

# Post-16 Education (Scotland) Bill

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## 1st Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 16	Schedule
Sections 17 to 19	Long Title

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

### Section 2

#### Liz Smith

- 12 In section 2, page 1, line 18, leave out <or management>

#### Michael Russell

- 7 In section 2, page 1, line 18, leave out <Scottish Ministers> and insert <Council>

### After section 2

#### Jenny Marra

- 13 After section 2 insert—

**<Higher education institutions: gender quotas**

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

**“9AD 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

#### Liam McArthur

- 1 In section 3, page 1, line 23, leave out from <terms> to end of line 4 on page 2 and insert <a condition that the Council must, when making a payment to a higher education institution under section 12(1), require the institution to comply with a widening access agreement.>

#### Neil Findlay

- 14 In section 3, page 1, line 25, after <group> insert <, or persons having any protected characteristic,>

**Mark Griffin**

- 15 In section 3, page 2, line 4, leave out <specify> and insert <approve>

**Liam McArthur**

- 2 In section 3, page 2, line 6, leave out <specified by> and insert <proposed by the institution and agreed with>

**Liam McArthur**

- 3 In section 3, page 2, line 8, leave out <belonging to socio-economic groups> and insert <with one or more socio-economic characteristics>

**Neil Findlay**

- 16 In section 3, page 2, line 9, after <groups> insert <, or persons having any protected characteristic,>

**Marco Biagi**

- 17 In section 3, page 2, line 10, at end insert—
- <( ) Before specifying any actions under subsection (3) in relation to any particular higher education institution, the Council must consult—
    - (a) the institution;
    - (b) the representatives of any trade union which the institution recognises or which otherwise appears to the Council to be representative of its staff; and
    - (c) the institution’s students’ association.>

**Mark Griffin**

- 18 In section 3, page 2, line 10, at end insert—
- <( ) When formulating a widening access agreement, each higher education institution is obliged to consult with—
    - (a) the representatives of any trade union which the institution recognises as representative of its staff; and
    - (b) the institution’s students’ association.>

**Liam McArthur**

- 4 In section 3, page 2, line 11 leave out <a socio-economic group is> and insert <persons with a socio-economic characteristic are>

**Neil Findlay**

- 19 In section 3, page 2, line 11, after <is> insert <, or persons having any protected characteristic are,>

**Liam McArthur**

- 5 In section 3, page 2, line 13, leave out <in that group> and insert <with that characteristic>

**Neil Findlay**

- 20 In section 3, page 2, line 13, after <group> insert <or having that protected characteristic>

**Joan McAlpine**

- 8 In section 3, page 2, line 13, at end insert—

<( ) The Scottish Ministers 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 this section.”.>

**Neil Findlay**

- 21 In section 3, page 2, line 13, at end insert—

<( ) For the purposes of this section, a reference to a protected characteristic is to be taken as a reference to those characteristics listed in section 4 of the Equality Act 2010 (c.15).”.>

**Marco Biagi**

- 22 In section 3, page 2, line 13, at end insert—

**<9BA Regular review of widening access**

- (1) The Council must regularly review the impact the provisions of section 9B of this Act have had in relation to widening access to higher education by—
  - (a) persons belonging to any socio-economic group considered to be under-represented in such education;
  - (b) persons belonging to any other group which may reasonably be considered to be under-represented in such education.
- (2) On completing a review under subsection (1), the Council must provide a report of the review to the Scottish Ministers which—
  - (a) sets out the conclusions which 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.
- (3) For the purposes of subsection (1) “regularly” means a period of time which does not exceed three years since the last review under subsection (1) was conducted.
- (4) The first review under subsection (1) must be completed within the period of three years beginning on the day the Post-16 Education (Scotland) Act 2013 receives Royal Assent.”.>

### After section 3

**Neil Findlay**

**23\*** 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 4

**Michael Russell**

**9** In section 4, page 2, line 33, after <attending> insert <in an academic year>

**Neil Findlay**

**24** In section 4, page 2, line 35, at end insert—

<( ) Before making an order under this section, the Scottish Ministers must require the Council to ensure that any fundable post-16 education body to whom a payment is likely to be made has established appropriate arrangements for—

- (a) attracting applications from prospective students who belong to groups which are under-represented in higher education;
- (b) providing financial assistance through grants, bursaries and scholarships with the purpose of removing barriers to entry and progression in such education for students belonging to such groups;
- (c) making available to students and prospective students information about financial assistance available to them; and
- (d) promoting equality of opportunity in such education.>

**Neil Findlay**

**25** In section 4, page 3, line 2, leave out <in any particular academic year>

**Liz Smith**

- 26 In section 4, page 3, line 3, leave out from <which> to <course> in line 5 and insert <, as prescribed in any enactment, payable in respect of any course of education>

**Neil Findlay**

- 27 In section 4, page 3, line 6, leave out <during that year>

**Liz Smith**

- 28 In section 4, page 3, line 6, at end insert insert <, whether payable by the person attending the course of education elsewhere in the United Kingdom or by any other person or public authority.>

**Section 6**

**Liz Smith**

- 29 In section 6, page 5, line 16, after <board> insert <; and  
( ) the principal of the college.>

**Liz Smith**

- 30 In section 6, page 5, leave out line 20

**Liz Smith**

- 31 In section 6, page 5, leave out lines 29 and 30

**Liz Smith**

- 32 In section 6, page 6, line 2, at end insert—  
<( ) other members appointed by the board; and>

**Liz Smith**

- 33 In section 6, page 6, line 3, leave out lines 3 and 4

**Liz Smith**

- 34 In section 6, page 6, line 5, leave out <if appointed under sub-paragraph (3),>

**Liz Smith**

- 35 In section 6, page 6, leave out lines 6 to 8

**Liz Smith**

- 36 In section 6, page 6, line 8, at end insert—

<( ) The board of a college which is not a regional college in exercising its functions shall comply with any principles of governance which appear to the Scottish Ministers to constitute good practice in relation to the board of a college which is not a regional college.>

**Liz Smith**

37 In section 6, page 6, line 26, leave out <or (e)>

**Liz Smith**

38 In section 6, page 6, line 27, leave out <or (d)>

### **Section 7**

**Liz Smith**

39 In section 7, page 7, line 24, after <board> insert <(other than the principal of the college)>

**Liz Smith**

40 In section 7, page 7, line 25, leave out <or (e)>

**Liz Smith**

41 In section 7, page 7, line 26, leave out <or (d)>

### **Section 9**

**Liz Smith**

42 In section 9, page 10, line 36, at end insert—

<( ) the requirement that its colleges comply with any principles of governance which appear to the Scottish Ministers to constitute good practice in relation to assigned colleges.>

### **After section 9**

**Liam McArthur**

**Supported by: Liz Smith**

43 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 principles relating to its governance structure, or its administrative arrangements when allocating funds to any of its colleges, 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**

### **Liz Smith**

44 In section 10, page 15, line 27, leave out <require> and insert <request>

### **Liz Smith**

45 In section 10, page 15, line 29, leave out <requirement> and insert <request>

### **Liz Smith**

46 In section 10, page 15, line 32, leave out <requirement> and insert <request>

### **Liz Smith**

47 In section 10, page 16, line 7, leave out <requirement> and insert <request>

### **Liz Smith**

48 In section 10, page 16, line 10, leave out <requirement> and insert <request>

### **Liz Smith**

49 In section 10, page 16, leave out lines 26 and 27

### **Liz Smith**

50 In section 10, page 16, line 28, leave out <requirement> and insert <request>

### **Liz Smith**

51 In section 10, page 16, line 29, leave out <falling within subsection (9)>

### **Liz Smith**

52 In section 10, page 16, line 30, leave out <requirement> and insert <request>

### **Liz Smith**

53 In section 10, page 16, leave out lines 31 to 35

## Section 11

**Liz Smith**

- 54 In section 11, page 18, leave out line 21

**Liz Smith**

- 55 In section 11, page 19, line 16, after <bankrupt;> insert—  
<( ) is under 16 years of age;>

## Section 12

**Liz Smith**

- 56 In section 12, page 24, line 27, leave out <or (e)>

## Section 13

**Liz Smith**

- 57 In section 13, page 25, line 10, leave out <or, as the case may be, (e)>

## After section 13

**Liz Smith**

**Supported by: Liam McArthur**

- 58 After section 13, insert—

*<Terms and conditions of college funding*

### **Terms and conditions of college funding**

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

#### **“9AA Regional colleges: good governance**

The Scottish Ministers may, under section 9(2), impose a condition that the Council must, when making a payment to a regional college under section 12(1), require the regional college to comply with any principles of governance which appear to the Scottish Ministers to constitute good practice in relation to regional colleges.

#### **9AB Regional boards: good governance**

The Scottish Ministers may, under section 9(2), impose a condition that the Council must, when making a payment to a regional board under section 12(1), require the regional board to comply with any principles of governance which appear to the Scottish Ministers to constitute good practice in relation to regional boards.”.>

**Liam McArthur**

- 59 After section 13, insert—

*<Terms and conditions of college funding*

**Terms and conditions of college funding**

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

**“9AC Other regional strategic bodies: good governance**

The Scottish Ministers may, under section 9(2), impose a condition that the Council must, when making a payment to any other regional strategic body under section 12(1), require the regional strategic body to comply with any principles of governance which appear to the Scottish Ministers to constitute good practice in relation to regional strategic bodies.”.>

**Section 14**

**Joan McAlpine**

11 In section 14, page 27, line 4, at end insert—

**<14B Review of fundable further and higher education: Dumfries and Galloway**

- (1) The Council must from time to time review the arrangements for the delivery of fundable further and higher education in the Dumfries and Galloway local authority area and report to the Scottish Ministers.
- (2) When conducting a review under subsection (1), the Council must consult—
  - (a) The Crichton Foundation,
  - (b) The University of Glasgow,
  - (c) The University of the West of Scotland,
  - (d) Dumfries and Galloway College,
  - (e) Dumfries and Galloway Council,
  - (f) The Open University,
  - (g) SRUC (Scotland’s Rural College).
- (3) The Scottish Ministers may by order modify the list of persons in subsection (2).”.>

**After section 14**

**Marco Biagi**

60 After section 14, insert—

*<The Council: exercise of functions*

**The Council: exercise of functions**

In section 20 of the 2005 Act, after subsection (1), insert—

“(1A) In exercising its functions, the Council is to have regard to—

- (a) the desirability of enabling, encouraging or increasing participation in fundable further and higher education by persons belonging to socio-economic groups which are under-represented in such education; and

- (b) the desirability of promoting collaboration and the sharing of good practice with and between post-16 education bodies in relation to the matters described in paragraph (a).”.>

**Liam McArthur**

- 61 After section 14, insert—

*<The Council: duty on widening access*

**The Council: duty on widening access**

After section 19 of the 2005 Act, insert—

*The Council: duty on widening access*

**“19A Duty on widening access**

The Council must make arrangements to ensure that work is undertaken to research, identify and formulate good practice in those actions that are best designed to enable, encourage or increase participation in fundable higher education by persons with a socio-economic characteristic which is under-represented in such education.”.>

**Section 15**

**Liam McArthur**

- 62 In section 15, page 27, line 30, leave out <negative> and insert <affirmative>

**Schedule**

**Liz Smith**

- 63 In the schedule, page 30, line 6, leave out <Except where sub-paragraph (2D) applies,>

**Liz Smith**

- 64 In the schedule, page 30, line 10, leave out <Except where sub-paragraph (2D) applies,>

**Liz Smith**

- 65 In the schedule, page 30, leave out lines 13 to 16

**Liz Smith**

- 66 In the schedule, page 30, line 28, leave out <at the time of appointment>

**Liz Smith**

- 67 In the schedule, page 30, line 30, leave out <before the member’s period of appointment ends>

**Liz Smith**

- 68 In the schedule, page 30, line 41, after <bankrupt;> insert—

<( ) is under 16 years of age;>

**Liz Smith**

69 In the schedule, page 31, leave out lines 33 and 34

**Liz Smith**

70 In the schedule, page 31, leave out lines 37 to 40

**Michael Russell**

10 In the schedule, page 35, line 6, at end insert—

<( ) omit the word “fundable”,>

**Liam McArthur**

6 In the schedule, page 35, leave out lines 9 to 13



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