



# Further and Higher Education (Scotland) Act 1992

## 1992 CHAPTER 37

### PART II

#### HIGHER EDUCATION

##### *Designated institutions*

#### **47 Closure of institutions.**

(1) Notwithstanding anything in any enactment (including an enactment contained in a subordinate instrument), the Secretary of State may by order close any designated institution and wind-up the governing body of such institution.

[<sup>F1</sup>(1A) An order under subsection (1) above—

- (a) shall include provision for the property and rights of the institution to transfer to and vest in a charity; and
- (b) may include provision for the liabilities and obligations of the institution to transfer to and vest in the Scottish Ministers or such other body or person as may be specified in the order.]

(2) An order under subsection (1) above may include provision—

- <sup>F2</sup>(a) .....
- (b) for the transfer of the staff of the institution to such other institution in Scotland as the Secretary of State may prescribe, being an institution providing any form of higher education;
- (c) for the payment by the Secretary of State of any expenses incurred in the closure and winding-up;
- (d) imposing on the governing body of the institution such additional powers and duties in relation to the closure and winding-up as the Secretary of State considers appropriate;

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*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Section 47. (See end of Document for details)*

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- (e) for the appointment of a person to administer the closure and winding-up, and a person so appointed shall have such powers and duties as appear to the Secretary of State necessary or expedient for such purposes and as are specified in the order;
  - (f) of such incidental, supplementary, transitional or ancillary nature as appears to the Secretary of State to be necessary or expedient for the purposes of the closure and winding-up.
- (3) Any property transferred by virtue of an order under subsection (1) above shall remain subject to any trust or condition (whether contained in a scheme made or approved under Part VI of the 1980 Act or otherwise) to which it was subject immediately before such transfer.
- (4) An order under this section may amend, vary, repeal or revoke the provisions of—
- (a) any regulations made under section 77 of the 1980 Act relating to a designated institution as regards which the order has been made; and
  - (b) any enactment (including an enactment contained in a subordinate instrument), any scheme, articles of association, trust deed or other instrument relating to the institution,
- to the extent that any such provision appears to the Secretary of State to be inconsistent with the order.
- (5) An order under subsection (1) above shall not be made unless the Secretary of State has consulted—
- (a) the Council; and
  - (b) the governing body of the institution proposed to be closed.
- (6) When the winding-up of the governing body of an institution under this section is completed the Secretary of State shall by order dissolve the governing body of that institution.
- (7) In this section references to the closure of a designated institution include references to the institution being merged with one or more other designated institutions; and different provision may be made under this section as regards different institutions to be merged with one another.
- [<sup>F3</sup>(8) An order as mentioned in subsection (1A) above shall not contain provision for transferring and vesting property, rights, liabilities or obligations unless the body or person to whom the transfer is being made (apart from the Scottish Ministers) has consented to the transfer and vesting.
- (9) All property and rights vested in a charity by virtue of an order as mentioned in subsection (1A) above shall be applied for the purpose of the advancement of education.
- (10) In this section, a “ charity ” means a body entered in the Scottish Charity Register. ]

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**Textual Amendments**

- F1** S. 47(1A) inserted (3.10.2005) by [Further and Higher Education \(Scotland\) Act 2005 \(asp 6\)](#), **ss. 29(2)(a)**, 36(2); S.S.I. 2005/419, art. 2(1)
- F2** S. 47(2)(a) repealed (3.10.2005) by [Further and Higher Education \(Scotland\) Act 2005 \(asp 6\)](#), **ss. 29(2)(b)**, 36(2); S.S.I. 2005/419, art. 2(1)

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**F3** S. 47(8)-(10) added (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), **ss. 29(2)(c), 36(2)**; S.S.I. 2005/419, art. 2(1)

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**Commencement Information**

**I1** S. 47 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), **Sch. 1**

**Changes to legislation:**

There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Section 47.