

2014 No. 21 (C. 1)

EDUCATION

**The Post-16 Education (Scotland) Act 2013 (Commencement
No. 3 and Transitory and Savings Provisions) Order 2014**

Made - - - - 22nd January 2014

Laid before the Scottish Parliament 24th January 2014

Coming into force - - 3rd March 2014

The Scottish Ministers make the following Order in exercise of the powers conferred by section 23(2) and (3) of the Post-16 Education (Scotland) Act 2013(a).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Post-16 Education (Scotland) Act 2013 (Commencement No. 3 and Transitory and Savings Provisions) Order 2014 and comes into force on 3rd March 2014.

(2) In this Order—

“the Act” means the Post-16 Education (Scotland) Act 2013;

“college of further education” has the same meaning as in section 35(1) of the 2005 Act (interpretation)(b); and

“regional strategic body” has the same meaning as in section 35(1) of the 2005 Act(c).

Appointed day

2.—(1) 3rd March 2014 is the day appointed for the coming into force of the provisions of the Act specified in column 1 of Schedule 1 to this Order (the subject matter of which is described in column 2 of that Schedule), in so far as they are not already in force.

(2) Where a purpose is specified in column 3 of Schedule 1 in relation to any provision, that provision comes into force on 3rd March 2014 for that purpose only.

Transitory modification: regional strategic bodies

3.—(1) Until section 8(1) of the Act (regional strategic bodies) comes into force for the purpose of inserting any regional strategic body into schedule 2A to the 2005 Act, section 14A(6) and 19A(7) of the 2005 Act(d) are to be read as if subsection (b) in each were omitted.

(a) 2013 asp 12.

(b) This definition is inserted into the 2005 Act by paragraph 8(23)(a)(i) of the schedule to the Act (as commenced by S.S.I. 2013/348).

(c) This definition is inserted into the 2005 Act by paragraph 8(23)(a)(iv) of the schedule to the Act (as commenced by this Order).

(d) Section 14A is inserted into the 2005 Act by section 17 of the Act and section 19A is inserted by section 16 of the Act (as commenced by this Order).

(2) Until section 9(2) of the Act (funding of and by regional strategic bodies) comes into force for all purposes(a)—

- (a) section 24(1)(a)(i) of the 1992 Act (mismanagement by boards)(b) is to be read as if the words “or 12B” were omitted;
- (b) in section 9 of the 2005 Act (funding of the council)—
 - (i) subsection (4)(b)(c) is to be read as if subsection (ii) were omitted; and
 - (ii) subsection (11)(d) is to be read as if “or (b)(ii)” were omitted;
- (c) section 9B(2) of the 2005 Act (further education institutions: good governance)(e) is to be read as if subsection (b) were omitted; and
- (d) section 9D(1) of the 2005 Act (fee cap: students liable for higher education fees)(f) is to be read as if subsection (b) were omitted.

(3) Until section 10 of the Act (regional strategic bodies: functions) comes into force for the purpose of inserting section 23E into the 2005 Act, section 35(3)(b) of the 2005 Act(g) is to be read as if for “sections 23A and 23E” there were substituted “section 23A”.

(4) Until section 12 of the Act (regional boards: mismanagement) comes into force for all purposes, paragraphs 5A(1)(c) and 5B(3) of Schedule 2 to the 1992 Act(h) and paragraph 4(2)(c) of schedule 1 to the 2005 Act(i) are to be read as if the words from “or” to the end were omitted.

Transitory modification: colleges of further education

4.—(1) Subject to paragraph (2), section 26A of the 2005 Act (equal opportunities: post-16 education bodies etc.)(j) has no effect in relation to a college of further education listed in Schedule 2 to this Order until the date on which the college of further education is first either designated as a regional college by order made under section 7A of the 2005 Act (regional colleges)(k) or assigned to a regional strategic body by order made under section 7C of the 2005 Act (assignment of colleges)(l).

(2) This article ceases to have effect from the date on which paragraph 8(6) of the schedule to the Act comes into force for the purpose of inserting section 7D(7) to (9) into the 2005 Act.

Transitory savings: colleges of further education

5.—(1) Subject to paragraph (4), this article applies in relation to a college of further education listed in Schedule 2 to this Order until the date on which the college of further education is first either designated as a regional college by order made under section 7A of the 2005 Act or assigned to a regional strategic body by order made under section 7C of the 2005 Act.

(2) Despite the amendments made by section 6(1) (colleges: board of management) of, and paragraph 2(7) of the schedule to, the Act, on the coming into force of this Order, Schedule 2 to the 1992 Act (constitution and proceedings of boards of management) continues to have effect in relation to the college of further education on and after 3rd March 2014 as it had effect immediately before that date.

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- (a) Section 9(2) will insert sections 12A and 12B into the 2005 Act.
 - (b) Section 24(1)(a)(i) of the 1992 Act is inserted by section 7 of the Act (as commenced by this Order).
 - (c) Section 9(4)(b) of the 2005 Act is amended by paragraph 8(7)(b) of the schedule to the Act (as commenced by this Order).
 - (d) Section 9(11) of the 2005 Act is amended by paragraph 8(7)(h) of the schedule to the Act (as commenced by this Order).
 - (e) Section 9B(2) is inserted into the 2005 Act by section 14 of the Act (as commenced by this Order).
 - (f) Section 9D(1) is inserted into the 2005 Act by section 4 of the Act (as commenced by this Order).
 - (g) Section 35(3)(b) is inserted into the 2005 Act by paragraph 8(23)(c) of the schedule to the Act (as commenced by this Order).
 - (h) These provisions are inserted into the 1992 Act by paragraph 2(7)(c) of the schedule to the Act (as commenced by this Order).
 - (i) Paragraph 4(2)(c) of Schedule 1 is inserted into the 2005 Act by paragraph 8(24) of the schedule to the Act (as commenced by this Order).
 - (j) Section 26A is inserted into the 2005 Act by section 19 of the Act (as commenced by this Order).
 - (k) Section 7A is inserted into the 2005 Act by section 5(1) of the Act (as commenced by S.S.I. 2013/348).
 - (l) Section 7C is inserted into the 2005 Act by section 8(3) of the Act (as commenced by this Order).

(3) Despite the amendment made by section 7 of the Act (colleges: mismanagement) on the coming into force of this Order, section 24 of the 1992 Act (mismanagement by boards) continues to have effect in relation to the college of further education on and after 3rd March 2014 as it had effect immediately before that date.

(4) This article ceases to have effect from the date on which paragraph 8(6) of the schedule to the Act comes into force for the purpose of inserting section 7D(7) to (9) into the 2005 Act.

St Andrew's House,
Edinburgh
22nd January 2014

MICHAEL RUSSELL
A member of the Scottish Government

SCHEDULE 1

Article 2

<i>Column 1 Provisions of the Act</i>	<i>Column 2 Subject-matter</i>	<i>Column 3 Purpose</i>
Section 2	Higher education institutions: good governance	
Section 3	Widening access to higher education	
Section 4	Fee cap: students liable for higher education fees	
Section 5(2)	Regional Colleges	
Section 6(1)	Colleges: boards of management	
Section 7	Colleges: mismanagement	
Section 8(1) and 8(2)	Regional Strategic Bodies	For the purpose of (a) the amendments to section 35(1) of the 2005 Act in relation to the definitions of “regional board” and “regional strategic body” as a result of the commencement of paragraph 8(23) of the schedule to the Act as provided for in column 1 below and (b) allowing the Scottish Ministers to make an Order under section 7B(2) of the 2005 Act.
Section 8(3)	Regional strategic bodies	
Section 9(1)	Funding of and by regional strategic bodies	
Section 13	Establishment and abolition of regional boards: supplemental	
Section 14	Further education institutions: good governance	
Section 15	Council to have regard to desirability of widening access	
Section 16	Council to review progress with widening access	

<i>Column 1 Provisions of the Act</i>	<i>Column 2 Subject-matter</i>	<i>Column 3 Purpose</i>
Section 17	Review of further and higher education	
Section 19	Equal opportunities: post-16 education bodies etc.	For all purposes other than imposing a duty under section 26A(1) of the 2005 Act on any regional strategic body.
Section 21	Modification of enactments	For the purpose of commencing paragraphs 1, 2(2) and (3), (4)(b), (5) to (7), 5, 7, 8(2) to (4), (5)(a)(ii), (6), (7)(a)(ii) and (b), (c), and (e) to (j), (8) to (10), (12) to (19), (20)(a), (21), (22)(c) and (23) to (24) of the schedule to the Act.
Schedule, paragraph 1	Modification of enactments	
Schedule, paragraph 2(2) and (3)	Modification of enactments	
Schedule, paragraph 2(4)(b)	Modification of enactments	
Schedule, paragraph 2(5) to (7)	Modification of enactments	
Schedule, paragraph 5	Modification of enactments	
Schedule, paragraph 7	Modification of enactments	For the purpose of inserting “The chairing member of the board of management of a college of further education which is designated as a regional college by order under section 7A of the Further and Higher Education (Scotland) Act 2005” into schedule 2 to the Public Appointments and Public Bodies etc. (Scotland) Act 2003 after the cross-heading “Offices”.
Schedule, paragraph 8(2) to (4)	Modification of enactments	
Schedule, paragraph 8(5)(a)(ii)	Modification of enactments	
Schedule, paragraph 8(6)	Modification of enactments	For the purpose of inserting section 7D(1) to (6) into the 2005 Act.

<i>Column 1 Provisions of the Act</i>	<i>Column 2 Subject-matter</i>	<i>Column 3 Purpose</i>
Schedule, paragraph 8(7)(a)(ii) and (b), (c), and (e) to (j)	Modification of enactments	
Schedule, paragraph 8(8) to (10)	Modification of enactments	
Schedule, paragraph 8(12) to (17)	Modification of enactments	
Schedule, paragraph 8(18)	Modification of enactments	For the purpose of inserting section 25A(1) and (2)(b)(i) into the 2005 Act.
Schedule, paragraph 8(19)	Modification of enactments	
Schedule, paragraph 8(20)(a)	Modification of enactments	
Schedule, paragraph 8(21)	Modification of enactments	
Schedule, paragraph 8(22)(c)	Modification of enactments	For the purpose of inserting paragraphs (bb), (bc), (bd) and (be) into section 34(4) of the 2005 Act.
Schedule, paragraph 8(23) to (24)	Modification of enactments	

SCHEDULE 2

Articles 4 and 5

- The Board of Management of City of Glasgow College**(a)**
- The Board of Management of Coatbridge College**(b)**
- The Board of Management of Glasgow Clyde College**(c)**
- The Board of Management of Glasgow Kelvin College**(d)**
- The Board of Management of Inverness College**(e)**
- The Board of Management of Lews Castle College**(f)**
- The Board of Management of Moray College**(g)**
- The Board of Management of New College Lanarkshire**(h)**
- The Board of Management of Perth College**(i)**
- The Board of Management of South Lanarkshire College**(j)**
- The Board of Management of The North Highland College**(k)**

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- (a)** City of Glasgow College was established by S.S.I. 2004/274. The name of City of Glasgow College was changed from Glasgow Metropolitan College on 1st August 2012 in accordance with section 3(4) of the 1992 Act. Section 3(4) of the 1992 Act was amended by section 30 of the 2005 Act.
 - (b)** Coatbridge College is prescribed by S.I. 1992/1597.
 - (c)** Glasgow Clyde College is prescribed by S.I. 1992/1597. The name of Glasgow Clyde College was changed from Cardonald College on 1st August 2013 in accordance with section 3(4) of the 1992 Act. Section 3(4) of the 1992 Act was amended by section 30 of the 2005 Act.
 - (d)** Glasgow Kelvin College is prescribed by S.I. 1992/1597. The name of Glasgow Kelvin College was changed from North Glasgow College on 1st November 2013 in accordance with section 3(4) of the 1992 Act. Section 3(4) of the 1992 Act was amended by section 30 of the 2005 Act.
 - (e)** Inverness College is prescribed by S.I. 1992/1597.
 - (f)** Lews Castle College is prescribed by S.I. 1992/1597.
 - (g)** Moray College is prescribed by S.I. 1992/1597. The name of Moray College was changed from Moray College of Further Education by S.I. 1993/1891.
 - (h)** New College Lanarkshire is prescribed by S.I. 1992/1597. The name of New College Lanarkshire was changed from Motherwell College on 1st November 2013 in accordance with section 3(4) of the 1992 Act. Section 3(4) of the 1992 Act was amended by section 30 of the 2005 Act.
 - (i)** Perth College is prescribed by S.I. 1992/1597. The name of Perth College was changed from Perth College of Further Education by S.I. 1993/1891.
 - (j)** South Lanarkshire College is prescribed by S.I. 1992/1597. The name of South Lanarkshire College was changed from Cambuslang College by S.I. 1999/16.
 - (k)** The North Highland College is prescribed by S.I. 1992/1597. The name of The North Highland College was changed from Thurso College by S.S.I. 1999/126.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force the following provisions of the Post-16 Education (Scotland) Act 2013 (“the Act”) on 3rd March 2014: sections 2 to 4, 5(2), 6(1), 7 to 8, 9(1), 13 to 17, 19 and 21, and paragraphs 1, 2(2) and (3), (4)(b), (5) to (7), 5, 7, 8(2) to (4), (5)(a)(ii), (6), (7)(a)(ii) and (b), (c), and (e) to (j), (8) to (10), (12) to (19), (20)(a), (21), (22)(c) and (23) to (24) of the schedule to the Act. Article 2 appoints 3rd March 2014 as the day for the coming into force of the provisions mentioned in the Schedule to the Order. Some are partially commenced for restricted purposes only.

Article 3 makes transitory modification of sections 24(1)(a)(i) of, and paragraphs 5A(1)(c) and 5B(3) of Schedule 2 to, the Further and Higher Education (Scotland) Act 1992 (“the 1992 Act”) and of sections 9(4)(b) and (11), 9B(2), 9D(1), 14A(6), 19A(7) and 35(3)(b) of, and paragraph 4(2)(c) of schedule 1 to, the Further and Higher Education (Scotland) Act 2005 (“the 2005 Act”). These modifications relate to provisions concerning regional strategic bodies which are not yet in force. Article 4 makes a transitory modification of section 26A of the 2005 Act so that it does not have effect in relation to colleges of further education listed in Schedule 2 to this Order until they are first either designated as a regional college by order made under section 7A of the 2005 Act or assigned to a regional strategic body by order made under section 7C of the 2005 Act. Article 5 makes a transitory savings provision in relation to colleges of further education so that section 24 of, and Schedule 2 to, the 1992 Act which relate to Boards of Management of those colleges will continue to apply to them as they did immediately before the date on which this Order comes into force. Articles 4 and 5 will cease to have effect when paragraph 8(6) of the schedule to the Act comes into force for the purpose of inserting section 7D(7) to (9) into the 2005 Act.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The Bill for the Act received Royal Assent on 7th August 2013. Section 23(1) of the Act brought into force sections 22 to 24 of the Act on the day after Royal Assent. The provisions of the Act commenced by earlier commencement orders are detailed in the table below.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Section 1	10th October 2013	2013/281
Section 5(1)	13th January 2014	2013/348
Section 6(2)	10th October 2013	2013/281
Section 13 (partially)	10th October 2013	2013/281
Section 18	13th January 2014	2013/348
Section 20	13th January 2014	2013/348
Section 21 (partially)	10th October 2013	2013/281
Section 21 (partially)	13th January 2014	2013/348
Schedule, paragraph 2(1)	13th January 2014	2013/348
Schedule, paragraph 2(2)(b) (partially)	13th January 2014	2013/348
Schedule, paragraph 2(7)(d) (partially)	10th October 2013	2013/281
Schedule, paragraph 3	10th October 2013	2013/281
Schedule, paragraph 8(1)	13th January 2014	2013/348

Schedule, paragraph 8(5)(a)(i)	10th October 2013	2013/281
Schedule, paragraph 8(22)(a)	10th October 2013	2013/281
Schedule, paragraph 8(22)(b)	10th October 2013	2013/281
Schedule, paragraph 8(22)(c) (partially)	10th October 2013	2013/281
Schedule, paragraph 8(23)(a)(i)	13th January 2014	2013/348
Schedule, paragraph 8(23)(a)(iii) (partially)	13th January 2014	2013/348
Schedule, paragraph 8(23)(a)(iv) (partially)	13th January 2014	2013/348

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