

**2013 No. 179**

**EDUCATION**

**The Adam Smith College, Fife (Transfer and Closure) Order  
2013**

*Made* - - - - - *29th May 2013*

*Laid before the Scottish Parliament* *31st May 2013*

*Coming into force* - - - *1st August 2013*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 3(1)(c), 25(1), (1A), (2) and (5) and 60(3) of the Further and Higher Education (Scotland) Act 1992(a) and of all other powers enabling them to do so.

In accordance with section 5(1) of that Act, they have consulted the education authority for the area in which The Adam Smith College, Fife is situated and any other person appearing to them to be affected by the proposal.

In accordance with section 25(7) of that Act, the Board of Management of Carnegie College has consented to the transfer and vesting of property, rights, liabilities and obligations provided for in this Order.

**Citation and commencement**

1. This Order may be cited as the Adam Smith College, Fife (Transfer and Closure) Order 2013 and comes into force on 1st August 2013.

**Interpretation**

2. In this Order—

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

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(a) 1992 c.37. Section 3(1) was amended by the Further and Higher Education (Scotland) Act 2005 (asp 6) (“the 2005 Act”), section 32 and schedule 3, paragraph 6(1)(a). Section 25 was amended by section 29(1) of the 2005 Act and by S.S.I. 2006/216. 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).

“Adam Smith” means the institution named The Adam Smith College, Fife being a college of further education established under section 3 of the 1992 Act(a);

“the Adam Smith Board” means the Board of Management of The Adam Smith College, Fife established under section 3 of the 1992 Act;

“Carnegie” means the institution named Carnegie College being a college of further education prescribed under section 11(1) of the 1992 Act(b);

“the Carnegie Board” means the Board of Management of Carnegie College established as a body corporate by section 11(2) of the 1992 Act, which is a charity entered in the Scottish Charity Register, charity number SC021182; and

“enactment” has the meaning given in schedule 1 to the Interpretation and Legislative Reform (Scotland) Act 2010(c).

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

3.—(1) All property, rights, liabilities and obligations of the Adam Smith Board are transferred to and vested in the Carnegie Board.

(2) Any reference to Adam Smith and the Adam Smith Board in any instrument is to be construed as a reference to either Carnegie or the Carnegie Board as may be appropriate.

(3) Any action or proceeding by or against the Adam Smith Board pending or current, immediately before this Order comes into force, may be continued by or against the Carnegie Board.

(4) For the purposes of this article, “instrument” does not include enactment.

### **Property provided with grand aid**

4. Where the Grant-aided Colleges (Scotland) Grant Regulations 1989(d) applied to the Adam Smith Board in respect of any land or buildings immediately before they were transferred by this Order, those Regulations apply to the Carnegie Board in respect of such land and buildings.

### **Transfer of staff**

5.—(1) All employees of the Adam Smith Board are transferred to the Carnegie Board and the contract of employment of each such employee has effect as if originally made between each such employee and the Carnegie Board.

(2) In particular—

(a) all the rights, powers, duties and liabilities of the Adam Smith Board under or in connection with a contract to which paragraph (1) applies are, by virtue of this paragraph, transferred to the Carnegie Board; and

(b) anything done before the transfer referred to in paragraph (1) by or in relation to the Adam Smith Board in respect of that contract or the employee is deemed, on and after that transfer, to have been done by or in relation to the Carnegie Board.

(3) Paragraphs (1) and (2) are without prejudice to any right of an employee to terminate their contract of employment if the terms and conditions of employment are changed substantially to the detriment of that employee, but such change is not to 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.

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(a) The Adam Smith College, Fife and the Board of Management of The Adam Smith College, Fife were established by S.S.I. 2005/298.

(b) Carnegie College is prescribed by S.I. 1992/1597. The name of Carnegie College was changed from Lauder College on 30th November 2007 in accordance with section 3(4) of the Further and Higher Education (Scotland) Act 1992 (c.37) (“the 1992 Act”). Section 3(4) of the 1992 Act was amended by section 30 of the 2005 Act.

(c) 2010 asp 10.

(d) S.I. 1989/433, amended by S.I. 1993/489.

(4) Paragraphs (1) and (2) apply to a person who has entered into a contract of employment with the Adam Smith Board, which is to come into effect after the coming into force of this article and who would, if the contract had come into effect before that date, have been an employee to whom those paragraphs would have applied.

**Closure of institution**

6. Adam Smith is closed and the Adam Smith Board is wound up and dissolved.

**Revocation**

7. The Adam Smith College, Fife (Establishment) Order 2005(a) is revoked.

St Andrew's House,  
Edinburgh  
29th May 2013

*MICHAEL RUSSELL*  
A member of the Scottish Government

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(a) S.S.I. 2005/298.

## EXPLANATORY NOTE

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

On 1st August 2013 The Adam Smith College, Fife will cease to exist.

This Order transfers the whole property, rights, liabilities and obligations of the Board of Management of The Adam Smith College, Fife to the Board of Management of Carnegie College (article 3). It makes consequential provisions regarding property provided with the aid of a grant (article 4). It provides for the staff of The Adam Smith College, Fife to transfer to employment with Carnegie College without a break in their employment (article 5). It provides for The Adam Smith College, Fife to be closed and the Board of Management to be wound up and dissolved (article 6). This Order also revokes the Adam Smith College, Fife (Establishment) Order 2005 (S.S.I. 2005/298) (article 7).

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