, **Sch. 1**

<sup>F40</sup>17 (1) The board may, in the case of such of its employees or former employees as they may, subject to sub-paragraph (2) below, determine—

- (a) pay such pensions, allowances or gratuities to or in respect of those employees;
- (b) make such payments towards provision of such pensions, allowances or gratuities; or
- (c) make such arrangements for the provision and maintenance of such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities,

as they think fit.

(2) Sub-paragraph (1) above shall not apply to any person who becomes an employee of the board under or by virtue of any provision of this Act (other than paragraph

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, SCHEDULE 2. (See end of Document for details)*

16 above) unless that person, by notice given in writing, informs the board that he wishes it so to apply.

- (3) The reference in sub-paragraph (1) above to pensions, allowances or gratuities in respect of employees of the board includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any such employee who suffers loss of office or employment.

#### Textual Amendments

**F40** Sch. 2 para. 17 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), **Sch. 1**.

#### *Accounts*

- <sup>F41</sup>18 (1) It shall be the duty of the board to keep proper accounts and other records.
- (2) The accounts shall be prepared <sup>F42</sup>. . . in respect of each financial year in such manner as the [<sup>F43</sup>Scottish Ministers] may direct and the accounts shall be submitted to the [<sup>F44</sup>Scottish Ministers by such time as they may direct].
- [<sup>F45</sup>(2A) The Scottish Ministers shall send the accounts to the Auditor General for Scotland for auditing.]
- (3) The financial year of the board shall be from 1st April to 31st March.
- (4) The Secretary of State may by order provide that the board shall have a different financial year, and an order under this sub-paragraph may make such consequential provision as appears to the Secretary of State to be necessary or expedient.

#### Textual Amendments

- F41** Sch. 2 para. 18 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), **Sch. 1**.
- F42** Words in Sch. 2 para. 18(2) repealed (1.4.2000) by 2000 asp 1, s. 26(1), **Sch. 4 para. 11(3)(a)(i)**; S.S.I. 2000/10, **art. 2(3)**
- F43** Words in Sch. 2 para. 18(2) substituted (1.4.2000) by 2000 asp 1, s. 26(1), **Sch. 4 para. 11(3)(a)(ii)**; S.S.I. 2000/10, **art. 2(3)**
- F44** Words in Sch. 2 para. 18(2) substituted (1.4.2000) by 2000 asp 1, s. 26(1), **Sch. 4 para. 11(3)(a)(iii)**; S.S.I. 2000/10, **art. 2(3)**
- F45** Sch. 2 para. 18(2A) inserted (1.4.2000) by 2000 asp 1, s. 26(1), **Sch. 4 para. 11(3)(b)**; S.S.I. 2000/10, **art. 2(3)**

- <sup>F46</sup>19 The accounts of the board shall be open to the inspection of the Comptroller and Auditor General, but—
- (a) the power conferred by this paragraph; and
- (b) the powers under sections 6 and 8 of the <sup>M1</sup>National Audit Act 1983 (examinations into the economy, efficiency and effectiveness of certain bodies and access to documents and information) conferred on the Comptroller and Auditor General by virtue of section 6(3)(c) of that Act, shall be exercisable only in, or in relation to accounts or other documents which relate to, any financial year in which expenditure is incurred by the board in respect of which grants, loans or other payments are made to them under this Part of this Act.

**Changes to legislation:** There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, SCHEDULE 2. (See end of Document for details)

**Textual Amendments**

**F46** Sch. 2 para. 19 wholly in force at 16.5.1992 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), [Sch. 1](#).

**Marginal Citations**

**M1** 1983 c. 44.

*Execution of documents*

- <sup>F47</sup>20 (1) For any purpose other than those mentioned in sub-paragraph (2) below, a document is validly executed by the board if it is signed on their behalf by a member of the board or by their secretary (or any person performing the duties of secretary to the board) or by any person authorised to sign the document on their behalf.
- (2) For the purposes of any enactment or rule of law relating to the authentication of documents, a document is validly executed by the board if it is subscribed on their behalf by being executed in accordance with the provisions of sub-paragraph (1) above.
- (3) A document which bears to have been executed by the board in accordance with sub-paragraph (2) above shall, in relation to such execution, be a probative document if the subscription of the document bears to have been attested by at least one witness.

**Textual Amendments**

**F47** Sch. 2 para. 20 wholly in force at 16.5.1992 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), [Sch. 1](#).

*Provision of services*

- <sup>F48</sup>21 The <sup>M2</sup>Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to certain public bodies) shall have effect as if the board were a public body within the meaning of that Act.

**Textual Amendments**

**F48** Sch. 2 para. 21 wholly in force at 16.5.1992 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), [Sch. 1](#).

**Marginal Citations**

**M2** 1970 c. 39.

**Changes to legislation:**

There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, SCHEDULE 2.