



# Further and Higher Education (Scotland) Act 1992

1992 CHAPTER 37

## PART I

### FURTHER EDUCATION

#### CHAPTER I

##### DUTIES IN RELATION TO FURTHER EDUCATION

#### 1 Duty of Secretary of State to secure provision of further education.

<sup>F1</sup>(1) .....

<sup>F1</sup>(2) .....

(3) In this Part of this Act “further education” means any programme of learning, not being school education, provided for persons over school age, being a programme falling, for the time being, within section 6 of this Act.

<sup>F1</sup>(4) .....

<sup>F1</sup>(5) .....

<sup>F1</sup>(6) .....

#### Textual Amendments

**F1** S. 1(1)(2)(4)-(6) repealed (3.10.2005) by [Further and Higher Education \(Scotland\) Act 2005 \(asp 6\)](#), s. 36(2), [Sch. 3 para. 6\(2\)\(a\)](#); S.S.I. 2005/419, art. 2(1)

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*Changes to legislation:* There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Chapter I. (See end of Document for details)

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#### Commencement Information

- II** S. 1 wholly in force; s. 1 not in force at Royal Assent see s. 63(2); s. 1(3)(4)(5) in force at 16.5.1992 and s. 1(1)(2)(6) in force at 1.4.1993 by S.I. 1992/817, art. 3(2), Schs. 1, 4

## 2 Function of education authorities.

Section 1 of the 1980 Act (duty of education authorities to secure provision of education) shall be amended as follows—

- (a) in subsection (1) for the words “subsection (2)” there shall be substituted the words “ subsections (2) and (2A) ”; and
- (b) after subsection (2) there shall be inserted the following subsection—

“(2A) The duty imposed on an education authority by subsection (1) above shall not include the provision of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992, but an education authority shall have power to provide such further education for their area.”

#### Commencement Information

- I2** S. 2 wholly in force at 1.4.1993 see s.63(2) and S.I. 1992/817, art. 3(2), Sch. 4

## 3 Powers of Secretary of State.

- (1) The Secretary of State <sup>F2</sup>... may, subject to subsection (3) below—
  - (a) establish new colleges of further education;
  - (b) merge two or more colleges of further education;
  - (c) close colleges of further education.
- (2) The powers of the Secretary of State in relation to the matters mentioned in paragraphs (a) to (c) of subsection (1) above shall be exercised by order; and an order under subsection (1)(a) above establishing a college of further education or under subsection (1)(b) above merging two or more colleges of further education shall contain provision—
  - (a) designating the name; and
  - (b) establishing a body corporate to be known as “the Board of Management of”, the college so established or, as the case may be, created by merger.
- (3) The power conferred by paragraphs (b) and (c) of subsection (1) above shall be exercised only in relation to colleges for which boards of management have been established in pursuance of this Part of this Act.
- <sup>F3</sup>(4) The governing body (within the meaning of Part II of this Act) of a college of further education may, with the consent of the Scottish Ministers, change the name of the college or of the governing body.]
- (5) The Secretary of State may by order amend Schedule 2 to this Act to make different provision to that contained, for the time being, in paragraphs 2 to 18 of that Schedule.

**Changes to legislation:** There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Chapter I. (See end of Document for details)

(6) The Secretary of State may by regulations prescribe requirements with which boards of management shall comply in discharging their functions under this Part of this Act [<sup>F4</sup>and the Further and Higher Education (Scotland) Act 2005].

[<sup>F5</sup>(7) Before making regulations under subsection (6), the Scottish Ministers must consult—

- (a) the boards of management to which the regulations relate;
- (b) any regional strategic body for a college of further education which has such a board;
- (c) the students' association of each such college;
- (d) any body which appears to the Scottish Ministers to be representative of students of colleges of further education generally;
- (e) the Council;
- (f) any body which appears to the Scottish Ministers to be representative of colleges of further education;
- (g) the representatives of any trade union which is recognised by a board of management to which the regulations relate or which otherwise appears to the Scottish Ministers to be representative of its staff;
- (h) any body which appears to the Scottish Ministers to be representative of trade unions in Scotland; and
- (i) any other person appearing to the Scottish Ministers as likely to be affected by the regulations.]

#### Textual Amendments

- F2** Words in s. 3(1) repealed (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), s. 36(2), **Sch. 3 para. 6(1)(a)**; S.S.I. 2005/419, art. 2(1)
- F3** S. 3(4) substituted (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), **ss. 30, 36(2)**; S.S.I. 2005/419, art. 2(1)
- F4** Words in s. 3(6) inserted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 2(2)(a)**; S.S.I. 2014/21, art. 2, Sch. 1
- F5** S. 3(7) inserted (13.1.2014 for specified purposes, 3.3.2014 in so far as not already in force) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 2(2)(b)**; S.S.I. 2013/348, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

#### Commencement Information

- I3** S. 3 wholly in force; s. 3 not in force at Royal Assent see s. 63(2); s. 3(5) in force at 16.5.1992 and s. 3(1)-(4)(6) in force at 1.4.1993 by S.I. 1992/817, art. 3(2), Schs. 1, 4

#### <sup>F6</sup>4 Funding of further education.

#### Textual Amendments

- F6** S. 4 repealed (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), s. 36(2), **Sch. 3 para. 6(2)(b)**; S.S.I. 2005/419, art. 2(1)

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## 5 Requirement on Secretary of State to consult.

(1) Where, in relation to any college of further education, the Secretary of State proposes to exercise any power to which this section applies, he shall consult the education authority for the area in which the college is or, as the case may be, is to be situated [<sup>F7</sup>, the persons mentioned in subsection (1A)] and any other person appearing to the Secretary of State to be affected by the proposal.

[<sup>F8</sup>(1A) Those persons are—

- (a) the Council; and
- (b) where the proposal is to exercise the power under section 3(1)(b) or (c) or 44 of this Act—
  - (i) the board of management of the college or colleges concerned;
  - (ii) any regional strategic body for such a college;
  - (iii) the representatives of any trade union which is recognised by any such board of management or which otherwise appears to the Scottish Ministers to be representative of its staff;
  - (iv) the students' association of each such college.]

(2) This section applies to—

- (a) the power of the Secretary of State under section 3 of this Act—
  - (i) to establish a new college of further education;
  - (ii) to close a college of further education; or
  - (iii) to merge two or more colleges of further education; and
- (b) the power of the Secretary of State under section 44 of this Act to designate an institution for the purposes of Part II of this Act, if the institution is a college of further education in respect of which a board of management has been established in pursuance of this Part of this Act.

### Textual Amendments

**F7** Words in s. 5(1) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 2\(3\)\(a\)](#); S.S.I. 2014/21, art. 2, Sch. 1

**F8** S. 5(1A) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 2\(3\)\(b\)](#); S.S.I. 2014/21, art. 2, Sch. 1

### Commencement Information

**I4** S. 5 wholly in force at 1.4.1993 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), [Sch. 4](#)

## 6 Further education to which section 1 applies.

(1) A programme of learning falls within this section if it—

- (a) prepares a person for a vocational qualification;
- (b) prepares a person for—
  - (i) a [<sup>F9</sup>qualification awarded by the Scottish Qualifications Authority]; or
  - (ii) a General Certificate of Education qualification of England and Wales or Northern Ireland;
- (c) provides instruction for persons who are participating in a programme of learning which falls within this section and who have a learning difficulty;

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- (d) prepares a person for access to higher education;
  - (e) is designed to assist persons whose first language is not English to achieve any level of competence in English language;
  - (f) is designed predominantly to prepare a person for participation in any programme of learning which falls within this section.
- (2) The Secretary of State may by order, from time to time, amend subsection (1) above by adding or removing any entry relating to a programme of learning or by varying any such entry.
- (3) An order shall not be made under subsection (2) above unless the Secretary of State has consulted—
- (a) such persons or organisations appearing to him to be representative of boards of management and education authorities; and
  - (b) such other persons,
- as appear to him to be appropriate as to the amendments proposed to be made by the order.

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#### **Textual Amendments**

**F9** Words in s. 6(1)(b)(i) substituted (1.4.1997) by 1996 c. 43, s. 36, **Sch. 5**, para. 8; S.I. 1997/365, **art. 2**

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#### **Commencement Information**

**I5** S. 6 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), **Sch. 1**

**Changes to legislation:**

There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Chapter I.