



Higher Education Governance (Scotland) Act 2016 2016 asp 15

PART 1

GOVERNANCE ARRANGEMENTS

CHAPTER 1

GOVERNING BODIES

Membership of governing body

10 Composition of governing body

- (1) The membership of the governing body of a higher education institution is to be composed of—
- (a) the person appointed to the position of senior lay member by virtue of section 8,
 - (b) 2 persons appointed by being elected by the staff of the institution from among their own number,
 - (c) 1 person appointed by being nominated by a trade union from among the academic staff of the institution who are members of a branch of a trade union that has a connection with the institution,
 - (d) 1 person appointed by being nominated by a trade union from among the support staff of the institution who are members of a branch of a trade union that has a connection with the institution,
 - (e) 2 persons appointed by being nominated by a students' association of the institution from among the students of the institution,
 - (f) such other persons as are appointed—
 - (i) by virtue of an enactment, or
 - (ii) in accordance with the governing document of the institution.

Changes to legislation: There are currently no known outstanding effects for the Higher Education Governance (Scotland) Act 2016, Cross Heading: Membership of governing body. (See end of Document for details)

- (2) For the purposes of paragraphs (c) and (d) of subsection (1), a trade union nominating a person from among a category of staff must be one that—
- (a) is recognised by the institution in relation to the category of staff, as described in section 178(3) of the Trade Union and Labour Relations (Consolidation) Act 1992, or
 - (b) otherwise appears to the institution to be representative of the category of staff, having regard to all relevant factors.

Commencement Information

II S. 10 in force at 30.12.2016 by [S.S.I. 2016/382](#), **reg. 2(1)** (with **reg. 5**)

11 Elections to governing body

- (1) This section applies in relation to an election of members to the governing body of a higher education institution for the purpose of paragraph (b) of section 10(1).
- (2) The election process is to be conducted in accordance with rules made by the governing body of the institution.
- (3) Rules under subsection (2) may include (in particular)—
 - (a) different provision for different vacancies,
 - (b) provision defining “staff” for section 10(1)(b) as—
 - (i) academic staff,
 - (ii) support staff, or
 - (iii) all staff.
- (4) Where the number of eligible candidates in a category is equal to or fewer than the number of vacancies in that category, those candidates are deemed to be elected.

Commencement Information

I2 S. 11 in force at 30.12.2016 by [S.S.I. 2016/382](#), **reg. 2(1)**

12 Nominations to governing body

- (1) This section applies in relation to a nomination of members to the governing body of a higher education institution for the purpose of each of paragraphs (c) to (e) of section 10(1).
- (2) The nomination process is to be conducted in accordance with rules made by the governing body of the institution.
- (3) Rules under subsection (2) may include (in particular)—
 - (a) provision specifying who may exercise the rights of nomination (whether individually or jointly),
 - (b) different provision for different vacancies.
- (4) Before making or modifying rules under subsection (2), the governing body must consult the representatives of anyone—

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- (a) with a right of nomination under the proposed rules, and
- (b) affected by the proposed rules or (as the case may be) modification.

Commencement Information

I3 S. 12 in force at 30.12.2016 by [S.S.I. 2016/382](#), [reg. 2\(1\)](#)

13 Resignation or removal from body

- (1) Rules made by the governing body of a higher education institution may contain provision about the procedure for the resignation or removal of—
 - (a) the person appointed to the position of senior lay member of the governing body,
 - (b) the other persons within the membership of the governing body.
- (2) Provision as to removal is to (in particular)—
 - (a) prescribe grounds for removal, for example—
 - (i) inability to exercise the senior lay member's functions or (as the case may be) the functions of membership generally,
 - (ii) misconduct (whether or not in the capacity as member),
 - (b) ensure that removal can be effected only by a resolution based on the grounds and passed by a specified majority of the members of the governing body,
 - (c) allow the person who is the subject of the resolution, if the resolution is so passed, to seek a review in order to have the resolution reconsidered or quashed.
- (3) For the purpose of subsection (2)(b)—
 - (a) a specified majority may be a majority of any particular size,
 - (b) the person who is the subject of the resolution does not count in any calculation arising (and the person is not eligible to vote on the resolution).
- (4) Provision under subsection (1)(a) need not be the same as provision under subsection (1)(b).

Commencement Information

I4 S. 13 in force at 30.12.2016 by [S.S.I. 2016/382](#), [reg. 2\(1\)](#)

14 Validity of body's proceedings

The validity of any proceedings of the governing body is not affected by any—

- (a) vacancy in membership (or category of membership),
- (b) defect in the appointment of a member.

Commencement Information

I5 S. 14 in force at 30.12.2016 by [S.S.I. 2016/382](#), [reg. 2\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Higher Education Governance (Scotland) Act 2016, Cross Heading: Membership of governing body.