



# Post-16 Education (Scotland) Act 2013

## 2013 asp 12

### *Terms and conditions of higher education funding*

#### **2 Higher education institutions: good governance**

After section 9 of the 2005 Act insert—

##### **“9A Higher education institutions: good governance**

The Scottish Ministers may, under section 9(2), impose a condition that the Council must, when making a payment to a higher education institution under section 12(1), require the institution to comply with any principles of governance which appear to the Council to constitute good practice in relation to higher education institutions.”

#### **3 Widening access to higher education**

After section 9B of the 2005 Act, inserted by section 14, insert—

##### **“9C Widening access to fundable higher education**

- (1) The Scottish Ministers may, under section 9(2), impose terms and conditions for the purposes of enabling, encouraging or increasing participation in fundable higher education by persons belonging to any socio-economic group which they reasonably consider to be under-represented in such education.
- (2) The Scottish Ministers may, in particular, impose a condition that the Council, when making a payment to a higher education institution under section 12(1), must require the institution to comply with a widening access agreement which makes provision in relation to—
  - (a) any socio-economic group which the Scottish Ministers reasonably consider to be under-represented in fundable higher education; and
  - (b) other socio-economic groups, if any, which the Council and the institution agree are under-represented in fundable higher education.
- (3) A “widening access agreement” is an agreement between a higher education institution and the Council under which the institution is to take actions

specified in the agreement for the purposes of enabling, encouraging or increasing participation in fundable higher education provided by the institution by persons belonging to socio-economic groups which are under-represented in fundable higher education (either generally or in such education provided by the institution).

- (4) Before entering into a widening access agreement in pursuance of this section, a higher education institution must consult—
  - (a) the representatives of any trade union which the institution recognises or which otherwise appears to it to be representative of its staff; and
  - (b) the institution's students' association.
- (5) For the purposes of this section, a socio-economic group is to be treated as under-represented in fundable higher education if participation in such education by persons in that group is disproportionately low.
- (6) The Scottish Ministers, the Council and higher education institutions 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 this section."

#### **4 Fee cap: students liable for higher education fees**

After section 9C of the 2005 Act, inserted by section 3, insert—

##### **“9D Fee cap: students liable for higher education fees**

- (1) The Scottish Ministers may, under section 9(2), impose a condition that the Council must, when making a payment under section 12(1)—
  - (a) where the payment is made to a fundable post-16 education body which provides fundable higher education, impose on that body a condition that it complies with the requirement set out in subsection (2);
  - (b) where the payment is made to a regional strategic body, impose on that body a condition that it must, when making a payment under section 12B(1) to any of its colleges which provides fundable higher education, impose on the college a condition that it complies with the requirement set out in subsection (2).
- (2) The requirement is that the post-16 education body to whom the payment is made is to secure that the fees paid to it—
  - (a) by persons in respect of whom it is authorised or required to charge higher fees by virtue of regulations made under section 1 of the Education (Fees and Awards) Act 1983 (or by such class of such persons as the Scottish Ministers may by order specify);
  - (b) in connection with their attending in an academic year such courses of education as the Scottish Ministers may by order specify,
 do not exceed such amount as the Scottish Ministers may by order specify.
- (3) The Scottish Ministers, when making an order under this section, must seek to ensure—
  - (a) that, subject to any exceptions which they consider appropriate, it applies only in relation to fees payable by persons who have a connection with the United Kingdom; and

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*Status: This is the original version (as it was originally enacted).*

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- (b) that the amount of fees payable by a person attending any course of education provided by a post-16 education body in any particular academic year does not exceed the maximum amount of fees which that person would by virtue of any enactment be liable to pay if attending any higher education course provided elsewhere in the United Kingdom during that year.
- (4) The Scottish Ministers may not specify courses under subsection (2)(b) in such a way as to discriminate between different courses which are—
- (a) for the training of persons preparing to be teachers; and
  - (b) open only to persons holding a degree,
- on the basis of the subject in which such training is given.
- (5) References in this section to the United Kingdom include references to the Channel Islands and the Isle of Man.”.