

## POLICY NOTE

### THE POST-16 EDUCATION (SCOTLAND) ACT 2013 (COMMENCEMENT No. 2) ORDER 2013

#### SSI 2013/348 (C. 29)

1. The above instrument is made in exercise of the powers conferred by section 23(2) of the Post-16 Education (Scotland) Act 2013 (“the 2013 Act”).

#### Policy objectives

2. The instrument forms part of an implementation package for the 2013 Act. The provisions in the 2013 Act are being commenced in several stages.

#### Commencement

3. Sections 22 (Ancillary provision), 23 (Commencement) and 24 (Short title) came into force on the day following Royal Assent (i.e. 7 August 2013) by virtue of section 23(1).

4. The first Commencement Order, the Post-16 Education (Scotland) Act 2013 (Commencement No. 1) Order 2013 (S.S.I. 2013/281), was made on 24th September 2013. It commenced further provisions of the 2013 Act (details of which can be found in the note as to earlier commencement orders which accompanies this Order).

5. Article 2 of this Order appoints 13th January 2014 as the day on which the provisions specified in column 1 of the Schedule come into force. Some come into force only for specific purposes. Where this is the case, these purposes are listed in column 3.

6. This Order commences **section 5(1)**, which inserts section 7A into the Further and Higher Education (Scotland) Act 2005 (“the 2005 Act”), which makes provision for the Scottish Ministers to designate by order an incorporated college<sup>1</sup> as a regional college. When other provisions of the 2013 Act are commenced a regional college will have particular functions. It will also have different board arrangements from other incorporated colleges. The Scottish Government issued a consultation paper in October 2013<sup>2</sup> on, among other things, Ministers’ plans to exercise their powers under section 7A of the 2005 Act. Having considered the responses to that consultation Ministers are minded to proceed with their plans to designate regional colleges in single college regions in March 2014.

7. It commences **section 18**, which places obligations on the Scottish Ministers before they exercise their powers to make regulations under section 3(6) of the Further and Higher Education (Scotland) Act 1992 (“the 1992 Act”) which relate to collective bargaining arrangements. Related to this, it also commences **paragraph 2(2)(b) of the schedule** which inserts section 3(7) into the 1992 Act. Section 3(7) of the 1992 Act lists persons the Scottish Ministers must consult before making regulations under section 3(6) of the 1992 Act.

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<sup>1</sup> ‘Incorporated colleges’ are colleges with a board of management established under the Further and Higher Education (Scotland) Act 1992.

<sup>2</sup> [Designating Colleges as Regional Colleges and Assigning Colleges to Regional Strategic Bodies](#)

8. It commences **section 20**, which makes provision for the Scottish Ministers to require by order the sharing of information about young people between The Skills Development Scotland Co. Limited and such persons as the Scottish Ministers may specify.

9. It commences **section 21** but only for the purpose of enabling the paragraphs of the schedule to the 2013 Act listed in column 1 of the Schedule to this Order to be brought into force (where relevant for only the specific purpose listed in column 3).

10. It commences **paragraphs 2(1) and 8(1)** of the schedule and in so doing addresses a matter raised by the Scottish Parliament's Delegated Powers and Law Reform Committee when it considered the Post-16 Education (Scotland) Act 2013 (Commencement No. 1) Order 2013 (S.S.I. 2013/281).

11. It commences **paragraph 8(23)(a)** of the schedule which amends section 35(1) of the 2005 Act which deals with interpretation of the 2005 Act.

### **Consultation**

12. The Scottish Government issued a consultation paper in October 2013 to colleges and other stakeholders on, among other things, Ministers' plans to exercise their powers under section 7A of the 2005 Act to designate regional colleges in single college regions in March 2014.

### **Impacts**

13. A partial Business Regulatory Impact Assessment and an Equality Impact Assessment was carried out for the Post-16 Education (Scotland) Bill. The partial Business Regulatory Impact Assessment and a results summary of the Equality Impact Assessment are available on the Scottish Government website.

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Colleges and Adult Learning Division  
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