
STATUTORY INSTRUMENTS

1990 No. 1637

The College Councils (Scotland) (No.2) Regulations 1990

PART III

**DELEGATION OF FUNCTIONS TO AND
FINANCING OF COLLEGE COUNCILS**

Delegation schemes

11. Subject to regulations 12 and 13 and to section 56(2) of the Act, the functions delegated by a delegation scheme shall include—

- (a) the management, supervision and financial control of the college, which, without prejudice to the foregoing generality, shall include—
 - (i) the provision of further education at the college, including the selection of the courses of further education to be provided at the college and any qualifications to which those courses would lead, in respect of the range of subjects which the education authority have determined is to be provided at the college;
 - (ii) the use (including the determination of any change of use for the purposes of the college), management and maintenance of all premises of the college, including the hiring out of any such premises other than by way of lease;
 - (iii) the acquisition, holding, use, management, maintenance and disposal of all moveable property used or held for the purposes of the college; and
 - (iv) the selection, discipline, assignment and personnel management of the staff of the college and the determination of the complement and grading of the posts of such staff;
- (b) the supply of goods and services through the college, whether by virtue of section 61 of the Act or in pursuance of any other powers exercisable by the education authority; and
- (c) the formation of companies under section 1 of the Companies Act 1985(1) whether by virtue of the said section 61 or otherwise so far as is calculated to facilitate or is conducive or incidental to the discharge of any functions delegated in accordance with paragraph (b).

Exclusions from delegation schemes

12. The functions delegated by a delegation scheme shall not include—

- (a) the determination of the range of subjects in respect of which provision of further education is to be made at the college in any academic year (without prejudice to the right of the college council to select the courses to be provided, and any qualifications to which those courses would lead, within that range of subjects);
- (b) the issue of final warnings of dismissal to staff of the college; or

- (c) the structural alteration or structural repair of the premises of the college.

Conditions of delegation

13.—(1) Conditions subject to which functions are delegated by a delegation scheme shall include conditions to the following effect:—

- (a) the college council shall before the beginning of each financial year, submit to the education authority a college development plan, which shall contain a statement of—
 - (i) the number of students expected to be in attendance at the college;
 - (ii) the courses of further education which they propose to provide, in respect of the range of subjects which the education authority have determined is to be provided at the college, and any qualifications to which those courses would lead;
 - (iii) any other activities which they propose should be undertaken in respect of the college; and
 - (iv) the estimated expenditure and income in respect of the college, for the period of each of at least 3 consecutive academic years, the first of which shall commence in that financial year;
- (b) the college council shall, when preparing each college development plan, have regard to any policy of the education authority in respect of the provision of further education in the area of the authority and to any guidance issued by the Secretary of State in respect of the provision of further education and the qualifications to which courses of further education should lead;
- (c) each college development plan shall require to be approved by the education authority and for the purposes of such approval may be modified by the education authority, and once so approved shall in respect of each academic year to which it applies supersede any previous such plan applying to that year;
- (d) the college council shall, in the exercise of their functions, have regard to the current college development plan approved by the education authority;
- (e) the function of the supply of goods and services through the college may be exercised by the education authority to such extent as the college council and the education authority may at any time agree;
- (f) where the college council exercise the function of selecting a person to hold the post of principal of the college they shall first submit to the education authority a short list of the names of candidates for that post, which the education authority may approve, with or without modification, or reject in whole, save that no such modification shall reduce the short list to less than three names, or, where the short list contained less than three names, to less than that number of names;
- (g) such functions as the college council exercise in respect of the staff of the college which could result in the education authority making such staff redundant, or otherwise dismissing them, or agreeing to their early retirement, shall be exercised in accordance with any policy of the education authority on redundancies, dismissals and early retirement;
- (h) where the college council exercise the function of the discipline, including the suspension, of the staff of the college, they shall—
 - (i) have regard to any guidance issued by the education authority on disciplinary procedure;

- (ii) ensure that each member of staff has a right of appeal to the college council in respect of any disciplinary decision, or any decision relating to a grievance, taken in respect of him by the principal of the college; and
 - (iii) in the case of the principal of the college, exercise that function only to the extent of issuing, an oral warning or reprimand;
 - (i) where the college council exercise the function of the personnel management of the staff of the college, they shall do so in accordance with any guidance issued by the education authority in respect of that function;
 - (j) where the college council exercise the function of the use, management and maintenance of the premises of the college they shall, save to the extent that works are required to effect any structural alteration or structural repair, ensure that such premises are kept in a state of repair satisfactory to the education authority; and
 - (k) the college council shall, in respect of each academic year, and as soon as practicable after the conclusion of that year, submit to the education authority a report on the exercise of their functions in respect of the college and shall make that report available to the public.
- (2) No condition subject to which functions are delegated by a delegation scheme shall have the effect of—
- (a) requiring any course of further education provided by the college council, or the selection of any qualifications to which those courses would lead, to be approved by the education authority;
 - (b) permitting the education authority to exercise any such function by reason solely of their modification of or refusal to approve a proposal in a college development plan in respect of the exercise of that function by the college council;
 - (c) requiring the college council to use the services of a local authority; or
 - (d) restricting the college council from spending, as they see fit for the purposes of the college, such money as the education authority make available to them in accordance with section 57 of the Act; save that such a condition may require the college council, in respect of any part of a sum determined by the education authority under that section which the authority have identified as being required for the purposes of capital expenditure, to spend that part of the sum solely for those purposes.

Financing of college councils

14.—(1) In determining in respect of each financial year the sum of money required by each college council in their area, in accordance with section 57(1) of the Act, the education authority shall, subject to paragraph (2), have regard to the most recent college development plan approved by them in respect of each academic year which falls partly within that financial year and shall determine—

- (a) which activities of the college council it is appropriate to fund;
- (b) the extent to which it is appropriate to fund each of those activities;
- (c) the basis for the calculation of the funding in respect of each of those activities to that extent, whether determined on the basis of the student load or on such other basis as appears to them appropriate; and
- (d) the reasonable cost of providing each of those activities to that extent and on that basis, determined in such manner as appears to them appropriate,

and the sum of those costs together with the costs determined by the education authority in respect of the administrative expenses and other outgoings of the college council shall be the sum determined.

(2) In determining that sum the education authority shall not take into account any income of the college council, whether in the nature of cash or some other benefit, which the college council have received by way of gift, or any income which is derived from any such gift.

(3) As soon as practicable after the education authority have made their determination of that sum, they shall inform the college council of that determination and of how it was calculated, including a statement of each determination they have made in accordance with paragraph (1).

Right to retain gifts

15. A college council may retain the whole of any gift received by them.

Application of Part III of Regulations

16.—(1) This Part of these Regulations, other than regulations 14(2) and 15 and this regulation, shall not apply in respect of any college council where it appears to the education authority that—

- (a) the average student load of the college, calculated in accordance with regulation 4(2), is less than 150 at the date when these Regulations come into force;
- (b) the student load for the first whole academic year in which the college will be fully in operation is likely to be less than 150; or
- (c) the average student load of the college, calculated as the average of the student loads for each of the last 3 complete academic years, is less than 150 at the expiry of any academic year at a time not less than 3 years after a delegation scheme has first been made in respect of the college council in accordance with this Part of these Regulations.

(2) Where, in accordance with paragraph (1) and to the extent therein specified, this Part of these Regulations does not apply in respect of a college council, the reference in regulation 14(2) to “that sum” shall be construed as a reference to the sum which is to be determined for the college council in respect of each financial year in accordance with section 57(1) of the Act.