



# Further and Higher Education (Scotland) Act 2005

2005 asp 6

## PART 2

### GENERAL

#### 35 Interpretation

<sup>F1F2</sup>(1) In this Act—

“the 1980 Act” means the Education (Scotland) Act 1980 (c. 44);

“the 1992 Act” means the Further and Higher Education (Scotland) Act 1992 (c. 37);

[<sup>F3</sup>“college of further education” means the governing body of a body—

(a) by which fundable further education or fundable higher education is provided; and

(b) which is not a higher education institution;]

“the Council” means the Scottish Further and Higher Education Funding Council;

“fundable body” is to be construed in accordance with section 6(2);

“fundable further education” is to be construed in accordance with section 5(1) and (2);

“fundable higher education” is to be construed in accordance with section 5(3);

[<sup>F2</sup> “ fundable post-16 education body ” is to be construed in accordance with section [<sup>F4</sup>6(1)];

“ higher education institution ” means an institution which is—

(a) a university; or

(b) a designated institution (within the meaning of section 44(2) of the 1992 Act);]

“ local authority ” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);

“ the Parliament ” means the Scottish Parliament.

[<sup>F1</sup> “ post-16 education body ” means—

(a) any fundable post-16 education body; and

*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 2005, Section 35. (See end of Document for details)*

- (b) any college of further education assigned to a regional strategic body by order made under section 7C(1);  
 “recognised”, in relation to a trade union, has the meaning given by section 178(3) of the Trade Union and Labour Relations (Consolidation) Act 1992<sup>F5</sup>, and “recognise” and “recognises” are to be construed accordingly];  
 “regional board” is to be construed in accordance with section 7B(1)(b);  
 “regional college” means a college of further education designated as a regional college by order made under section 7A(1);  
 “regional strategic body” is to be construed in accordance with section 7B(1)(a); ]
- (2) In this Act, any reference to the governing body of a <sup>F6</sup>... body means—
- in the case of a <sup>F6</sup>... body conducted by a body corporate, that body corporate;
  - in the case of a <sup>F6</sup>... body not falling within paragraph (a), the executive body which has responsibility for the management and administration of the revenue and property of the <sup>F6</sup>... body and the conduct of its affairs;
  - in the case of any other <sup>F6</sup>... body not falling within paragraph (a) or (b) for which the Scottish Ministers by regulations or the Privy Council by order has constituted a governing body, that governing body; and
  - in any other case, any board of governors of the <sup>F6</sup>... body or any person responsible for the management of the <sup>F6</sup>... body, whether or not formally constituted as a governing body or board of governors.
- [<sup>F7</sup>(3) In this Act—
- any reference to the locality of a college of further education is a reference to any locality in which the college provides fundable further education or fundable higher education (other than by way of distance or open learning); and
  - any reference (other than in sections 23A and 23E) to the locality in which fundable further education or fundable further education is provided does not include reference to any such education which is provided by way of distance or open learning.]

#### Textual Amendments

- F1** Words in s. 35(1) inserted (13.1.2014 for specified purposes, 31.3.2015 in so far as not already in force) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\)](#), [Sch. para. 8\(23\)\(a\)\(iv\)](#); S.S.I. 2013/348, art. 2, Sch.; S.S.I. 2015/82, art. 2
- F2** Words in s. 35(1) inserted (13.1.2014 for specified purposes, 31.3.2015 in so far as not already in force) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\)](#), [Sch. para. 8\(23\)\(a\)\(iii\)](#); S.S.I. 2013/348, art. 2, Sch.; S.S.I. 2015/82, art. 2
- F3** Words in s. 35(1) inserted (13.1.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\)](#), [Sch. para. 8\(23\)\(a\)\(i\)](#); S.S.I. 2013/348, art. 2, Sch.
- F4** Word in s. 35(1) substituted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\)](#), [Sch. para. 8\(23\)\(a\)\(ii\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F5** Words in s. 35(1) 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. 3\(3\)](#)
- F6** Word in s. 35(2) omitted (3.3.2014) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\)](#), [Sch. para. 8\(23\)\(b\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F7** S. 35(3) inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\)](#), [Sch. para. 8\(23\)\(c\)](#); S.S.I. 2014/21, art. 2, Sch. 1

**Changes to legislation:**

There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 2005, Section 35.