

FURTHER AND HIGHER EDUCATION (SCOTLAND) ACT 2005

EXPLANATORY NOTES

BACKGROUND

3. The Further and Higher Education (Scotland) Act 1992 (“the 1992 Act”), set up the Scottish Higher Education Funding Council (SHEFC), and made provision for the Scottish Further Education Funding Council (SFEFC) which came into being in 1999. The main purpose of this Act is to dissolve the Scottish Further Education Funding Council and the Scottish Higher Education Funding Council, and create a new body, to be called the Scottish Further and Higher Education Funding Council (“the Council”). In creating the Council the Act sets out the powers of and duties on Ministers and the Council, which are addressed in more detail below. The Act also makes provision to bring colleges and higher education institutions (the fundable bodies as detailed in the Act with the exception of the Open University), and the Scottish Agricultural College, within the remit of the Scottish Public Services Ombudsman.
4. In general terms, the Act amends the 1992 Act to achieve its purpose and also contains new provisions. Many provisions are drawn from those in the 1992 Act, which apply to either or both the further education sector (colleges) and the higher education sector (higher education institutions). The provisions of this Act however apply equally to both sectors. Whereas the Scottish Further Education Funding Council operated in relation to the funding of colleges, and the Scottish Higher Education Funding Council operated in relation to higher education institutions, the Council will operate to fund both sectors, and the Act specifies its funding functions and additional functions. Also in general terms, many provisions of the 1992 Act, as it relates to the colleges and higher education institutions themselves, will remain in force.
5. The Act followed upon two rounds of Consultation. The first, held in October/November 2003 consisted of a discussion paper, and a series of one to one meetings with key stakeholders. The second was full public consultation and comprised a three month consultation, from April 2004, which included a consultation paper and a draft Bill. Copies of these documents can be found at <http://www.scotland.gov.uk/consultations/education/cltes-00.asp>. A separate Consultation Paper was issued in December 2003, on the matter of bringing colleges and higher education institutions under the remit of the Scottish Public Services Ombudsman (“the Ombudsman”). The responses received on all of these consultations have been considered in redrafting the Act.