Draft Order laid before the Scottish Parliament under section 60(2A)(a) of the Further and Higher Education (Scotland) Act 1992 and section 34(4)(bc) of the Further and Higher Education (Scotland) 2005, for approval by resolution of the Scottish Parliament.

D R A F T S C O T T I S H S T A T U T O R Y I N S T R U M E N T S

2014 No.

EDUCATION

The Lanarkshire Colleges Order 2014

Made - - - -	*2014*
Coming into force - -	*1st October 2014*

The Scottish Ministers make the following order in exercise of the powers conferred by sections 3(5) and 60(3) of the Further and Higher Education (Scotland) Act 1992(**a**) and by sections 7A(1), 7B(2), 7C(1) and 34(2) of the Further and Higher Education (Scotland) Act 2005(**b**) and all other powers enabling them to do so.

In accordance with section 7A(2) of the Further and Higher Education (Scotland) Act 2005, they have consulted with the board of management of New College Lanarkshire, to which this order relates, the representatives of any trade union which the college recognises or which otherwise appears to the Scottish Ministers to be representative of the college's staff, the college's students' association, the local authorities for the areas in which the college is situated, the Scottish Further and Higher Education Funding Council and other persons appearing to them as likely to be affected by article 2 of the Order.

In accordance with section 7B(3) of the Further and Higher Education (Scotland) Act 2005, they have consulted with the Scottish Further and Higher Education Funding Council, the local authorities for the areas in which South Lanarkshire College provides fundable further education or fundable higher education which is to be funded by the regional strategic body and other persons appearing to them as likely to be affected by article 3 of the Order.

In accordance with section 7C(6) of the Further and Higher Education (Scotland) Act 2005, they have consulted with the boards of management of New College Lanarkshire and South Lanarkshire College, to which this Order relates, the representatives of any trade union which is recognised by the colleges or which otherwise appears to the Scottish Ministers to be representative of the colleges' staff, the colleges' students' associations, the Scottish Further and Higher Education Funding Council, the local authorities for the areas in which the colleges are situated, and other persons appearing to them as likely to be affected by article 4 of the Order.

(**a**) 1992 c.37.

(**b**) 2005 asp 6. Section 7A was inserted by section 5(1) of the Post-16 Education (Scotland) Act 2013 (asp 12) ("the 2013 Act"). Section 7B was inserted by section 8(1) of the 2013 Act. Section 7C was inserted by section 8(3) of the 2013 Act.

In accordance with section 60(2A)(a) of the Further and Higher Education (Scotland) Act 1992 and 34(4)(bc) of the Further and Higher Education (Scotland) Act 2005, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Lanarkshire Colleges Order 2014 and comes into force on 1st October 2014.

(2) In this Order—

"the 1992 Act" means the Further and Higher Education (Scotland) Act 1992; and

"the 2005 Act" means the Further and Higher Education (Scotland) Act 2005.

Designation of Regional College

2.—(1) The board of management of New College Lanarkshire(**a**) whose board of management is established in pursuance of Part 1 of the 1992 Act is designated as a regional college.

(2) The designation of the board of management of New College Lanarkshire as a regional college by paragraph (1) is to remain in effect notwithstanding any change of its name.

Regional Strategic Bodies

3. In schedule 2A to the 2005 Act(**b**)—

(a) in Part 1, omit "Regional Board for Lanarkshire Colleges"; and

(b) in Part 2, before the entry for the University of the Highlands and Islands, insert "New College Lanarkshire".

Assigned College

4.—(1) The board of management of South Lanarkshire College(**c**) is assigned to New College Lanarkshire(**d**).

(2) The board of management of South Lanarkshire College is to remain assigned to New College Lanarkshire notwithstanding any change of name of South Lanarkshire College.

Modification of Schedule 2 to the Further and Higher Education (Scotland) Act 1992

5.—(1) In Schedule 2 to the 1992 Act(**e**), after paragraph 3(4) insert—

"(5) In relation to the board of New College Lanarkshire, this paragraph is to be read subject to the modifications set out in article 5(2) of the Lanarkshire Colleges Order 2014(**f**).".

(**a**) New College Lanarkshire is prescribed by S.I. 1992/1597. The name of New College Lanarkshire was changed from Motherwell College on 1st November 2013 in accordance with section 3(4) of the Further and Higher Education (Scotland) Act 1992 ("the 1992 Act"). Section 3(4) of the 1992 Act was amended by section 30 of the Further and Higher Education (Scotland) Act 2005 ("the 2005 Act"). A "college of further education" is defined as the governing body of the college by section 35(1) of the 2005 Act, as amended by paragraph 8(23)(a)(i) of the schedule to the 2013 Act.

(**b**) Schedule 2A was inserted into the 2005 Act by section 8 of the 2013 Act.

(**c**) South Lanarkshire College is prescribed by S.I. 1992/1597. The name of South Lanarkshire College was changed from Cambuslang College on 1st March 1999 by S.I. 1999/16.

(**d**) New College Lanarkshire is a regional strategic body listed in Part 2 of schedule 2A to the 2005 Act by virtue of article 3 of this Order.

(**e**) Schedule 2 to 1992 Act was amended by section 6(1) of, and paragraph 2(7) of the schedule to, the 2013 Act.

(**f**) S.S.I. 2014/XXX.

(2) The modifications referred to in paragraph 3(5) of Schedule 2 to the 1992 Act are as follows—

(a) in paragraph 3(1)—

(i) for "15" substitute "19"; and

(ii) for "18" substitute "22";

(b) in paragraph 3(2)(e), for "two persons" substitute "a person";

(c) insert the following paragraphs at the end of paragraph 3(2)(e) immediately before "and"—

"(ea) the chairing member of the board of South Lanarkshire College appointed under paragraph 3A(2)(a);

(eb) subject to sub-paragraph (4A), the principal of South Lanarkshire College;

(ec) the person appointed under paragraph 3A(2)(c) to the board of South Lanarkshire College;

(ed) the person appointed under paragraph 3A(2)(d) to the board of South Lanarkshire College;

(ee) a person appointed by being nominated by the students' association of South Lanarkshire College from among the students of South Lanarkshire College;" and

(d) insert the following sub-paragraph after paragraph 3(4)—

"(4A) A person is disqualified from being part of the board of New College Lanarkshire under paragraph 3(2)(eb) if the person has previously been removed from the board of New College Lanarkshire under section 24.".

(3) In Schedule 2 to the 1992 Act, after paragraph 5(5), insert—

"(6) In relation to the board of New College Lanarkshire, this paragraph is to be read subject to the modifications set out in article 5(4) of the Lanarkshire Colleges Order 2014.".

(4) The modifications referred to in paragraph 5(6) of Schedule 2 to the 1992 Act are as follows—

(a) in paragraph 5(1)(b), for "3(2)(c) to (f)" substitute "3(2)(c) to (e), (ee) or (f)";

(b) in paragraph 5(2)(b), insert ", 3(2)(ee)" after "3(2)(e)";

(c) insert at the end of paragraph 5(2)(b) immediately before "and"—

"(ba) a member appointed in pursuance of paragraph 3(2)(ea) to (ed), as a member of the board of New College Lanarkshire, is to hold office until that person's eligibility for appointment under whichever of paragraphs 3(2)(ea) to (ed) they were appointed to the board of New College Lanarkshire ceases;";

(d) after paragraph 5(2G), insert—

"(2H) A member appointed in pursuance of paragraph 3(2)(ee) is to vacate office if the member ceases to be a student of South Lanarkshire College before the member's period of appointment ends."; and

(e) in paragraph 5(5), after "college" where it first appears insert "or any person appointed under paragraph 3(2)(ea) to (ed)".

(5) In Schedule 2 to the 1992 Act, after paragraph 5C, insert—

"5D In relation to the board of New College Lanarkshire, paragraph 5C is to be read subject to the modification set out in article 5(6) of the Lanarkshire Colleges Order 2014.".

(6) The modification referred to in paragraph 5D of Schedule 2 to the 1992 Act is that "or any person appointed under paragraph 3(2)(ea) to (ed)" is inserted after "college" in paragraph 5C.

Name
A member of the Scottish Government

St Andrew's House,
Edinburgh
Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in relation to New College Lanarkshire and South Lanarkshire College.

Article 2(1) designates the board of management of New College Lanarkshire as a regional college. Article 2(2) provides that the designation as a regional college remains in force notwithstanding any change of name of New College Lanarkshire.

Article 3 amends schedule 2A to the Further and Higher Education (Scotland) Act 2005 by removing the entry for the Regional Board for Lanarkshire Colleges from Part 1 of that schedule and by inserting New College Lanarkshire as an other regional strategic body into Part 2 of that schedule.

Article 4 assigns the board of management of South Lanarkshire College to the regional strategic body, New College Lanarkshire, which is a regional strategic body by virtue of article 3. Article 4(2) provides that the board of management of South Lanarkshire College remains assigned to New College Lanarkshire notwithstanding any change of name of either college.

Article 5 makes provision under the Further and Higher Education (Scotland) Act 1992 ("the 1992 Act") to amend Schedule 2 to the 1992 Act to alter the constitution of the board of management of New College Lanarkshire to reflect its new role as a regional strategic body. Article 5(1), (3) and (5) amend Schedule 2 to the 1992 Act to make it clear that paragraphs 3, 5 and 5C of that Schedule apply to the board of management of New College Lanarkshire as modified by this Order.

Article 5(2)(a) increases the size of the board of management of New College Lanarkshire so that it must have at least 19 and not more than 22 members. Article 5(2)(b) reduces from two to one the number of students from New College Lanarkshire on the board. Article 5(2)(c) provides that chairing member of the board of South Lanarkshire College, as well as the principal of South Lanarkshire College and the two elected members of staff on the board of South Lanarkshire College will also be members of the board of management of New College Lanarkshire. It also makes provision that one student from South Lanarkshire College is a member of the board of management of New College Lanarkshire. Article 5(2)(d) provides that, if the principal of South Lanarkshire College has been removed from the board of management of New College Lanarkshire under section 24 of the 1992 Act, that person would be disqualified from being part of the board of management of New College Lanarkshire.

Article 5(4) and (6) makes consequential amendments to the provisions in Schedule 2 to the 1992 Act regarding qualifications, tenure of office and resignation of the additional members of the board of management of New College Lanarkshire.

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£4.25

S2014061216 06/2014 19585

http://www.legislation.gov.uk/id/sdsi/2014/9780111023907

ISBN 978-0-11-102390-7

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