



Further and Higher Education (Scotland) Act 1992

1992 CHAPTER 37

PART I

FURTHER EDUCATION

CHAPTER III

COLLEGES OF FURTHER EDUCATION

Management of colleges

12 Boards of management.

- (1) A board of management shall have the duty of—
- (a) managing and conducting their college; and
 - (b) ensuring that their college provides (either by itself or by arrangement with any other person) suitable and efficient further education to students of the college,
- and in carrying out their duty under paragraph (b) above, the board shall have regard to the provision [^{F1}of managing and conducting their college.]
- (2) A board of management shall have the power—
- (a) to provide or secure the provision of further education (within the meaning of section 1(5)(b) of the 1980 Act);
 - [^{F2}(aa) to provide part-time and full-time courses of instruction for persons of school age;]
 - (b) to charge fees for or in connection with the provision by them of any form of further education [^{F3}or any course of instruction provided under subparagraph (aa)];

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- (c) to provide to students of the college such assistance of a financial or other nature (including waiving or granting remission of fees) as they may consider appropriate;
 - (d) for the purpose of the administration and management of the college, to receive any property, rights, liabilities and obligations transferred to the board under or in pursuance of any provision of this Part of this Act [^{F4}or of the Further and Higher Education (Scotland) Act 2005];
 - (e) to provide facilities of any description appearing to the board to be necessary or expedient for the purpose of or in connection with the carrying on of any of the activities mentioned in this subsection or in subsection (1) above (including boarding accommodation and recreational facilities for students and staff and facilities to meet the needs of students who have learning difficulties and disabled staff);
 - (f) to supply goods and services;
 - (g) subject to subsection (7)(a) below and section 18 of this Act, to acquire, hold and dispose of land and other property;
 - (h) to enter into contracts, including in particular—
 - (i) contracts for the employment of teachers and other staff for the purpose of or in connection with the carrying on of any such activities as are mentioned in this subsection or in subsection (1) above; and
 - (ii) contracts with respect to the carrying on by the board of any of such activities;
 - (i) to form or promote, or to join with any other person in forming or promoting, companies [^{F5}under the Companies Act 2006];
 - (j) subject to subsection (7)(a) below and the said section 18, to borrow such sums as the board think fit for the purpose of carrying on any of the activities they have power to carry on or for meeting any liability or obligation transferred to them under or in pursuance of any provision of this Part of this Act and, in connection with such borrowing, to grant such security or give such guarantee or indemnity as they think fit;
 - (k) to invest any sums not immediately required by the board for the purpose of their carrying on any of the activities which they have power to carry on or for meeting any liability or obligation transferred to them under or in pursuance of any provision of this Part of this Act;
 - (l) subject to subsection (7)(a) below and the said section 18, to raise funds, accept gifts of money, land or other property and apply it to, or hold or administer it in trust for, the purpose of carrying on any of the activities which they have power to carry on; and
 - (m) to do all such other things as are calculated to facilitate or are incidental or conducive to the carrying on of any of the activities which the board have power to carry on.
- (3) In carrying out their functions under this section a board of management shall have regard to the requirements of persons ^{F6}... who have learning difficulties.
- (4) A board of management may delegate the performance of any of their functions to their chairman, to any committee appointed by them or to any member of their staff.
- [^{F7}(4A) A board of management of a regional college is to pay to the chairing member appointed under paragraph 3(2)(a) of Schedule 2 such remuneration as the Scottish Ministers may in each case determine.]

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- (5) A board of management may pay to persons appointed to be members of the board such allowances and expenses as they may determine; and any allowances and expenses to be paid by virtue of this subsection shall be calculated by reference to such criteria as the Secretary of State may determine.
- (6) A board of management shall make such reports or returns and give such information to the Secretary of State as he may require for the purposes of the exercise of his powers and the performance of his duties under this Part of this Act.
- (7) A board of management shall not, without the prior consent, given in writing, of the Secretary of State —
- (a) borrow money from any source, give any guarantee or indemnity or create any trust or security over or in respect of any of their property; or
 - (b) effect any material change in the character of their college.
- (8) The Secretary of State may by order amend the provisions of subsection (2) above by varying, adding to or removing the powers conferred by that subsection.
- (9) An order shall not be made under subsection (8) above unless the Secretary of State has consulted such persons or organisations appearing to him to be representative of boards of management and such other persons as appear to him to be appropriate as to the amendments proposed to be made by the order.
- (10) Schedule 2 to this Act shall have effect with respect to the constitution and proceedings of and other matters relating to every board of management established in pursuance of any provision of this Part of this Act.

Textual Amendments

- F1** Words in s. 12(1) substituted (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), s. 36(2), **Sch. 3 para. 6(1)(b)(i)**; S.S.I. 2005/419, art. 2(1)
- F2** S. 12(2)(aa) inserted (14.11.2003) by Further and Higher Education (Scotland) Act 1992 Amendment Order 2003 (S.S.I. 2003/487), arts. 1, **2(2)**
- F3** Words in s. 12(2)(b) inserted (14.11.2003) by Further and Higher Education (Scotland) Act 1992 Amendment Order 2003 (S.S.I. 2003/487), arts. 1, **2(3)**
- F4** Words in s. 12(2)(d) inserted (1.5.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 2(4)(a)**; S.S.I. 2014/79, art. 2(1), Sch. 1
- F5** Words in s. 12(2)(i) substituted (1.10.2009) by The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 132** (with art. 10)
- F6** Words in s. 12(3) repealed (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), s. 36(2), **Sch. 3 para. 6(1)(b)(ii)**; S.S.I. 2005/419, art. 2(1)
- F7** S. 12(4A) inserted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 2(4)(b)**; S.S.I. 2014/21, art. 2, Sch. 1

Commencement Information

- I1** S. 12 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, Section 12.