



Further and Higher Education (Scotland) Act 2005

2005 asp 6

PART 1

FURTHER AND HIGHER EDUCATION ETC.

[^{F1}Regional strategic bodies: functions

[^{F1}23O Transfer of staff and property etc.

- (1) A regional strategic body may require any of its colleges to transfer such of its staff, property, rights, liabilities or obligations as may be specified in the requirement—
 - (a) to another of its colleges; or
 - (b) to the regional strategic body.
- (2) Such a requirement may be made—
 - (a) for the purpose of transferring responsibility for providing any particular programmes of learning or courses of education from one of the regional strategic body's colleges to another of its colleges;
 - (b) for the purpose of transferring responsibility for providing any particular service; or
 - (c) for any other purpose relating to the functions of the regional strategic body or any of its colleges.
- (3) Before making a requirement under subsection (1), the regional strategic body must consult—
 - (a) any college to which the proposed transfer relates;
 - (b) the representatives of any trade union recognised by such a college or which otherwise appears to the regional strategic body to be representative of its staff; and
 - (c) the students' association of every such college.
- (4) Consultation under subsection (3)(a) is to be undertaken with a view to seeking the agreement of the college to the proposed transfer.

Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 2005, Section 23O. (See end of Document for details)

- (5) A requirement under subsection (1) may make such further provision in relation to the transfer as the regional strategic body considers appropriate.
- (6) Any transfer of staff effected by virtue of subsection (1) is a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).
- (7) All property and rights transferred by virtue of subsection (1) are to be applied for the purpose of the advancement of education.
- (8) Subject to subsection (9), a requirement made under subsection (1) is binding on any college to which it relates.
- (9) A requirement made under subsection (1) is binding on a college falling within subsection (10) only if the college consents to the making of the requirement.
- (10) A college falls within this subsection if—
- (a) its governing body is not a board of management established in pursuance of Part 1 of the 1992 Act;
 - (b) it is the college from which staff, property, rights, liabilities or obligations are to be transferred in pursuance of the requirement and the transfer is to be made to a college whose governing body is not a board of management established in pursuance of Part 1 of the 1992 Act; or
 - (c) the regional strategic body to which it is assigned is a body included in Part 2 of schedule 2A.
- (11) The Scottish Ministers may by order modify subsection (10) to provide that a college, or type of college, specified in the order is or is not to fall within that subsection (other than by virtue of paragraph (a) or (b) of that subsection).
- (12) Such an order may not modify paragraph (a) or (b) of subsection (10).
- (13) Before making an order under subsection (11), the Scottish Ministers must consult—
- (a) any regional strategic body to which the order relates;
 - (b) the representatives of any trade union which is recognised by such a regional strategic body or which otherwise appears to the Scottish Ministers to be representative of the staff of such a body;
 - (c) any college of further education which is assigned to such a regional strategic body by order made under section 7C(1);
 - (d) the students' association of each such college;
 - (e) the representatives of any trade union which is recognised by each such college or which otherwise appears to the Scottish Ministers to be representative of the staff of such a college;
 - (f) the Council;
 - (g) any body which appears to the Scottish Ministers to be representative of students of colleges of further education generally;
 - (h) any body which appears to the Scottish Ministers to be representative of colleges of further education;
 - (i) any body which appears to the Scottish Ministers to be representative of trade unions in Scotland; and
 - (j) any other person whom the Scottish Ministers consider likely to be affected by the order.

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- (14) Where any of a regional strategic body's staff are transferred to any of its colleges by virtue of any other arrangements made between the regional strategic body and that college, the transfer is a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).]

Textual Amendments

- F1** Ss. 23E-23O and cross-heading inserted (1.8.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 10, 23(2)**; S.S.I. 2014/79, art. 2(2), Sch. 2

Changes to legislation:

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