

HIGHER EDUCATION GOVERNANCE (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Governance Arrangements

Chapter 1: Governing bodies

Senior lay member of governing body

Membership of governing body

Section 10: Composition of governing body

21. **Section 10** sets out the composition of the membership of an HEI's governing body. This provision is intended to introduce greater consistency in the basic composition of the governing bodies of HEIs. Section 10(1) provides that each governing body must include the members listed below. A person cannot be appointed as a member under more than one of these categories at the same time. The required members are:
- the person appointed to the position of senior lay member by virtue of section 8 (section 10(1)(a));
 - two members directly elected by the staff of the HEI from among the staff of the HEI (section 10(1)(b));
 - two members nominated by trade unions; both members must be members of staff of the HEI in question and must be members of a branch of a union that has a connection with the HEI; one member is to be nominated from among the academic staff and the other member from among the support staff of the HEI (section 10(1)(c) and (d));
 - two members nominated by a students' association of the HEI (section 10(1)(e)); the student nominees must be students of the HEI which, by virtue of section 22, includes sabbatical officers whether or not they remain as students during their period in office; and
 - other persons appointed in accordance with the governing instruments of the HEI or any enactment (section 10(1)(f)); this leaves the governing body to appoint the remaining members as it wishes, provided that this is in line with its governing instruments or any applicable legislation, for example the Universities (Scotland) Acts or individual governance orders made under section 45 of the 1992 Act.
22. **Section 10(2)** provides that a trade union nominating a person from among a category of staff must either be one that is recognised by that HEI in relation to that category of staff for collective bargaining purposes (as described in section 178(3) of the Trade Union and Labour Relations (Consolidation) Act 1992) or otherwise appears to that HEI to be representative of the category of staff, having regard to all relevant factors.