



Post-16 Education (Scotland) Act 2013

2013 asp 12

College reorganisation

5 Regional colleges

(1) After section 7 of the 2005 Act insert—

“7A Regional colleges

- (1) The Scottish Ministers may by order designate as a regional college any college of further education whose board of management is (or is to be) established in pursuance of Part 1 of the 1992 Act.
- (2) Before making an order under this section, the Scottish Ministers must consult—
 - (a) the board of management of the college to which the order relates (where that board is already established);
 - (b) the representatives of any trade union which the college recognises or which otherwise appears to the Scottish Ministers to be representative of its staff;
 - (c) the college’s students’ association;
 - (d) the local authority for the area in which the college is situated;
 - (e) the Council; and
 - (f) any other person appearing to the Scottish Ministers as likely to be affected by the order.”.

(2) After section 23 of the 2005 Act insert—

“Regional colleges: functions

23A Regional colleges: general duty

- (1) It is the duty of a regional college to exercise its functions with a view to securing the coherent provision of a high quality of fundable further education and fundable higher education in the locality of the regional college.

- (2) In doing so, the regional college must have regard to any fundable further education and fundable higher education provided by other post-16 education bodies in the locality of the regional college.

23B Regional colleges: planning, consultation and collaboration

- (1) A regional college must plan for—
- (a) how it proposes to provide fundable further education and fundable higher education; and
 - (b) how it intends to exercise its other functions.
- (2) When making plans, a regional college must have regard to the importance of ensuring that funds made available to it under section 12 are used as economically, efficiently and effectively as possible.
- (3) A regional college must, where it considers it appropriate to do so in the exercise of its functions, consult—
- (a) the representatives of any trade union which it recognises or which otherwise appears to it to be representative of its staff;
 - (b) its students' association;
 - (c) the local authority for the area in which the regional college is situated;
 - (d) the governing body of any other post-16 education body which provides fundable further education or fundable higher education in the locality of the regional college;
 - (e) any other regional college or regional strategic body whom it considers likely to have an interest in the matter concerned;
 - (f) any person who appears to it to be representative of employers in the locality of the regional college;
 - (g) any person who appears to it to be representative of the interests of any sector for which the regional college provides specialist education or training;
 - (h) The Open University;
 - (i) The Skills Development Scotland Co. Limited;
 - (j) the Scottish Qualifications Authority; and
 - (k) Scottish Enterprise or Highlands and Islands Enterprise (as appropriate).
- (4) Any particular requirement for consultation imposed on a regional college by virtue of this or any other enactment is without prejudice to subsection (3).
- (5) A regional college must, so far as is consistent with the proper exercise of its functions, seek to secure the collaboration with the regional college of the following persons—
- (a) the representatives of any trade union which the regional college recognises or which otherwise appears to it to be representative of its staff;
 - (b) the regional college's students' association;
 - (c) the local authority for the area in which the regional college is situated;

- (d) the governing body of any other post-16 education body which provides fundable further education or fundable higher education in the locality of the regional college;
 - (e) any other regional college or regional strategic body whom it considers it appropriate to collaborate with;
 - (f) The Open University;
 - (g) The Skills Development Scotland Co. Limited;
 - (h) the Scottish Qualifications Authority; and
 - (i) Scottish Enterprise or Highlands and Islands Enterprise (as appropriate).
- (6) The Scottish Ministers may by order modify subsection (3) or (5) by—
- (a) adding or removing persons, or types of persons, to which those provisions apply; or
 - (b) varying the description of any such person or type of person.
- (7) But such an order may not modify paragraph (a) or (b) of subsection (3).

23C Regional colleges: improvement of economic and social well-being

- (1) A regional college is to exercise its functions with a view to improving the economic and social well-being of the locality of the regional college.
- (2) In doing so, the regional college is to have regard to—
- (a) social and economic regeneration needs in the locality; and
 - (b) social cohesion and social inclusion issues in the locality.
- (3) For the purposes of subsection (2)(a), “needs” means needs which appear to the regional college—
- (a) to exist for the time being or be likely to exist in the future; and
 - (b) to be capable of being addressed (wholly or partly) by the provision of fundable further education or fundable higher education.
- (4) For the purposes of subsection (2)(b), “issues” means issues which appear to the regional college—
- (a) to exist for the time being or be likely to exist in the future; and
 - (b) to be capable of being addressed (wholly or partly) by the provision of fundable further education or fundable higher education.

23D Regional college to have regard to particular matters

- (1) In exercising its functions, a regional college is to have regard to—
- (a) skills needs in the locality of the regional college;
 - (b) issues affecting the economy of the locality of the regional college;
 - (c) social and cultural issues in the locality of the regional college; and
 - (d) the needs and issues in relation to Scotland identified by the Council for the purposes of section 20(1).
- (2) In exercising its functions, a regional college is to have regard to the desirability of the achieving of sustainable development.
- (3) In exercising its functions, a regional college is to have regard to the—

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- (a) United Kingdom context; and
 - (b) international context,
- in which it carries on its activities.
- (4) In exercising its functions, a regional college is to have regard to the educational and related needs (including support needs) of persons who are, and the likely educational and related needs (including support needs) of persons who might wish to become, students of the college.
- (5) In exercising its functions, a regional college is to have regard to the desirability of enabling, encouraging and improving participation in fundable further education and fundable higher education by persons belonging to any socio-economic group which the regional college reasonably considers to be under-represented in such education.
- (6) For the purposes of subsection (1)(a), “skills needs” means any requirement or desirability for skills or knowledge which appears to the regional college—
- (a) to exist for the time being or be likely to exist in the future; and
 - (b) to be capable of being addressed (wholly or partly) by the provision of fundable further education or fundable higher education.
- (7) For the purposes of subsection (1)(b) and (c), “issues” means issues which appear to the regional college—
- (a) to exist for the time being or be likely to exist in the future; and
 - (b) to be capable of being addressed (wholly or partly) by the provision of fundable further education or fundable higher education.
- (8) For the purposes of subsection (5), 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) A regional college may take into account any social or economic characteristics which it considers appropriate when determining which groups are to constitute “socio-economic groups” for the purposes of subsection (5).
- (10) A regional college is to have regard to the under-represented socio-economic groups identified by the Council for the purposes of section 20(4A) when determining—
- (a) which groups are to constitute “socio-economic groups” for the purposes of subsection (5); and
 - (b) whether a socio-economic group so determined is under-represented in fundable further education or fundable higher education.”.

6 Colleges: boards of management

(1) For paragraph 3 of Schedule 2 to the 1992 Act substitute—

- “3 (1) The board of a regional college is to consist of no fewer than 15 nor more than 18 members.
- (2) The board is to be comprised of—
- (a) a person appointed by the Scottish Ministers to chair meetings of the board (the “chairing member”);

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- (b) the principal of the college;
 - (c) a person appointed by being elected by the teaching staff of the college from among their own number;
 - (d) a person appointed by being elected by the non-teaching staff of the college from among their own number;
 - (e) two persons appointed by being nominated by the students' association of the college from among the students of the college; and
 - (f) other members appointed by the board.
 - (3) An appointment made in pursuance of sub-paragraph (2)(f) has effect only if approved by—
 - (a) the chairing member; and
 - (b) the Scottish Ministers.
 - (4) A person is not eligible for appointment as the chairing member under sub-paragraph (2)(a) if the person is—
 - (a) a member of the Scottish Parliament;
 - (b) a member of the House of Lords;
 - (c) a member of the House of Commons;
 - (d) a member of the European Parliament; or
 - (e) the principal of the college,but such a person may otherwise be appointed as a member of the board.
- 3A
- (1) The board of a college which is not a regional college is to consist of no fewer than 13 nor more than 18 members.
 - (2) The board is to be comprised of—
 - (a) a person appointed by the regional strategic body to chair meetings of the board (the “chairing member”);
 - (b) the principal of the college;
 - (c) a person appointed by being elected by the teaching staff of the college from among their own number;
 - (d) a person appointed by being elected by the non-teaching staff of the college from among their own number;
 - (e) two persons appointed by being nominated by the students' association of the college from among the students of the college; and
 - (f) other members appointed by the regional strategic body.
- 3B
- (1) An election to appoint members in pursuance of paragraph 3(2)(c) or (d) or 3A(2)(c) or (d) is to be conducted in accordance with rules made by the board.
 - (2) Before making, varying or replacing rules about elections to be held in pursuance of paragraph 3(2)(c) or 3A(2)(c), the board must consult the representatives of any trade union which the board recognises as being, or which otherwise appears to the board to be, representative of the teaching staff of the college.
 - (3) Before making, varying or replacing rules about elections to be held in pursuance of paragraph 3(2)(d) or 3A(2)(d), the board must consult the

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representatives of any trade union which the board recognises as being, or which otherwise appears to the board to be, representative of the non-teaching staff of the college.

- 3C (1) In appointing members under paragraph 3(2) or 3A(2) and in extending the period of appointment of any member so appointed, the board or, as the case may be, regional strategic body must have regard to any guidance issued by the Scottish Ministers in relation to the making of such appointments (including any guidance on the desirability of appointing members with particular skills and experience).
- (2) Before issuing guidance under sub-paragraph (1), the Scottish Ministers must consult—
- (a) any board to which the guidance relates;
 - (b) where it relates to the board of a college which is not a regional college, the regional strategic body for the college;
 - (c) the local authority for any area in which the board to which the guidance relates is situated;
 - (d) the relevant students' associations;
 - (e) the representatives of any trade union which is recognised by a board to which the guidance relates or which otherwise appears to the Scottish Ministers to be representative of its staff;
 - (f) the Council;
 - (g) any body which appears to the Scottish Ministers to be representative of colleges of further education;
 - (h) any body which appears to the Scottish Ministers to be representative of local authorities;
 - (i) any body which appears to the Scottish Ministers to be representative of students of colleges of further education generally; and
 - (j) any body which appears to the Scottish Ministers to be representative of trade unions in Scotland.

(3) Different guidance may be issued for different purposes.”.

- (2) The Scottish Ministers may make such arrangements in relation to a board of management of a college of further education as they consider appropriate in connection with the coming into force of subsection (1) and may, in particular—
- (a) appoint on terms and conditions determined by them persons who are, from the day on which that subsection comes into force, to hold office as a member of the board as if appointed under paragraph 3(2)(a) or (f) or, as the case may be, 3A(2)(a) or (f) of Schedule 2 to the 1992 Act, or
 - (b) in the case of persons who are members of the board immediately before that day—
 - (i) make arrangements for them to continue in office from that day as if appointed under such provision of paragraph 3 or, as the case may be, 3A of Schedule 2 to the 1992 Act as they may determine, or
 - (ii) remove them from office.

7 **Colleges: mismanagement**

For section 24 of the 1992 Act substitute—

“24 Mismanagement by boards

- (1) This section applies where—
 - (a) it appears to the Scottish Ministers that the board of management of any college of further education—
 - (i) have committed or are committing a serious breach of any term or condition of a grant made to them under section 12 or 12B of the Further and Higher Education (Scotland) Act 2005 (“the 2005 Act”);
 - (ii) have committed or are committing repeated breaches of such terms or conditions;
 - (iii) have failed, or are failing, to provide or secure the provision of education of such standard as the Scottish Ministers consider appropriate;
 - (iv) have failed, or are failing, to discharge any of their duties properly; or
 - (v) have mismanaged, or are mismanaging, their financial or other affairs; or
 - (b) the Council has informed the Scottish Ministers that a college of further education whose board of management is established in pursuance of this Part is not, or is no longer, a body for which there are suitable provisions, procedures and arrangements of the type described by or under section 7(2) of the 2005 Act.
- (2) Where this section applies, the Scottish Ministers may by order—
 - (a) remove any or all of the members of the board (other than the principal of the college); and
 - (b) where a removed member was appointed under paragraph 3(2)(a) or (f) or 3A(2)(a) or (f) of Schedule 2, appoint another person in place of the removed member.
- (3) Before making an order under subsection (2)(a), the Scottish Ministers must consult the Council.
- (4) The Scottish Ministers must give notice of exercise of the power of removal conferred by subsection (2)(a) to the board and the member.
- (5) An appointment made under subsection (2)(b) has effect as if made under the provision of Schedule 2 under which the removed member was appointed.”.