



Further and Higher Education (Scotland) Act 1992

1992 CHAPTER 37

PART I

FURTHER EDUCATION

CHAPTER III

COLLEGES OF FURTHER EDUCATION

Property

17 Surpluses and deficits.

(1) Not later than such date as the Secretary of State may direct, the education authority and the board of management shall, in respect of each college of further education prescribed by an order made under section 11 of this Act, arrive at a written agreement as to—

- (a) the amount of any surplus or deficit in the accounts of the college council for the college as at the day immediately before the first transfer date; and
- (b) which of the education authority or board of management any such surplus or deficit or any proportion of such surplus or deficit is to be transferred to and vest in,

and, where the agreement provides for the amount of any surplus or deficit, or any proportion of such surplus or deficit to be transferred and vest as mentioned in paragraph (b) above, such amount together with interest on that amount from the day mentioned in paragraph (a) above, shall be transferred and vest as at the date so directed.

Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Section 17. (See end of Document for details)

- (2) Before making a direction under subsection (1) above as to the date by which an education authority and a board of management are to arrive at a written agreement, the Secretary of State shall consult the education authority and the board of management.
- (3) An agreement made under subsection (1) above shall be conclusive evidence of the matters contained therein.
- (4) Where it appears to an education authority or a board of management that it is unlikely that they will be able to arrive at a written agreement as mentioned in subsection (1) above the authority or the board may refer the matter to the Secretary of State who shall appoint a commissioner for further education assets.
- (5) Where the education authority and the board of management have failed to arrive at an agreement as mentioned in subsection (1) above and neither of them has applied to the Secretary of State under subsection (4) above, the Secretary of State may appoint a commissioner as if a reference had been made to him under the said subsection (4).
- (6) Where the failure of an education authority and a board of management to arrive at a written agreement is referred to a commissioner for further education assets under subsection (4) or (5) above, the commissioner shall, after consulting the authority and the board, determine the matter and issue a written determination to them; and a determination under this subsection—
 - (a) may include any provision which could have been included in an agreement made under subsection (1) above; and
 - (b) shall have effect for all purposes as if it were an agreement made under that subsection.
- (7) No application for the rectification of an agreement made under subsection (1) above or a determination under subsection (6) above may be made to the court under section 8 of the ^{M1}Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (rectification of defectively expressed documents) by—
 - (a) in the case of such an agreement, the education authority or board of management who were a party to it; and
 - (b) in the case of such a determination, the commissioner or an education authority or board of management who are affected by the determination, without the prior consent, given in writing, of the Secretary of State.
- (8) The education authority and the board of management who are parties to a dispute referred to a commissioner for further education assets under subsection (4) or (5) above shall provide the commissioner with such information and records of accounts as he may require for the purpose of enabling him to make a determination under that subsection.

Commencement Information

II S. 17 wholly in force at 1.4.1993 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 4

Marginal Citations

M1 1985 c. 73.

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There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Section 17.