SCOTTISH STATUTORY INSTRUMENTS

2013 No. 181

EDUCATION

The James Watt College (Transfer and Closure) (Scotland) Order 2013

Made - - - -	*29th May 2013*
Laid before the Scottish Parliament	*31st May 2013*
Coming into force - -	*1st August 2013*

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 3(1)(c), 25(1), (1A), (2) and (5) and 60(3) of the Further and Higher Education (Scotland) Act 1992(**a**) and of all other powers enabling them to do so.

In accordance with section 5(1) of that Act, they have consulted the education authorities for the areas in which James Watt College is situated and any other person appearing to them to be affected by the proposal.

In accordance with section 25(7) of that Act, the Board of Management of Ayr College and the Board of Management of Clydebank College have consented to the transfer and vesting of property, rights, liabilities and obligations provided for in this Order.

Citation and commencement

1. This Order may be cited as the James Watt College (Transfer and Closure) (Scotland) Order 2013 and comes into force on 1st August 2013.

Interpretation

2. In this Order—

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

"the Ayr Board" means the Board of Management of Ayr College(**b**) established as a body corporate by section 11(2) of the 1992 Act, which is a charity entered in the Scottish Charity Register, charity number SC021177;

(**a**) 1992 c.37. Section 3(1) was amended by the Further and Higher Education (Scotland) Act 2005 (asp 6) ("the 2005 Act"), section 32 and schedule 3, paragraph 6(1)(a). Section 25 was amended by section 29(1) of the 2005 Act and by S.S.I. 2006/216. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(**b**) Ayr College is a college of further education prescribed under section 11(1) of the Further and Higher Education (Scotland) Act 1992 ("the 1992 Act") by S.I. 1992/1597.

"the Clydebank Board" means the Board of Management of Clydebank College(**a**) established as a body corporate by section 11(2) of the 1992 Act, which is a charity entered in the Scottish Charity Register, charity number SC021185;

"enactment" has the meaning given in schedule 1 to the Interpretation and Legislative Reform (Scotland) Act 2010(**b**);

"Finnart Campus" means the James Watt College at Finnart Street, Greenock, PA16 8HF;

"James Watt" means the institution named James Watt College being a college of further education prescribed under section 11(1) of the 1992 Act(**c**);

"the James Watt Board" means the Board of Management of James Watt College established as a body corporate by section 11(2) of the 1992 Act;

"Largs Campus" means the James Watt College at Sport Scotland, Burnside Road, Largs, KA30 8RW;

"Nethermains Campus" means the James Watt College at Units 6, 8 and 10 Kelvin Avenue, Nethermains Industrial Estate, Kilwinning, KA13 6PS;

"North Ayrshire Campus" means the James Watt College at Laughlan Way, Kilwinning, KA13 6DE;

"the vesting date" means 1st August 2013; and

"Waterfront Campus" means the James Watt College at Customhouse Way, Greenock, PA15 1EN.

Transfer of property, rights, liabilities and obligations

3.—(1) There is transferred to and vested in the Ayr Board all property, rights, liabilities and obligations of the James Watt Board in relation to Largs Campus, Nethermains Campus and North Ayrshire Campus.

(2) There is transferred to and vested in the Clydebank Board all property, rights, liabilities and obligations of the James Watt Board in relation to Finnart Campus and Waterfront Campus.

(3) There is transferred to and vested in the Ayr Board and the Clydebank Board jointly and severally all property, rights, liabilities and obligations, which have not transferred under paragraph (1) or (2) above.

(4) Any references to James Watt or the James Watt Board in any instrument are to be taken on or after the vesting date as referring to the Ayr Board if transferred in accordance with paragraph (1), or the Clydebank Board if transferred in accordance with paragraph (2), or the Ayr Board and the Clydebank Board jointly and severally if transferred in accordance with paragraph (3).

(5) Any action or proceeding by or against the James Watt Board pending or current, immediately before this Order comes into force, may be continued by or against the Ayr Board, or the Clydebank Board, or the Ayr Board and the Clydebank Board jointly and severally.

(6) For the purposes of this article, "instrument" does not include enactment.

(7) This article applies subject to the provisions of article 5.

Property provided with grand aid

4. Where the Grant-aided Colleges (Scotland) Grant Regulations 1989(**d**) applied to the James Watt Board in respect of any land or buildings immediately before they were transferred by this Order, those Regulations apply, in respect of such land and buildings, to the Ayr Board (if transferred in accordance with article 3(1)), to the Clydebank Board (if transferred in accordance

(**a**) Clydebank College is a college of further education prescribed under section 11(1) of the 1992 Act by S.I. 1992/1597.
(**b**) 2010 asp 10.
(**c**) James Watt College is prescribed by S.I. 1992/1597.
(**d**) S.I. 1989/433, amended by S.I. 1993/489.

with article 3(2)) or to the Ayr Board and the Clydebank Board jointly and severally (if transferred in accordance with article 3(3)).

Transfer of staff

5.—(1) All employees of the James Watt Board are transferred to either—

(a) the Ayr Board, where an employee performs the whole or substantial part of their duties from Largs Campus, Nethermains Campus or North Ayrshire Campus; or

(b) the Clydebank Board, where an employee performs the whole or substantial part of their duties from Finnart Campus or Waterfront Campus,

and the contract of employment of each such employee has effect as if originally made between each such employee and the Ayr Board (if transferred in accordance with paragraph (a)) or the Clydebank Board (if transferred in accordance with paragraph (b)).

(2) In particular—

(a) all the rights, powers, duties and liabilities of the James Watt Board under or in connection with a contract to which paragraph (1) applies are, by virtue of this paragraph, transferred to either the Ayr Board (if transferred in accordance with paragraph (1)(a)) or the Clydebank Board (if transferred in accordance with paragraph (1)(b)); and

(b) anything done before the transfer referred to in paragraph (1) by or in relation to the James Watt Board in respect of that contract or the employee is deemed, on and after that transfer, to have been done by or in relation to either the Ayr Board (if transferred in accordance with paragraph (1)(a)) or the Clydebank Board (if transferred in accordance with paragraph (1)(b)).

(3) Paragraphs (1) and (2) are without prejudice to any right of an employee to terminate their contract of employment if the terms and conditions of employment are changed substantially to the detriment of that employee, but such change is not to be taken to have occurred by reason only of the fact that the employer under that employee's contract of employment is changed by virtue of this article.

(4) Paragraphs (1) and (2) apply to a person who has entered into a contract of employment with the James Watt Board, which is to come into effect after the vesting date and who would, if the contract had come into effect before that date, have been an employee to whom those paragraphs would have applied.

Closure of institution

6. James Watt is closed and the James Watt Board is wound up and dissolved.

MICHAEL RUSSELL
A member of the Scottish Government

St Andrew's House,
Edinburgh
29th May 2013

EXPLANATORY NOTE

(This note is not part of the Order)

On 1st August 2013 James Watt College will cease to exist.

This Order transfers the whole property, rights, liabilities and obligations of the Board of Management of James Watt College to the Boards of Management of Ayr College and Clydebank College (article 3). Consequential provision is made in relation to property that was provided to the Board of Management of James Watt College with the aid of grant (article 4). Staff are transferred to either the Board of Management of Ayr College or the Board of Management of Clydebank College without a break in their employment (article 5). James Watt College is closed and the Board of Management is wound up (article 6).

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