



# Further and Higher Education (Scotland) Act 1992

## 1992 CHAPTER 37

### PART I

#### FURTHER EDUCATION

#### CHAPTER III

#### COLLEGES OF FURTHER EDUCATION

#### *Property*

#### **16 Transfer of property etc. to boards of management.**

- (1) Except as the Secretary of State otherwise directs, on the first transfer date there shall be transferred to and vest in the board of management of each college of further education specified in an order made under section 11 of this Act all property, rights, liabilities and obligations mentioned in subsection (2) below.
- (2) The property, rights, liabilities and obligations referred to in subsection (1) above are—
  - (a) all land or other property (including corporeal and incorporeal moveable property) which—
    - (i) immediately before the first transfer date was owned by an education authority; and
    - (ii) at any time during the relevant period was used, held or obtained by them for or in connection with the purposes of the college;
  - (b) all moveable property (whether corporeal or incorporeal) which, immediately before the first transfer date, was owned by the college council for the college;
  - (c) all rights, liabilities and obligations of the authority which, immediately before the first transfer date, subsisted in respect of the college;

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*Changes to legislation: There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Section 16. (See end of Document for details)*

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- (d) all rights, liabilities and obligations of the college council for the college which subsisted immediately before that date,  
but excluding such property, rights, liabilities and obligations as are mentioned in subsection (5) below.
- (3) Subject to subsection (7) below, the land and other property referred to in subsection (2)(a) above includes any land or other property which, at any time during the relevant period—
- (a) was used, held or obtained for or in connection with the purposes of more than one college of further education; or
  - (b) was used, held or obtained partly for or in connection with the purposes of one or more such colleges and partly for or in connection with other purposes, to the extent that it was so used, held or obtained for or in connection with the purposes of any such college.
- (4) Subject to subsection (7) below, the rights, liabilities and obligations referred to in subsection (2)(c) above include any rights, liabilities or obligations which, immediately before the first transfer date—
- (a) subsisted in relation to more than one college of further education; or
  - (b) subsisted partly in relation to one or more such colleges and partly in relation to some other purpose,
- to the extent that they subsisted in relation to any such college.
- (5) Subsection (1) above shall not apply to—
- (a) any right, liability or obligation deriving from a contract of employment relating to a person to whom section 15 of this Act does not apply;
  - (b) any obligation or liability of an education authority in respect of compensation for premature retirement of any person formerly employed by them;
  - (c) any liability of such an authority in respect of the principal of, or any interest on, any loan obtained by them for the purposes of a college of further education referred to in that subsection where—
    - (i) the loan was obtained before 1st April 1991; or
    - (ii) the loan was obtained, without the consent of the Secretary of State given under this Part of this Act, during the period commencing on 1st April 1991 and ending on the day immediately before the first transfer date;
  - (d) any liability of such an authority arising under—
    - (i) delict;
    - (ii) any enactment (including an enactment contained in a subordinate instrument); or
    - (iii) any rule of strict liability,
 arising out of an act or omission where the cause of action accrued before the first transfer date;
  - (e) any property which to any extent has, with the prior consent, given in writing, of the Secretary of State and the college council, ceased to be used or held for or in connection with the purposes of the college, to the extent that it has ceased to be so used or held; and
  - (f) any property, right, liability or obligation in respect of which an agreement or determination is required under section 17 of this Act.

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- (6) The vesting of property, rights, liabilities and obligations under this section shall have effect notwithstanding—
- (a) anything to the contrary in; or
  - (b) any condition relating to the transfer of such property, rights, liabilities or obligations contained in,
- any enactment (including an enactment contained in a subordinate instrument whether passed or made before or after the coming into force of this section), rule of law or obligation.
- (7) Schedule 3 to this Act shall have effect as regards—
- (a) the transfer of property effected by this section; and
  - (b) the apportionment of such property between colleges of further education or, as the case may be, between education authorities and such colleges.
- (8) Schedule 4 to this Act shall have effect as regards commissioners for further education assets.
- (9) In this section “the relevant period” is the period commencing on the 22nd March 1991 and ending immediately before the first transfer date.

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**Commencement Information**

**II** S. 16 wholly in force at 1.9.1992 see s. 63(2) and S.I. 1992/817, art. 3(2), Sch. 3

**Changes to legislation:**

There are currently no known outstanding effects for the Further and Higher Education (Scotland) Act 1992, Section 16.