



Further and Higher Education (Scotland) Act 1992

CHAPTER 37

FURTHER AND HIGHER EDUCATION (SCOTLAND) ACT 1992

PART I

FURTHER EDUCATION

CHAPTER I

DUTIES IN RELATION TO FURTHER EDUCATION

- 1 Duty of Secretary of State to secure provision of further education.
- 2 Function of education authorities.
- 3 Powers of Secretary of State.
- 4 Funding of further education.
- 5 Requirement on Secretary of State to consult.
- 6 Further education to which section 1 applies.

CHAPTER II

SCOTTISH FURTHER EDUCATION FUNDING COUNCIL

- 7 Scottish Further Education Funding Council.
- 8 Advisory functions of the Funding Council.
- 9 Power of Secretary of State as regards functions of the Funding Council.
- 10 Payment of grants etc., to the Funding Council.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Further and Higher Education (Scotland) Act 1992. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

CHAPTER III

COLLEGES OF FURTHER EDUCATION

Management of colleges

- 11 First transfer of colleges.
- 12 Boards of management.
- 13 Subsequent transfers of colleges.
- 14 Transfer of colleges of further education not under local authority management.

Staff

- 15 Transfer of staff.

Property

- 16 Transfer of property etc. to boards of management.
- 17 Surpluses and deficits.
- 18 Disposal of certain property.

Educational endowments and trusts

- 19 Educational endowments.
- 20 Variation of trust deeds.

Miscellaneous

- 21 Directions by Secretary of State.
- 22 College development plans.
- 23 Duty of boards of management as regards recorded children.
- 24 Mismanagement by boards.
- 25 Closure of colleges and dissolution of boards of management.
- 26 Abolition of college councils.
- 27 Information as to provision of further education.

CHAPTER IV

TRANSITORY AND TRANSITIONAL PROVISIONS

Property and contracts

- 28 Control of disposal of certain land etc.
- 29 Control of disposal and removal of other property.
- 30 Restriction on education authority entering into certain contracts.

Enforcement of sections 28 to 30

- 31 Disposals and contracts without consent.
- 32 Recovery of loss and damages.
- 33 Avoidance of certain contractual terms.

Transitional

- 34 Transitional provisions as regards college councils.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Further and Higher Education (Scotland) Act 1992. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

CHAPTER V

GENERAL

- 35 Service of documents etc.
- 36 Interpretation of Part I.

PART II

HIGHER EDUCATION

The funding council

- 37 Scottish Higher Education Funding Council.
- 38 Meaning of higher education.
- 39 Assessment of quality of education provided by institutions.

Funds

- 40 Administration of funds.
- 41 Administration of funds: supplementary.
- 42 Grants.

Further functions

- 43 Further functions.

Designated institutions

- 44 Designation of institutions.
- 45 Power of Privy Council in relation to designated institutions.
- 46 Establishment of new institutions by the Secretary of State.
- 47 Closure of institutions.
- 48 Power to award degrees etc.
- 49 Change of name by institutions.

General

- 50 Duty to give information to the Council.
- 51 Efficiency studies.
- 52 Exercise of powers of Privy Council.
- 53 Inspection of accounts.
- 54 Directions.
- 55 Amendment of section 7 of the Teaching Council (Scotland) Act 1965.
- 56 Interpretation of Part II.

PART III

MISCELLANEOUS

- 57 Finance.
- 58 Stamp duty.
- 59 Temporary exclusion of section 5 of Data Protection Act 1984 in relation to data transferred to new bodies.
- 59A Joint exercise of certain functions.
- 60 Regulations and orders.
- 61 Interpretation.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Further and Higher Education (Scotland) Act 1992. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- 62 Transitional provisions, miscellaneous amendments and repeals.
 63 Short title, commencement and extent.

SCHEDULES

SCHEDULE 1 — The Scottish Further Education Funding Council

Status

- 1 The Funding Council shall not— (a) be regarded as the...

Tenure of office

- 2 (1) The Funding Council shall consist of not less than...

House of Commons disqualification

- 3 In Part III of Schedule I to the House of...

Property and contracts

- 4 Subject to paragraphs 5 and 6 below, the Funding Council...
 5 The Funding Council shall not borrow money from any source,...
 6 (1) The Funding Council shall not dispose of any property...

Execution of documents

- 7 (1) For any purpose other than those mentioned in sub-paragraph...

Reports and accounts

- 8 The Funding Council shall make such reports or returns and...
 9 (1) It shall be the duty of the Funding Council—...

Additional provisions

- 10 An order made under section 7 of this Act may...
 11 Employment with the Council shall be included among the kinds...

SCHEDULE 2 — Constitution and proceedings of boards of management

Status

- 1 A board of management (in this Schedule referred to as...

Membership

- 2 The board shall consist of not less than ten nor...
 3 (1) Subject to paragraph 4 below, this paragraph shall have...
 4 (1) This paragraph shall have effect as regards the membership...

Qualifications and tenure of office

- 5 (1) Subject to this paragraph and paragraphs 6 to 10...
 6 (1) A person shall not be eligible for appointment as...
 7 (1) A person is not eligible for appointment as a...
 8 If at any time the board are satisfied that any...

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Further and Higher Education (Scotland) Act 1992. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

- 9 If at any time the board are satisfied that any...
10 (1) Any casual vacancy among the members of the board...

Proceedings

- 11 (1) Subject to paragraphs 12 to 14 below, the board...

Chairman

- 12 (1) The board shall appoint one of their members, not...

Committees

- 13 (1) The board may establish committees for any purpose and...

Conflict of interest

- 14 (1) Subject to sub-paragraph (4) below, where, whether before or...

Confidentiality of information

- 15 Any information which is received or obtained by any person...

Staff

- 16 Subject to section 15 of this Act, the board may...
17 (1) The board may, in the case of such of...

Accounts

- 18 (1) It shall be the duty of the board to...
19 The accounts of the board shall be open to the...

Execution of documents

- 20 (1) For any purpose other than those mentioned in sub-paragraph...

Provision of services

- 21 The Local Authorities (Goods and Services) Act 1970 (supply of...

SCHEDULE 3 — Transfer and apportionment of property

Identification of land, other property, rights, liabilities and obligations

- 1 (1) In respect of each college of further education prescribed...
2 (1) The land, other property, rights, liabilities and obligations mentioned...

Status of agreements etc. under paragraph 1

- 3 (1) An agreement made under paragraph 1 above or any...

Resolution of disputes

- 4 (1) Where it appears to an education authority or a...

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Further and Higher Education (Scotland) Act 1992. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Right to production of documents of title

- 5 (1) Where any land or other property is, or rights,...

Third parties affected by vesting

- 6 (1) Any transfer of land or other property, rights, liabilities...

Failure to agree or to apply to Secretary of State under paragraph 4 above

- 7 Where the education authority and the college council have failed...

SCHEDULE 4 — Commissioners for further education assets

Appointment and tenure

- 1 The appointment of a commissioner for further education assets (in...
 2 Subject to paragraphs 4 and 5 below, the commissioner's appointment...
 3 The Secretary of State shall pay to the commissioner such...
 4 The commissioner may resign his office at any time by...
 5 The Secretary of State may, if it appears to him...

Functions

- 6 The commissioner may, with the prior consent, given in writing,...
 7 The commissioner shall comply with any directions given to him...
 8 The commissioner shall not delegate any of his functions.

Status

- 9 The commissioner shall not be regarded as a servant or...

SCHEDULE 5 — Transitional provisions for college councils

Contracts of employment

- 1 (1) The college council shall have power to enter into...

Information

- 2 (1) The education authority shall provide the college council with...

Payment of grants by Secretary of State

- 3 (1) The Secretary of State may make grants to a...

Directions

- 4 (1) The Secretary of State may give college councils directions...

Allowances

- 5 College councils may pay to their members in respect of...

College development plans

- 6 Regulation 13(1)(a) of The College Councils (Scotland) (No. 2) Regulations...

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Further and Higher Education (Scotland) Act 1992. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Accounts

7 (1) It shall be the duty of the college council...

Continuity of exercise of functions

8 (1) Any relevant thing done by or in relation to...

Establishment of students' associations

9 (1) Where, at the beginning of the transitional period, there...

Status

10 The college council shall not— (a) be regarded as the...

SCHEDULE 6 — Transitional composition of college councils

Membership of college councils

1 (1) Subject to sub-paragraph (2) below, during the transitional period,...

Terms of appointment

2 (1) Subject to the following provisions of this Schedule, a...

Eligibility for appointment

3 (1) A person shall not be eligible for appointment to...

Disqualification from appointment

4 If at any time the college council are satisfied that...

5 If at any time the college council are satisfied that...

Casual vacancy

6 (1) Any casual vacancy among the members of a council...

SCHEDULE 7 — The Scottish Higher Education Funding Council

Supplementary powers

1 (1) Subject to sub-paragraph (2) below, the Council may do...

Chief officer

2 (1) One of the members of the Council shall be...

Tenure of members of the Council

3 (1) A person shall hold and vacate office as a...

4 If the Secretary of State is satisfied that a member...

Salaries, allowances and pensions for members

5 (1) The Council— (a) shall pay to their members such...

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Further and Higher Education (Scotland) Act 1992. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

House of Commons disqualification

6 In Part III of Schedule 1 to the House of...

Staff

7 (1) The Council may appoint such employees as they think...

Committees

8 (1) The Council may establish a committee for any purpose....

Delegation of functions

9 The Council may authorise the chairman, the chief officer or...

Proceedings

- 10 Without prejudice to any other rights the Secretary of State...
 11 The validity of any proceedings of the Council or of...
 12 Subject to the preceding provisions of this Schedule, the Council...

Execution of documents

13 (1) For any purpose other than those mentioned in sub-paragraph...

Accounts

14 (1) It shall be the duty of the Council—

Status of the Council

15 The Council shall not— (a) be regarded as the servants...

SCHEDULE 8 — Transitional, consequential and saving provisions
Part I — PROVISIONS RELATING TO PART I OF THIS ACT

Supply of services

1 (1) Where, in relation to any college of further education—...

Appointment of staff by education authority

2 Without prejudice to section 30 of this Act, with effect...

General

3 (1) The Secretary of State may by order make such...
Part II — PROVISIONS RELATING TO PART II OF THIS ACT

Saving for regulations under section 77 of the 1980 Act

4 (1) Subject to sub-paragraph (2) below, the repeal by section...

SCHEDULE 9 — Miscellaneous and consequential amendments

Teaching Council (Scotland) Act 1965 (c. 19)

1 (1) The Teaching Council (Scotland) Act 1965 shall be amended...

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Further and Higher Education (Scotland) Act 1992. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Veterinary Surgeons Act 1966 (c. 36)

- 2 In Schedule 3 to the Veterinary Surgeons Act 1966 (exemptions...

Chronically Sick and Disabled Persons Act 1970 (c. 44)

- 3 In subsection (2) of section 8 of the Chronically Sick...

Sex Discrimination Act 1975 (c. 65)

- 4 (1) The Sex Discrimination Act 1975 shall be amended as...

Race Relations Act 1976 (c. 74)

- 5 (1) The Race Relations Act 1976 shall be amended as...

Employment Protection (Consolidation) Act 1978 (c. 44)

- 6

Education (Scotland) Act 1980 (c. 44)

- 7 (1) The Education (Scotland) Act 1980 shall be amended as...

Education (Fees and Awards) Act 1983 (c. 40)

- 8 (1) Section 1 of the Education (Fees and Awards) Act...

Mental Health (Scotland) Act 1984 (c. 36)

- 9 In section 11(1) of the Mental Health (Scotland) Act 1984...

Education Reform Act 1988 (c. 40)

- 10 In section 235 of the Education Reform Act 1988 (general...

Self-Governing Schools etc. (Scotland) Act 1989 (c. 39)

- 11 In section 70 of the Self-Governing Schools etc. (Scotland) Act...

Education (Student Loans) Act 1990 (c. 6)

- 12 (1) The Education (Student Loans) Act 1990 shall be amended...

Environmental Protection Act 1990 (c. 43)

- 13 In section 98 of the Environmental Protection Act 1990 (definitions)...

SCHEDULE 10 — Repeals

Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Further and Higher Education (Scotland) Act 1992. Any changes that have already been made by the team appear in the content and are referenced with annotations.

Changes and effects yet to be applied to :

- s. 1(1)(2)(4)-(6) repealed by 2005 asp 6 Sch. 3 para. 6(2)(a)
- s. 3 text amended by 2005 asp 6 Sch. 3 para. 6(1)(a)
- s. 3(4) substituted by 2005 asp 6 s. 30
- s. 4 repealed by 2005 asp 6 Sch. 3 para. 6(2)(b)
- s. 7-10 repealed by 2005 asp 6 Sch. 3 para. 6(2)(b)
- s. 12(1) text amended by 2005 asp 6 Sch. 3 para. 6(1)(b)(i)
- s. 12(2) words substituted by S.I. 2009/1941 Sch. 1 para. 132
- s. 12(2)(b) text amended by S.S.I. 2003/487 art. 2(3)
- s. 12(2)(aa) inserted by S.S.I. 2003/487 art. 2(2)
- s. 12(3) text amended by 2005 asp 6 Sch. 3 para. 6(1)(b)(ii)
- s. 18(5) text amended by S.S.I. 2009/28 art. 2(a)
- s. 18(6) inserted by S.S.I. 2009/28 art. 2(b)
- s. 19(3) text amended by 2005 asp 10 Sch. 4 para. 9
- s. 21 repealed by S.S.I. 2006/216 art. 2
- s. 22 repealed by 2005 asp 6 Sch. 3 para. 6(2)(b)
- s. 23 repealed by 2004 asp 4 Sch. 3 para. 7(a)
- s. 23 repealed by 2005 asp 6 Sch. 3 para. 6(2)(b)
- s. 25(1A)(1B) inserted by 2005 asp 6 s. 29(1)(a)
- s. 25(2)(a) repealed by 2005 asp 6 s. 29(1)(b)
- s. 25(3) repealed by S.S.I. 2006/216 art. 2
- s. 25(4) repealed by S.S.I. 2006/216 art. 2
- s. 25(7) text amended by 2005 asp 6 s. 29(1)(c)
- s. 25(8)(9) added by 2005 asp 6 s. 29(1)(d)
- s. 37 repealed by 2005 asp 6 Sch. 3 para. 6(2)(b)
- s. 39-43 repealed by 2005 asp 6 Sch. 3 para. 6(2)(b)
- s. 44(1) text amended by 2005 asp 6 Sch. 3 para. 6(1)(c)
- s. 47(1A) inserted by 2005 asp 6 s. 29(2)(a)
- s. 47(2)(a) repealed by 2005 asp 6 s. 29(2)(b)
- s. 47(8)-(10) added by 2005 asp 6 s. 29(2)(c)
- s. 50 repealed by 2005 asp 6 Sch. 3 para. 6(2)(b)
- s. 51 repealed by 2005 asp 6 Sch. 3 para. 6(2)(b)
- s. 53 repealed by 2005 asp 6 Sch. 3 para. 6(2)(b)
- s. 54 repealed by 2005 asp 6 Sch. 3 para. 6(2)(b)
- s. 55 repealed by S.S.I. 2011/215 Sch. 7
- s. 59A repealed by 2005 asp 6 Sch. 3 para. 6(2)(b)
- s. 61 text amended by 2005 asp 6 Sch. 3 para. 6(1)(d)
- Sch. 1 repealed by 2005 asp 6 Sch. 3 para. 6(2)(c)
- Sch. 2 para. 9(a) omitted by S.S.I. 2003/199 art. 2 Sch.
- Sch. 2 para. 14 omitted by S.S.I. 2003/199 art. 2 Sch.
- Sch. 2 para. 15 omitted by S.S.I. 2003/199 art. 2 Sch.
- Sch. 2 para. 9(c) text amended by S.S.I. 2003/199 art. 2 Sch.
- Sch. 2 para. 11(1) text amended by S.S.I. 2003/199 art. 2 Sch.
- Sch. 3 para. 1(5) substituted by 2003 asp 9 Sch. 14 para. 10(a)(ii)
- Sch. 3 para. 1(2) text amended by 2003 asp 9 Sch. 14 para. 10(a)(i)
- Sch. 3 para. 1(3) text amended by 2003 asp 9 Sch. 14 para. 10(a)(i)
- Sch. 3 para. 2(3) text amended by 2003 asp 9 Sch. 15
- Sch. 3 para. 4(6) text amended by 2003 asp 9 Sch. 14 para. 10(b)
- Sch. 7 repealed by 2005 asp 6 Sch. 3 para. 6(2)(c)
- Sch. 9 para. 9 repealed by 2003 asp 13 Sch. 5 Pt. 1
- Sch. 9 para. 7(4) repealed by 2004 asp 4 Sch. 3 para. 7(b)
- Sch. 9 para. 4(3) repealed by 2005 asp 6 Sch. 3 para. 6(2)(d)

- Sch. 9 para. 5(3) repealed by 2005 asp 6 Sch. 3 para. 6(2)(d)
- Sch. 9 para. 1 repealed by S.S.I. 2011/215 Sch. 7

Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 58A inserted by S.I. 2003/2867 reg. 2 Sch. para. 19

Commencement Orders yet to be applied to the Further and Higher Education (Scotland) Act 1992:

Commencement Orders bringing legislation that affects this Act into force:

- S.S.I. 2005/161 art. 2-4 commences (2003 asp 13)
- S.S.I. 2005/375 art. 2 amendment to earlier commencing SSI 2005/161 art. 3
- S.S.I. 2005/419 art. 2 commences (2005 asp 6)
- S.S.I. 2005/564 art. 2 commences (2004 asp 4)
- S.S.I. 2006/189 art. 2 Sch. commences (2005 asp 10)