

**2001 No. 199**

**EDUCATION**

**The Designation of Bell College of Technology (Scotland)  
Order 2001**

<i>Made</i>	<i>30th May 2001</i>
<i>Laid before the Scottish Parliament</i>	<i>31st May 2001</i>
<i>Coming into force</i>	<i>1st August 2001</i>

The Scottish Ministers, in exercise of the powers conferred by sections 25(1) and (5), 44(1) and 60(3) of the Further and Higher Education (Scotland) Act 1992(a) and of all other powers enabling them in that behalf, after consulting the education authority for the area in which the college is situated and any other person appearing to them to be affected by the proposal in accordance with section 5(1) of that Act, hereby make the following Order:

**Citation and commencement**

1. This Order may be cited as the Designation of Bell College of Technology (Scotland) Order 2001 and shall come into force on 1st August 2001.

**Interpretation**

2. In this Order the following expressions shall have the meanings respectively assigned to them:—

“the Act” means the Further and Higher Education (Scotland) Act 1992;

“the Board of Management” means the Board of Management of the College, being a body corporate established under section 11(2) of the Act;

“the College” means Bell College of Technology;

“governing body” means the governing body of the College, constituted as a body corporate by virtue of section 45(2) of the Act; and

“the transfer date” means the date on which the governing body consents, for the purpose of section 25(7) of the Act, to the transfer to it, and vesting in it, of the property, rights, liabilities and obligations of the Board of Management in accordance with the provisions of Article 4 of this Order.

**Designation of the College**

3.—(1) The College is hereby designated as an institution eligible to receive support from funds administered by the Scottish Higher Education Funding Council.

(2) The designation of the College by paragraph (1) of this article shall remain in effect notwithstanding any change of name of that institution.

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(a) 1992 c.37. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

## **Transfer of property, rights, liabilities and obligations**

4.—(1) On the transfer date—

- (a) there shall be transferred to, and vested in, the governing body all property, rights, liabilities and obligations to which immediately before the transfer date the Board of Management was entitled or subject; and
- (b) there shall be vested in the governing body all rights, liabilities and obligations occurring in respect of the College on or after the transfer date and before the transfer date.

(2) The vesting of property, rights, liabilities and obligations under this article shall have effect, notwithstanding—

- (a) anything to the contrary in, or
- (b) any condition relating to the transfer of such property, rights, liabilities or obligations contained in,

any enactment, rule of law or obligation.

(3) References to the Board of Management—

- (a) in any agreement, deed, bond, instrument or notice;
- (b) in any action or proceeding pending or existing at the transfer date by or against the Board of Management before any court or other tribunal; and
- (c) in any other document whatsoever relating to or affecting any property, right, liability or obligation of the governing body which vests by virtue of this article in the governing body,

shall be taken on or after the transfer date as referring to the governing body.

## **Transfer of staff**

5.—(1) Where a person is employed immediately before the transfer date by the Board of Management their contract of employment shall have effect on and after that date as if originally made between them and the governing body.

(2) Without prejudice to paragraph (1) above—

- (a) all the rights, powers, duties and liabilities of the Board of Management under or in connection with a contract to which that paragraph applies shall by virtue of this paragraph be transferred to the governing body on the transfer date; and
- (b) anything done before that date by or in relation to the Board of Management in respect of that contract or the employee shall be deemed on and after that date to have been done by or in relation to the governing body.

(3) Paragraphs (1) and (2) above are without prejudice to any right of an employee to terminate their contract of employment if the terms and conditions of their employment are changed substantially to their detriment, but such change shall not be taken to have occurred by reason only of the fact that their employer is changed by virtue of this article.

(4) Where a person—

- (a) has, prior to the transfer date, entered into a contract of employment with the Board of Management which is to come into effect on or after that date; and
- (b) would, if the contract had come into effect before that date, have been an employee to whom the provisions of this article would have applied, that person shall be treated for the purposes of this article as if they were such an employee.

**Winding up and dissolution of Board of Management**

6.—(1) The Board of Management is hereby wound up.

(2) The Board of Management shall be dissolved on the day following the transfer date.

St Andrew's House,  
Edinburgh  
30th May 2001

*WENDY ALEXANDER*  
A member of the Scottish Executive

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order has the effect that on 1st August 2001 Bell College of Technology a further education college under the management of a Board of Management established under section 11(2) of the Further and Higher Education (Scotland) Act 1992, becomes a designated institution within the meaning of Part II of that Act.

The Order designates the College as eligible to receive funds from the Scottish Higher Education Funding Council (article 3). It transfers the whole property, rights, liabilities and obligations of the Board of Management to the governing body of the designated institution. The governing body is established as a body corporate by virtue of section 45(2) of that Act. Transfer will take place on the date that the governing body consents to such transfer for the purposes of section 25(7) of that Act. The governing body will also receive all rights, liabilities and obligations occurring in respect of the College between the date on which the Board of Management is wound up and the date on which the governing body consents to transfer (article 4). It provides for staff of the College presently employed by the Board of Management to transfer, on existing terms and conditions, to employment by the governing body without a break in their employment (article 5). It winds up and dissolves the existing Board of Management of the College (article 6).

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