

POLICY NOTE

THE POST-16 EDUCATION (SCOTLAND) ACT 2013 (COMMENCEMENT NO. 4 AND TRANSITORY PROVISIONS) ORDER 2014

SSI 2014/79 (C. 6)

1. The above instrument is made in exercise of the powers conferred by section 23(2) and (3) of the Post-16 Education (Scotland) Act 2013 (“the 2013 Act”).

Policy objectives

2. The instrument forms part of an implementation package for the 2013 Act. The provisions in the 2013 Act are being commenced in several stages.

Transitory modification: regional boards

3. The Regional Board for Glasgow Colleges is being established on 1 May 2014, ahead of the assignation of colleges on 1 August 2014 to enable the Regional Board to prepare in advance of it assuming functions in relation to colleges which are subsequently assigned to it. This will mean there will be a period where the Regional Board has no assigned colleges.

4. Some provisions in schedule 2B to the 2005 Act, which is inserted by section 11(2) of the 2013 Act, relate to the membership of, or participation at meetings of, a Regional Board, by persons who have a connection to a college assigned to it. As no colleges will be assigned to a Regional Board until 1 August 2014, only certain paragraphs of schedule 2B are commenced with effect from 1 May 2014 by this Order (see paragraph 13 below) and article 3 provides that where provisions being commenced include references to provisions not being commenced until 1 August 2014, they are to be read as if any such references are omitted.

5. Article 3(a) makes provision in relation to the maximum number of board members that can be appointed under paragraph 3(2)(f) of schedule 2B to the 2005 Act. The number is increased from 10 to 17 until 1 August 2014. This is to enable the Scottish Ministers to appoint, in addition to other ordinary board members, some members on a temporary basis. This will enable Ministers to fill the ‘gap’ in board membership resulting from the Regional Board for Glasgow Colleges having no colleges assigned to it. Ministers intend to use this transitory provision to appoint on an interim basis, the chairs of the three colleges that will be assigned and two staff and two student members from the colleges that will be assigned.

Commencement

6. Sections 22 (Ancillary provision), 23 (Commencement) and 24 (Short title) came into force on the day following Royal Assent (i.e. 7 August 2013) by virtue of section 23(1).

7. The first Commencement Order, the Post-16 Education (Scotland) Act 2013 (Commencement No. 1) Order 2013 (S.S.I. 2013/281), was made on 24th September 2013. The second Commencement Order, the Post-16 Education (Scotland) Act 2013 (Commencement No. 2) Order 2013 (S.S.I. 2013/348), was made on 10th December 2013. The third Commencement Order, the Post-16 Education (Scotland) Act 2013

(Commencement No. 3 and Transitory and Savings Provisions) Order 2014 (S.S.I. 2014/21) was made on 22nd January 2014. They each commenced further provisions of the 2013 Act (details of which can be found in the note as to earlier commencement orders which accompanies this Order).

8. Article 2(1) of this Order appoints 1st May 2014 as the day on which the provisions specified in column 1 of Schedule 1 come into force. Some come into force only for the specific purposes which are listed in column 3.

9. Article 2(2) of this Order appoints 1st August 2014 as the day on which the provisions specified in column 1 of Schedule 2 come into force. Some come into force only for the specific purposes which are listed in column 3.

Commencement: 1 May 2014

10. This Order commences **section 8** for the purpose of inserting the Regional Board for Glasgow Colleges into part 1 of schedule 2A to the 2005 Act. This establishes the Regional Board for Glasgow Colleges. It also means that article 3(1) of the Post-16 Education (Scotland) Act 2013 (Commencement No. 3 and Transitory and Savings Provisions) Order 2014, SSI 2014/21¹ (“the third Commencement Order”), which made transitional modification in relation to regional strategic bodies, ceases to have effect.

11. It commences **section 9(2)** for the purpose of inserting section 12A into the 2005 Act, which makes provision for the function of regional strategic bodies to administer funds.

12. It commences **section 11(1)**, which inserts section 23P into the 2005 Act to make provision for the constitution of a regional board.

13. It commences **section 11(2)**, which makes provision for the constitution of a regional board, for the purpose of inserting paragraphs 1, 2, 3(1), (2)(a) and (f), (3) and (5) to (8), 6(1) and (2), 7(1), (2)(a) and (e), (3) to (5) and (8), 8, 9(1) to (4) and (6) to (8), 10 to 12 and 14 to 18 into schedule 2B to the 2005 Act.

14. It commences **section 12**, which inserts section 23Q into the 2005, which makes provision for mismanagement by regional boards. It also means that article 3(4) of the third Commencement Order, which made transitional modification in relation to regional strategic bodies, ceases to have effect.

15. It commences **section 19**, which inserts section 26A into the 2005 Act, which makes provision for equal opportunities in relation to post-16 education bodies and regional strategic bodies, insofar as it is not already in force. In effect this brings into force the provisions in relation to regional strategic bodies.

16. It commences **section 21** but only for the purpose of enabling the paragraphs of the schedule to the 2013 Act listed in column 1 of Schedule 1 to this Order to be brought into force.

¹ <http://www.legislation.gov.uk/ssi/2014/21/contents/made>

17. It commences **paragraph 2(4)(a)** of the schedule, which amends section 12 of the 1992 Act
18. It commences **paragraph 4** of the schedule, which amends the Ethical Standards in Public Life etc. (Scotland) Act 2000.
19. It commences **paragraph 6** of the schedule, which amends the Freedom of Information (Scotland) Act 2002.
20. It commences **paragraph 7** of the schedule (insofar as it is not already in force), which amends the Public Appointments and Public Bodies etc. (Scotland) Act 2003. In effect this brings into force the provisions in relation to regional strategic bodies.
21. It commences **paragraph 8(5)(a)(iii) and (iv), (b) and (c)** of the schedule, which amend section 7 of the 2005 Act.
22. It commences **paragraph 8(7)(a)(i) and (d)** of the schedule, which amend section 9 of the 2005 Act.
23. It commences **paragraph 8(11)** of the schedule, which inserts section 13A into the 2005 Act, which makes provision for performance of regional strategic bodies.
24. It commences **paragraph 8(18)** of the schedule (insofar as it is not already in force), which inserts a new section 25A into the 2005 Act, which makes provision for provision of information.
25. It commences **paragraph 8(20)(b)** of the schedule, which amends section 28 of the 2005 Act.
26. It commences **paragraph 8(22)(c) and (d)** of the schedule, which amend section 34(4) of the 2005 Act.

Commencement: 1 August 2014

27. It commences **section 9(2)**, insofar as it is not already in force. In effect it inserts section 12B into the 2005 Act, which makes provision for the function of regional strategic bodies to fund assigned colleges. It also means that article 3(2) of the third Commencement Order, which made transitional modification in relation to regional strategic bodies, ceases to have effect.
28. It commences **section 10**, which inserts sections 23E to 23O into the 2005, which make provision the functions of regional strategic bodies. It also means that article 3(3) of the third Commencement Order, which made transitional modification in relation to regional strategic bodies, ceases to have effect.
29. It commences **section 11(2)**, which makes provision for the constitution of a regional board, for the purpose of inserting the remaining paragraphs into schedule 2B to the 2005 Act.

30. It commences **section 21** but only for the purpose of enabling the paragraph of the schedule to the 2013 Act listed in column 1 of Schedule 2 to this Order to be brought into force.

31. It commences **paragraph 9** of the schedule, which amends the Protection of Vulnerable Groups (Scotland) Act 2007.

Consultation

32. In October 2013, the Scottish Government issued a consultation paper to colleges and other stakeholders on Ministers plans in single and multi-college regions² that are in part given effect in this Order, as they enable the establishment of the Regional Board for Glasgow Colleges on 1 May 2014.

Impacts

33. A partial Business Regulatory Impact Assessment and an Equality Impact Assessment was carried out for the Post-16 Education (Scotland) Bill. The partial Business Regulatory Impact Assessment and a results summary of the Equality Impact Assessment are available on the Scottish Government website.

**Scottish Government
Colleges and Adult Learning Division
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² <http://www.scotland.gov.uk/Publications/2013/10/7639>