



Post-16 Education (Scotland) Act 2013

2013 asp 12

The Bill for this Act of the Scottish Parliament was passed by the Parliament on 26th June 2013 and received Royal Assent on 7th August 2013

An Act of the Scottish Parliament to make provision about the support for, and the governance of, further and higher education institutions, including provision for the regionalisation of colleges; to make provision for reviews of how further and higher education is provided; to make provision for sharing information about young people's involvement in education and training; and for connected purposes.

Introductory

1 Interpretation

In this Act—

- “the 1992 Act” means the Further and Higher Education (Scotland) Act 1992,
- “the 2005 Act” means the Further and Higher Education (Scotland) Act 2005.

Commencement Information

- II** [S. 1](#) in force at 10.10.2013 by [S.S.I. 2013/281](#), [art. 2](#), [Sch.](#)

Terms and conditions of higher education funding

2 Higher education institutions: good governance

After section 9 of the 2005 Act insert—

“9A Higher education institutions: good governance

The Scottish Ministers may, under section 9(2), impose a condition that the Council must, when making a payment to a higher education institution under section 12(1), require the institution to comply with any principles of governance which appear to the Council to constitute good practice in relation to higher education institutions.”.

Changes to legislation: There are currently no known outstanding effects for the Post-16 Education (Scotland) Act 2013. (See end of Document for details)

Commencement Information

I2 S. 2 in force at 3.3.2014 by S.S.I. 2014/21, art. 2, Sch. 1

3 Widening access to higher education

After section 9B of the 2005 Act, inserted by section 14, insert—

“9C Widening access to fundable higher education

- (1) The Scottish Ministers may, under section 9(2), impose terms and conditions for the purposes of enabling, encouraging or increasing participation in fundable higher education by persons belonging to any socio-economic group which they reasonably consider to be under-represented in such education.
- (2) The Scottish Ministers may, in particular, impose a condition that the Council, when making a payment to a higher education institution under section 12(1), must require the institution to comply with a widening access agreement which makes provision in relation to—
 - (a) any socio-economic group which the Scottish Ministers reasonably consider to be under-represented in fundable higher education; and
 - (b) other socio-economic groups, if any, which the Council and the institution agree are under-represented in fundable higher education.
- (3) A “widening access agreement” is an agreement between a higher education institution and the Council under which the institution is to take actions specified in the agreement for the purposes of enabling, encouraging or increasing participation in fundable higher education provided by the institution by persons belonging to socio-economic groups which are under-represented in fundable higher education (either generally or in such education provided by the institution).
- (4) Before entering into a widening access agreement in pursuance of this section, a higher education institution must consult—
 - (a) the representatives of any trade union which the institution recognises or which otherwise appears to it to be representative of its staff; and
 - (b) the institution's students' association.
- (5) For the purposes of this section, a socio-economic group is to be treated as under-represented in fundable higher education if participation in such education by persons in that group is disproportionately low.
- (6) The Scottish Ministers, the Council and higher education institutions may take into account any social or economic characteristics which they consider appropriate when determining which groups are to constitute “socio-economic groups” for the purposes of this section.”.

Commencement Information

I3 S. 3 in force at 3.3.2014 by S.S.I. 2014/21, art. 2, Sch. 1

4 Fee cap: students liable for higher education fees

After section 9C of the 2005 Act, inserted by section 3, insert—

“9D Fee cap: students liable for higher education fees

- (1) The Scottish Ministers may, under section 9(2), impose a condition that the Council must, when making a payment under section 12(1)—
 - (a) where the payment is made to a fundable post-16 education body which provides fundable higher education, impose on that body a condition that it complies with the requirement set out in subsection (2);
 - (b) where the payment is made to a regional strategic body, impose on that body a condition that it must, when making a payment under section 12B(1) to any of its colleges which provides fundable higher education, impose on the college a condition that it complies with the requirement set out in subsection (2).
- (2) The requirement is that the post-16 education body to whom the payment is made is to secure that the fees paid to it—
 - (a) by persons in respect of whom it is authorised or required to charge higher fees by virtue of regulations made under section 1 of the Education (Fees and Awards) Act 1983 (or by such class of such persons as the Scottish Ministers may by order specify);
 - (b) in connection with their attending in an academic year such courses of education as the Scottish Ministers may by order specify,do not exceed such amount as the Scottish Ministers may by order specify.
- (3) The Scottish Ministers, when making an order under this section, must seek to ensure—
 - (a) that, subject to any exceptions which they consider appropriate, it applies only in relation to fees payable by persons who have a connection with the United Kingdom; and
 - (b) that the amount of fees payable by a person attending any course of education provided by a post-16 education body in any particular academic year does not exceed the maximum amount of fees which that person would by virtue of any enactment be liable to pay if attending any higher education course provided elsewhere in the United Kingdom during that year.
- (4) The Scottish Ministers may not specify courses under subsection (2)(b) in such a way as to discriminate between different courses which are—
 - (a) for the training of persons preparing to be teachers; and
 - (b) open only to persons holding a degree,on the basis of the subject in which such training is given.
- (5) References in this section to the United Kingdom include references to the Channel Islands and the Isle of Man.”.

Commencement Information

I4 S. 4 in force at 3.3.2014 by S.S.I. 2014/21, art. 2, Sch. 1 (with art. 3(2))

Changes to legislation: There are currently no known outstanding effects for the Post-16 Education (Scotland) Act 2013. (See end of Document for details)

College reorganisation

5 Regional colleges

(1) After section 7 of the 2005 Act insert—

“7A Regional colleges

- (1) The Scottish Ministers may by order designate as a regional college any college of further education whose board of management is (or is to be) established in pursuance of Part 1 of the 1992 Act.
- (2) Before making an order under this section, the Scottish Ministers must consult—
 - (a) the board of management of the college to which the order relates (where that board is already established);
 - (b) the representatives of any trade union which the college recognises or which otherwise appears to the Scottish Ministers to be representative of its staff;
 - (c) the college's students' association;
 - (d) the local authority for the area in which the college is situated;
 - (e) the Council; and
 - (f) any other person appearing to the Scottish Ministers as likely to be affected by the order.”.

(2) After section 23 of the 2005 Act insert—

“Regional colleges: functions

23A Regional colleges: general duty

- (1) It is the duty of a regional college to exercise its functions with a view to securing the coherent provision of a high quality of fundable further education and fundable higher education in the locality of the regional college.
- (2) In doing so, the regional college must have regard to any fundable further education and fundable higher education provided by other post-16 education bodies in the locality of the regional college.

23B Regional colleges: planning, consultation and collaboration

- (1) A regional college must plan for—
 - (a) how it proposes to provide fundable further education and fundable higher education; and
 - (b) how it intends to exercise its other functions.
- (2) When making plans, a regional college must have regard to the importance of ensuring that funds made available to it under section 12 are used as economically, efficiently and effectively as possible.
- (3) A regional college must, where it considers it appropriate to do so in the exercise of its functions, consult—

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- (a) the representatives of any trade union which it recognises or which otherwise appears to it to be representative of its staff;
 - (b) its students' association;
 - (c) the local authority for the area in which the regional college is situated;
 - (d) the governing body of any other post-16 education body which provides fundable further education or fundable higher education in the locality of the regional college;
 - (e) any other regional college or regional strategic body whom it considers likely to have an interest in the matter concerned;
 - (f) any person who appears to it to be representative of employers in the locality of the regional college;
 - (g) any person who appears to it to be representative of the interests of any sector for which the regional college provides specialist education or training;
 - (h) The Open University;
 - (i) The Skills Development Scotland Co. Limited;
 - (j) the Scottish Qualifications Authority; and
 - (k) Scottish Enterprise or Highlands and Islands Enterprise (as appropriate).
- (4) Any particular requirement for consultation imposed on a regional college by virtue of this or any other enactment is without prejudice to subsection (3).
- (5) A regional college must, so far as is consistent with the proper exercise of its functions, seek to secure the collaboration with the regional college of the following persons—
 - (a) the representatives of any trade union which the regional college recognises or which otherwise appears to it to be representative of its staff;
 - (b) the regional college's students' association;
 - (c) the local authority for the area in which the regional college is situated;
 - (d) the governing body of any other post-16 education body which provides fundable further education or fundable higher education in the locality of the regional college;
 - (e) any other regional college or regional strategic body whom it considers it appropriate to collaborate with;
 - (f) The Open University;
 - (g) The Skills Development Scotland Co. Limited;
 - (h) the Scottish Qualifications Authority; and
 - (i) Scottish Enterprise or Highlands and Islands Enterprise (as appropriate).
- (6) The Scottish Ministers may by order modify subsection (3) or (5) by—
 - (a) adding or removing persons, or types of persons, to which those provisions apply; or
 - (b) varying the description of any such person or type of person.
- (7) But such an order may not modify paragraph (a) or (b) of subsection (3).