

# Post-16 Education (Scotland) Bill

---

---

## Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 19  
Long Title

Schedule

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Section 2

#### Neil Findlay

5 In section 2, page 1, line 19, at end insert—

- <( ) Before deciding any principles of governance for the purposes of subsection (1), the Council must consult the persons listed in section 22(1B).”.
- ( ) In section 22 of the 2005 Act, after subsection (1), insert—
  - “(1B) The persons are such—
    - (a) representatives of trade unions which appear to the Council to be representative of the staff of higher education institutions;
    - (b) representatives of students’ associations representing higher education students;
    - (c) representatives of business;
    - (d) others persons,as the Council considers appropriate.”.>

#### Joan McAlpine

100 In section 2, page 1, line 19, at end insert—

- <( ) Without prejudice to the generality of this section, such principles of governance must include membership on remuneration committees (or other such relevant committees) of the institution by—
  - (a) the representatives of any trade union which the institution recognises or which otherwise appears to the Council to be representative of its staff; and
  - (b) the institution’s students’ association.”.>

## After section 2

**Jenny Marra**

3 After section 2 insert—

**<Higher education institutions: gender quotas**

After section 9A of the 2005 Act, inserted by section 2, insert—

**“9ZAA Higher education institutions: gender quotas**

The Scottish Ministers must, under section 9(2), impose a condition that the Council must, when making a payment to a higher education institution under section 12(1), require the institution to ensure that the proportion of both men and women on that institution’s governing body is at least 40 per cent of the membership of the body.”>

## Section 3

**Michael Russell**

7 In section 3, page 2, line 3, leave out from <of> to end of line 4 and insert <which makes provision in relation to—

( ) any socio-economic group which the Scottish Ministers reasonably consider to be under-represented in fundable higher education; and

( ) other socio-economic groups, if any, which the Council and the institution agree are under-represented in fundable higher education.>

**Michael Russell**

8 In section 3, page 2, line 5, leave out from <under> to <Council> in line 6 and insert <between a higher education institution and the Council under which the institution is to take actions specified in the agreement>

**Michael Russell**

10 In section 3, page 2, line 11, leave out from <specifying> to end of line 13 and insert <entering into a widening access agreement in pursuance of this section, a higher education institution must consult—>

**Michael Russell**

11 In section 3, page 2, line 15, leave out <the Council> and insert <it>

**Michael Russell**

15 In section 3, page 2, line 21, after <Ministers> insert <, the Council and higher education institutions>

### After section 3

**Neil Findlay**

16 After section 3 insert—

**<Duties of the Council in relation to good governance: duty to consult**

In section 22 of the 2005 Act, after subsection (1) insert—

“(1A) The Council must, in the exercise of any of its functions under section 9A of this Act, consult the persons listed in subsection (1B).

(1B) The persons referred to in subsection (1A) are such—

- (a) representatives of trade unions which appears to the Council to be representative of the staff of higher education institutions;
- (b) representatives of students’ associations representing higher education students;
- (c) representatives of businesses;
- (d) other persons,

as the Council considers appropriate.”>

### Section 5

**Neil Bibby**

101 In section 5, page 4, line 22, at end insert—

<( ) the community planning partnership for the area in which the regional college is situated;>

**Neil Bibby**

102 In section 5, page 4, line 22, at end insert—

<( ) the community health partnership for the area in which the regional college is situated;>

**Neil Bibby**

103 In section 5, page 4, line 22, at end insert—

<( ) transport providers in the area in which the regional college is situated;>

**Michael Russell**

17 In section 5, page 5, line 19, at end insert—

**<23ZBA Regional colleges: improvement of economic and social well-being**

- (1) A regional college is to exercise its functions with a view to improving the economic and social well-being of the locality of the regional college.
- (2) In doing so, the regional college is to have regard to—

- (a) social and economic regeneration needs in the locality; and
  - (b) social cohesion and social inclusion issues in the locality.
- (3) For the purposes of subsection (2)(a), “needs” means needs which appear to the regional college—
- (a) to exist for the time being or be likely to exist in the future; and
  - (b) to be capable of being addressed (wholly or partly) by the provision of fundable further education or fundable higher education.
- (4) For the purposes of subsection (2)(b), “issues” means issues which appear to the regional college—
- (a) to exist for the time being or be likely to exist in the future; and
  - (b) to be capable of being addressed (wholly or partly) by the provision of fundable further education or fundable higher education.>

**Michael Russell**

- 18 In section 5, page 5, line 22, leave out <Scotland> and insert <the locality of the regional college>

**Michael Russell**

- 19 In section 5, page 5, line 23, leave out <Scotland; and> and insert <the locality of the regional college;>

**Michael Russell**

- 20 In section 5, page 5, line 24, leave out <Scotland.> and insert <the locality of the regional college; and
- ( ) the needs and issues in relation to Scotland identified by the Council for the purposes of section 20(1).>

**Marco Biagi**

- 21 In section 5, page 5, line 34, at end insert—
- <(4A) In exercising its functions, a regional college is to have regard to the desirability of enabling, encouraging and improving participation in fundable further education and fundable higher education by persons belonging to any socio-economic group which the regional college reasonably considers to be under-represented in such education.>

**Michael Russell**

- 22 In section 5, page 5, line 36, leave out <, following consultation with the Council,>

**Michael Russell**

- 23 In section 5, page 6, line 3, leave out <, following consultation with the Council,>

**Marco Biagi**

24 In section 5, page 6, line 7, at end insert—

- <( ) For the purposes of subsection (4A), a socio-economic group is to be treated as under-represented in fundable further education or fundable higher education if participation in such education by persons in that group is disproportionately low.
- ( ) A regional college may take into account any social or economic characteristics which it considers appropriate when determining which groups are to constitute “socio-economic groups” for the purposes of subsection (4A).
- ( ) A regional college is to have regard to the under-represented socio-economic groups identified by the Council for the purposes of section 20(4A) when determining—
  - (a) which groups are to constitute “socio-economic groups” for the purposes of subsection (4A); and
  - (b) whether a socio-economic group so determined is under-represented in fundable further education or fundable higher education.”.>

**Section 6**

**Neil Findlay**

25 In section 6, page 6, line 17, leave out <among their own number> and insert <the recognised trade unions>

**Neil Findlay**

26 In section 6, page 6, line 19, leave out <among their own number> and insert <the recognised trade unions>

**Neil Findlay**

27 In section 6, page 6, leave out lines 23 to 26 and insert—

- <(3A) Before making an appointment in pursuance of sub-paragraph (2)(e), the board must submit a recommendation for the appointment to—
  - (a) the chairing member; and
  - (b) the Scottish Ministers.
- (3B) Before making a recommendation under sub-paragraph (3A), the board must consult with the chairing member and the Scottish Ministers as to the criteria for the appointment.
- (3C) A recommendation under sub-paragraph (3A) having been made, the chairing member and the Scottish Ministers may—
  - (a) confirm the appointment; or
  - (b) reject the appointment and request that a further recommendation be made under sub-paragraph (3A).>

**Neil Findlay**

- 28 In section 6, page 7, line 4, leave out <a person> and insert <two members>

**Michael Russell**

- 29 In section 6, page 7, line 4, after first <the> insert <teaching>

**Neil Findlay**

- 30 In section 6, page 7, line 5, leave out <among their own number> and insert <the recognised trade unions>

**Michael Russell**

- 31 In section 6, page 7, line 5, at end insert—  
<(ba) a person appointed by being elected by the non-teaching staff of the college from among their own number;>

**Neil Findlay**

- 32 In section 6, page 7, line 8, leave out <regional strategic body> and insert <board>

**Neil Findlay**

- 33 In section 6, page 7, line 8, at end insert—  
<( ) An appointment made in pursuance of sub-paragraph 3A(2)(d) has effect only if approved by the regional strategic body.>

**Michael Russell**

- 34 In section 6, page 7, line 10, after <3A(2)(b)> insert <or (ba)>

**Michael Russell**

- 35 In section 6, page 7, line 11, leave out from <election> to end of line 13 and insert <rules about elections to be held in pursuance of paragraph 3(2)(b) or 3A(2)(b), the board must consult the representatives of any trade union which the board recognises as being, or which otherwise appears to the board to be, representative of the teaching staff of the college.  
( ) Before making, varying or replacing rules about elections to be held in pursuance of paragraph 3(2)(c) or 3A(2)(ba), the board must consult the representatives of any trade union which the board recognises as being, or which otherwise appears to the board to be, representative of the non-teaching staff of the college.>

**Liz Smith**

- 36 In section 6, page 8, line 13, at end insert—  
<( ) Before making an arrangement under subsection (2), the Scottish Ministers must consult the board of management of any college of further education to which the arrangement relates.>

## Section 7

**Liz Smith**

- 37 In section 7, page 8, line 21, leave out <12 or 12B> and insert <9AA>

**Liz Smith**

- 38 In section 7, page 8, line 29, leave out from beginning to <properly;>

**Liz Smith**

**Supported by: Liam McArthur**

- 39 In section 7, page 8, line 43, at end insert—

<( ) Before making an order under subsection (3)(a), the Scottish Ministers must consult the Council.>

**Neil Bibby**

- 105 In section 7, page 9, line 2, at end insert—

<( ) A person removed under subsection (3)(a) may appeal to an independent review panel to be established by the Scottish Ministers to decide such appeals.>

## Section 8

**Michael Russell**

- 40 In section 8, page 9, leave out line 36

**Michael Russell**

- 41 In section 8, page 10, line 23, at end insert—

<( ) But an order under subsection (1) may remove an entry relating to a college from schedule 2 only if the Council has proposed, or has approved, the removal.>

**Michael Russell**

- 42 In section 8, page 10, line 25, at end insert—

<( ) the regional strategic body (except where not already established);>

**Michael Russell**

- 43 In section 8, page 10, line 38, leave out <(2)> and insert <(1)>

## After section 9

**Liam McArthur**

44 After section 9, insert—

### <Other regional strategic bodies: terms and conditions of funding

After section 12B of the 2005 Act, inserted by section 9, insert—

#### “12C Other regional strategic bodies: terms and conditions of funding

- (1) The Council may, under section 12(2), when making a payment to any other regional strategic body under section 12(1), impose a condition requiring the regional strategic body to comply with any procedures or arrangements for the administration by the body of the funds mentioned in section 12A, which appear to the Council to constitute good practice in relation to the allocation of funds by regional strategic bodies.
- (2) In this section, reference to any other regional strategic body is a reference to a body specified in Part 2 of Schedule 2A.”>

## Section 10

**Michael Russell**

45 In section 10, page 14, line 24, at end insert—

### <23HA Regional strategic bodies: improvement of economic and social well-being

- (1) A regional strategic body is to exercise its functions with a view to improving the economic and social well-being of the localities of its colleges.
- (2) In doing so, the regional strategic body is to have regard to—
  - (a) social and economic regeneration needs in those localities; and
  - (b) social cohesion and social inclusion issues in those localities.
- (3) For the purposes of subsection (2)(a), “needs” means needs which appear to the regional strategic body—
  - (a) to exist for the time being or be likely to exist in the future; and
  - (b) to be capable of being addressed (wholly or partly) by the provision of fundable further education or fundable higher education.
- (4) For the purposes of subsection (2)(b), “issues” means issues which appear to the regional strategic body—
  - (a) to exist for the time being or be likely to exist in the future; and
  - (b) to be capable of being addressed (wholly or partly) by the provision of fundable further education or fundable higher education.>

**Michael Russell**

46 In section 10, page 14, line 27, leave out <Scotland> and insert <the localities of its colleges>

**Michael Russell**

- 47 In section 10, page 14, line 28, leave out <Scotland; and> and insert <the localities of its colleges;>

**Michael Russell**

- 48 In section 10, page 14, line 29, leave out <Scotland.> and insert <the localities of its colleges; and  
( ) the needs and issues in relation to Scotland identified by the Council for the purposes of section 20(1).>

**Marco Biagi**

- 49 In section 10, page 15, line 5, at end insert—  
<(4A) In exercising its functions, a regional strategic body is to—  
(a) have regard to the desirability of enabling, encouraging and improving participation in fundable further education and fundable higher education by persons belonging to any socio-economic group which the regional strategic body reasonably considers to be under-represented in such education; and  
(b) in particular, promote collaboration and sharing of good practice between its colleges in relation to enabling, encouraging and improving such participation.>

**Michael Russell**

- 50 In section 10, page 15, line 7, leave out <, following consultation with the Council,>

**Michael Russell**

- 51 In section 10, page 15, line 12, leave out <, following consultation with the Council,>

**Marco Biagi**

- 52 In section 10, page 15, line 17, at end insert—  
<( ) For the purposes of subsection (4A), a socio-economic group is to be treated as under-represented in fundable further education or fundable higher education if participation in such education by persons in that group is disproportionately low.  
( ) A regional strategic body may take into account any social or economic characteristics which it considers appropriate when determining which groups are to constitute “socio-economic groups” for the purposes of subsection (4A).  
( ) A regional strategic body is to have regard to the under-represented socio-economic groups identified by the Council for the purposes of section 20(4A) when determining—  
(a) which groups are to constitute “socio-economic groups” for the purposes of subsection (4A); and  
(b) whether a socio-economic group so determined is under-represented in fundable further education or fundable higher education.>

**Neil Bibby**

**106** In section 10, page 15, line 27, at end insert—

<( ) each community planning partnership for the areas in which its colleges are situated;>

**Neil Bibby**

**107** In section 10, page 15, line 27, at end insert—

<( ) each community health partnership for the areas in which its colleges are situated;>

**Neil Bibby**

**108** In section 10, page 15, line 27, at end insert—

<( ) transport providers in the areas in which its colleges are situated;>

**Neil Bibby**

**109** In section 10, page 16, line 12, at end insert—

<( ) each community planning partnership for the areas in which its colleges are situated;>

**Michael Russell**

**53** In section 10, page 17, leave out lines 2 to 11 and insert—

<( ) the representatives of any trade union recognised by such a college or which otherwise appears to the regional strategic body to be representative of its staff; and

( ) the students' association of every such college.>

**Michael Russell**

**54** In section 10, page 17, line 14, after <body> insert <—

( ) to direct a college to transfer any staff, property, rights, liabilities or obligations; or>

**Michael Russell**

**110** In section 10, page 17, leave out from line 31 to end of line 24 on page 18 and insert—

<(3) Before making a requirement under subsection (1), the regional strategic body must consult—

(a) any college to which the proposed transfer relates;

(b) the representatives of any trade union recognised by such a college or which otherwise appears to the regional strategic body to be representative of its staff; and

(c) the students' association of every such college.

- (4) Consultation under subsection (3)(a) is to be undertaken with a view to seeking the agreement of the college to the proposed transfer.
- (5) A requirement under subsection (1) may make such further provision in relation to the transfer as the regional strategic body considers appropriate.
- (6) Any transfer of staff effected by virtue of subsection (1) is a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).
- (7) All property and rights transferred by virtue of subsection (1) are to be applied for the purpose of the advancement of education.
- (8) Subject to subsection (9), a requirement made under subsection (1) is binding on any college to which it relates.
- (9) A requirement made under subsection (1) is binding on a college falling within subsection (10) only if the college consents to the making of the requirement.
- (10) A college falls within this subsection if—
  - (a) its governing body is not a board of management established in pursuance of Part 1 of the 1992 Act;
  - (b) it is the college from which staff, property, rights, liabilities or obligations are to be transferred in pursuance of the requirement and the transfer is to be made to a college whose governing body is not a board of management established in pursuance of Part 1 of the 1992 Act; or
  - (c) the regional strategic body to which it is assigned is a body included in Part 2 of schedule 2A.
- (11) The Scottish Ministers may by order modify subsection (10) to provide that a college, or type of college, specified in the order is or is not to fall within that subsection (other than by virtue of paragraph (a) or (b) of that subsection).
- (12) Such an order may not modify paragraph (a) or (b) of subsection (10).
- (13) Before making an order under subsection (11), the Scottish Ministers must consult—
  - (a) any regional strategic body to which the order relates;
  - (b) the representatives of any trade union which is recognised by such a regional strategic body or which otherwise appears to the Scottish Ministers to be representative of the staff of such a body;
  - (c) any college of further education which is assigned to such a regional strategic body by order made under section 7C(1);
  - (d) the students' association of each such college;
  - (e) the representatives of any trade union which is recognised by each such college or which otherwise appears to the Scottish Ministers to be representative of the staff of such a college;
  - (f) the Council;
  - (g) any body which appears to the Scottish Ministers to be representative of students of colleges of further education generally;

- (h) any body which appears to the Scottish Ministers to be representative of colleges of further education;
  - (i) any body which appears to the Scottish Ministers to be representative of trade unions in Scotland; and
  - (j) any other person whom the Scottish Ministers consider likely to be affected by the order.
- (14) Where any of a regional strategic body's staff are transferred to any of its colleges by virtue of any other arrangements made between the regional strategic body and that college, the transfer is a relevant transfer for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246).”>

**Neil Findlay**

55 In section 10, page 17, leave out lines 35 and 36

**Neil Findlay**

56 In section 10, page 18, leave out line 12

**Liz Smith**

57 In section 10, page 18, line 15, leave out first <subsection> and insert <subsections (7A) and>

**Liz Smith**

58 In section 10, page 18, line 16, at end insert—

<(7A) A requirement or arrangement made for the purpose of subsection (2)(a) is binding on a college only if the college consents to the making of the requirement or arrangement.>

**Neil Findlay**

59 In section 10, page 18, line 19, at end insert—

<( ) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to the transfer of staff under this section whether or not they would so apply apart from this subsection.>

**Section 11**

**Neil Findlay**

60 In section 11, page 19, line 16, leave out <among their own number> and insert <the recognised trade unions>

**Neil Findlay**

61 In section 11, page 19, line 18, leave out <among their own number> and insert <the recognised trade unions>

**Michael Russell**

- 62 In section 11, page 19, line 20, leave out <9> and insert <10>

**Neil Findlay**

- 63 In section 11, page 19, leave out lines 31 to 34 and insert—
- <(4A) Before making an appointment in pursuance of sub-paragraph (2)(e), the board must submit a recommendation for the appointment to—
    - (a) the chairing member; and
    - (b) the Scottish Ministers.
  - (4B) Before making a recommendation under sub-paragraph (4A), the board must consult with the chairing member and the Scottish Ministers as to the criteria for the appointment.
  - (4C) A recommendation under sub-paragraph (4A) having been made, the chairing member and the Scottish Ministers may—
    - (a) confirm the appointment; or
    - (b) reject the appointment and request that a further recommendation be made under sub-paragraph (4A).>

**Michael Russell**

- 64 In section 11, page 20, line 38, leave out from <recognised> to end of line 40 insert <which any of its colleges recognise as being, or which otherwise appears to the board to be, representative of the teaching staff of its colleges;
- ( ) in the case of rules about elections to be held in pursuance of paragraph 3(2)(c), the representatives of any trade union which any of its colleges recognise as being, or which otherwise appears to the board to be, representative of the non-teaching staff of its colleges; and>

**Neil Bibby**

- 112 In section 11, page 21, line 12, after <has> insert <within 4 years of the date on which the appointment would take effect,>

**Michael Russell**

- 65 In section 11, page 21, line 12, after <Act> insert <(in relation to any college)>

**Michael Russell**

- 66 In section 11, page 21, line 13, after <Act> insert <(in relation to any regional board)>

**Michael Russell**

- 67 In section 11, page 21, line 35, after <members> insert <(unless holding office in pursuance of paragraph 3(2)(aa))>

**Michael Russell**

- 68 In section 11, page 22, line 40, leave out <or>

**Michael Russell**

69 In section 11, page 22, line 41, at end insert—

<( ) is removed from office under section 24 of the 1992 Act (in relation to any college) or section 23N of this Act (in relation to any other regional board); or>

**Michael Russell**

70 In section 11, page 23, line 17, at end insert—

<(6) The Scottish Ministers must, by giving notice in writing to the member, remove a member (other than the chairing member) from office if the member is removed from office under section 24 of the 1992 Act (in relation to any college) or section 23N of this Act (in relation to any other regional board).

(7) Where a member removed under sub-paragraph (6) was appointed under paragraph 3(2)(e), the Scottish Ministers may appoint another person in place of the removed member.

(8) An appointment made under sub-paragraph (7) has effect as if made under paragraph 3(2)(e).>

**Neil Findlay**

1 In section 11, page 23, line 21, at end insert—

<( ) Before determining the terms and conditions for any employee under sub-paragraph (1), the board must consult any body established by the Scottish Ministers for the consideration or negotiation of terms and conditions of college staff.>

**Liz Smith**

71 In section 11, page 24, line 24, at end insert—

<( ) borrowing such sums as the board thinks fit;

( ) granting such security or giving such guarantee or indemnity as the board thinks fit;>

**Liz Smith**

72 In section 11, page 24, line 28, leave out from beginning to end of line 18 on page 25

**Section 12**

**Liz Smith**

73 In section 12, page 26, line 20, leave out <12(1)(c)> and insert <9AA>

**Liz Smith**

74 In section 12, page 26, leave out line 25

**Liz Smith**

**Supported by: Liam McArthur**

75 In section 12, page 26, line 30, at end insert—

<( ) Before making an order under subsection (2)(a), the Scottish Ministers must consult the Council.>

### **Section 13A**

**Neil Findlay**

76 In section 13A, page 28, line 9, at end insert—

<( ) Before deciding any principles of governance for the purposes of subsections (1) or (2), the Council must consult the persons listed in section 22(1B).”.>

### **After section 13A**

**Jenny Marra**

4 After section 13A insert—

#### **<Further education institutions: gender quotas**

After section 9AA of the 2005 Act, inserted by section 13A, insert—

#### **“9AB Further education institutions: gender quotas**

The Scottish Ministers must, under section 9(2), impose a condition that the Council must, when making a payment under section 12(1) to a college of further education which is a fundable post-16 education body, require it to ensure that the proportion of both men and women on the college’s governing body is at least 40 per cent of the membership of the body.”.>

**Marco Biagi**

77 After section 13A, insert—

*<Duties of Funding Council in relation to widening access*

#### **Council to have regard to desirability of widening access**

(1) Section 20 of the 2005 Act is amended as follows.

(2) After subsection (4) insert—

“(4A) In exercising its functions, the Council is to—

(a) have regard to the desirability of enabling, encouraging and improving participation in fundable further education and fundable higher education by persons belonging to any socio-economic group which the Council reasonably considers to be under-represented in such education; and

(b) in particular, promote collaboration and sharing of good practice between the persons mentioned in subsection (4B) in relation to enabling, encouraging and improving such participation.

(4B) Those persons are—

(a) post-16 education bodies;

- (b) regional strategic bodies; and
  - (c) post-16 education bodies and regional strategic bodies.”.
- (3) After subsection (6) insert—
- “(7) For the purposes of subsection (4A), a socio-economic group is to be treated as under-represented in fundable further education or fundable higher education if participation in such education by persons in that group is disproportionately low.
  - (8) The Council may take into account any social or economic characteristics which they consider appropriate when determining which groups are to constitute “socio-economic groups” for the purposes of subsection (4A).
  - (9) The Council must consult the Scottish Ministers before determining—
    - (a) which groups are to constitute “socio-economic groups” for the purposes of subsection (4A), and
    - (b) whether a socio-economic group so determined is under-represented in fundable further education or fundable higher education.”.>

**Marco Biagi**

78 After section 13A, insert—

**<Council to review progress with widening access**

After section 19 of the 2005 Act insert—

**“19A Reviews of progress with widening access**

- (1) The Council must conduct reviews of the extent to which progress is being made in enabling, encouraging and improving participation in fundable further education and fundable higher education by persons belonging to socio-economic groups which the Council reasonably considers to be under-represented in such education.
- (2) The first such review must be completed before the end of the period of three years beginning with the date on which this section comes into force.
- (3) Subsequent reviews must be completed before the end of the period of three years beginning with the date on which the immediately preceding review was completed.
- (4) On completing a review, the Council must provide the persons mentioned in subsection (5) with a report of the review which—
  - (a) sets out the conclusions it has reached;
  - (b) explains why it has reached those conclusions; and
  - (c) makes any recommendations for action in consequence of those conclusions as it considers appropriate.
- (5) Those persons are—
  - (a) the Scottish Ministers;
  - (b) each regional strategic body; and
  - (c) each post-16 education body.

- (6) The bodies to which this subsection applies must provide the Council with such information, and make available such accounts and other documents, as the Council may reasonably require for the purposes of conducting a review.
- (7) Subsection (6) applies to—
  - (a) regional strategic bodies; and
  - (b) post-16 education bodies.
- (8) For the purposes of subsection (1), a socio-economic group is to be treated as under-represented in fundable further education or fundable higher education if participation in such education by persons in that group is disproportionately low.
- (9) The Council may take into account any social or economic characteristics which they consider appropriate when determining which groups are to constitute “socio-economic groups” for the purposes of subsection (1).
- (10) The Council must consult the Scottish Ministers before determining—
  - (a) which groups are to constitute “socio-economic groups” for the purposes of subsection (1), and
  - (b) whether a socio-economic group so determined is under-represented in fundable further education or fundable higher education.”>

#### **After section 14**

#### **Michael Russell**

**79** After section 14, insert—

*<Collective bargaining framework for college staff*

#### **Collective bargaining framework for college staff**

After section 15 of the 1992 Act insert—

#### **“15A Collective bargaining framework for college staff**

- (1) Before making regulations under section 3(6) of this Act which prescribe requirements which relate to collective bargaining arrangements in respect of any contracts entered into in pursuance of section 12(2)(h)(i) of this Act, the Scottish Ministers must—
  - (a) establish an advisory committee, to be known as the National Pay and Conditions Advisory Committee for Scotland’s Colleges, for the purpose of making recommendations to them, by such time as they may specify, about—
    - (i) the outcomes which the regulations should seek to achieve; and
    - (ii) how the regulations should seek to achieve those outcomes; and
  - (b) have regard to any recommendations made by the committee.
- (2) When making any such regulations, the Scottish Ministers must have regard to the desirability of ensuring that the regulations are framed in accordance with any guidance issued by the Advisory, Conciliation and Arbitration Service (ACAS) which relates to the form of schemes which govern how employees’ terms and conditions may be negotiated or determined.

- (3) A committee established under subsection (1)(a) above is to be comprised of—
  - (a) 4 persons who appear to the Scottish Ministers to be representative of the interests of boards of management;
  - (b) 4 persons who appear to the Scottish Ministers to be representative of the interests of trade unions recognised by boards of management or who otherwise appear to them to be representative of the teachers and other staff employed by boards of management;
  - (c) a person appointed by the Council (such person being a member of the Council or an employee of the Council); and
  - (d) other persons appointed by the Scottish Ministers.
- (4) The Scottish Ministers may—
  - (a) make or authorise the Council to make further provision about the constitution, remit or procedure of the committee,
  - (b) provide or authorise the Council to provide the committee with financial or other support (including by paying allowances to members of the committee in respect of expenses).”.>

**Clare Adamson**

80 After section 14, insert—

*<Equal opportunities*

**Equal opportunities: post-16 education bodies etc.**

After section 26 of the 2005 Act insert—

**“26A Equal opportunities: post-16 education bodies etc.**

- (1) Every post-16 education body and regional strategic body must, when making appointments to its governing body or exercising any of its other functions, do so in a manner which encourages equal opportunities and in particular the observance of the equal opportunities requirements.
- (2) In subsection (1), “equal opportunities” and “equal opportunity requirements” have the same meanings as in Section L2 (equal opportunities) of Part II of Schedule 5 to the Scotland Act 1998 (c.46).”.>

**Schedule**

**Liz Smith**

81 In the schedule, page 32, line 14, at end insert—

- <( ) in subsection (2)(g), omit “subject to subsection (7)(a) below and section 18 of this Act”,
- ( ) in subsection (2)(j), omit “subject to subsection (7)(a) below and the said section 18”,
- ( ) in subsection (2)(l), omit “subject to subsection (7)(a) below and the said section 18”,>

**Liz Smith**

- 82 In the schedule, page 32, line 18, at end insert—  
<( ) omit subsection (7).>

**Liz Smith**

- 83 In the schedule, page 32, line 18, at end insert—  
<( ) Section 18 (disposal of certain property) is repealed.>

**Michael Russell**

- 84 In the schedule, page 32, line 33, at end insert <; or  
(b) it is made under section 12(8) of this Act.”>

**Michael Russell**

- 85 In the schedule, page 32, line 39, leave out from <“6” to <5B”> and insert <the words from “6” to the end of the sub-paragraph substitute “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 3A(2)(b) to (e) 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 (b) to (d) 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.”>

**Michael Russell**

- 86 In the schedule, page 33, line 3, after <3A(2)(b)> insert <or (ba)>

**Michael Russell**

- 87 In the schedule, page 33, line 21, after <(c)> insert <or 3A(2)(b) or (ba)>

**Michael Russell**

- 88 In the schedule, page 33, leave out lines 24 to 26

**Neil Bibby**

- 115 In the schedule, page 34, line 7, after <has> insert <within 4 years of the date on which the appointment would take effect,>

**Michael Russell**

- 89 In the schedule, page 34, line 7, after <Act> insert <(in relation to any college)>

**Michael Russell**

- 90 In the schedule, page 34, line 8, after <2005> insert <(in relation to any regional board)>

**Michael Russell**

- 91 In the schedule, page 34, line 39, at end insert—
- <(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 23N 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)(e) or 3A(2)(d), 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.>

**Neil Findlay**

- 2 In the schedule, page 35, line 6, at end insert—
- <( ) in paragraph 17, after sub-paragraph (1) insert—
    - “(1A) Before determining the terms and conditions for any employee under sub-paragraph (1), the board must consult any body established by the Scottish Ministers for the consideration or negotiation of pay and conditions of college staff.”>

**Michael Russell**

- 92 In the schedule, page 35, line 6, at end insert—
- <Education Act 1994 (c.30)
- In section 21(2)(b) of the Education Act 1994, for the words from “, or” to “4(1)” substitute “is established in pursuance of Part 1”>

**Michael Russell**

- 93 In the schedule, page 36, leave out line 17 and insert—
- <( ) In section 7—
    - (a) in subsection (2)—
      - (i) after paragraph (f) insert—
        - “(fa) arrangements for the purpose of seeking to ensure that the interests of the body’s students are represented by a students’ association;”
      - (ii) in paragraph (h), for third “fundable” substitute “post-16 education”,
      - (iii) omit the word “and” appearing after paragraph (h),
      - (iv) after paragraph (h) insert—

“(ha) where the body is a regional strategic body, procedures and arrangements for the administration by the body of the funds mentioned in section 12A(2) and for the exercise of its other functions as a regional strategic body; and”,

(b) after subsection (2) insert—

“(2A) Paragraph (ha) of subsection (2) applies only where the Council is considering whether to remove the entry relating to the body concerned from schedule 2.”,

(c) in subsection (4), for “(h)” substitute “(ha)”.>

**Michael Russell**

**116** In the schedule, page 36, line 29, after <provision> insert <(not being provision mentioned in paragraph (a))>

**Michael Russell**

**117** In the schedule, page 36, line 30, at end insert—

<( ) Subsection (2)(a) applies only where the college of further education concerned is one whose board of management is established in pursuance of Part 1 of the 1992 Act.>

**Michael Russell**

**118** In the schedule, page 36, line 31, leave out <Such an order may, in particular, make> and insert <Provision under subsection (2)(a) may include>

**Michael Russell**

**94** In the schedule, page 37, line 37, after <concerning> insert <fundable>

**Michael Russell**

**95** In the schedule, page 37, line 39, leave out from <, when> to end of line 41 and insert <—

(i) to comply with any matters concerning regional strategic bodies generally as the Scottish Ministers may specify; or

(ii) when making a payment to any of its colleges under section 12B(1), to impose on the college a requirement to comply with any matters concerning post-16 education bodies or any class of them as the Scottish Ministers may specify.”.>

**Michael Russell**

**96** In the schedule, page 38, line 14, leave out <(4)> and insert <(4)(a) or (b)(ii)>

**Michael Russell**

**97** In the schedule, page 38, line 14, leave out <, 9AA or 9B> and insert <or 9AA>

**Michael Russell**

98 In the schedule, page 39, line 30, at end insert—

<( ) after subsection (9) (as inserted by section (*Council to have regard to desirability of widening access*)), insert—

- “(10) The Council is to inform each regional college and each regional strategic body of—
- (a) the needs and issues in relation to Scotland identified by the Council for the purposes of subsection (1); and
  - (b) the under-represented socio-economic groups identified by the Council for the purposes of subsection (4A).”>

**Michael Russell**

119 In the schedule, page 40, line 29, at end insert—

<( ) After section 25 insert—

**“25A Provision of information**

- (1) A person mentioned in subsection (2) must provide the Scottish Ministers with such information as they may reasonably require for the purposes of or in connection with the exercise of any of their functions under this Act.
- (2) Those persons are—
  - (a) a regional strategic body; or
  - (b) a college of further education which is—
    - (i) a regional college; or
    - (ii) assigned to a regional strategic body by order made under section 7C(1).”>

**Michael Russell**

120 In the schedule, page 41, line 18, at end insert—

<( ) an order under section 23L(11);”>.

**Michael Russell**

99 In the schedule, page 42, line 22, at end insert—

<( ) In schedule 1, in paragraph 4—

- (a) the existing provision becomes sub-paragraph (1); and
- (b) after that sub-paragraph insert—

- “(2) A person is disqualified from appointment as a member of the Council if that 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 the 1992 Act (in relation to any college) or section 23N of this Act (in relation to any regional board).
- (3) For the purposes of sub-paragraph (2)(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 adjusted 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.
- (4) A person is disqualified from holding office as a member of the Council if that person—
- (a) is sentenced as mentioned in sub-paragraph (2)(a);
  - (b) has become a person to whom sub-paragraph (2)(b) applies; or
  - (c) is removed from office as mentioned in sub-paragraph (2)(c).”.>



© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website - [www.scottish.parliament.uk](http://www.scottish.parliament.uk) or by contacting Public Information on 0131 348 5000.

---

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by APS Group Scotland

---

All documents are available on  
the Scottish Parliament website at:

[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

For details of documents available to  
order in hard copy format, please contact:  
APS Scottish Parliament Publications on 0131 629 9941.

For information on the Scottish Parliament contact  
Public Information on:

Telephone: 0131 348 5000  
Textphone: 0800 092 7100  
Email: [sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

---

ISBN 978-1-78351-455-7

---