

2023 No. 171

EDUCATION

**The Lews Castle College (Transfer and Closure) (Scotland)
Order 2023**

<i>Made</i>	- - - -	<i>31st May 2023</i>
<i>Laid before the Scottish Parliament</i>		<i>2nd June 2023</i>
<i>Coming into force</i>	- -	<i>1st August 2023</i>

The Scottish Ministers make the following Order in exercise of the powers conferred on them by sections 3(1)(c), 25(1)(a), (1A), (2)(f) and (5) and 60(3) of the Further and Higher Education (Scotland) Act 1992(a) and 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 Lews Castle College is situated, the persons mentioned in section 5(1A) of that Act(b) and any other person appearing to them to be affected by the proposal.

In accordance with section 25(7) of that Act(c), the Board of Management of The North Highland 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 Lews Castle College (Transfer and Closure) (Scotland) Order 2023 and comes into force on 1 August 2023.

Interpretation

2. In this Order—

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

“Lews Castle” means the college of further education prescribed under section 11(1) of the 1992 Act(d) named Lews Castle College,

“the Lews Castle Board” means the Board of Management of Lews Castle College established as body corporate by section 11(2) of the 1992 Act,

(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) Section 5(1A) was inserted by the Post-16 Education (Scotland) Act 2013 (asp 12) schedule 1, paragraph 2(3)(b).

(c) Section 25(7) was amended by section 29(1)(c) of the 2005 Act.

(d) Lews Castle College was prescribed by S.I. 1992/1597.

“North Highland” means the college of further education prescribed under section 11(1) of the 1992 Act^(a) named The North Highland College,

“the North Highland Board” means the Board of Management of The North Highland College established as a body corporate by section 11(2) of the 1992 Act^(b).

Transfer of property, rights, liabilities and obligations

3.—(1) All property, rights, liabilities and obligations of the Lews Castle Board are transferred to and vested in the North Highland Board.

(2) Any reference to Lews Castle or the Lews Castle Board in any instrument is to be construed as a reference to either North Highland or the North Highland Board as may be appropriate.

(3) Any action or proceeding by or against the Lews Castle Board pending or current, immediately before this Order comes into force, may be continued by or against the North Highland Board.

(4) For the purpose of this article—

(a) “instrument” does not include enactment, and

(b) “enactment” has the meaning given in schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010^(c).

Property provided with grant aid

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

Transfer of staff

5.—(1) All employees of the Lews Castle Board are transferred into the employment of the North Highland Board.

(2) The contract of employment of a person who transfers by virtue of paragraph (1)—

(a) is not terminated by the transfer, and

(b) has effect from the date of transfer as if originally made between the person and the North Highland Board.

(3) Without prejudice to paragraph (2)—

(a) all the rights and obligations of the Lews Castle Board under, or in connection with, a contract of employment are transferred to the North Highland Board, and

(b) anything done before this Order has effect, by or in relation to the Lews Castle Board in respect of such a contract, is deemed to have been done by or in relation to the North Highland Board.

(4) This article does not affect the right of any person to terminate their contract of employment if the terms and conditions of employment are changed substantially to the detriment of that person, but such a change is not to be taken to have occurred by reason only of the fact that the person’s employer is changed by virtue of this article.

(a) The North Highland College was prescribed by S.I. 1992/1597 (as Thurso College). The name of The North Highland College was changed from Thurso College by S.S.I. 1999/126.

(b) The Board of Management of The North Highland college is a charity entered in the Scottish Charity Register under charity number SC021215.

(c) 2010 asp 10.

(d) S.I. 1989/433, amended by S.I. 1992/1025 and S.I. 1993/489.

Closure of college of further education

6. Lews Castle is closed and the Lews Castle Board is wound up and dissolved.

St Andrew's House,
Edinburgh
31st May 2023

GRAEME DEY
Authorised to sign by the Scottish Ministers

EXPLANATORY NOTE

(This note is not part of the Order)

This Order closes the college of further education named Lews Castle College (“the College”).

Article 3 transfers all the property, rights, liabilities and obligations of the Board of Management of the College to the Board of Management of The North Highland College.

Article 4 preserves the application of the Grant-aided Colleges (Scotland) Grant Regulations 1989 to any transferring property that was provided with the aid of a grant.

Article 5 provides for the staff of the College to transfer into the employment of the Board of Management of The North Highland College, upon the closure of the College.

Article 6 effects the closure of the College and winds up and dissolves its Board of Management.

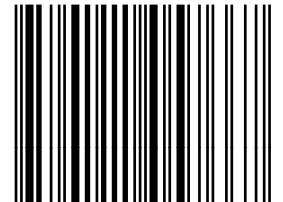
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