

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

## SCHEDULES

### <sup>F1</sup>SCHEDULE 1

Section 7.

#### THE SCOTTISH FURTHER EDUCATION FUNDING COUNCIL

##### Textual Amendments

- F1** Sch. 1 repealed (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), s. 36(2), **Sch. 3 para. 6(2)(c)**; S.S.I. 2005/419, art. 2(1)

##### <sup>F1</sup> Status

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##### <sup>F1</sup> Tenure of office

.....

##### <sup>F1</sup> House of Commons disqualification

.....

##### <sup>F1</sup> Property and contracts

.....

##### <sup>F1</sup> Execution of documents

.....

##### <sup>F1</sup> Reports and accounts

.....

##### <sup>F1</sup> Additional provisions

.....

### <sup>F2</sup> SCHEDULE 2

Section 12.

#### CONSTITUTION AND PROCEEDINGS OF BOARDS OF MANAGEMENT

##### Textual Amendments

- F2** Sch. 2 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), **Sch. 1**.

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*Status*

- F3<sup>1</sup> A board of management (in this Schedule referred to as “the board”) shall not—
  - (a) be regarded as the servants or agents of the Crown;
  - (b) have any status, immunity or privilege of the Crown,
 and their property shall not be regarded as property of, or held on behalf of, the Crown.

**Textual Amendments**  
 F3 Sch. 2 para. 1 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1.

*Membership*

F4<sup>2</sup> .....

**Textual Amendments**  
 F4 Sch. 2 para. 2 omitted (3.3.2014) by virtue of Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), Sch. para. 2(7)(a); S.S.I. 2014/21, art. 2, Sch. 1

- F5<sup>3</sup> (1) The board of a regional college is to consist of no fewer than 15 nor more than 18 members.
- (2) The board is to be comprised of—
  - (a) a person appointed by the Scottish Ministers to chair meetings of the board (the “chairing member”);
  - (b) the principal of the college;
  - (c) a person appointed by being elected by the teaching staff of the college from among their own number;
  - (d) a person appointed by being elected by the non-teaching staff of the college from among their own number;
  - (e) two persons appointed by being nominated by the students' association of the college from among the students of the college; and
  - (f) other members appointed by the board.
- (3) An appointment made in pursuance of sub-paragraph (2)(f) has effect only if approved by—
  - (a) the chairing member; and
  - (b) the Scottish Ministers.
- (4) A person is not eligible for appointment as the chairing member under sub-paragraph (2)(a) if the person is—
  - (a) a member of the Scottish Parliament;
  - (b) a member of the House of Lords;
  - (c) a member of the House of Commons; [F6 or]
  - (d) a member of the European Parliament; F7 ...
  - F7(e) .....

but such a person may otherwise be appointed as a member of the board.

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[<sup>F8</sup>(5) In relation to the board of New College Lanarkshire, this paragraph is to be read subject to the modifications set out in article 5(2) of the Lanarkshire Colleges Order 2014.]]

#### Textual Amendments

- F5** Sch. 2 paras. 3-3C substituted for Sch. 2 para. 3 (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 6(1), 23(2)**; [S.S.I. 2014/21](#), art. 2, Sch. 1
- F6** Word in Sch. 2 para. 3(4)(c) inserted (31.3.2015) by [The Post-16 Education \(Scotland\) Act 2013 \(Modification of Legislation\) Order 2015 \(S.S.I. 2015/153\)](#), art. 1, **Sch. para. 2(3)(a)**
- F7** Sch. 2 para. 3(4)(e) and word preceding it omitted (31.3.2015) by virtue of [The Post-16 Education \(Scotland\) Act 2013 \(Modification of Legislation\) Order 2015 \(S.S.I. 2015/153\)](#), art. 1, **Sch. para. 2(3)(b)**
- F8** Sch. 2 para. 3(5) inserted (1.10.2014) by [The Lanarkshire Colleges Order 2014 \(S.S.I. 2014/250\)](#), arts. 1(1), **5(1)(2)** (as amended (31.1.2024) by [The Colleges of Further Education and Regional Strategic Bodies \(Membership of Boards\) \(Scotland\) Order 2023 \(S.S.I. 2023/363\)](#), arts. 1, **4(2)**)

[<sup>F9</sup>3A (1) The board of a college which is not a regional college is to consist of no fewer than 13 nor more than 18 members.

(2) The board is to be comprised of—

- (a) a person appointed by the regional strategic body to chair meetings of the board (the “chairing member”);
- (b) the principal of the college;
- (c) a person appointed by being elected by the teaching staff of the college from among their own number;
- (d) a person appointed by being elected by the non-teaching staff of the college from among their own number;
- (e) two persons appointed by being nominated by the students' association of the college from among the students of the college; and
- (f) other members appointed by the regional strategic body.]

#### Textual Amendments

- F9** Sch. 2 paras. 3-3C substituted for Sch. 2 para. 3 (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 6(1), 23(2)**; [S.S.I. 2014/21](#), art. 2, Sch. 1

[<sup>F10</sup>3B (1) An election to appoint members in pursuance of paragraph 3(2)(c) or (d) or 3A(2)(c) or (d) is to be conducted in accordance with rules made by the board.

(2) Before making, varying or replacing rules about elections to be held in pursuance of paragraph 3(2)(c) or 3A(2)(c), the board must consult the representatives of any trade union which the board recognises as being, or which otherwise appears to the board to be, representative of the teaching staff of the college.

(3) Before making, varying or replacing rules about elections to be held in pursuance of paragraph 3(2)(d) or 3A(2)(d), the board must consult the representatives of any trade union which the board recognises as being, or which otherwise appears to the board to be, representative of the non-teaching staff of the college.]

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**Textual Amendments**

**F10** Sch. 2 paras. 3-3C substituted for Sch. 2 para. 3 (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 6(1), 23(2)**; S.S.I. 2014/21, art. 2, Sch. 1

[<sup>F11</sup>3C (1) In appointing members under paragraph 3(2) or 3A(2) and in extending the period of appointment of any member so appointed, the board or, as the case may be, regional strategic body must have regard to any guidance issued by the Scottish Ministers in relation to the making of such appointments (including any guidance on the desirability of appointing members with particular skills and experience).

(2) Before issuing guidance under sub-paragraph (1), the Scottish Ministers must consult—

- (a) any board to which the guidance relates;
- (b) where it relates to the board of a college which is not a regional college, the regional strategic body for the college;
- (c) the local authority for any area in which the board to which the guidance relates is situated;
- (d) the relevant students' associations;
- (e) the representatives of any trade union which is recognised by a board to which the guidance relates or which otherwise appears to the Scottish Ministers to be representative of its staff;
- (f) the Council;
- (g) any body which appears to the Scottish Ministers to be representative of colleges of further education;
- (h) any body which appears to the Scottish Ministers to be representative of local authorities;
- (i) any body which appears to the Scottish Ministers to be representative of students of colleges of further education generally; and
- (j) any body which appears to the Scottish Ministers to be representative of trade unions in Scotland.

(3) Different guidance may be issued for different purposes.]

**Textual Amendments**

**F11** Sch. 2 paras. 3-3C substituted for Sch. 2 para. 3 (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), **ss. 6(1), 23(2)**; S.S.I. 2014/21, art. 2, Sch. 1

<sup>F12</sup>4 .....

**Textual Amendments**

**F12** Sch. 2 para. 4 omitted (3.3.2014) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 2(7)(a)**; S.S.I. 2014/21, art. 2, Sch. 1

*Qualifications and tenure of office*

5 (1) Subject to this paragraph and paragraphs [<sup>F13</sup>5A and 5B below, a member of the board—

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- (a) if appointed in pursuance of paragraph 3(2)(a) as the chairing member of the board of a regional college, holds and vacates office on such terms and conditions as the Scottish Ministers may determine;
- (b) if appointed in pursuance of paragraph 3(2)(c) to (f) as a member of the board of a regional college, holds and vacates office on such terms and conditions as the board may determine;
- (c) if appointed in pursuance of paragraph 3A(2)(a) or (c) to (f) as a member of the board of a college which is not a regional college, holds and vacates office on such terms as the regional strategic body may determine; and
- (d) is, on ceasing to hold office, eligible for re-appointment.]

[<sup>F14</sup>(2) Subject to sub-paragraphs (2A) to (2G) below—

- (a) a member appointed by being elected in pursuance of paragraph 3(2)(c) or (d) or 3A(2)(c) or (d) is to hold office for 4 years;
- (b) a member appointed in pursuance of paragraph 3(2)(e) or 3A(2)(e) is to hold office until 31 August following appointment; and
- (c) each other member of the board (including the chairing member) is to hold office for such period (not exceeding 4 years) as is specified in the member's terms of appointment.

(2A) The Scottish Ministers may extend the period of appointment of the chairing member of a regional college for a single further period not exceeding 4 years.

(2B) The board of a regional college may extend the period of appointment of a member appointed under paragraph 3(2)(f) for a single further period not exceeding 4 years (but such an extension has effect only if approved by the chairing member and the Scottish Ministers).

(2C) A regional strategic body may extend the period of appointment of a member it appoints under paragraph 3A(2)(a) or (f) for a single further period not exceeding 4 years.

(2D) The chairing member of a regional college is to vacate office if the member becomes a person of the type described in paragraph 3(4).

(2E) The principal of a college is to vacate office on ceasing to be the principal.

(2F) A member appointed under paragraph 3(2)(c) or (d) or 3A(2)(c) or (d) is to vacate office if the member ceases to be a member of the teaching or, as the case may be, non-teaching staff of the college before the member's period of appointment ends.

(2G) A member appointed in pursuance of paragraph 3(2)(e) or 3A(2)(e) is to vacate office if the member ceases to be a student of the college before the member's period of appointment ends.]

<sup>F15</sup>(3) .....

<sup>F15</sup>(4) .....

(5) A member of the board, other than the principal of the college, may resign his office at any time by giving notice in writing to <sup>F16</sup>—

- (a) in the case of the chairing member of the board of a regional college, the Scottish Ministers;
- (b) in the case of any other member of the board a regional college, the board;

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- (c) in the case of any member of the board of a college which is not a regional college, the regional strategic body.]

[<sup>F17</sup>(6) In relation to the board of New College Lanarkshire, this paragraph is to be read subject to the modifications set out in article 5(4) of the Lanarkshire Colleges Order 2014.]

#### Textual Amendments

- F13** Sch. 2 para. 5(1)(a)-(d) substituted for words in Sch. 2 para. 5(1) (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\), Sch. para. 2\(7\)\(b\)\(i\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F14** Sch. 2 para. 5(2)-(2G) substituted for Sch. 2 para. 5(2) (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\), Sch. para. 2\(7\)\(b\)\(ii\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F15** Sch. 2 para. 5(3)(4) omitted (3.3.2014) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\), Sch. para. 2\(7\)\(b\)\(iii\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F16** Sch. 2 para. 5(5)(a)-(c) substituted for words in Sch. 2 para. 5(5) (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\), Sch. para. 2\(7\)\(b\)\(iv\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F17** Sch. 2 para. 5(6) inserted (1.10.2014) by [The Lanarkshire Colleges Order 2014 \(S.S.I. 2014/250\)](#), arts. 1(1), **5(3)(4)** (as amended (31.1.2024) by [The Colleges of Further Education and Regional Strategic Bodies \(Membership of Boards\) \(Scotland\) Order 2023 \(S.S.I. 2023/363\)](#), **art. 4(3)**)

#### Commencement Information

- I1** Sch. 2 para. 5 wholly in force at 16.5.1992 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), **Sch. 1**.

- [<sup>F18</sup>5A (1) A person is not eligible for appointment as a member of the board if the person—
- (a) has within 5 years of the date on which the appointment would take effect, been sentenced (following conviction for an offence in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic) to imprisonment for a period of not less than 3 months, whether suspended or not, without the option of a fine;
  - (b) is an undischarged bankrupt; or
  - (c) has been removed from office under section 24 of this Act (in relation to any college) or section 23Q of the Further and Higher Education (Scotland) Act 2005 (in relation to any regional board).
- (2) For the purposes of sub-paragraph (1)(b), “ undischarged bankrupt ” means a person
- (a) whose estate has been sequestrated and who has not been discharged (or against whom a bankruptcy order has been made and is still in force);
  - (b) who has granted a trust deed for, or made a composition or arrangement with, creditors (and has not been discharged in respect of it);
  - (c) who is the subject of a bankruptcy restrictions order, or an interim bankruptcy restrictions order, made under the Bankruptcy (Scotland) Act 1985 or the Insolvency Act 1986;
  - (d) who is the subject of a bankruptcy restrictions undertaking entered into under either of those Acts;
  - (e) who has been adjudged bankrupt (and has not been discharged); or
  - (f) who is subject to any other kind of order, arrangement or undertaking analogous to those described in paragraphs (a) to (d), anywhere in the world.

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#### Textual Amendments

**F18** Sch. 2 paras. 5A-5C inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 2\(7\)\(c\)](#); S.S.I. 2014/21, art. 2, Sch. 1

- 5B (1) The relevant person must remove a member of the board from office (by giving notice in writing to the member) if—
- (a) the member—
    - (i) is sentenced as mentioned in paragraph 5A(1)(a); or
    - (ii) has become a person to whom paragraph 5A(1)(b) applies; or
  - (b) the relevant person is satisfied that the member—
    - (i) has been absent from meetings of the board for a period longer than 6 consecutive months without the permission of the board; or
    - (ii) is otherwise unable or unfit to discharge the member's functions.
- (2) In sub-paragraph (1), “relevant person”—
- (a) in the case of the chairing member of the board of a regional college, means the Scottish Ministers;
  - (b) in the case of any other member of the board of a regional college, means the board of management of that college;
  - (c) in the case of a member of the board of a college which is not a regional college, means the regional strategic body for that college.
- (3) The Scottish Ministers must, by giving notice in writing to the member, remove a member from office if the member is removed from office under section 24 of this Act (in relation to any other college) or section 23Q of the Further and Higher Education (Scotland) Act 2005 (in relation to any regional board).
- (4) Where a member removed under sub-paragraph (3) was appointed under paragraph 3(2)(f) or [<sup>F19</sup>3A(2)(a) or (f)], the Scottish Ministers may appoint another person in place of the removed member.
- (5) An appointment made under sub-paragraph (4) has effect as if made under the provision under which the removed member was appointed.

#### Textual Amendments

**F18** Sch. 2 paras. 5A-5C inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 2\(7\)\(c\)](#); S.S.I. 2014/21, art. 2, Sch. 1

**F19** Words in [Sch. 2 para. 5B\(4\)](#) substituted (31.3.2015) by [The Post-16 Education \(Scotland\) Act 2013 \(Modification of Legislation\) Order 2015 \(S.S.I. 2015/153\)](#), art. 1, [Sch. para. 2\(4\)](#)

- 5C Paragraphs 5A and 5B do not apply in relation to the principal of the college.]

#### Textual Amendments

**F18** Sch. 2 paras. 5A-5C inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), [Sch. para. 2\(7\)\(c\)](#); S.S.I. 2014/21, art. 2, Sch. 1

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[<sup>F20</sup>5D In relation to the board of New College Lanarkshire, paragraph 5C is to be read subject to the modification set out in article 5(6) of the Lanarkshire Colleges Order 2014.]

**Textual Amendments**  
**F20** Sch. 2 para. 5D inserted (1.10.2014) by [The Lanarkshire Colleges Order 2014 \(S.S.I. 2014/250\)](#), arts. 1(1), **5(5)(6)**

<sup>F21</sup>6 . . . . .

**Textual Amendments**  
**F21** Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 2(7)(d)**; S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

<sup>F21</sup>7 . . . . .

**Textual Amendments**  
**F21** Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 2(7)(d)**; S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

<sup>F21</sup>8 . . . . .

**Textual Amendments**  
**F21** Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 2(7)(d)**; S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

<sup>F21</sup>9 . . . . .

**Textual Amendments**  
**F21** Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 2(7)(d)**; S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

<sup>F21</sup>10 . . . . .

**Textual Amendments**  
**F21** Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 2(7)(d)**; S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)



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### Proceedings

- <sup>F22</sup>11 (1) Subject to [<sup>F23</sup>paragraph][<sup>F24</sup>13] below, the board may regulate their own proceedings and those of any committee appointed by them.
- (2) The validity of any proceedings of the board or of any committee appointed by them shall not be affected by any defect in the appointment of any member of the board or any member of such committee or by a vacancy amongst the members of the board.
- (3) Subject to sub-paragraph (5) below, the board shall make available for inspection at the college at all reasonable times by anyone who wishes to inspect them copies of the documents to which this sub-paragraph applies.
- (4) The documents to which sub-paragraph (3) above applies are—
- (a) the agenda for any meeting of the board or of any committee of theirs;
  - (b) the draft minutes of any such meeting as approved by the chairman of the meeting;
  - (c) the minutes of such meeting as agreed by the board or, as the case may be, committee; and
  - (d) any report or other document considered by such meeting.
- (5) Sub-paragraph (3) above shall not apply to any document or part thereof which relates to—
- (a) an employee, former employee or applicant for employment in relation to the college;
  - (b) a person who is, has been, or is likely to be a student of the college;
  - (c) any information the disclosure of which is prohibited by anything in any enactment (including this Act and an enactment contained in a subordinate instrument) or rule of law;
  - (d) anything which it appears to the board should be treated as confidential because of its commercial nature or otherwise.

#### Textual Amendments

- F22** Sch. 2 para. 11 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), **sch. 1**.
- F23** Word in Sch. 2 para. 11(1) substituted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 2(7)(e)**; S.S.I. 2014/21, art. 2, Sch. 1
- F24** Number in Sch. 2 para. 11(1) substituted (1.5.2003) by Ethical Standards in Public Life etc. (Scotland) Act 2000 (Modification of Enactments) Order 2003 (S.S.I. 2003/199), arts. 1, 2, **Sch.**

### Chairman

<sup>F25</sup>12 .....

#### Textual Amendments

- F25** Sch. 2 para. 12 omitted (3.3.2014) by virtue of Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 2(7)(f)**; S.S.I. 2014/21, art. 2, Sch. 1

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### *Committees*

- <sup>F26</sup>13 (1) The board may establish committees for any purpose and any such committee may appoint sub-committees.
- (2) Such committees may include persons who are not members of the board; but such persons shall not be entitled to vote at meetings of a committee.
- (3) The principal of the college shall be entitled to attend and speak at any meeting of a committee of the board; but he shall be entitled to vote at such meeting only if he is a member of such committee.
- (4) The board may pay to the members of such committees (whether or not they are also members of the board) such allowances and expenses as they may determine; and any allowances and expenses to be paid by virtue of this sub-paragraph shall be calculated by reference to such criteria as the Secretary of State may determine.
- (5) Any reference in this Schedule to a committee of the board shall include a reference to any sub-committee appointed by such committee.

#### **Textual Amendments**

**F26** Sch. 2 para. 13 wholly in force at 16.5.1992 see s. 63(2) and [S.I. 1992/817, art. 3\(2\)](#), **Sch. 1**.

### *Conflict of interest*

<sup>F27</sup>14 .....

#### **Textual Amendments**

**F27** Sch. 2 para. 14 omitted (1.5.2003) by virtue of [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(Modification of Enactments\) Order 2003 \(S.S.I. 2003/199\)](#), arts. 1, 2, **Sch.**

### *Confidentiality of information*

<sup>F28</sup>15 .....

#### **Textual Amendments**

**F28** Sch. 2 para. 15 omitted (1.5.2003) by virtue of [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(Modification of Enactments\) Order 2003 \(S.S.I. 2003/199\)](#), arts. 1, 2, **Sch.**

### *Staff*

<sup>F29</sup>16 Subject to section 15 of this Act [<sup>F30</sup> and paragraph 16A below], the board may appoint on such terms and conditions as they may determine such employees as they think fit.

#### **Textual Amendments**

**F29** Sch. 2 para. 16 wholly in force at 16.5.1992 see s. 63(2) and [S.I. 1992/817, art. 3\(2\)](#), **Sch. 1**.

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**F30** Words in Sch. 2 para. 16 inserted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), Sch. para. 2(7)(g); S.S.I. 2014/21, art. 2, Sch. 1

[<sup>F31</sup>16A The appointment of a principal of a college which is not a regional college, and the terms and conditions of such an appointment, have effect only if approved by the regional strategic body for the college.]

#### Textual Amendments

**F31** Sch. 2 para. 16A inserted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), Sch. para. 2(7)(h); S.S.I. 2014/21, art. 2, Sch. 1

- <sup>F32</sup>17 (1) The board may, in the case of such of its employees or former employees as they may, subject to sub-paragraph (2) below, determine—
- (a) pay such pensions, allowances or gratuities to or in respect of those employees;
  - (b) make such payments towards provision of such pensions, allowances or gratuities; or
  - (c) make such arrangements for the provision and maintenance of such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities,
- as they think fit.
- (2) Sub-paragraph (1) above shall not apply to any person who becomes an employee of the board under or by virtue of any provision of this Act (other than paragraph 16 above) unless that person, by notice given in writing, informs the board that he wishes it so to apply.
- (3) The reference in sub-paragraph (1) above to pensions, allowances or gratuities in respect of employees of the board includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any such employee who suffers loss of office or employment.

#### Textual Amendments

**F32** Sch. 2 para. 17 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1.

#### Accounts

- <sup>F33</sup>18 (1) It shall be the duty of the board to keep proper accounts and other records.
- (2) The accounts shall be prepared <sup>F34</sup>. . . in respect of each financial year in such manner as the [<sup>F35</sup>Scottish Ministers] may direct and the accounts shall be submitted to the [<sup>F36</sup>Scottish Ministers by such time as they may direct].
- [<sup>F37</sup>(2A) The Scottish Ministers shall send the accounts to the Auditor General for Scotland for auditing.]
- (3) The financial year of the board shall be from 1st April to 31st March.

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the  
 Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

- (4) The Secretary of State may by order provide that the board shall have a different financial year, and an order under this sub-paragraph may make such consequential provision as appears to the Secretary of State to be necessary or expedient.

#### Textual Amendments

- F33** Sch. 2 para. 18 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), **Sch. 1**.
- F34** Words in Sch. 2 para. 18(2) repealed (1.4.2000) by 2000 asp 1, s. 26(1), **Sch. 4 para. 11(3)(a)(i)**; S.S.I. 2000/10, **art. 2(3)**
- F35** Words in Sch. 2 para. 18(2) substituted (1.4.2000) by 2000 asp 1, s. 26(1), **Sch. 4 para. 11(3)(a)(ii)**; S.S.I. 2000/10, **art. 2(3)**
- F36** Words in Sch. 2 para. 18(2) substituted (1.4.2000) by 2000 asp 1, s. 26(1), **Sch. 4 para. 11(3)(a)(iii)**; S.S.I. 2000/10, **art. 2(3)**
- F37** Sch. 2 para. 18(2A) inserted (1.4.2000) by 2000 asp 1, s. 26(1), **Sch. 4 para. 11(3)(b)**; S.S.I. 2000/10, **art. 2(3)**

- F38**<sup>19</sup> The accounts of the board shall be open to the inspection of the Comptroller and Auditor General, but—
- (a) the power conferred by this paragraph; and
  - (b) the powers under sections 6 and 8 of the <sup>M1</sup>National Audit Act 1983 (examinations into the economy, efficiency and effectiveness of certain bodies and access to documents and information) conferred on the Comptroller and Auditor General by virtue of section 6(3)(c) of that Act, shall be exercisable only in, or in relation to accounts or other documents which relate to, any financial year in which expenditure is incurred by the board in respect of which grants, loans or other payments are made to them under this Part of this Act.

#### Textual Amendments

- F38** Sch. 2 para. 19 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), **Sch. 1**.

#### Marginal Citations

- M1** 1983 c. 44.

#### *Execution of documents*

- F39**<sup>20</sup> (1) For any purpose other than those mentioned in sub-paragraph (2) below, a document is validly executed by the board if it is signed on their behalf by a member of the board or by their secretary (or any person performing the duties of secretary to the board) or by any person authorised to sign the document on their behalf.
- (2) For the purposes of any enactment or rule of law relating to the authentication of documents, a document is validly executed by the board if it is subscribed on their behalf by being executed in accordance with the provisions of sub-paragraph (1) above.
- (3) A document which bears to have been executed by the board in accordance with sub-paragraph (2) above shall, in relation to such execution, be a probative document if the subscription of the document bears to have been attested by at least one witness.

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

#### Textual Amendments

**F39** Sch. 2 para. 20 wholly in force at 16.5.1992 see s. 63(2) and [S.I. 1992/817, art. 3\(2\), Sch. 1.](#)

#### *Provision of services*

<sup>F40</sup>21 The <sup>M2</sup>Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities to certain public bodies) shall have effect as if the board were a public body within the meaning of that Act.

#### Textual Amendments

**F40** Sch. 2 para. 21 wholly in force at 16.5.1992 see s. 63(2) and [S.I. 1992/817, art. 3\(2\), Sch. 1.](#)

#### Marginal Citations

**M2** 1970 c. 39.

## SCHEDULE 3

Section 16.

### TRANSFER AND APPORTIONMENT OF PROPERTY

#### Commencement Information

**I2** Sch. 3 wholly in force at 1.9.1992 see s. 63(2) and [S.I. 1992/817, art. 3\(2\), Sch. 3](#)

#### *Identification of land, other property, rights, liabilities and obligations*

- 1 (1) In respect of each college of further education prescribed under section 11 of this Act, the education authority and the college council shall, not later than the first transfer date, so far as practicable, arrive at such written agreements and execute such other instruments as are necessary or expedient—
- (a) to identify or define the land, other property, rights, liabilities and obligations to be transferred to and vest in the board of management for the college under section 16 of this Act; or
  - (b) for making any arrangements such as are mentioned in paragraph 2(2) below as will afford to the authority and the board as against each other such rights and safeguards as they may require for the proper discharge of their respective functions.
- (2) Any such agreement shall contain provision so far as is expedient to enable the creation, variation or extinction of interests in land or [<sup>F41</sup>title conditions] and for the granting of indemnities.
- (3) The education authority shall supply the college council of such a college with such information, including all documents relating to interests in land and [<sup>F42</sup>title conditions], as the college council may require for the purposes of this Schedule.

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

- (4) Where no such agreement is arrived at before the first transfer date, the Secretary of State may prescribe a different date by which such an agreement is to be arrived at, and an agreement arrived at in pursuance of this sub-paragraph shall be between the education authority and the board of management for the college and, for the purposes of an agreement arrived at in pursuance of this sub-paragraph, references in this Schedule to the college council shall be construed as references to the board of management.
- [<sup>F43</sup>(5) In this Schedule, “ title conditions ” has the meaning given by section 122(1) of the Title Conditions (Scotland) Act 2003 (asp 9). ]

#### Textual Amendments

- F41** Words in Sch. 3 para. 1(2) substituted (28.11.2004) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. [122\(1\)](#), [129\(2\)](#), [Sch. 14 para. 10\(a\)\(i\)](#) (with ss. [119](#), [121](#)) (see [S.S.I. 2003/456](#), art. 2)
- F42** Words in Sch. 3 para. 1(3) substituted (28.11.2004) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. [122\(1\)](#), [129\(2\)](#), [Sch. 14 para. 10\(a\)\(i\)](#) (with ss. [119](#), [121](#)) (see [S.S.I. 2003/456](#), art. 2)
- F43** Sch. 3 para. 1(5) substituted (28.11.2004) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. [122\(1\)](#), [129\(2\)](#), [Sch. 14 para. 10\(a\)\(ii\)](#) (with ss. [119](#), [121](#)) (see [S.S.I. 2003/456](#), art. 2)

#### Commencement Information

- I3** Sch. 3 para. 1 wholly in force at 1.9.1992 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), [Sch. 3](#)

- 2 (1) The land, other property, rights, liabilities and obligations mentioned in section 16(3) or (4) of this Act shall, where their nature permits, be divided or apportioned among the education authority and the board of management of any college for the purposes of which the land or property was held, used or obtained or, as the case may be, in relation to which the rights, liabilities or obligations subsisted in such proportions as may be appropriate.
- (2) Any land or right in relation to land, other property, right, liability or obligation the nature of which does not permit its division or apportionment shall be transferred to the board of management of such a college or retained by the education authority according to—
- (a) in the case of land or a right in relation to land, which of the education authority or the board of management of any such college appears, as at the first transfer date, to be likely to experience the greatest practical difficulty through not having possession of that land or, as the case may be, not being able to exercise the right, or where none of them appears likely to experience such difficulty to a greater extent than any other, which of them appears on that date to be likely to make use of the land or right to the greatest extent; or
  - (b) in the case of any other property or of any right, liability or obligation, which of them appears on the first transfer date to be likely to make use of the property or right or, as the case may be, to be affected by the liability or obligation to the greatest extent,
- subject (in either case) to such arrangements for the protection of any party to which the land or other property or right, liability or obligation has not been transferred as may be agreed between the education authority and the college council for any such college or determined by the commissioner for further education assets under paragraph 4 below.

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

- (3) Where any land or any right relating to land falls to be divided or apportioned under sub-paragraph (1) above any rent payable by or to any party in respect of that land and any rates <sup>F44</sup> ... or other outgoings running with the land or right shall be correspondingly divided or apportioned.

#### Textual Amendments

**F44** Words in Sch. 3 para. 2(3) repealed (28.11.2004) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. 122(1), 129(2), [Sch. 15](#) (with ss. 119, 121) (see [S.S.I. 2003/456](#), art. 2)

#### Commencement Information

**I4** Sch. 3 para. 2 wholly in force at 1.9.1992 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), [Sch. 3](#)

#### *Status of agreements etc. under paragraph 1*

- 3 (1) An agreement made under paragraph 1 above or any other instrument executed in pursuance of that paragraph shall be conclusive evidence of the matters contained therein.
- (2) No application for the rectification of such an agreement or instrument may be made to the court under section 8 of the <sup>M3</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (rectification of defectively expressed documents) by an education authority or a college council who were a party to such an agreement or instrument without the prior consent, given in writing, of the Secretary of State.

#### Commencement Information

**I5** [Sch. 3 para. 3](#) wholly in force at 1.9.1992 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), [Sch. 3](#)

#### Marginal Citations

**M3** 1985 c. 73.

#### *Resolution of disputes*

- 4 (1) Where it appears to an education authority or a college council that it is unlikely, in the case of any matter in respect of which an agreement is required to be arrived at under paragraph 1 above, that an agreement will be arrived at, the authority or college council may refer the matter to the Secretary of State.
- (2) Where a matter is so referred, the Secretary of State shall appoint a commissioner for further education assets (in this Schedule referred to as “the commissioner”) who shall, after consulting the education authority and any person whom he considers to have an interest in becoming vested in any property, right, liability or obligation to which such an agreement is intended to relate, determine the matter.
- (3) The commissioner shall issue a written determination to the education authority and any college council required to arrive at such an agreement and may include in such determination any provision which could have been included in an agreement or other instrument made under or in pursuance of paragraph 1 above.

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*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

- (4) A determination made under this paragraph shall have effect for all purposes as if it were an agreement made under paragraph 1 above.
- (5) No application for the rectification of a determination under this paragraph may be made to the court under section 8 of the <sup>M4</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (rectification of defectively expressed documents) by the commissioner or by an education authority or a college council who are affected by the determination without the prior consent, given in writing, of the Secretary of State.
- (6) The education authority shall provide the commissioner with such information, including all documents relating to interests in land or [<sup>F45</sup>title conditions], as he may require for the purpose of the exercise of his functions under this paragraph.

#### Textual Amendments

**F45** Words in Sch. 3 para. 4(6) substituted (28.11.2004) by [Title Conditions \(Scotland\) Act 2003 \(asp 9\)](#), ss. 122(1), 129(2), [Sch. 14 para. 10\(b\)](#) (with ss. 119, 121) (see S.S.I. 2003/456, art. 2)

#### Commencement Information

**I6** Sch. 3 para. 4 wholly in force at 1.9.1992 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), [Sch. 3](#)

#### Marginal Citations

**M4** 1985 c. 73.

#### *Right to production of documents of title*

- 5 (1) Where any land or other property is, or rights, liabilities or obligations are, transferred to and vest in the board of management of any college under section 16 of this Act, the education authority shall deliver to the board of management all documents of title relating solely to such land or other property and all documents relating solely to such rights, liabilities or obligations.
- (2) Without prejudice to sub-paragraph (1) above, the board of management of any college to whom any land or other property has, or rights, liabilities or obligations have, been transferred in accordance with section 16 of this Act shall be entitled at any time to require any person having possession of any document of title or other document relating to such land, other property, rights, liabilities or obligations to produce to them such documents.
- (3) No charge may be made in respect of anything done in pursuance of this paragraph.

#### Commencement Information

**I7** [Sch. 3 para. 5](#) wholly in force at 1.9.1992 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), [Sch. 3](#)

#### *Third parties affected by vesting*

- 6 (1) Any transfer of land or other property, rights, liabilities or obligations from an education authority to the board of management of any college under section 16 of



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this Act and any subsequent transfer of such land, other property, rights, liabilities or obligations shall be binding on all other persons.

- (2) Where any such transfer to the board of management of a college has an effect on the rights, liabilities or obligations of a third party—
- (a) in the case of a transfer to which paragraph 1 above applies, the education authority; and
  - (b) in the case of a transfer to which paragraph 4 above applies, the commissioner,
- shall give notice in writing to the third party of such transfer.
- (3) Where, in consequence of any transfer such as is mentioned in sub-paragraph (1) above or the effect of any of the provisions of this Schedule—
- (a) the rights, liabilities or obligations of any person other than the education authority or any board of management which were enforceable against or by the authority become enforceable against the board of management mentioned in that sub-paragraph or partly against the authority and partly against the board of management of one or more colleges; and
  - (b) the value of any property or interest of that person is thereby diminished,
- such compensation as may be just shall be paid to that person by the authority or the board of management of, as the case may be, one or more colleges or by all or any of them.
- (4) Any dispute as to whether, and if so how much, compensation is to be paid under sub-paragraph (3) above, or as to the person to or by whom it is to be paid, shall be referred to and determined by an arbiter appointed by the Lord President of the Court of Session.

**Commencement Information**

**18** Sch. 3 para. 6 wholly in force at 1.9.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 3

*Failure to agree or to apply to Secretary of State under paragraph 4 above*

- 7 Where the education authority and the college council have failed to arrive at an agreement under paragraph 1 above not later than the first transfer date and neither of them has applied to the Secretary of State under paragraph 4 above, the Secretary of State may appoint a commissioner as if an application had been made to him under the said paragraph 4.

**Commencement Information**

**19** Sch. 3 para. 7 wholly in force at 1.9.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 3

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*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

## SCHEDULE 4

Section 16.

### COMMISSIONERS FOR FURTHER EDUCATION ASSETS

#### Commencement Information

**I10** Sch. 4 wholly in force at 1.9.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 3

#### *Appointment and tenure*

- 1 The appointment of a commissioner for further education assets (in this Schedule referred to as “the commissioner”) in pursuance of section 17(4) of or paragraph 4 of Schedule 3 to this Act, shall be in writing and shall specify the matters or class or classes of matters in respect of which he is appointed to make a determination.

#### Commencement Information

**I11** Sch. 4 para. 1 wholly in force at 1.9.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 3

- 2 Subject to paragraphs 4 and 5 below, the commissioner’s appointment shall come to an end when it appears to the Secretary of State that he has determined the matters or class or classes of matters to which his appointment relates.

#### Commencement Information

**I12** Sch. 4 para. 2 wholly in force at 1.9.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 3

- 3 The Secretary of State shall pay to the commissioner such remuneration as the Secretary of State thinks appropriate and any expenses reasonably incurred by him in carrying out his functions.

#### Commencement Information

**I13** Sch. 4 para. 3 wholly in force at 1.9.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 3

- 4 The commissioner may resign his office at any time by giving notice in writing to the Secretary of State.

#### Commencement Information

**I14** Sch. 4 para. 4 wholly in force at 1.9.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 3

- 5 The Secretary of State may, if it appears to him that the commissioner is unable or unfit to discharge his functions, terminate the commissioner’s appointment by giving notice in writing to him of such termination.

#### Commencement Information

**I15** Sch. 4 para. 5 wholly in force at 1.9.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 3

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

### *Functions*

- 6 The commissioner may, with the prior consent, given in writing, of the Secretary of State, employ persons on such terms as the commissioner may determine to assist him in the performance of his functions.

#### **Commencement Information**

**I16** Sch. 4 para. 6 wholly in force at 1.9.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 3

- 7 The commissioner shall comply with any directions given to him by the Secretary of State in relation to the performance of his functions.

#### **Commencement Information**

**I17** Sch. 4 para. 7 wholly in force at 1.9.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 3

- 8 The commissioner shall not delegate any of his functions.

#### **Commencement Information**

**I18** Sch. 4 para. 8 wholly in force at 1.9.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 3

### *Status*

- 9 The commissioner shall not be regarded as a servant or agent of the Crown, nor as enjoying any status, immunity or privilege of the Crown.

#### **Commencement Information**

**I19** Sch. 4 para. 9 wholly in force at 1.9.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 3

## SCHEDULE 5

Section 34.

### TRANSITIONAL PROVISIONS FOR COLLEGE COUNCILS

#### **Commencement Information**

**I20** Sch. 5 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

### *Contracts of employment*

- 1 (1) The college council shall have power to enter into a contract of employment—
- (a) which is to take effect from a date on or after the first transfer date; or
  - (b) with a person employed by them only for or in connection with their functions relating to the transfer of the management of the college from the education authority to the board of management.

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the  
 Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

- (2) Where the college council enter into a contract of employment with any person such as is mentioned in sub-paragraph (1)(a) above, the contract shall have effect in all respects as if made between the board of management and that person.

**Commencement Information**

**I21** Sch. 5 para. 1 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

*Information*

- 2 (1) The education authority shall provide the college council with all information which the college council may reasonably require for the purpose of the exercise of the college council's functions under this Part of this Act, including, in particular, such information as it is required to provide to a board of management under section 11 of this Act.
- (2) The college council shall make such reports or returns and give such information to the Secretary of State as he may require for the purpose of the exercise of his powers and the performance of his duties under this Part of this Act.

**Commencement Information**

**I22** Sch. 5 para. 2 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

*Payment of grants by Secretary of State*

- 3 (1) The Secretary of State may make grants to a college council in respect of any expenditure incurred by them in pursuance of their functions under this Part of this Act in connection with the transfer of the management of their college from the education authority to the board of management.
- (2) Grants made under this paragraph may be made subject to such conditions as the Secretary of State thinks appropriate and such conditions—
- (a) may relate to any time, whether before or after the payment of the grant; and
  - (b) may be imposed before, after or at the time the grant is made.
- (3) The terms and conditions on which the Secretary of State may make any grants under this paragraph 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 college council to which the grant is made of any sums derived otherwise than from the Secretary of State.
- (4) A condition imposed in pursuance of sub-paragraph (2) above shall not have effect as regards anything done, or omitted to have been done, before the date the condition was imposed.

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

**Commencement Information**

**I23** Sch. 5 para. 3 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

*Directions*

- 4 (1) The Secretary of State may give college councils directions of a general or specific character with regard to the discharge of their functions under this Part of this Act; and it shall be the duty of every college council to whom such directions are given to comply with the directions.
- (2) A direction given under this paragraph—
- (a) may be varied or revoked by a subsequent direction so given;
  - (b) may be addressed to one or more than one college council.

**Commencement Information**

**I24** Sch. 5 para. 4 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

*Allowances*

- 5 College councils may pay to their members in respect of the exercise of their functions under this Part of this Act such allowances as are payable to members of the board of management of a college of further education under this Part of this Act.

**Commencement Information**

**I25** Sch. 5 para. 5 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

*College development plans*

- 6 Regulation 13(1)(a) of The<sup>M5</sup>College Councils (Scotland) (No. 2) Regulations 1990 (requirement on college councils to submit college development plans) shall not have effect as regards any requirement on a college council to prepare or submit a college development plan before the beginning of the financial year beginning on 1st April 1993.

**Commencement Information**

**I26** Sch. 5 para. 6 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

**Marginal Citations**

**M5** S.I. 1990/1637.

*Accounts*

- 7 (1) It shall be the duty of the college council to keep proper accounts and other records.

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

- (2) The accounts shall be prepared and audited in respect of the transitional period in such manner as the Secretary of State may direct and the accounts shall be submitted to the Secretary of State by the board of management of the college as soon as is practicable after the end of that period.
- (3) The accounts of the college council shall be open to the inspection of the Comptroller and Auditor General.

#### Commencement Information

**I27** Sch. 5 para. 7 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

#### *Continuity of exercise of functions*

- 8 (1) Any relevant thing done by or in relation to the college council for a college of further education before the date appointed in relation to that college for the purposes of section 11(1) of this Act shall, so far as is required for continuing its effect on and after that date, have effect as if done by or in relation to the board of management of the college.
- (2) Any relevant thing which, immediately before that date, is in the process of being done by or in relation to the college council for a college of further education may be continued by or in relation to the board of management of the college.
- (3) In this paragraph “relevant” in relation to anything done by or in relation to the college council for a college before that date means anything which, if it were to be done on or after that date, would be done by or in relation to the board of management of the college.

#### Commencement Information

**I28** Sch. 5 para. 8 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

#### *Establishment of students’ associations*

- 9 (1) Where, at the beginning of the transitional period, there is no students’ association established for the students of the college, the college council shall, as soon as is practicable after that date (after consultation with such persons as appear to them to be representative of students of the college), make a scheme for the establishment of a students’ association for students of the college.
- (2) The primary function of a students’ association of a college established under this paragraph shall be to represent the interests of students of such college.
- (3) A scheme made under sub-paragraph (1) above shall include provision as to—
  - (a) the date on which the scheme is to come into effect, being a date not later than the day immediately before the first transfer date; and
  - (b) the initial composition and constitution of the students’ association.

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

**Commencement Information**

**I29** Sch. 5 para. 9 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

*Status*

- 10 The college council shall not—
- (a) be regarded as the servants or agents of the Crown;
  - (b) have any status, immunity or privilege of the Crown,
- and their property shall not be regarded as property of, or held on behalf of, the Crown.

**Commencement Information**

**I30** Sch. 5 para. 10 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

SCHEDULE 6

Section 34.

TRANSITIONAL COMPOSITION OF COLLEGE COUNCILS

**Commencement Information**

**I31** Sch. 6 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

*Membership of college councils*

- 1 (1) Subject to sub-paragraph (2) below, during the transitional period, the composition of the college council for the college shall be determined in accordance with paragraphs 2 and 3 of Schedule 2 to this Act.
- (2) In the application of the said paragraphs of Schedule 2 to membership of a college council—
- (a) any reference to the board—
    - (i) in paragraphs 2 and 3(1), (2) and (6) and in paragraph 3(3) where such reference first occurs shall be construed as a reference to the college council; and
    - (ii) in paragraph 3(3) where such reference second occurs and in paragraph 3(4) shall be construed as a reference to the Secretary of State; and
  - (b) the rules to be made under the said paragraph 3(6) shall be made as soon as is practicable after the date prescribed in relation to the college for the purposes of section 34(3) of this Act.
- (3) If the number of persons who become members of the college council in pursuance of this paragraph is less than 12, the college council may appoint in accordance with the said paragraph 3 such additional members as they consider appropriate; provided that the total number of members appointed to the council does not at any time exceed 16.

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

#### Commencement Information

**I32** Sch. 6 para. 1 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

#### *Terms of appointment*

- 2 (1) Subject to the following provisions of this Schedule, a person who becomes a member of a college council in pursuance of paragraph 1 above shall hold and vacate office in accordance with the terms of his appointment.
- (2) A member of a college council, other than the principal of the college, may resign his office at any time by giving notice in writing to the Secretary of State.

#### Commencement Information

**I33** Sch. 6 para. 2 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

#### *Eligibility for appointment*

- 3 (1) A person shall not be eligible for appointment to a college council at any time when he is under the age of sixteen or over the age of seventy; but a person who attains the age of seventy during his appointment shall be entitled to remain in office.
- (2) A person is not eligible for appointment to a college council if—
- he has, within five years of the date his appointment would take effect, been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;
  - his estate has been sequestrated, he has made an arrangement with his creditors, he has been adjudged bankrupt, he has granted a trust deed for his creditors or a composition contract; or
  - he is incapacitated by mental illness.
- (3) Where a person is disqualified under sub-paragraph (2)(b) above by reason of having had his estate sequestrated, the disqualification shall cease if and when—
- the sequestration of his estate is recalled or reduced; or
  - he is discharged under or by virtue of the <sup>M6</sup>Bankruptcy (Scotland) Act 1985.
- (4) Where a person is disqualified under that sub-paragraph by reason of having been adjudged bankrupt, the disqualification shall cease—
- unless the bankruptcy order made against him is previously annulled, on his discharge from bankruptcy; and
  - if the bankruptcy order is so annulled, on the date of the annulment.
- (5) Where a person is disqualified under that sub-paragraph by reason of his having made an arrangement with his creditors or granted a trust deed for his creditors or a composition contract, the disqualification shall cease when the arrangement or, as the case may be, trust deed or composition contract is no longer in force.



*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

(6) Nothing in this paragraph or in paragraphs 4 and 5 below shall apply to the principal of the college in his capacity as a member of the college council.

**Commencement Information**

**I34** Sch. 6 para. 3 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

**Marginal Citations**

**M6** 1985 c. 66.

*Disqualification from appointment*

- 4 If at any time the college council are satisfied that any member of the council—
- (a) has been convicted as mentioned in sub-paragraph (a) of paragraph 3(2) above or has become a person to whom either of sub-paragraphs (b) or (c) of paragraph 3(2) above applies; and
  - (b) has been absent, without the permission of the council, from all meetings of the council or any of their committees to which the member has been appointed for a period longer than six consecutive months,
- the council shall, by notice given in writing to that person, remove him from office; and thereupon the office shall become vacant.

**Commencement Information**

**I35** Sch. 6 para. 4 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

- 5 If at any time the college council are satisfied that any member of the council—
- (a) has failed to comply with any of the provisions of regulation 9(2) (conflict of interest) or 9(7) (confidentiality of information) of The <sup>M7</sup>College Council (Scotland) (No. 2) Regulations 1990 (provisions as to the composition of college councils);
  - (b) having been appointed by reason of being a student of the college or a member of the staff of the college, ceases to be such student or member of staff; or
  - (c) without prejudice to paragraph 4 above, has become unable or unfit to discharge his functions as a member of the council,
- the council may, by notice given in writing to that person, remove him from office; and thereupon the office shall become vacant.

**Commencement Information**

**I36** Sch. 6 para. 5 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

**Marginal Citations**

**M7** S.I. 1990/1637.

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

*Casual vacancy*

- 6 (1) Any casual vacancy among the members of a council may be filled by the council appointing a person to fill the vacancy in like manner to that by which the person to be replaced was appointed.
- (2) Notwithstanding paragraph 2 above, a person appointed in pursuance of this paragraph shall hold office until the expiry of the period of office of the person he was appointed to replace.

**Commencement Information**

**I37** Sch. 6 para. 6 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), **Sch. 1**

<sup>F46</sup> SCHEDULE 7

Section 37.

THE SCOTTISH HIGHER EDUCATION FUNDING COUNCIL

**Textual Amendments**

**F46** Sch. 7 repealed (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), s. 36(2), **Sch. 3 para. 6(2)(c)**; S.S.I. 2005/419, art. 2(1)

<sup>F46</sup> *Supplementary powers*

.....

<sup>F46</sup> *Chief officer*

.....

<sup>F46</sup> *Tenure of members of the Council*

.....

<sup>F46</sup> *Salaries, allowances and pensions for members*

.....

<sup>F46</sup> *House of Commons disqualification*

.....

<sup>F46</sup> *Staff*

.....

<sup>F46</sup> *Committees*

.....

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

*F46 Delegation of functions*

.....

*F46 Proceedings*

.....

*F46 Execution of documents*

.....

*F46 Accounts*

.....

*F46 Status of the Council*

.....

SCHEDULE 8

Section 62.

TRANSITIONAL, CONSEQUENTIAL AND SAVING PROVISIONS

**Commencement Information**

**I38** Sch. 8 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

**PART I**

PROVISIONS RELATING TO PART I OF THIS ACT

*Supply of services*

- 1 (1) Where, in relation to any college of further education—
- (a) there is in existence at the first transfer date an arrangement whereby any defined activity (being functional work) is undertaken by a local authority which is the education authority responsible, immediately before the first transfer date, for the management of the college;
  - (b) each of the six conditions is fulfilled; and
  - (c) the arrangement is to subsist for any period after that date,
- the arrangement shall be binding, as from the first transfer date, on the board of management of the college and may be enforced by the board or, as the case may be, the local authority as if it were a contract between them for the performance of the defined activity.
- (2) In the enforcement of any arrangement as mentioned in sub-paragraph (1) above, any provision under the arrangement in pursuance of section 8(3) of the <sup>M8</sup>Local Government Act 1988 for items to be credited or, as the case may be, debited to any account shall be taken to be a requirement on the local authority or, as the case may be, the board to make payments corresponding to such provision.

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

(3) In this paragraph—

“defined activity” means a defined activity for the purposes of Part I of the Local Government Act 1988;

“local authority” has the same meaning as in section 1(3)(a) of that Act; and

“the six conditions” are the conditions referred to in section 6(1) of that Act.

#### Commencement Information

**I39** Sch. 8 para. 1 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

#### Marginal Citations

**M8** 1988 c. 9.

#### *Appointment of staff by education authority*

- 2 Without prejudice to section 30 of this Act, with effect from such date as the Secretary of State may appoint in relation to a college of further education under section 34 of this Act, the education authority under whose management the college is shall not enter into a contract of employment relating to the employment of any person wholly or mainly for or in connection with the purposes of such college if the contract is to take effect on or after the first transfer date.

#### Commencement Information

**I40** Sch. 8 para. 2 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

#### *General*

- 3 (1) The Secretary of State may by order make such consequential modifications of any provision of any local or private Act passed, or subordinate legislation made, before the first transfer date which refers to the college council for any college of further education as appear to him to be necessary or expedient.
- (2) The Secretary of State may, in relation to any particular functions of college councils, by order exclude, modify or supplement any provision of this Schedule, section 34 of and Schedules 3 and 5 to this Act and may make such other transitional provision as he considers necessary or expedient.
- (3) Nothing in this paragraph shall apply in relation to contracts of employment made by an education authority.

#### Commencement Information

**I41** Sch. 8 para. 3 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

## PART II

### PROVISIONS RELATING TO PART II OF THIS ACT

*Saving for regulations under section 77 of the 1980 Act*

- 4 (1) Subject to sub-paragraph (2) below, the repeal by section 62(3) of and Schedule 10 to this Act of section 77 of the 1980 Act shall not affect any regulations made under that section.
- (2) This paragraph is without prejudice to the power of—
- (a) the Privy Council under section 45 of this Act; and
  - (b) the Secretary of State under section 47 of this Act,
- to amend, vary or revoke the provisions of any such regulations.

#### Commencement Information

**I42** Sch. 8 para. 4 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

## SCHEDULE 9

Section 62.

### MISCELLANEOUS AND CONSEQUENTIAL AMENDMENTS

*Teaching Council (Scotland) Act 1965 (c. 19)*

F47<sup>1</sup>

#### Textual Amendments

**F47** Sch. 9 para. 1 repealed (2.4.2012) by [The Public Services Reform \(General Teaching Council for Scotland\) Order 2011 \(S.S.I. 2011/215\)](#), art. 2, Sch. 7

*Veterinary Surgeons Act 1966 (c. 36)*

- 2 In Schedule 3 to the Veterinary Surgeons Act 1966 (exemptions from restrictions on practice of veterinary surgery), in the definition of “recognised institution” for the purposes of paragraph 5, in paragraph (b) of the definition—
- (a) for sub-paragraph (i) there shall be substituted—
    - “(i) any educational establishment (not being a school) within the meaning of section 135(1) of the Education (Scotland) Act 1980 for the provision of any form of further education for the management of which establishment an education authority is responsible;
    - (iA) any college of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992 which is

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

- managed by a board of management established under that Act.”;
- (b) after sub-paragraph (ii) the word “or” shall be omitted; and
- (c) after sub-paragraph (iii) there shall be inserted the words “or  
 (iv) a designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992;”.

**Commencement Information**

**I43** Sch. 9 para. 2 wholly in force; Sch. 9 para. 2 not in force at Royal Assent see s. 63(2); Sch 9 para. 2 in force at 16.5.1992 for the purposes of paras. (b) and (c) and in force at 1.4.1993 so far as not already in force by S.I. 1992/817, art. 3(2), Schs. 1, 4

*Chronically Sick and Disabled Persons Act 1970 (c. 44)*

- 3 In subsection (2) of section 8 of the Chronically Sick and Disabled Persons Act 1970 (access to, and facilities at, university and school buildings) for paragraph (c) there shall be substituted the following paragraph—
- “(c) educational establishments within the meaning of section 135(1) of the Education (Scotland) Act 1980.”

**Commencement Information**

**I44** Sch. 9 para. 3 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 1

*Sex Discrimination Act 1975 (c. 65)*

- 4 (1) The Sex Discrimination Act 1975 shall be amended as follows.
- (2) In section 22 (prohibition of discrimination in relation to certain educational establishments), in the Table—
- (a) after paragraph 7A there shall be inserted the following paragraph—

“7B. College of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992 under the management of a board of management.	Board of management.”;
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- (b) after paragraph 7B inserted by sub-paragraph (a) above there shall be inserted the following paragraph—

“7C. Designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992.	Governing body.”
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<sup>F48</sup>(3) .....

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

- (4) In sub-paragraph (c)(i) of subsection (6) of section 25 (bodies with a general duty to provide education without discrimination) for the words “7 or 7A” there shall be substituted the words “7, 7A, 7B or 7C”.
- (5) In section 82(1) (interpretation) after the definition of “board of management” there shall be inserted the following definition—
- ““Board of management” in relation to a college of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992, has the same meaning as in that Part;”.
- (6) In paragraph 6 of Schedule 2 (applications by certain bodies for transitional exemption orders) for the words “7 or 7A” there shall be substituted the words “7, 7A, 7B or 7C”.

#### Textual Amendments

**F48** Sch. 9 para. 4(3) repealed (3.10.2005) by Further and Higher Education (Scotland) Act 2005 (asp 6), s. 36(2), Sch. 3 para. 6(2)(d); S.S.I. 2005/419, art. 2(1)

#### Commencement Information

**I45** Sch. 9 para. 4 wholly in force; Sch. 9 para. 4 not in force at Royal Assent see s. 63(2); Sch. 9 para. 4(1)(2)(4)(5)(6) fully in force at 16.5.1992 and para. 4(3) in force at 1.6.1992 so far as relating to the Scottish Higher Education Funding Council by S.I. 1992/817, art. 3(2), Schs. 1, 2; Sch. 9 para. 4(3) in force at 21.11.1998 so far as not already in force by S.I. 1998/2886, art. 2

#### *Race Relations Act 1976 (c. 74)*

- 5 (1) The Race Relations Act 1976 shall be amended as follows.
- (2) In section 17 (prohibition of discrimination in relation to certain educational establishments), in the Table—
- (a) after paragraph 7A there shall be inserted the following paragraph—

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“7B. College of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992 under the management of a board of management.	Board of management.”;
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- (b) after paragraph 7B inserted by sub-paragraph (a) above there shall be inserted the following paragraph—

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“7C. Designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992.	Governing body.”
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<sup>F49</sup>(3) .....

<sup>F50</sup>(4) .....

- (5) In section 78(1) (interpretation) after the definition of “board of management” there shall be inserted the following definition—

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

““board of management” in relation to a college of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992, has the same meaning as in that Part;”.

**Textual Amendments**

- F49** Sch. 9 para. 5(3) repealed (3.10.2005) by [Further and Higher Education \(Scotland\) Act 2005 \(asp 6\)](#), s. 36(2), [Sch. 3 para. 6\(2\)\(d\)](#); S.S.I. 2005/419, art. 2(1)
- F50** Sch. 9 para. 5(4) repealed (2.4.2001) by [2000 c. 34](#), s. 9(2), [Sch. 3](#) (with s. 10(5)); S.I. 2001/566, [art. 2\(1\)](#)

**Commencement Information**

- I46** Sch. 9 para. 5 wholly in force; Sch. 9 para. 5 not in force at Royal Assent see s. 63(2); Sch. 9 para. 5(1)(2)(4)(5) fully in force at 16.5.1992 and para. 5(3) in force at 1.6.1992 so far as relating to the Scottish Higher Education Funding Council by [S.I. 1992/817](#), [art. 3\(2\)](#), [Schs. 1, 2](#); Sch. 9 para. 5(3) in force at 21.11.1998 so far as not already in force by [S.I. 1998/2886](#), [art. 2](#)

*Employment Protection (Consolidation) Act 1978 (c. 44)*

**F51**6 .....

**Textual Amendments**

- F51** Sch. 9 para. 6 repealed (22.8.1996) by [1996 c. 18](#), ss. 242, 243, [Sch. 3 Pt. I](#)

*Education (Scotland) Act 1980 (c. 44)*

7 (1) The Education (Scotland) Act 1980 shall be amended as follows.

(2) After section 14 there shall be inserted the following section—

**“14ZA Meaning of pupil in sections 12 to 14.**

In sections 12 to 14 of this Act and in section 52 of this Act as it relates to the said section 13, any reference to a pupil shall include a reference to a student attending a college of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992.”

(3) In section 17 (provision, maintenance and equipment of certain accommodation)—

(a) in each of subsections (1) and (3) there shall be inserted at the beginning the words “ Subject to subsection (6) below, ”; and

(b) after subsection (5) there shall be inserted the following subsection—

“(6) Subsections (1) and (3) above shall have effect as regards further education only to the extent that the education authority is under a duty to do anything under the said sections 1 to 6.”

**F52**(4) .....

(5) In section 66 (inspection of educational establishments) after the words “other educational establishment” there shall be inserted the words “ (other than a



*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992”.

- (6) In section 68 (power to require submission to medical examination)—
- (a) after the word “pupil” where it first occurs there shall be inserted the words “ or other person enrolled at an educational establishment ”; and
  - (b) after the word “pupil” where it fourth and fifth occurs there shall be inserted the words “ or other person ”.
- (7) In subsection (1) of section 135 (interpretation) in the definition of “educational establishment”, in paragraph (ii) after the word “ includes ” there shall be inserted the words “ a designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992, ”.

#### Textual Amendments

**F52** Sch. 9 para. 7(4) repealed (14.11.2005) by Education (Additional Support for Learning) (Scotland) Act 2004 (asp 4), s. 35(1), Sch. 3 para. 7(b); S.S.I. 2005/564, art. 2

#### Commencement Information

**I47** Sch. 9 para. 7 wholly in force; Sch. 9 para. 7 not in force at Royal Assent se s. 63(2); para. 7(1)(7) in force at 16.5.1992 and para. 7(2)-(6) in force at 1.4.1993 by S.I. 1992/817, art. 3(2), Schs. 1, 4

#### *Education (Fees and Awards) Act 1983 (c. 40)*

- 8 (1) Section 1 of the Education (Fees and Awards) Act 1983 (different fees for students not connected with the United Kingdom) shall be amended as follows.
- (2) In subsection (3), after paragraph (ca) inserted by the Further and Higher Education Act 1992 there shall be inserted the following paragraph—
- “(cb) any designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992; and”.
- (3) In paragraph (d) of that subsection—
- (a) after the word “Scotland” there shall be inserted “ (i) ”; and
  - (b) at the end of the paragraph there shall be inserted “; or
    - (ii) which is a college of further education for which there is a board of management established under Part I of the Further and Higher Education (Scotland) Act 1992.”

#### Commencement Information

**I48** Sch. 9 para. 8 wholly in force; Sch. 9 para. 8 not in force at Royal Assent see s. 63(2); para. 8(1)(2) in force at 16.5.1992 and para. 8(3) in force at 1.4.1993 by S.I. 1992/817, art. 3(2), Schs. 1, 4

#### *Mental Health (Scotland) Act 1984 (c. 36)*

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

### Textual Amendments

- F53** Sch. 9 para. 9 repealed (5.10.2005) by [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(asp 13\)](#), s. 333(2), [Sch. 5 Pt. 1](#); S.S.I. 2005/161, art. 3 (as substituted (1.7.2005) by S.S.I. 2005/375, art. 2 and as amended (22.9.2005) by S.S.I. 2005/459, art. 2)

### *Education Reform Act 1988 (c. 40)*

- 10 In section 235 of the Education Reform Act 1988 (general interpretation) after subsection (5) there shall be inserted the following subsection—

“(5A) Any reference in any provision of this Act which extends to Scotland to a higher education funding council shall, in the application of that provision to Scotland, be construed as a reference to the Scottish Higher Education Funding Council.”

### Commencement Information

- I49** Sch. 9 para. 10 wholly in force at 1.6.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), [Sch. 2](#)

### *Self-Governing Schools etc. (Scotland) Act 1989 (c. 39)*

- 11 In section 70 of the Self-Governing Schools etc. (Scotland) Act 1989 (power of Secretary of State to require regular appraisal of teachers) in subsection (1) for paragraph (d) there shall be substituted the following—

“(d) the boards of management of colleges of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992,”.

### Commencement Information

- I50** Sch. 9 para. 11 wholly in force at 1.4.1993 see s. 63(2) and S.I. 1992/817, art. 3(2), [Sch. 4](#)

### *Education (Student Loans) Act 1990 (c. 6)*

- 12 (1) The Education (Student Loans) Act 1990 shall be amended as follows.
- (2) In section 1 (loans for students), in subsection (3) for paragraph (b) there shall be substituted the following paragraph—
- “(b) educational establishments within the meaning of section 135(1) of the Education (Scotland) Act 1980 for the provision of any form of further education for the management of which establishment an education authority is responsible, colleges of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992 managed by boards of management established under Part I of that Act and designated institutions within the meaning of Part II of that Act of 1992”.
- (3) In paragraph 2(2) of Schedule 2 (certificates to be issued by governing bodies) for the words from “a college of further education” there shall be substituted the following sub-paragraphs—

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

- “(a) an educational establishment (not being a school) within the meaning of section 135(1) of the Education (Scotland) Act 1980 for the provision of any form of further education for the management of which establishment an education authority is responsible, the education authority;
- (b) a college of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992 which is managed by a board of management established under Part I of that Act, the board of management.”

#### Commencement Information

**I51** Sch. 9 para. 12 wholly in force; Sch. 9 para. 12 not in force at Royal Assent see s. 63(2); para. 12(1)(2) in force at 16.5.1992 and para. 12(3) in force at 1.4.1993 by S.I. 1992/817, art. 3(2), Schs. 1, 4

#### *Environmental Protection Act 1990 (c. 43)*

13 In section 98 of the Environmental Protection Act 1990 (definitions) in subsection (3)—

- (a) for paragraph (c) there shall be substituted the following paragraph—
  - “(c) any educational establishment (not being a school) within the meaning of section 135(1) of the Education (Scotland) Act 1980 for the provision of any form of further education for the management of which establishment an education authority is responsible;
  - (cc) any college of further education within the meaning of section 36(1) of the Further and Higher Education (Scotland) Act 1992 managed by a board of management established under Part I of that Act;”;
- (b) for paragraph (d) there shall be substituted the following paragraph—
  - “(d) a designated institution within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992;”;
- (c) in paragraph (f) for the words “1980 Act” there shall be substituted the words “Education (Scotland) Act 1980 (“the 1980 Act”)”.

#### Commencement Information

**I52** Sch. 9 para. 13 wholly in force; para. 13 in force at 16.5.1992 for the purposes of para. 13(b)(c) and in force at 1.4.1993 so far as not already in force by S.I. 1992/817, art. 3(2), Schs. 1, 4

*Status: Point in time view as at 31/03/2015.*

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992. (See end of Document for details)*

## SCHEDULE 10

Section 62.

## REPEALS

**Extent Information**

**E1** [Sch.10](#) extends to England and Wales and to Scotland or Northern Ireland also if amended enactment so extends. see [S.62\(3\)](#).

**Commencement Information**

**I53** [Sch. 10](#) wholly in force; [Sch. 10](#) not in force at Royal Assent see [s. 63\(2\)](#); the entries in [Sch. 10](#) relating to the Employment Protection (Consolidation) Act 1978 and the Education (Scotland) Act 1980 in force at 16.5.1992 and the entries relating to the School Boards (Scotland) Act 1988 and the Self-Governing Schools etc. (Scotland) Act 1989 in force at 1.4.1993 by [S.I. 1992/817](#), [art. 3\(2\)](#), [Schs. 1, 4](#).

Chapter	Short title	Extent of repeal
1978 c. 44.	The Employment Protection (Consolidation) Act 1978.	In section 29, in paragraph (e) of subsection (1) the words “or college”.
1980 c. 44.	The Education (Scotland) Act 1980.	In section 3, in subsection (1) the words “and compulsory further education” and in subsection (6)(a) the word “voluntary”. In section 7, subsections (1), (2), (3), (7) and (8). In section 135(1), the definition of “college of education” and in paragraph (ii) of the definition of “educational establishment” the words “a college of education”.
1988 c. 47.	The School Boards (Scotland) Act 1988.	In section 8, paragraph (b) of subsection (4). In section 22, in subsection (2) the definition of “college council”
1989 c. 39.	The Self-Governing Schools etc. (Scotland) Act 1989.	Sections 54 to 66. In section 80, in subsection (1) the definition of “college of further education”

**Status:**

Point in time view as at 31/03/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992.