

2006 No. 461

EDUCATION

**The Robert Gordon University (Transfer and Closure)
(Scotland) Order 2006**

Made - - - - - *11th September 2006*

Laid before the Scottish Parliament *12th September 2006*

Coming into force - - - *4th October 2006*

The Scottish Ministers, in exercise of the powers conferred by section 47(1), 1(A), (2), (4) and (6) of the Further and Higher Education (Scotland) Act 1992(a) and of all other powers enabling them in that behalf, and after consulting with the Scottish Further and Higher Education Funding Council(b) and the governing body of The Robert Gordon University in accordance with section 47(5) of that Act, and with the consent of the board of the new institution of higher education, The Robert Gordon University(c), established by the Robert Gordon University (Establishment) (Scotland) Order 2006(d) in accordance with section 47(8) of that Act, hereby make the following Order:

Citation and commencement

1. This Order may be cited as the Robert Gordon University (Transfer and Closure) (Scotland) Order 2006 and shall come into force on 4th October 2006.

Interpretation

2. In this Order the following expressions shall have the meanings respectively assigned to them:—

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

“new institution” means The Robert Gordon University established by the Robert Gordon University (Establishment) (Scotland) Order 2006;

“governing body” means The Governors of the Robert Gordon University constituted by the Robert Gordon University (Scotland) Order of Council 1993(e); and

“the University” means The Robert Gordon University, formerly known as The Robert Gordon Institute of Technology and whose name was changed in accordance with section 49 of the Further and Higher Education (Scotland) Act 1992 by resolution of the Governing Body on 18th March 1992 and consent of the Privy Council on 12th June 1992, being an institution designated under section 44 of the Act.

(a) 1992 (c.37); section 47 was amended by the Further and Higher Education (Scotland) Act 2005 (asp 6). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) The Scottish Further and Higher Education Funding Council was established by the Further and Higher Education (Scotland) Act 2005 (asp 6).

(c) A body entered in the Scottish Charity Register.

(d) S.S.I. 2006/276.

(e) S.I. 1993/1157.

Closure of University and winding up of the governing body

3. The University shall be closed and the governing body wound up on 4th October 2006.

Dissolution of the governing body

4. The governing body shall be dissolved on 4th October 2006.

Transfer of property, rights, liabilities and obligations

5.—(1) On 4th October 2006 there shall be transferred to and vested in the new institution all property, rights, liabilities and obligations to which immediately before 4th October 2006 the governing body or the University were entitled or subject.

(2) The vesting of property, rights, liabilities and obligations under this article shall have effect notwithstanding—

- (a) anything to the contrary in, or
- (b) any condition relating to the transfer of such property, rights, liabilities or obligations contained in,

any enactment, rule of law or obligation.

(3) References to the governing body or University, The Governors of The Robert Gordon Institute of Technology, The Robert Gordon Institute of Technology or any like reference—

- (a) in any agreement, deed, bond, instrument or notice or other writing;
- (b) in any action or proceeding pending or existing at 4th October 2006 by or against the governing body or University or The Governors of The Robert Gordon Institute of Technology or The Robert Gordon Institute of Technology before any court or other tribunal; and
- (c) in any document whatsoever relating to or affecting any property, right, liability, or obligation of the governing body or University or The Governors of The Robert Gordon Institute of Technology or The Robert Gordon Institute of Technology which vests by virtue of this Article in the governing body of the University;

shall be taken on or after 4th October 2006 as referring to the new institution.

Transfer of staff

6.—(1) Where a person is employed immediately before 4th October 2006 by the governing body or University, that person's contract of employment shall have effect on or after 4th October 2006 as if originally made between that person and the new institution.

(2) Without prejudice to paragraph (1) above—

- (a) all the rights, powers, duties and liabilities of the governing body and University under or in connection with a contract to which that paragraph applies, shall by virtue of this paragraph be transferred to the new institution on 4th October 2006; and
- (b) anything done before that date by or in relation to the governing body or University in respect of that contract or the employee shall be deemed on or after that date to have been done by or in relation to the new institution.

(3) Paragraphs (1) and (2) above are without prejudice to any right of an employee to terminate that employee's contract of employment if the terms and conditions of that employment are changed substantially to the employee's detriment, but such change shall not be taken to have occurred as a reason only of the fact that the employer is changed by virtue of this article.

(4) Where a person—

- (a) has, prior to 4th October 2006, entered into a contract of employment with the governing body or University which is to come into effect on or after that date; and

(b) would, if the contract had come into effect before that date, have been an employee to whom the provisions of this article would have applied,
that person shall be treated for the purposes of this article as such an employee.

The Central Institutions (Scotland) Amendment Regulations 1981

7. The Central Institutions (Scotland) Amendment Regulations 1981(a) are revoked.

St Andrew's House,
Edinburgh
11th September 2006

NICOL STEPHEN
A member of the Scottish Executive

(a) S.I. 1981/1221; relevantly amended by S.I. 1993/1157.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is one of several instruments, being this instrument and the Robert Gordon University (Establishment) (Scotland) Order 2006, the Designation of Institutions of Higher Education (Scotland) Order 2006, the Designation of Institutions of Higher Education (Scotland) Amendment Order 2006, the Fundable Bodies (Scotland) Order 2006, the Robert Gordon University (Scotland) Order of Council 2006, the Robert Gordon University (Scotland) Amendment Order of Council 2006 and the Academic Awards and Distinctions (The Robert Gordon University) (Scotland) Order of Council 2006, which give effect to The Robert Gordon University's ("the University") desire that the University itself be incorporated rather than its governing body. This change necessitates the closing of the University as it is currently constituted and establishing a new institution of higher education.

The Robert Gordon University (Establishment) (Scotland) Order 2006 establishes a new institution of higher education to be called The Robert Gordon University ("the new institution").

On the date of coming into force of this Order, the University being a designated institution and formerly known as The Robert Gordon Institute of Technology and whose name was changed in accordance with section 49 of the Further and Higher Education (Scotland) Act 1992 by resolution of the Governing Body on 18th March 1992 and consent of the Privy Council on 12th June 1992, will be closed.

This Order closes the University and provides for the winding-up and dissolution of The Governors of The Robert Gordon University as the governing body of the University. All property, staff, rights and liability will be transferred to the new institution

Article 3 of the Order closes the University and provides for its governing body to be wound up. Article 4 dissolves the governing body. Article 5 transfers the whole property, rights, liabilities, obligations and contracts from the University and its governing body to the new institution. Article 6 provides for the transfer of staff to the new institution without a break in their employment. Article 7 revokes the Central Institutions (Scotland) Amendment Regulations 1981 as those regulations relate wholly to earlier governance arrangements of the University at the time when it existed as Robert Gordon's Institute of Technology and was a central institution. The Robert Gordon University (Scotland) Order 2006 now sets out the governance arrangements for the new institution.

£3.00

© Crown Copyright 2006

Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland