

2013 No. 270

EDUCATION

The John Wheatley College and Stow College (Transfer and Closure) (Scotland) Order 2013

Made - - - - - *12th September 2013*

Laid before the Scottish Parliament *17th September 2013*

Coming into force - - - *1st November 2013*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 3(1)(c), 25(1), (1A), (2) and (5) and 60(3) of the Further and Higher Education (Scotland) Act 1992(a) and of all other powers enabling them to do so.

In accordance with section 5(1) of that Act, they have consulted the education authority for the area in which each of John Wheatley College and Stow College is situated and any other person appearing to them to be affected by the proposal.

In accordance with section 25(7) of that Act, the Board of Management of North Glasgow College has consented to the transfer and vesting of property, rights, liabilities and obligations provided for in this Order.

Citation and commencement

1. This Order may be cited as the John Wheatley College and Stow College (Transfer and Closure) (Scotland) Order 2013 and comes into force on 1st November 2013.

Interpretation

2. In this Order—

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

“enactment” has the meaning given in schedule 1 to the Interpretation and Legislative Reform (Scotland) Act 2010(b);

(a) 1992 c.37. Section 3(1) was amended by the Further and Higher Education (Scotland) Act 2005 (asp 6) (“the 2005 Act”), section 32 and schedule 3, paragraph 6(1)(a). Section 25 was amended by section 29(1) of the 2005 Act and by S.S.I. 2006/216. 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) 2010 asp 10.

“John Wheatley” means the institution named John Wheatley College being a college of further education prescribed under section 11(1) of the 1992 Act(a);

“the John Wheatley Board” means the Board of Management of John Wheatley College established as a body corporate by section 11(2) of the 1992 Act;

“North Glasgow” means the institution named North Glasgow College being a college of further education prescribed under section 11(1) of the 1992 Act(b);

“the North Glasgow Board” means the Board of Management of North Glasgow College established as a body corporate by section 11(2) of the 1992 Act, which is a charity entered in the Scottish Charity Register, charity number SC021207;

“Stow” means the institution named Stow College being a college of further education prescribed under section 11(1) of the 1992 Act(c); and

“the Stow Board” means the Board of Management of Stow College established as a body corporate by section 11(2) of the 1992 Act.

Transfer of property, rights, liabilities and obligations

3.—(1) All property, rights, liabilities and obligations of each of the John Wheatley Board and the Stow Board are transferred to and vested in the North Glasgow Board.

(2) Any reference to John Wheatley, the John Wheatley Board, Stow or the Stow Board in any instrument is to be construed as a reference to either North Glasgow or the North Glasgow Board as may be appropriate.

(3) Any action or proceeding by or against the John Wheatley Board or the Stow Board pending or current, immediately before this Order comes into force, may be continued by or against the North Glasgow Board.

(4) For the purposes of this article, “instrument” does not include enactment.

Property provided with grant aid

4. Where the Grant-aided Colleges (Scotland) Grant Regulations 1989(d) applied to either of the John Wheatley Board or the Stow Board in respect of any land or buildings immediately before they were transferred by this Order, those Regulations apply to the North Glasgow Board in respect of such land and buildings.

Transfer of staff

5.—(1) All employees of each of the John Wheatley Board and the Stow Board are transferred to the North Glasgow Board and the contract of employment of each such employee has effect as if originally made between each such employee and the North Glasgow Board.

(2) In particular—

(a) all the rights, powers, duties and liabilities of each of the John Wheatley Board and the Stow Board under or in connection with a contract to which paragraph (1) applies are, by virtue of this paragraph, transferred to the North Glasgow Board; and

(b) anything done before the transfer referred to in paragraph (1) by or in relation to each of the John Wheatley Board and the Stow Board in respect of that contract or the employee is deemed, on and after that transfer, to have been done by or in relation to the North Glasgow Board.

(3) Paragraphs (1) and (2) are without prejudice to any right of an employee to terminate their contract of employment if the terms and conditions of employment are changed substantially to

(a) John Wheatley College is prescribed by S.I. 1992/1597.
(b) North Glasgow College is prescribed by S.I. 1992/1597.
(c) Stow College is prescribed by S.I. 1992/1597.
(d) S.I. 1989/433, amended by S.I. 1993/489.

the detriment of that employee, but such change is not to be taken to have occurred by reason only of the fact that the employer under that employee's contract of employment is changed by virtue of this article.

(4) Paragraphs (1) and (2) apply to a person who has entered into a contract of employment with either of the John Wheatley Board or the Stow Board, which is to come into effect after the coming into force of this article and who would, if the contract had come into effect before that date, have been an employee to whom those paragraphs would have applied.

Closure of institutions

6. John Wheatley and Stow are closed and each of the John Wheatley Board and the Stow Board is wound up and dissolved.

St Andrew's House,
Edinburgh
12th September 2013

MICHAEL RUSSELL
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Order)

On 1st November 2013 John Wheatley College and Stow College will both cease to exist.

This Order transfers the whole property, rights, liabilities and obligations of the Boards of Management of each of John Wheatley College and Stow College to the Board of Management of North Glasgow College (article 3). It makes consequential provisions regarding property provided with the aid of a grant (article 4). It provides for the staff of John Wheatley College and Stow College to transfer to employment with North Glasgow College without a break in their employment (article 5). It provides for John Wheatley College and Stow College to be closed and their Boards of Management wound up and dissolved (article 6).

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£4.00

S2013091234 09/2013 19585

<http://www.legislation.gov.uk/id/ssi/2013/270>

ISBN 978-0-11-102155-2



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