

# HIGHER EDUCATION GOVERNANCE (SCOTLAND) ACT 2016

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 1: Governance Arrangements**

#### *Chapter 3: Key definitions*

#### *Section 19: Meaning of governing document*

40. **Section 19** sets out the meaning of the term “governing document” used in Part 1 of the Act:
- section 19(1)(a) confirms that in the case of an older university this means any ordinances made under the Universities (Scotland) Acts;
  - section 19(1)(b) confirms that for an HEI established by royal charter, a governing document is any of its charters and any statutes made under them;
  - section 19(1)(c) confirms that in the case of a “designated institution”, a governing document will be any orders of the Privy Council which are in force with respect to the HEI, except where the HEI is a registered company under the Companies Acts and it has no orders of the Privy Council in force in relation to it where the governing document is the articles of association of the HEI. Section 19(2) clarifies that the term “designated institution” means an institution designated under Part II of the 1992 Act (where the definition is found in section 44);
  - section 19(1)(d) explains that a governing document, aside from the cases set out in section 19(1)(a) to (c), means any instrument which establishes the HEI or which governs the composition of its governing body or academic board;
41. In addition to defining “designated institution”, section 19(2) provides that, “older university” is to be construed in accordance with section 16(1) of the Universities (Scotland) Act 1966. The older universities are the University of Aberdeen, the University of Edinburgh, the University of Glasgow and the University of St. Andrews. It also provides that “registered company” means a company registered under the Companies Acts as defined in section 2 of the Companies Act 2006.