



# Further and Higher Education (Scotland) Act 2005

2005 asp 6

## PART 2

### GENERAL

#### 32 Amendment of enactments

Schedule 3 amends enactments for the purposes of and in consequence of this Act.

#### Commencement Information

II [S. 32](#) in force at 3.10.2005 by [S.S.I. 2005/419](#), [art. 2\(1\)](#)

#### 33 Ancillary provision

The Scottish Ministers may by order make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes of or in consequence of this Act.

#### 34 Orders and regulations

- (1) Any power of the Scottish Ministers to make orders or regulations under this Act is exercisable by statutory instrument.
- (2) Any such power includes power to make—
  - (a) such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers consider necessary or expedient; and
  - (b) different provision for different purposes.
- (3) A statutory instrument containing an order or regulations under this Act, apart from an order under section 36(2), is (except where subsection (4) applies) subject to annulment in pursuance of a resolution of the Parliament.
- (4) A statutory instrument containing—

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*Status: Point in time view as at 01/08/2012.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 2005, Part 2. (See end of Document for details)*

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- (a) regulations under section 7(2)(i);
- (b) an order under section 5(6), 7(1) or (4) or 9(6) or (7); or
- (c) an order under section 33 which amends an Act,

is not made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament.

### **35 Interpretation**

(1) In this Act—

“the 1980 Act” means the Education (Scotland) Act 1980 (c. 44);

“the 1992 Act” means the Further and Higher Education (Scotland) Act 1992 (c. 37);

“the Council” means the Scottish Further and Higher Education Funding Council;

“fundable body” is to be construed in accordance with section 6(2);

“fundable further education” is to be construed in accordance with section 5(1) and (2);

“fundable higher education” is to be construed in accordance with section 5(3);

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);

“the Parliament” means the Scottish Parliament.

(2) In this Act, any reference to the governing body of a fundable body means—

- (a) in the case of a fundable body conducted by a body corporate, that body corporate;
- (b) in the case of a fundable body not falling within paragraph (a), the executive body which has responsibility for the management and administration of the revenue and property of the fundable body and the conduct of its affairs;
- (c) in the case of any other fundable body not falling within paragraph (a) or (b) for which the Scottish Ministers by regulations or the Privy Council by order has constituted a governing body, that governing body; and
- (d) in any other case, any board of governors of the fundable body or any person responsible for the management of the fundable body, whether or not formally constituted as a governing body or board of governors.

### **36 Short title and commencement**

(1) This Act may be cited as the Further and Higher Education (Scotland) Act 2005.

(2) This Act, except sections 33 to 35 and this section, comes into force on such day as the Scottish Ministers may by order appoint.

(3) Different days may be so appointed for different provisions and for different purposes.

**Status:**

Point in time view as at 01/08/2012.

**Changes to legislation:**

There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 2005, Part 2.