



Self-Governing Schools etc. (Scotland) Act 1989

1989 CHAPTER 39

PART II

FURTHER EDUCATION

Formation of companies to manage colleges of further education

65 Power of college councils to form companies to manage colleges of further education

- (1) A college council may, with the consent of—
- (a) the education authority; and
 - (b) the Secretary of State,

form companies under section 1 of the Companies Act 1985, for the purpose of enabling the education authority to transfer to any such company, in accordance with subsection (2) below, responsibility for managing a college, or colleges, of further education.

- (2) Where a company has been incorporated by virtue of subsection (1) above, the education authority and the company may, with the consent of the Secretary of State, agree a scheme providing for—
- (a) the transfer from the authority to the company of responsibility for managing such of the authority's colleges of further education as may be specified therein;
 - (b) the provision by the company of further education at any such college or colleges;
 - (c) the transfer from the authority to the company of such property, rights and liabilities as may be agreed;

Status: This is the original version (as it was originally enacted).

- (d) subject to section 66 of this Act, the transfer to the employment of the company of such of the staff employed at the college or colleges as may be agreed;
 - (e) subject to such conditions as may be agreed, the making of payments by the authority to the company in respect of the provision by the latter of further education; and
 - (f) such other matters as may be agreed.
- (3) Subject to subsection (4) below, the education authority and the company may at any time, with the consent of the Secretary of State, amend or revoke a scheme agreed under subsection (2) above.
- (4) Where it appears to the Secretary of State that an amendment to a scheme agreed under subsection (2) above is desirable, he may, after consulting the authority and the company, direct that the scheme be amended accordingly; and the scheme shall thereafter have effect as so amended.
- (5) Nothing in this section shall be construed as authorising the carrying on through a college of further education managed by a company formed by virtue of subsection (1) above of any commercial activities which are detrimental to the provision of further education at that college.

66 Transfer of staff to companies formed by virtue of section 65

- (1) This section applies to any person who immediately before the transfer date in relation to a college of further education is employed by the education authority responsible for managing that college, and who in terms of a scheme agreed under subsection (2) of section 65 of this Act is to be transferred to the employment of a company formed by virtue of subsection (1) of that section.
- (2) The contract of employment between a person to whom this section applies and the education authority by whom he is employed shall have effect from the transfer date as if originally made between him and the company.
- (3) Without prejudice to subsection (2) above—
- (a) all the education authority's rights, powers, duties and liabilities under or in connection with a contract to which that subsection applies shall by virtue of this section be transferred to the company on the transfer date; and
 - (b) anything done before that date by or in relation to the education authority in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the company.
- (4) Subsections (2) and (3) above are without prejudice to any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions, but no such right shall arise by reason only of the change in employer effected by this section.
- (5) For the purposes of this section—
- “the transfer date”, in relation to a college of further education, is the date on which, in accordance with a scheme agreed under section 65 of this Act, responsibility for the management of that college is transferred from an education authority to a company formed by virtue of that section; and
 - “the company” means the company to which responsibility for managing the college of further education is transferred by such a scheme.