

Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Cross Heading: Qualifications and tenure of office. (See end of Document for details)

SCHEDULES

^{F1} SCHEDULE 2

CONSTITUTION AND PROCEEDINGS OF BOARDS OF MANAGEMENT

Textual Amendments

F1 Sch. 2 wholly in force at 16.5.1992 see s. 63(2) and [S.I. 1992/817](#), art. 3(2), [Sch. 1](#).

Qualifications and tenure of office

- 5 (1) Subject to this paragraph and paragraphs [^{F1}5A and 5B below, a member of the board—
- (a) if appointed in pursuance of paragraph 3(2)(a) as the chairing member of the board of a regional college, holds and vacates office on such terms and conditions as the Scottish Ministers may determine;
 - (b) if appointed in pursuance of paragraph 3(2)(c) to (f) as a member of the board of a regional college, holds and vacates office on such terms and conditions as the board may determine;
 - (c) if appointed in pursuance of paragraph 3A(2)(a) or (c) to (f) as a member of the board of a college which is not a regional college, holds and vacates office on such terms as the regional strategic body may determine; and
 - (d) is, on ceasing to hold office, eligible for re-appointment.]
- [^{F2}(2) Subject to sub-paragraphs (2A) to (2G) below—
- (a) a member appointed by being elected in pursuance of paragraph 3(2)(c) or (d) or 3A(2)(c) or (d) is to hold office for 4 years;
 - [^{F3}(aa) a member appointed in pursuance of paragraph 3(2)(da) or (db) or paragraph 3A(2)(da) or (db) is to hold office for 4 years;]
 - (b) a member appointed in pursuance of paragraph 3(2)(e) or 3A(2)(e) is to hold office until 31 August following appointment; and
 - (c) each other member of the board (including the chairing member) is to hold office for such period (not exceeding 4 years) as is specified in the member's terms of appointment.
- (2A) The Scottish Ministers may extend the period of appointment of the chairing member of a regional college for a single further period not exceeding 4 years.
- (2B) The board of a regional college may extend the period of appointment of a member appointed under paragraph 3(2)(f) for a single further period not exceeding 4 years (but such an extension has effect only if approved by the chairing member and the Scottish Ministers).
- (2C) A regional strategic body may extend the period of appointment of a member it appoints under paragraph 3A(2)(a) or (f) for a single further period not exceeding 4 years.

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- (2D) The chairing member of a regional college is to vacate office if the member becomes a person of the type described in paragraph 3(4).
- (2E) The principal of a college is to vacate office on ceasing to be the principal.
- (2F) A member appointed under paragraph 3(2)(c) or (d) or 3A(2)(c) or (d) is to vacate office if the member ceases to be a member of the teaching or, as the case may be, non-teaching staff of the college before the member's period of appointment ends.
- [^{F4}(2FA) A member appointed in pursuance of paragraph 3(2)(da) or (db) or paragraph 3A(2)(da) or (db) is to vacate office if—
- (a) the member ceases to be a member of the teaching or, as the case may be, non-teaching staff of the college; or
 - (b) the member ceases to be a member of a branch of a trade union that has a connection with the college;
- before the member's period of appointment ends.]
- (2G) A member appointed in pursuance of paragraph 3(2)(e) or 3A(2)(e) is to vacate office if the member ceases to be a student of the college before the member's period of appointment ends.]
- ^{F5}(3)
- ^{F5}(4)
- (5) A member of the board, other than the principal of the college, may resign his office at any time by giving notice in writing to [^{F6}—
- (a) in the case of the chairing member of the board of a regional college, the Scottish Ministers;
 - (b) in the case of any other member of the board a regional college, the board;
 - (c) in the case of any member of the board of a college which is not a regional college, the regional strategic body.]
- [^{F7}(6) In relation to the board of New College Lanarkshire, this paragraph is to be read subject to the modifications set out in article 5(4) of the Lanarkshire Colleges Order 2014.]

Textual Amendments

- F1** Sch. 2 para. 5(1)(a)-(d) substituted for words in Sch. 2 para. 5(1) (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\), Sch. para. 2\(7\)\(b\)\(i\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F2** Sch. 2 para. 5(2)-(2G) substituted for Sch. 2 para. 5(2) (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\), Sch. para. 2\(7\)\(b\)\(ii\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F3** Sch. 2 para. 5(2)(aa) inserted (31.1.2024) by [The Colleges of Further Education and Regional Strategic Bodies \(Membership of Boards\) \(Scotland\) Order 2023 \(S.S.I. 2023/363\), arts. 1, 2\(4\)\(a\)](#)
- F4** Sch. 2 para. 5(2FA) inserted (31.1.2024) by [The Colleges of Further Education and Regional Strategic Bodies \(Membership of Boards\) \(Scotland\) Order 2023 \(S.S.I. 2023/363\), arts. 1, 2\(4\)\(b\)](#)
- F5** Sch. 2 para. 5(3)(4) omitted (3.3.2014) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\), Sch. para. 2\(7\)\(b\)\(iii\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F6** Sch. 2 para. 5(5)(a)-(c) substituted for words in Sch. 2 para. 5(5) (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\), Sch. para. 2\(7\)\(b\)\(iv\)](#); S.S.I. 2014/21, art. 2, Sch. 1

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F7 Sch. 2 para. 5(6) inserted (1.10.2014) by The Lanarkshire Colleges Order 2014 (S.S.I. 2014/250), arts. 1(1), **5(3)(4)** (as amended (31.1.2024) by The Colleges of Further Education and Regional Strategic Bodies (Membership of Boards) (Scotland) Order 2023 (S.S.I. 2023/363), **art. 4(3)**)

Commencement Information

II Sch. 2 para. 5 wholly in force at 16.5.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), **Sch. 1**.

- [^{F8}5A** (1) A person is not eligible for appointment as a member of the board if the person—
- (a) has within 5 years of the date on which the appointment would take effect, been sentenced (following conviction for an offence in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic) to imprisonment for a period of not less than 3 months, whether suspended or not, without the option of a fine;
 - (b) is an undischarged bankrupt; or
 - (c) has been removed from office under section 24 of this Act (in relation to any college) or section 23Q of the Further and Higher Education (Scotland) Act 2005 (in relation to any regional board).
- (2) For the purposes of sub-paragraph (1)(b), “undischarged bankrupt” means a person—
- (a) whose estate has been sequestrated and who has not been discharged (or against whom a bankruptcy order has been made and is still in force);
 - (b) who has granted a trust deed for, or made a composition or arrangement with, creditors (and has not been discharged in respect of it);
 - (c) who is the subject of a bankruptcy restrictions order, or an interim bankruptcy restrictions order, made under the Bankruptcy (Scotland) Act 1985 or the Insolvency Act 1986;
 - (d) who is the subject of a bankruptcy restrictions undertaking entered into under either of those Acts;
 - (e) who has been adjudged bankrupt (and has not been discharged); or
 - (f) who is subject to any other kind of order, arrangement or undertaking analogous to those described in paragraphs (a) to (d), anywhere in the world.

Textual Amendments

F8 Sch. 2 paras. 5A-5C inserted (3.3.2014) by Post-16 Education (Scotland) Act 2013 (asp 12), s. 23(2), **Sch. para. 2(7)(c)**; S.S.I. 2014/21, art. 2, Sch. 1

- 5B** (1) The relevant person must remove a member of the board from office (by giving notice in writing to the member) if—
- (a) the member—
 - (i) is sentenced as mentioned in paragraph 5A(1)(a); or
 - (ii) has become a person to whom paragraph 5A(1)(b) applies; or
 - (b) the relevant person is satisfied that the member—
 - (i) has been absent from meetings of the board for a period longer than 6 consecutive months without the permission of the board; or
 - (ii) is otherwise unable or unfit to discharge the member's functions.
- (2) In sub-paragraph (1), “relevant person”—

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- (a) in the case of the chairing member of the board of a regional college, means the Scottish Ministers;
 - (b) in the case of any other member of the board of a regional college, means the board of management of that college;
 - (c) in the case of a member of the board of a college which is not a regional college, means the regional strategic body for that college.
- (3) The Scottish Ministers must, by giving notice in writing to the member, remove a member from office if the member is removed from office under section 24 of this Act (in relation to any other college) or section 23Q of the Further and Higher Education (Scotland) Act 2005 (in relation to any regional board).
- (4) Where a member removed under sub-paragraph (3) was appointed under paragraph 3(2)(f) or [^{F9}3A(2)(a) or (f)], the Scottish Ministers may appoint another person in place of the removed member.
- (5) An appointment made under sub-paragraph (4) has effect as if made under the provision under which the removed member was appointed.

Textual Amendments

- F8** Sch. 2 paras. 5A-5C inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\), Sch. para. 2\(7\)\(c\)](#); S.S.I. 2014/21, art. 2, Sch. 1
- F9** Words in Sch. 2 para. 5B(4) substituted (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. 2\(4\)](#)

5C Paragraphs 5A and 5B do not apply in relation to the principal of the college.]

Textual Amendments

- F8** Sch. 2 paras. 5A-5C inserted (3.3.2014) by [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\), Sch. para. 2\(7\)\(c\)](#); S.S.I. 2014/21, art. 2, Sch. 1

[^{F10}5D In relation to the board of New College Lanarkshire, paragraph 5C is to be read subject to the modification set out in article 5(6) of the Lanarkshire Colleges Order 2014.]

Textual Amendments

- F10** Sch. 2 para. 5D inserted (1.10.2014) by [The Lanarkshire Colleges Order 2014 \(S.S.I. 2014/250\), arts. 1\(1\), 5\(5\)\(6\)](#)

^{F11}6

Textual Amendments

- F11** Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\), s. 23\(2\), Sch. para. 2\(7\)\(d\)](#); S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

^{F11}7

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Textual Amendments

F11 Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 2(7)(d)**; S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

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Textual Amendments

F11 Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 2(7)(d)**; S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

F119

Textual Amendments

F11 Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 2(7)(d)**; S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

F1110

Textual Amendments

F11 Sch. 2 paras. 6-10 omitted (10.10.2013 for specified purposes, 3.3.2014 in so far as not already in force) by virtue of [Post-16 Education \(Scotland\) Act 2013 \(asp 12\)](#), s. 23(2), **Sch. para. 2(7)(d)**; S.S.I. 2013/281, art. 2, Sch.; S.S.I. 2014/21, art. 2, Sch. 1 (with arts. 3(4), 5, Sch. 2)

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