



# Further and Higher Education (Scotland) Act 1992

## 1992 CHAPTER 37

### PART I

#### FURTHER EDUCATION

### CHAPTER II

#### SCOTTISH FURTHER EDUCATION FUNDING COUNCIL

#### **7 Scottish Further Education Funding Council**

- (1) The Secretary of State may by order establish a body corporate to be known as “the Scottish Further Education Funding Council” (referred to in this Part of this Act as the “Funding Council”).
- (2) An order establishing the Funding Council shall prescribe such of the functions of the Secretary of State under this Part of this Act, not being functions mentioned in subsection (3) below, as may be exercised on his behalf by the Funding Council.
- (3) The functions referred to in subsection (2) above are—
  - (a) any power of the Secretary of State under this Part of this Act—
    - (i) to make orders or regulations; or
    - (ii) to give directions;
  - (b) the giving of consent by the Secretary of State, other than the giving of consent under section 12(7) or 18 of this Act;
  - (c) the carrying out of consultation by the Secretary of State under any of sections 3(4), 5(1), 6(3), 12(9), 19(4) and 20(2) of this Act;
  - (d) the making of a determination by the Secretary of State under section 12(5) of this Act;

---

*Status: This is the original version (as it was originally enacted).*

---

- (e) the appointment by the Secretary of State of members of the college council in pursuance of Schedule 6 to this Act;
  - (f) the power of the Secretary of State under section 12(6) of and paragraph 2(2) of Schedule 5 to this Act to require reports and returns to be made and information to be given; and
  - (g) the giving of notice by the Secretary of State under section 24(2) of this Act.
- (4) For the purposes of subsection (3) above, the functions there specified include such functions as applied or modified in pursuance of an order made under this Part of this Act.
- (5) The Funding Council shall, notwithstanding that they are exercising functions on behalf of the Secretary of State, be entitled to enforce any rights acquired, and shall be liable in respect of any liabilities incurred (including liability in damages for wrongful or negligent acts or omissions), in the exercise of those functions in all respects as if the Funding Council were acting as a principal; and all proceedings for enforcement of such rights and liabilities shall be brought by or against the Funding Council in their own name.
- (6) Schedule 1 to this Act shall have effect as regards the constitution and supplementary powers of and other matters relating to the Funding Council.

## **8 Advisory functions of the Funding Council**

- (1) Without prejudice to section 7 of this Act, the Funding Council shall provide to the Secretary of State advice and assistance in connection with such of his functions under this Part of this Act as he may, from time to time, determine.
- (2) The Funding Council shall provide to the Secretary of State such information and advice as he may, from time to time, require as regards the provision of further education (within the meaning of section 1(5)(b) of the 1980 Act) in Scotland.
- (3) The Funding Council may provide to the Secretary of State such information and advice as they think fit as regards the provision of further education (within the meaning of section 1(5)(b) of the 1980 Act) in Scotland.
- (4) Advice, assistance or information provided by the Funding Council in pursuance of this section shall be provided in such manner as the Secretary of State may, from time to time, determine.

## **9 Power of Secretary of State as regards functions of the Funding Council**

- (1) The Secretary of State may give the Funding Council directions of a general or specific character with regard to the discharge of their functions, other than their functions under section 8 of this Act; and it shall be the duty of the Funding Council to comply with such directions.
- (2) A direction given under subsection (1) above may be varied or revoked by a subsequent direction so given.
- (3) Nothing in section 7 of this Act or in any order made under that section shall be taken to prohibit the exercise by the Secretary of State of any function conferred on him by this Part of this Act whether or not such function has been or has purported to have been exercised by the Funding Council in pursuance of that section or any such order.

## **10 Payment of grants etc., to the Funding Council**

- (1) The Secretary of State may pay to the Funding Council in respect of any expenditure incurred or to be incurred by them in connection with their functions under or by virtue of this Part of this Act grants or other payments of such amounts as he may determine.
- (2) A grant or other payment paid under this section may be made subject to such conditions as the Secretary of State thinks appropriate and such conditions—
  - (a) may be imposed before, after or at the time such grant or other payment is made; and
  - (b) may relate to any time, whether before or after such time.
- (3) The terms and conditions on which the Secretary of State may make any grants or other payments under this section may include in particular conditions—
  - (a) enabling him to require the repayment, in whole or in part, of sums paid by him if any other condition subject to which the sums were paid is not complied with; and
  - (b) requiring the payment of interest in respect of any period during which a sum due to him in accordance with any other condition remains unpaid,but shall not relate to the application by the Funding Council of any sums derived otherwise than from the Secretary of State.
- (4) A condition imposed in pursuance of subsection (2) above shall not have effect as regards anything done, or omitted to have been done, before the date the condition was imposed.