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STATUTORY INSTRUMENTS

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**1990 No. 183 (S.21)**

**EDUCATION, SCOTLAND**

**The College Councils (Scotland) Regulations 1990**

*Made* - - - - *6th February 1990*

*Laid before Parliament* *12th February 1990*

*Coming into force* - - *31st March 1990*

The Secretary of State, in exercise of the powers conferred on him by sections 54(3) and (5), 55(2), 78(4) and 80(1) of the Self-Governing Schools etc. (Scotland) Act 1989(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the College Councils (Scotland) Regulations 1990 and shall come into force on 31st March 1990.

**Interpretation**

2. In these Regulations—

“academic year” means the period commencing on 1st August in any calendar year and ending on 31st July in the following calendar year;

“the Act” means the Self-Governing Schools etc. (Scotland) Act 1989.

**Disapplication of requirement to establish a college council**

3.—(1) Section 54(1) of the Act shall not apply to any college of further education if—

- (a) the college, at the date by which a college council would require to be established under section 54(1), will be administered as part of a school; or
- (b) it appears to the education authority that the average student load of the college, calculated in accordance with paragraph (2), is less than 100.

(2) The average student load shall be calculated, for the purposes of paragraph (1)—

- (a) in the case of a college which, at the date by which a college council would require to be established under section 54(1), will have existed for at least 3 complete academic years

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(1) 1989 c. 39; section 80(1) contains a definition of “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made.

since its establishment or amalgamation, by calculating the student load for each of the last 3 complete academic years and taking the average of those student loads;

- (b) in the case of a college which, at that date, will have existed for less than 3 complete academic years since its establishment or amalgamation, by calculating the student load for each complete academic year since its establishment or amalgamation, estimating the expected student load for the academic year beginning on 1st August 1990, and taking the average of those student loads.

(3) Section 54(2) of the Act shall not apply to any college of further education if—

- (a) the education authority propose that on being established or amalgamated the college will be administered as part of a school; or
- (b) it appears to the education authority that the student load for the first whole academic year in which the college will be fully in operation is likely to be less than 100.

(4) For the purpose of paragraphs (2) and (3), the student load for an academic year shall be calculated by adding together the number of hours of attendance in the academic year by all students (including where open and flexible learning arrangements apply to any student the number of hours of attendance at college which otherwise would have been required for the student to complete a course) and dividing the total by 800.

### **Composition of college councils**

4. A college council, in addition to satisfying the requirements of section 54(5)(a) of the Act, shall include within its membership not less than—

- (a) one member who is a student at the college,
- (b) one member from the teaching staff employed at the college, and
- (c) one member employed at the college who is not one of the teaching staff.

### **Duration of college council appointments**

5.—(1) Subject to regulation 5(4) below, appointments of college council members other than the principal of the college and members who are students shall be for a period of 4 years.

(2) Appointments of college council members who are students shall be for a period of 1 year.

(3) The principal of the college shall remain a member of the college council ex officio throughout the duration of his principalship.

(4) One half of the members to whom regulation 5(1) applies (chosen by agreement among them or, failing agreement, by lot) of the first college council established for each college after these Regulations come into force shall retire after 2 years' membership.

(5) Where there is an odd number of members to whom regulation 5(1) applies the requirements of regulation 5(4) above shall be satisfied by the retirement of the largest number less than half.

(6) A member of a college council may resign at any time by giving notice in writing to the education authority or to the secretary of the college council.

### **Procedure for filling casual vacancies**

6.—(1) Where a casual vacancy occurs in the membership of a college council the education authority shall appoint a person to fill the vacancy, and in so doing shall comply with the requirements of section 54(5) of the Act.

(2) A person who fills a casual vacancy shall do so only until the end of the period during which the member he replaces would have been a member.

(3) Prior to filling a casual vacancy the education authority shall consult only such interests as they deem appropriate in the circumstances.

(4) The education authority shall (subject to regulation 6(5) below) fill casual vacancies as soon as possible and in any event no later than 6 months after the vacancy occurs.

(5) Casual vacancies which occur within 6 months of the end of the period of membership of the person whose place is vacant need not be filled.

### **Disqualification from membership**

7.—(1) A person shall be disqualified from becoming or remaining a member of a college council if he—

- (a) is a person who would be disqualified for seeking election as, or for being, a member of a local authority by virtue of subsection (1)(b) (as read with subsections (2) and (3)) or subsection (1)(c) of section 31 of the Local Government (Scotland) Act 1973<sup>(2)</sup>; or
- (b) is subject to legal incapacity (except where he is aged 16 years or more and no cause of legal incapacity other than minority exists or occurs),

and the education authority shall declare vacant the place of a member so disqualified.

(2) A person shall be disqualified from remaining a member of a college council and the education authority shall declare his place vacant if he—

- (a) fails to attend all meetings both of the college council and of any committee of the college council to which he has been appointed during a period of 6 months, without the consent of the college council;
- (b) is unable, due to physical or mental illness or incapacity, to perform his duties as a member of the college council;
- (c) has failed to comply with the requirements of regulation 8(2) or (4) below.

(3) A retiring member of a college council shall not be disqualified (by reason of such retirement) from further election.

### **Meetings and proceedings of councils**

8.—(1) The principal of the college may attend any meeting of a committee of the college council, save that he may not attend unless invited to do so by the committee any meeting or part of a meeting at which matters relating to the selection, dismissal, terms of employment of, or disciplinary measures in respect of, the principal are under discussion.

(2) Any member who becomes aware before or during any meeting of the college council or a committee of the council that he or any person connected with him has, directly or indirectly, an interest or duty relevant to the matter under discussion which is material and which conflicts or may conflict with the interests of the council shall declare such interest and shall not then attend or take part in discussion of, or vote upon, that matter.

(3) For the purpose of the foregoing paragraph, a person is connected with a council member in the circumstances specified, in respect of directors of companies, in section 346 of the Companies Act 1985<sup>(3)</sup>.

(4) Any information presented in confidence to the college council or any matter discussed in confidence at a college council meeting or by a committee of the council shall be treated by its members as confidential to the college council.

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(2) 1973 c. 65.

(3) 1985 c. 6.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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St. Andrew's House,  
Edinburgh  
6th February 1990

*Ian Lang*  
Minister of State, Scottish Office

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations relate to the new college councils which, in accordance with Part II of the Self-Governing Schools etc. (Scotland) Act 1989, require to be established to exercise certain functions in relation to colleges of further education under the management of education authorities in Scotland.

They provide for certain exemptions from the requirement to establish a college council. They make certain provisions regarding the composition of college councils, the duration of appointments to them, the filling of casual vacancies, the grounds for disqualification of members, and the meetings and proceedings of councils.

Regulation 3 provides that councils need not be established where the college is administered as part of a school or where the student load is less than 100. Provision is made for calculating the student load.

Regulation 4 provides that the membership of a college council must include at least one student, one member of the teaching staff, and one member of the non-teaching staff.

Regulations 5, 6 and 7 regulate the duration of college council appointments, the filling of casual vacancies, and the grounds for disqualification from membership.

Regulation 8 provides for the principal of the college to attend meetings of council committees and for members of councils to declare conflicts of interest. It also requires members not to participate in business where such conflicts arise and to preserve the confidentiality of information received in confidence or matters discussed in confidence.