

Post-16 Education (Scotland) Bill

Bill Number:	SP Bill 18
Introduced on:	27 November 2012
Introduced by:	Michael Russell, MSP (Government Bill)
Passed:	26 June 2013
Royal Assent:	7 August 2013

Passage of the Bill

The Post-16 Education (Scotland) Bill [[SP Bill 18](#)] was introduced in the Parliament on 27 November 2012. The Education and Culture Committee (the Committee) was appointed lead Committee for Stage 1 scrutiny of the Bill. The Committee first considered the Bill on 4 December 2012 at which time a call for written evidence was issued. The Committee published its [Stage 1 Report](#) on 20 March 2013, with the [Stage 1 \(general principles\) debate](#) taking place on 27 March 2013. Stage 2 proceedings took place over three meetings: [14 May 2013](#), [21 May 2013](#) and [28 May 2013](#). [The Bill](#) was passed following the [Stage 3](#) parliamentary debate on 26 June 2013. The Bill received Royal Assent on 7 August 2013.

Purpose and objectives of the Bill

The Post-16 Education (Scotland) Bill provides legislative underpinning to wider reforms to post-16 education currently being pursued in Scotland. The central aim of the Scottish Government's post-16 education reform agenda is to achieve sustainable economic growth by ensuring that Scotland has a high performing education and skills system that will allow the workforce to positively participate in the Scottish labour market. The Bill sets down in legislation the underpinnings to a number of policy activities already in train. Notably, in relation to colleges, the key objectives were to set out the governance arrangements associated with the regionalisation of college provision. In relation to higher education institutions, the key objectives were to set out in legislation a fee cap in line with the informal agreement already in place in higher education institutions when charging tuition fees to students from other parts of the UK, to increase efforts to widen access to higher education and to agree and to adopt a Scottish code of good higher education governance.

Provisions of the Bill

The key provisions in the Bill will:

- Allow Ministers, when providing funding to the Scottish Funding Council (SFC), to impose conditions relating to the need for higher education institutions to adhere to good practice in governance.
- Enable Ministers, when providing funding to the SFC, to impose conditions relating to access to higher education institutions for under-represented socio-economic groups.
- Allow Ministers to set an upper limit on the level of higher education tuition fees which post-16 education bodies can charge UK students and certain others who are not entitled to be charged tuition fees at the level set by the Scottish Government. This provision also allows Ministers, when providing funding to the SFC, to impose conditions with a view to ensuring that post-16 education bodies adhere to such an upper limit.
- Provide two types of incorporated colleges with different duties, composition and appointment provisions, depending on whether they are in single-college or multi-college regions.
- Establish new regional strategic bodies for colleges in multi-college regions to support a regional approach to the planning and funding of college provision.
- Introduce Ministerial powers to remove chairs and other members of incorporated colleges and regional boards for reasons of failure (in addition to mismanagement).
- Enable the SFC to review the provision of fundable further and higher education with a view to ensuring that such education is being provided by post-16 education bodies in a coherent manner.
- Allow Ministers to make secondary legislation to impose a legal duty on relevant bodies to share data with Skills Development Scotland on all young people between the ages of 16 and 24 moving through the learning system to identify those who have disengaged with, or may be at risk of disengaging with, learning or training.

Parliamentary consideration

In its [Stage 1 Report](#), the Committee made a number of recommendations regarding the principles of the Bill. These recommendations, the Scottish Government's response to these and the key issues debated at stage 2, are summarised in this [SPICe briefing](#). At stage 3, a further 117 amendments were lodged. These focused largely on areas of debate raised, but not agreed, at stage 2, including:

- The introduction of gender quotas for college and university governing bodies.

- Ensuring that widening access is an issue that is recognised as being for a number of stakeholders including schools; that good practice is shared, and that any action taken is comprehensively reviewed to ensure progress is made.
- Ensuring trade union and student association participation in the governance of universities, notably in remuneration committees, and also in the appropriate college governance structures where decisions are being made.
- Regional colleges making links with community planning, community health partners and local transport partners in order to maximise local economic and social gains from regionalisation.
- Clarity and refining of the terms under which Ministers can remove board members for “mismanagement”.
- Ensuring mechanisms are in place that allow the flow of funding within University of Highlands and Islands (UHI) from the University Court to a designated further education board within the UHI governance structure.
- Measures to ensure collective bargaining / formal negotiations on pay and conditions in the college sector.
- The position of colleges as public or private bodies with reserves / assets that are treated as public money. As many colleges receive large amounts of private income, being treated as public bodies calls into question the financial autonomy of colleges in Scotland.