

SCHEDULES

SCHEDULE 7

Section 37.

THE SCOTTISH HIGHER EDUCATION FUNDING COUNCIL

Supplementary powers

- 1 (1) Subject to sub-paragraph (2) below, the Council may do anything which appears to them to be necessary or expedient for the purpose of or in connection with the discharge of their functions, including in particular—
- (a) acquiring and disposing of land and other property;
 - (b) entering into contracts;
 - (c) investing sums not immediately required for the purpose of the discharge of their functions; and
 - (d) accepting gifts of money, land or other property.
- (2) The Council shall not borrow money.

Chief officer

- 2 (1) One of the members of the Council shall be the chief officer.
- (2) The first chief officer shall be appointed as such by the Secretary of State and shall hold and vacate office in accordance with the terms of his appointment.
- (3) Each subsequent chief officer shall be appointed by the Council with the approval of the Secretary of State on such terms and conditions (including terms with respect to tenure and vacation of office) as the Council may, with the approval of the Secretary of State, determine.
- (4) On approval by the Secretary of State of the person to be appointed on any occasion as chief officer of the Council and the terms and conditions of his appointment, the Secretary of State shall—
- (a) if that person is not already a member of the Council, appoint him as a member for the same term as the term of his appointment as chief officer; or
 - (b) if he is already such a member but his term of appointment as such ends before the term of his appointment as chief officer ends, extend his term of appointment as a member so that it ends at the same time as the term of his appointment as chief officer.

Tenure of members of the Council

- 3 (1) A person shall hold and vacate office as a member or as chairman or chief officer of the Council in accordance with the terms of his appointment and shall, on ceasing to be a member, be eligible for re-appointment.

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- (2) A person may at any time by notice given in writing to the Secretary of State resign his office as a member or as chairman of the Council.
- 4 If the Secretary of State is satisfied that a member of the Council—
- (a) has been absent from meetings of the Council for a period longer than six consecutive months without the permission of the Council; or
 - (b) is unable or unfit to discharge the functions of a member,
- the Secretary of State may by notice given in writing to that member remove him from office; and thereupon the office shall become vacant.

Salaries, allowances and pensions for members

- 5 (1) The Council—
- (a) shall pay to their members such salaries or fees, and such travelling, subsistence or other allowances, as the Secretary of State may determine; and
 - (b) shall pay, or make such payments towards the provision of, such pensions to or in respect of any of their members as the Secretary of State may determine.
- (2) If a person ceases to be a member of the Council and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may direct the Council to make to that person a payment of such amount as the Secretary of State may determine.
- (3) A determination or direction of the Secretary of State under sub-paragraph (1) or (2) above requires the approval of the Treasury.

House of Commons disqualification

- 6 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices) there is inserted at the appropriate place—
- “Any member of the Scottish Higher Education Funding Council in receipt of remuneration.”

Staff

- 7 (1) The Council may appoint such employees as they think fit.
- (2) The Council shall pay to their employees such remuneration and allowances as the Council may determine.
- (3) The employees shall be appointed on such other terms and conditions as the Council may determine.
- (4) A determination under sub-paragraph (2) or (3) above requires the approval of the Secretary of State given with the consent of the Treasury.
- (5) Employment with the Council shall be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed), at the end of the list of “Other Bodies” there is inserted—

“Scottish Higher Education Funding Council.”

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- (6) The Council shall pay to the Treasury, at such times as the Treasury may direct, such sums as the Treasury may determine in respect of the increase attributable to sub-paragraph (5) above in the sums payable out of money provided by Parliament under that Act.
- (7) If an employee of the Council becomes a member of the Council and was by reference to his employment by the Council a participant in a pension scheme such as is mentioned in sub-paragraph (5) above—
- (a) the Council may determine that his service as a member shall be treated for the purposes of the scheme as service as an employee of the Council whether or not any benefits are to be payable to or in respect of him by virtue of paragraph 5 above; but
 - (b) if the Council determine as aforesaid, any discretion as to the benefits payable to or in respect of him which the scheme confers on the Council shall be exercised only with the consent of the Secretary of State given with the approval of the Treasury.

Committees

- 8 (1) The Council may establish a committee for any purpose.
- (2) The number of the members of a committee established under this paragraph, and the terms on which they are to hold and vacate office, shall be fixed by the Council.
- (3) Such a committee may include persons who are not members of the Council.
- (4) The Council shall pay to the members of such committees (whether or not they are also members of the Council) such travelling, subsistence or other allowances as the Secretary of State may determine.
- (5) The Council shall keep under review the structure of committees established under this paragraph and the scope of each committee's activities.

Delegation of functions

- 9 The Council may authorise the chairman, the chief officer or any committee established under paragraph 8 above to exercise such of their functions as they may determine.

Proceedings

- 10 Without prejudice to any other rights the Secretary of State may require to be accorded to him as a condition of any grants made to the Council under this Act—
- (a) a representative of the Secretary of State shall be entitled to attend and take part in any deliberations (but not in decisions) at meetings of the Council or of any committee of the Council; and
 - (b) the Council shall provide the Secretary of State with such copies of any documents distributed to members of the Council or of any such committee as he may require.
- 11 The validity of any proceedings of the Council or of any committee of the Council shall not be affected by a vacancy among the members or by any defect in the appointment of a member.

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- 12 Subject to the preceding provisions of this Schedule, the Council may regulate their own procedure and that of any of their committees.

Execution of documents

- 13 (1) For any purpose other than those mentioned in sub-paragraph (2) below, a document is validly executed by the Council if it is signed on their behalf by a member of the Council or by their secretary (or any person performing the duties of secretary to the Council) or by any person authorised to sign the document on their behalf.
- (2) For the purposes of any enactment or rule of law relating to the authentication of documents, a document is validly executed by the Council if it is subscribed on their behalf by being executed in accordance with the provisions of sub-paragraph (1) above.
- (3) A document which bears to have been executed by the Council in accordance with sub-paragraph (2) above shall, in relation to such execution, be a probative document if the subscription of the document bears to have been attested by at least one witness.

Accounts

- 14 (1) It shall be the duty of the Council—
- (a) to keep proper accounts and proper records in relation to the accounts;
 - (b) to prepare in respect of each financial year of the Council a statement of accounts; and
 - (c) to send copies of the statement to the Secretary of State and to the Comptroller and Auditor General before the end of the month of August next following the financial year to which the statement relates.
- (2) The statement of accounts referred to in sub-paragraph (1)(b) above shall comply with any directions given by the Secretary of State with the approval of the Treasury as to—
- (a) the information to be contained in it;
 - (b) the manner in which the information contained in it is to be presented; or
 - (c) the methods and principles according to which the statement is to be prepared,
- and shall contain such additional information as the Secretary of State may with the approval of the Treasury require to be provided for the information of Parliament.
- (3) The Comptroller and Auditor General shall examine, certify and report on each statement received by him in pursuance of this paragraph and shall lay copies of each statement and of his report before each House of Parliament.
- (4) In this paragraph “financial year” means the period beginning with the date on which the Council is established and ending with the second 31st March following that date, and each successive period of twelve months.

Status of the Council

- 15 The Council shall not—
- (a) be regarded as the servants or agents of the Crown;
 - (b) have any status, immunity or privilege of the Crown,

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and their property shall not be regarded as property of, or held on behalf of, the Crown.