



# Further and Higher Education (Scotland) Act 2005

2005 asp 6

## PART 1

### FURTHER AND HIGHER EDUCATION ETC.

#### *The Council: functions*

#### **13 Quality of fundable further and higher education**

- (1) The Council is to secure that provision is made for—
- assessing; and
  - enhancing,
- the quality of fundable further education and fundable higher education provided by [F1post-16 education] bodies.
- (2) In exercising the function under subsection (1), the Council must, if it considers it appropriate to do so, consult such persons as appear to it to represent the interests of [F2post-16 education] bodies or any class of them.

#### **Textual Amendments**

- F1** Words in s. 13(1) substituted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(10\)\(a\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F2** Words in s. 13(2) substituted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(10\)\(b\)](#); S.S.I. 2014/21, art. 2, Sch. 1

#### **Commencement Information**

- I1** S. 13 in force at 3.10.2005 by [S.S.I. 2005/419](#), [art. 2\(1\)](#)

#### **[F3]13A Performance of regional strategic bodies**

The Council is to secure that provision is made for—

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- (a) assessing; and
  - (b) enhancing,
- the performance of regional strategic bodies.]

#### Textual Amendments

- F3** S. 13A inserted (1.5.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 8(11)**; S.S.I. 2014/79, art. 2(1), Sch. 1

## 14 Credit and qualification framework

- (1) The Council is to promote the use by the fundable [<sup>F4</sup>post-16 education] bodies of such credit and qualification framework as it may adopt.
- (2) The Council must—
  - (a) have regard to any representations about any particular credit and qualification framework, and about credit and qualification frameworks in general, made to it by—
    - (i) the Scottish Ministers; <sup>F5</sup>...
    - (ii) the governing body of any fundable [<sup>F6</sup>post-16 education body; or]
    - [<sup>F7</sup>(iii) any regional strategic body; and]
  - (b) so far as the Council considers appropriate, have regard to any representations about those matters made to it by any other person.
- (3) For the purposes of subsections (1) and (2), a “credit and qualification framework” is a system of evaluation relating to fundable further education and fundable higher education (as a whole) through which programmes of learning and courses of education may be compared and understood in relation to each other.

#### Textual Amendments

- F4** Words in s. 14(1) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 8(12)(a)**; S.S.I. 2014/21, art. 2, Sch. 1
- F5** Word in s. 14(2)(a) omitted (3.3.2014) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 8(12)(b)(i)**; S.S.I. 2014/21, art. 2, Sch. 1
- F6** Words in s. 14(2)(a)(ii) substituted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 8(12)(b)(ii)**; S.S.I. 2014/21, art. 2, Sch. 1
- F7** S. 14(2)(a)(iii) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 8(12)(b)(iii)**; S.S.I. 2014/21, art. 2, Sch. 1

#### Commencement Information

- I2** S. 14 in force at 3.10.2005 by [S.S.I. 2005/419](#), art. 2(1)

## [<sup>F8</sup>14A Review of fundable further and higher education

- (1) The Council may, with the consent of the Scottish Ministers, review the extent to which fundable further education or fundable higher education is being provided by post-16 education bodies in a coherent manner.
- (2) A review may relate to—

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*Changes to legislation:* There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 2005, Cross Heading: The Council: functions. (See end of Document for details)

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- (a) any aspect of the funding or provision of fundable further education or fundable higher education (generally or in particular areas); or
  - (b) any aspect of the legislation or administrative framework which governs the funding or provision of fundable further education or fundable higher education.
- (3) When seeking the consent of the Scottish Ministers to conduct a review, the Council must provide a case for review which—
- (a) describes the scope of the proposed review; and
  - (b) explains why it is satisfied that any pre-conditions to conducting a review which the Scottish Ministers may determine are met in relation to the proposed review.
- (4) When conducting a review, the Council must consult—
- (a) the governing body of any post-16 education body and any regional strategic body to which the review relates;
  - (b) the representatives of any trade union recognised by any such body or which otherwise appears to the Council to be representative of its staff;
  - (c) any body which appears to the Council to be representative of trade unions in Scotland;
  - (d) the students' association of any post-16 education body to which the review relates; and
  - (e) any body which appears to be the Council to be representative of the interests of students of post-16 education bodies generally.
- (5) The bodies to which this subsection applies must provide the Council with such information, and make available for inspection such accounts and other documents, as the Council may reasonably require for the purposes of conducting a review.
- (6) Subsection (5) applies to—
- (a) post-16 education bodies; and
  - (b) regional strategic bodies.
- (7) On completing a review, the Council must provide the Scottish Ministers, and any post-16 education body and regional strategic body to which the review relates, with a report of the review which—
- (a) sets out the conclusions which it has reached;
  - (b) explains why it has reached those conclusions; and
  - (c) makes any recommendations for action in consequence of those conclusions as it considers appropriate.
- (8) The Council, when conducting and reporting on a review, must have regard to the importance of ensuring that public funds provided for fundable further education and fundable higher education are used as economically, efficiently and effectively as possible.]

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**Textual Amendments**

**F8** S. 14A inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 17, 23(2)**; [S.S.I. 2014/21](#), **art. 2**, [Sch. 1](#) (with [art. 3\(1\)](#))

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## 15 Efficiency studies

- (1) The Council may secure the promotion or carrying out of studies designed to improve economy, efficiency and effectiveness in the management or operations of any fundable body.
- (2) The governing body of a fundable body must—
  - (a) provide any person promoting or carrying out studies by virtue of subsection (1) with such information; and
  - (b) make available to the person for inspection such accounts and other documents,
 as the person may reasonably require for the purposes of the studies.

### Commencement Information

**I3** S. 15 in force at 3.10.2005 by [S.S.I. 2005/419](#), **art. 2(1)**

## 16 Council's right to address meetings

Where the Council is concerned about any matters relating to the financial support which a fundable body receives (or might receive) from the Council, a member of the Council is entitled to—

- (a) attend any meeting of the governing body of the fundable body; and
- (b) address the meeting on those matters.

### Commencement Information

**I4** S. 16 in force at 3.10.2005 by [S.S.I. 2005/419](#), **art. 2(1)**

## 17 Advisory functions

- (1) The Council must provide the Scottish Ministers with such information, advice and assistance relating to the—
  - (a) provision and funding of fundable further education and fundable higher education; and
  - (b) undertaking of research at bodies which provide fundable further education or fundable higher education,
 as the Scottish Ministers may reasonably require.
- (2) The Council may provide the Scottish Ministers with other information and advice relating to those matters whenever it considers it appropriate to do so.
- (3) Any information, advice or assistance under subsections (1) and (2) is to be provided in such manner as the Scottish Ministers may determine.

### Commencement Information

**I5** S. 17 in force at 3.10.2005 by [S.S.I. 2005/419](#), **art. 2(1)**

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## 18 Functions regarding certain property

- (1) The functions of the Scottish Ministers as respects the property to which this subsection applies are exercisable by the Council on their behalf to such extent and in such manner as the Scottish Ministers may require.
- (2) Subsection (1) applies to any land or other property—
  - (a) which is or was used or held for the purposes of a fundable body [<sup>F9</sup>or of any of a regional strategic body's colleges]; and
  - (b) in respect of which the Scottish Ministers—
    - (i) are entitled to any right or interest; or
    - (ii) would be so entitled on the occurrence of any event.

### Textual Amendments

**F9** Words in s. 18(2)(a) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 8\(13\)](#); [S.S.I. 2014/21](#), art. 2, Sch. 1

### Commencement Information

**I6** S. 18 in force at 3.10.2005 by [S.S.I. 2005/419](#), art. 2(1)

## 19 Administration of certain support

- (1) After section 73 (power of Scottish Ministers to make grants to education authorities and others) of the 1980 Act there is inserted—

### “73ZA Administration of certain sums

- (1) The Scottish Ministers may direct—
  - (a) the Scottish Further and Higher Education Funding Council; or
  - (b) any other body or person,to administer any sums applied by the Scottish Ministers for a purpose referred to in paragraph (a), (c) or (f) of section 73 of this Act.
- (2) A body or person to whom a direction is given under subsection (1) above shall administer those sums—
  - (a) in such manner and to such extent; and
  - (b) subject to such conditions,as the Scottish Ministers may in the direction specify.
- (3) The reference in subsection (1) above to a purpose referred to in paragraph (a), (c) or (f) of section 73 of this Act is a reference to that purpose only in so far as relating to support for persons—
  - (a) undertaking; or
  - (b) who have undertaken,courses of education provided by fundable bodies.
- (4) In subsection (3) above, “fundable bodies” shall be construed in accordance with the Further and Higher Education (Scotland) Act 2005 (asp 6).”

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- (2) In section 73A (transfer or delegation of functions relating to student support) of that Act—
- (a) in subsection (3), for the words “73(f)” there is substituted “ 73(a), (c) or (f) ”;
  - (b) in subsection (6)(a)(i)—
    - (i) after the word “making” there is inserted “ payments, ”; and
    - (ii) for the words “73(f)” there is substituted “ 73(a), (c) or (f) ”; and
  - (c) after subsection (9) there is added—
 

“(10) The references in subsections (3) and (6)(a)(i) above to regulations under section 73(a) or (c) of this Act are references to those regulations only in so far as relating to support for persons—

    - (a) undertaking; or
    - (b) who have undertaken, courses of education provided by fundable bodies.

(11) In subsection (10) above, “fundable bodies” shall be construed in accordance with the Further and Higher Education (Scotland) Act 2005 (asp 6).”.

#### Commencement Information

**I7** S. 19 in force at 3.10.2005 by [S.S.I. 2005/419](#), [art. 2\(1\)](#)

#### [<sup>F10</sup>19A] **Reviews of progress with widening access**

- (1) The Council must conduct reviews of the extent to which progress is being made in enabling, encouraging and improving participation in fundable further education and fundable higher education by persons belonging to socio-economic groups which the Council reasonably considers to be under-represented in such education.
- (2) The first such review must be completed before the end of the period of three years beginning with the date on which this section comes into force.
- (3) Subsequent reviews must be completed before the end of the period of three years beginning with the date on which the immediately preceding review was completed.
- (4) On completing a review, the Council must provide the persons mentioned in subsection (5) with a report of the review which—
  - (a) sets out the conclusions it has reached;
  - (b) explains why it has reached those conclusions; and
  - (c) makes any recommendations for action in consequence of those conclusions as it considers appropriate.
- (5) Those persons are—
  - (a) the Scottish Ministers;
  - (b) each regional strategic body; and
  - (c) each post-16 education body.
- (6) The bodies to which this subsection applies must provide the Council with such information, and make available such accounts and other documents, as the Council may reasonably require for the purposes of conducting a review.

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**Changes to legislation:** There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 2005, Cross Heading: The Council: functions. (See end of Document for details)

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- (7) Subsection (6) applies to—
- (a) post-16 education bodies; and
  - (b) regional strategic bodies.
- (8) For the purposes of subsection (1), a socio-economic group is to be treated as under-represented in fundable further education or fundable higher education if participation in such education by persons in that group is disproportionately low.
- (9) The Council may take into account any social or economic characteristics which they consider appropriate when determining which groups are to constitute “ socio-economic groups ” for the purposes of subsection (1).
- (10) The Council must consult the Scottish Ministers before determining—
- (a) which groups are to constitute “ socio-economic groups ” for the purposes of subsection (1); and
  - (b) whether a socio-economic group so determined is under-represented in fundable further education or fundable higher education.]

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**Textual Amendments**

**F10** S. 19A inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 16, 23(2)**; [S.S.I. 2014/21](#), [art. 2](#), [Sch. 1](#) (with [art. 3\(1\)](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 2005, Cross Heading: The Council: functions.