
STATUTORY INSTRUMENTS

1998 No. 2887 (S.167)

EDUCATION, SCOTLAND

The Scottish Further Education Funding
Council (Establishment) (Scotland) Order 1998

<i>Made</i>	- - - -	<i>23rd November 1998</i>
<i>Laid before Parliament</i>		<i>25th November 1998</i>
<i>Coming into force</i>	- -	<i>1st January 1999</i>

The Secretary of State, in exercise of the powers conferred on him by section 7 of, and paragraph 10 of Schedule 1 to, the Further and Higher Education (Scotland) Act 1992(1) and all other powers enabling him in that behalf, hereby makes the following Order:

PART I

CITATION, COMMENCEMENT AND INTERPRETATION

Citation and commencement

1. This Order may be cited as the Scottish Further Education Funding Council (Establishment) (Scotland) Order 1998 and shall come into force on 1st January 1999.

Interpretation

2.—(1) In this Order, unless the context otherwise requires, the following expressions shall have the meanings respectively assigned to them:

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

“the Council” means the Scottish Further Education Funding Council established in terms of article 3;

“the Minister” means the Minister for the Civil Service.

(2) In this Order, unless the context otherwise requires, any reference to a numbered article shall be construed as a reference to the article which bears that number in this Order and any reference to a numbered paragraph in an article of this Order shall be construed as a reference to the paragraph bearing that number in that article.

PART II

ESTABLISHMENT OF THE COUNCIL

Establishment of the Council

3. There shall be established a body corporate to be known as the Scottish Further Education Funding Council.

PART III

FUNCTIONS WHICH MAY BE EXERCISED BY THE COUNCIL

Functions in respect of further education to be exercisable by the Council

4. The functions of the Secretary of State which may be exercised on his behalf by the Council are—

- (a) his duty under subsection (1) (as read with subsection (2)) of section 1 of the Act (duty of the Secretary of State to secure provision of further education) to the extent that it can be exercised by use of the powers and functions specified in paragraphs (b) to (e) below;
- (b) his power under subsection (1) of section 3 of the Act (powers of the Secretary of State), except in relation to the matters specified in paragraphs (a) to (c) of that subsection;
- (c) all his functions under section 4 of the Act (funding of further education);
- (d) his power to give consent in relation to the matters specified in subsection (7)(a) of section 12 of the Act (Boards of Management);
- (e) his power to give consent under section 18 of the Act (disposal of certain property).

PART IV

ADDITIONAL PROVISIONS AS TO MEMBERS OF THE COUNCIL

Tenure of members of the Council

5.—(1) A person shall hold and vacate office as a member, or as chairman, of the Council in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.

(2) A person may at any time by notice given in writing to the Secretary of State resign his office as a member, or as chairman, of the Council.

Removal of members from office

6. If the Secretary of State is satisfied that a member of the Council—

- (a) has been absent from meetings of the Council for a period longer than six consecutive months without the permission of the Council; or
- (b) is unable or unfit to discharge the functions of a member,

the Secretary of State may by notice given in writing to that member remove him from office, and thereupon the office shall become vacant.

Salaries, allowances and pensions for members

7.—(1) The Council—

- (a) shall pay to their members such salaries or fees, and such travelling, subsistence or other allowances, as the Secretary of State may determine; and
- (b) shall pay, or make such payments towards the provision of, such pensions to or in respect of any of their members as the Secretary of State may determine.

(2) If a person ceases to be a member of the Council and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may direct the Council to make to that person a payment of such amount as the Secretary of State may determine.

(3) A determination or direction of the Secretary of State under paragraph (1) or (2) requires the approval of the Treasury.

PART V

CHIEF OFFICER

Chief officer

8.—(1) One of the members of the Council shall be the chief officer.

(2) The first chief officer shall be appointed as such by the Secretary of State and shall hold and vacate office in accordance with the terms of his appointment.

(3) Each subsequent chief officer shall be appointed by the Council with the approval of the Secretary of State on such terms and conditions (including terms with respect to tenure and vacation of office) as the Council may, with the approval of the Secretary of State, determine.

(4) On approval by the Secretary of State of the person to be appointed on any occasion as chief officer of the Council and the terms and conditions of his appointment, the Secretary of State shall—

- (a) if that person is not already a member of the Council, appoint him as a member for the same term as the term of his appointment as chief officer; or
- (b) if he is already such a member but his term of appointment as such ends before the term of his appointment as chief officer ends, extend his term of appointment as a member so that it ends at the same time as the term of his appointment as chief officer.

PART VI

STAFF

Staff

9.—(1) Subject to the provisions of paragraph (5), the Council may appoint such employees as they think fit.

(2) The Council shall pay to their employees such remuneration and allowances as the Council may determine.

(3) The employees shall be appointed on such other terms and conditions as the Council may determine.

(4) A determination under paragraph (2) or (3) above requires the approval of the Secretary of State given with the consent of the Treasury.

(5) The provisions of this article shall not apply in respect of the chief officer of the Council.

Superannuation

10.—(1) The Council shall pay to the Minister, at such times as he may direct, such sums as he may determine in respect of the increase, attributable to paragraph 11 of Schedule 1 to the Act, in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

(2) If an employee of the Council becomes a member of the Council and was by reference to his employment by the Council a participant in a pension scheme such as is mentioned in paragraph 11 of Schedule 1 to the Act—

- (a) the Council may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of the Council whether or not any benefits are to be payable to or in respect of him by virtue of that paragraph; but
- (b) if the Council determine as aforesaid, any discretion as to the benefits payable to or in respect of him which the scheme confers on the Council shall be exercised only with the consent of the Secretary of State given with the approval of the Minister.

PART VII

PROCEEDINGS OF THE COUNCIL

Proceedings

11. Subject to the provisions of the Act and this Order, the Council may regulate their own procedure and that of any of their committees.

Representation of the Secretary of State

12. Without prejudice to any other rights the Secretary of State may require to be accorded to him as a condition of any grants made to the Council under the Act—

- (a) a representative of the Secretary of State shall be entitled to attend and take part in any deliberations (but not in decisions) at meetings of the Council or of any committee of the Council; and
- (b) the Council shall provide the Secretary of State with such copies of any documents distributed to members of the Council or of any such committee as he may require.

Validity of proceedings

13. The validity of any proceedings of the Council or of any committee of the Council shall not be affected by a vacancy among the members or by any defect in the appointment of a member.

Committees

14.—(1) The Council may establish a committee for any purpose.

(2) The number of the members of a committee established under paragraph (1), and the terms on which they are to hold and vacate office, shall be fixed by the Council.

(3) Such a committee may include persons who are not members of the Council.

(4) The Council shall pay to the members of such committees (whether or not they are also members of the Council) such travelling, subsistence or other allowances as the Secretary of State may determine.

(5) The Council shall keep under review the structure of committees established under this paragraph and the scope of each committee's activities.

Delegation of functions

15. The Council may authorise the chairman, the chief officer or any committee of the Council to exercise such of their functions as they may determine.

St Andrew's House,
Edinburgh
23rd November 1998

Helen Liddell
Minister of State, Scottish Office

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order establishes the Scottish Further Education Funding Council (“the Council”) (Article 3).

Article 4 of this Order authorises the Council to exercise on behalf of the Secretary of State certain of his functions under Part I of the Further and Higher Education (Scotland) Act 1992 (“the Act”) relating to further education. It can exercise his duty under section 1(1) of the Act (to secure adequate and efficient provision of further education in Scotland) so far as this can be done by use of the express powers and functions which it is authorised to exercise. These express powers and functions are the functions under section 4 of the Act (funding of further education), the power under section 3(1) to do all that is necessary or expedient for the purposes of the exercise of the duty under section 1 (but not including the powers to establish, merge and close colleges, which are reserved to the Secretary of State), the power to give consent in relation to the matters specified in section 12(7) (a) (borrowing money, giving any guarantee or indemnity or creating any trust of security by Boards of Management over or in respect of any of their property) and the power to give consent under section 18 (disposal of certain property by Boards of Management).

Part IV contains provisions regulating the terms of office and removal of members of the Council and the payments made to them, supplementing Schedule 1 to the Act.

Part V provides for the appointment, and terms and conditions of employment, of the chief officer of the Council. He must also be a member of the Council.

Part VI provides for the appointment, and terms and conditions of employment, of staff, other than the chief officer (Article 9). It also provides for the superannuation of all employees of the Council (Article 10).

Part VII regulates the proceedings of the Council. It contains provision enabling the Council to establish committees (Article 14) and to delegate functions to such committees, the Chairman of the Council or the chief officer (Article 15).