

2012 No. 238

EDUCATION

**The Jewel and Esk College and Stevenson College Edinburgh
(Transfer and Closure) (Scotland) Order 2012**

Made - - - - *28th August 2012*

Laid before the Scottish Parliament *30th August 2012*

Coming into force - - *1st October 2012*

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 authority for the area in which each of Jewel and Esk College and Stevenson College Edinburgh 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 Edinburgh's Telford College has 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 Jewel and Esk College and Stevenson College Edinburgh (Transfer and Closure) (Scotland) Order 2012 and comes into force on 1st October 2012.

Interpretation

2. In this Order—

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

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

“Jewel and Esk” means the institution named Jewel and Esk College being a college of further education prescribed under section 11(1) of the 1992 Act(c);

(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) 2010 asp 10.

(c) Jewel and Esk College is prescribed by S.I. 1992/1597. The name of Jewel and Esk College was changed from “Jewel and Esk Valley College” on 30th November 2007 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 2005 Act.

“the Jewel and Esk Board” means the Board of Management of Jewel and Esk College established as a body corporate by section 11(2) of the 1992 Act;

“Stevenson” means the institution named Stevenson College Edinburgh being a college of further education prescribed under section 11(1) of the 1992 Act(a);

“the Stevenson Board” means the Board of Management of Stevenson College Edinburgh established as a body corporate by section 11(2) of the 1992 Act;

“Telford” means the institution named Edinburgh’s Telford College being a college of further education prescribed under section 11(1) of the 1992 Act(b); and

“the Telford Board” means the Board of Management of Edinburgh’s Telford College 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 SC021213.

Transfer of property, rights, liabilities and obligations

3.—(1) All property, rights, liabilities and obligations of each of the Jewel and Esk Board and the Stevenson Board are transferred to and vested in the Telford Board.

(2) Any references to Jewel and Esk, the Jewel and Esk Board, Stevenson or the Stevenson Board in any instrument is to be construed as a reference to either Telford or the Telford Board as may be appropriate.

(3) Any action or proceeding by or against any or either the Jewel and Esk Board and the Stevenson Board pending or current, immediately before this Order comes into force, may be continued by or against the Telford Board.

(4) For the purposes of this article, “instrument” does not include enactment.

Property provided with grant aid

4. Where the Grant-aided Colleges (Scotland) Grant Regulations 1989(c) applied to either of the Jewel and Esk Board or the Stevenson Board in respect of any land or buildings immediately before they were transferred by this Order, those Regulations apply to the Telford Board in respect of such land or buildings.

Transfer of staff

5.—(1) All employees of each of the Jewel and Esk Board and the Stevenson Board are transferred to the Telford Board and the contract of employment of each such employee has effect as if originally made between each such employee and the Telford Board.

(2) In particular—

(a) all the rights, powers, duties and liabilities of each of the Jewel and Esk Board and the Stevenson Board under or in connection with a contract to which paragraph (1) applies are, by virtue of this paragraph, transferred to the Telford Board; and

(b) anything done before the transfer referred to in paragraph (1) by or in relation to each of the Jewel and Esk Board and the Stevenson Board in respect of that contract or the employee is deemed, on or after that transfer, to have been done by or in relation to the Telford Board.

(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

(a) Stevenson College Edinburgh is prescribed by S.I. 1992/1597. The name of Stevenson College Edinburgh was changed from “Stevenson College” by S.S.I. 2003/297.

(b) Edinburgh’s Telford College is prescribed by S.I. 1992/1597. The name of Edinburgh’s Telford College was changed from “Telford College” by S.I. 1995/2960.

(c) S.I. 1989/433, amended by S.I. 1993/489.

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 either of the Jewel and Esk Board and the Stevenson Board, which is to come into effect after the coming into force of this article 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. Jewel and Esk and Stevenson are closed and each of the Jewel and Esk Board and the Stevenson Board is wound up and dissolved.

MICHAEL RUSSELL
A member of the Scottish Government

St Andrew's House,
Edinburgh
28th August 2012

EXPLANATORY NOTE

(This note is not part of the Order)

On 1st October 2012, Jewel and Esk College and Stevenson College Edinburgh will both cease to exist.

This Order transfers the whole property, rights, liabilities and obligations of the Boards of Management of each of Jewel and Esk College and Stevenson College to the Board of Management of Edinburgh's Telford College (article 3). It makes consequential provisions regarding property provided with the aid of a grant (article 4). It provides for the staff of Jewel and Esk College and Stevenson College Edinburgh to transfer to employment with Edinburgh's Telford College without a break in their employment (article 5). It provides for Jewel and Esk College and Stevenson College Edinburgh to be closed and their Boards of Management wound up and dissolved (article 6).

© Crown Copyright 2012

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland.

£4.00

S5627 09/2012 325627T 19585

ISBN 978-0-11-101780-7



9 780111 017807