

2007 No. 171

EDUCATION

**The Bell College of Technology (Transfer and Closure)
(Scotland) Order 2007**

<i>Made</i> - - - -	<i>6th March 2007</i>
<i>Laid before the Scottish Parliament</i>	<i>7th March 2007</i>
<i>Coming into force</i> - -	<i>1st August 2007</i>

The Scottish Ministers, in exercise of the powers conferred by section 47(1), (1A), (2), (4) and (6) of the Further and Higher Education (Scotland) Act 1992(a), and of all other powers enabling them in that behalf, and after consulting the Scottish Further and Higher Education Funding Council(b) and the governing body of Bell College of Technology in accordance with section 47(5) of that Act, and with the consent of the governing body of the University of Paisley(c) in accordance with section 47(8) of that Act, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Bell College of Technology (Transfer and Closure) (Scotland) Order 2007 and shall come into force on 1st August 2007.

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 College” means Bell College of Technology, being an institution designated under section 44 of the Act(d);

“governing body”:

- (a) in relation to the College, means The Board of Governors of Bell College of Technology constituted in terms of article 3 of the Bell College of Technology (Scotland) Order of Council 2001(e) and incorporated under section 45(2) of the Act;
- (b) in relation to the University, means the Court of the University of Paisley, constituted and incorporated by the Paisley College of Technology Scheme 1954(f) and renamed in

(a) 1992 c.37; section 47 was amended by the Further and Higher Education (Scotland) Act 2005 (asp 6). 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).
(b) The Scottish Further and Higher Education Funding Council was established by the Further and Higher Education (Scotland) Act 2005.
(c) A body entered in the Scottish Charity Register.
(d) S.S.I. 2001/199.
(e) S.S.I. 2001/234 and S.I. 2001/2005.
(f) The 1954 Scheme was framed and confirmed by the Secretary of State and approved by Order of Council on 19th October 1954 under section 123 of the Education (Scotland) Act 1946 (c.72) and relevant amendments are made by S.I. 1973/1811, 1988/1715, S.I. 1992/1093 and 1993/558.

accordance with articles 3 and 4 of the University of Paisley (Scotland) Order of Council 1993(a);

“the Transfer Date” means 1st August 2007; and

“the University” means the University of Paisley, being an institution designated under section 44 of the Act(b).

Closure of institution

3. The College shall be closed and its governing body wound up on the Transfer Date.

Transfer of property, rights, liabilities and obligations

4.—(1) On the Transfer Date, there shall be transferred to and vested in the governing body of the University all property, rights, liabilities and obligations to which, immediately before the Transfer Date, the governing body of the College was entitled or subject.

(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 College or the governing body of the College in any—

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

shall be taken on or after the Transfer Date as referring to the University or the governing body of the University as appropriate.

Transfer of staff

5.—(1) Where a person is employed immediately before the Transfer Date by the governing body of the College, that person’s contract of employment shall have effect on or after the Transfer Date as if originally made between that person and the governing body of the University.

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

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

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

(a) S.I. 1993/558.
(b) S.I. 1992/1025.

(4) Where a person—

- (a) has, prior to the Transfer Date, entered into a contract of employment with the governing body of the College 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 that person were such an employee.

Dissolution of the governing body

6. The governing body of the College shall be dissolved on the Transfer Date.

Revocations

7. The Orders specified in Column 1 of the Schedule to this Order are hereby revoked to the extent specified in Column 2 of that Schedule.

St Andrew's House,
Edinburgh
6th March 2007

NICOL STEPHEN
A member of the Scottish Executive

SCHEDULE

Regulation 7

REVOCATIONS

Column 1 Instrument	Column 2 Extent of Revocation
The Bell College of Technology (Scotland) Order of Council 2001 (S.I. 2001/2005)	The whole Order
The Bell College of Technology (Scotland) Order of Council 2001 (S.S.I. 2001/234)	The whole Order
The Designation of Bell College of Technology (Scotland) Order 2001 (S.S.I. 2001/199)	The whole Order
The Protection of Charities Assets (Exemption)(Scotland) Order 2006 (S.S.I. 2006/220)	Reference to “Bell College of Technology” and its Governing Body in Part 3 of the Schedule to the Order

EXPLANATORY NOTE

(This note is not part of the Order)

On 1st August 2007 Bell College of Technology (“the College”) will cease to be a separate institution as the result of its merger with the University of Paisley.

Article 3 of the Order closes the College. Article 4 transfers the whole property, rights, liabilities and obligations from the governing body of the College to that of the University. Article 5 provides for the transfer of staff to the University without a break in their employment. Article 6 dissolves the governing body of the College. Article 7 revokes three Orders containing the designation and governance provisions of the College and amends an Order under the Charities and Trustee Investment (Scotland) Act 2005 (asp 10) to remove the reference to the College.

