

EXECUTIVE NOTE

THE UNIVERSITY OF THE WEST OF SCOTLAND ORDER OF COUNCIL 2009

SSI/2009/194

The above instrument is made in exercise of the powers conferred upon the Privy Council by sections 45 and 60 of the Further and Higher Education (Scotland) Act 1992. The instrument is subject to negative resolution procedure.

Policy Objectives

The constitution of the University of the West of Scotland is principally contained in a statutory instrument made in 1993 when the University gained its designated status, the University of Paisley (Scotland) Order of Council 1993 (“the 1993 Order”). Certain provisions of the original 1954 Paisley College of Technology Scheme (“the 1954 Scheme”), which established the institution, also remain relevant. Both the 1993 Order and the 1954 Scheme were most recently amended by the University of the West of Scotland Order of Council 2007 to reflect the University’s name change.

Following its merger with Bell College of Technology in August 2007, the University has undertaken a review of its constitutional and governance arrangements and certain of the academic structures that are regulated under the 1993 Order. This review process has culminated in the Court of the University approving certain proposed amendments to its constitution. The Order of Council makes the following amendments to the 1993 Order:

- Article 4(a) amends article 5(1) of the 1993 Order so that it is clear that the University Court must comply with charities legislation in exercise of its functions;
- Article 4(b) amends article 5(2) of the 1993 Order so that the University Court must not unlawfully discriminate against persons in the exercise of its functions;
- Article 5(2) amends article 6(1)(a)(ii) of the 1993 Order to change the title of the office of “vice principal” to the preferred nomenclature of “depute principal”;
- Article 5(3) amends article 6(1)(b)(i) of the 1993 Order to delete the reference to “full-time” when describing staff. This is to ensure that there is no discrimination as between full-time and part-time staff;
- Article 5(5) inserts a new article 6(1)(b)(iii) into the 1993 Order to replace article 6(1)(b)(iii) and (iv) (which together confirm the number of governors which the Court is to appoint and the categories of persons from which such number may be selected). The amendments do not affect the overall number of governors to be appointed (which remains at not less than 13 and not more than 17). The category of persons from which they are selected is, however, streamlined to: “persons reflecting a variety of different interests and experience, including those with experience in the provision of education, local government, industrial, commercial or employment matters or the practice of any profession”;

- Article 5(7)(a) amends article 6(1)(c) of the 1993 Order so as to remove the requirement that a governor can only be elected from the full-time staff;
- Article 5(7)(b) amends article 6(1)(c)(ii) of the 1993 Order to address concerns expressed in the University about the use of the term "non-academic staff" to distinguish between the governors that are elected by the academic staff and those that are elected by "all other" staff of the University;
- Article 5(9) amends article 6(5) of the 1993 Order to permit the Chair to appoint deputies from time to time;
- Article 6(a) deletes article 7(2) of the 1993 Order to remove the 70 year age restriction for eligibility to the office of governor;
- Article 6(b) deletes article 9 of the 1993 Order and article 7 inserts a new article 9A into the 1993 Order. This is to clarify that the principal concern of the provision is to avoid conflict of interest situations and to recognise that conflicts may arise more generally than in respect of salary and terms and conditions;
- Article 9(2) amends paragraph B(5) of Schedule 1 (powers of the court) to the 1993 Order to reflect developments in technology and importantly to acknowledge the intellectual property rights that may be generated as the consequence of research and development;
- Article 9(3) amends paragraph C(2) of Schedule 1 to the 1993 Order to add references to limited liability partnerships and/or any other legal entity or undertaking;
- Article 9(4) amends paragraph D(2) of Schedule 1 to the 1993 Order to insert references to ensure that the powers of the University reflect what is permitted by the Charities and Trustee Investment (Scotland) Act 2005;
- Article 9(5) amends paragraph D(7) of Schedule 1 to the 1993 Order to insert a reference to "civil partner";
- Article 9(6) amends paragraph E(1) of Schedule 1 to the 1993 Order to tidy up references to nomenclature and reflect that the appointment processes will be as from time to time determined by the Court;
- Article 10 substitutes new provisions for Part I (appointment) of Schedule 2 (senate) to the 1993 Order. The ex officio arrangements reflect the new structure of faculties and schools. The elected membership arrangements are designed to maintain the current ratio of elected members to ex officio members. The introduction of elected members of the Professoriate is new to the scheme. The changes in respect of student representation have been developed in consultation with representatives of the Students' Association.

The Order also revokes sections 33 to 36 of the 1954 Scheme which relate to bequests that have been exhausted and consequently prizes no longer awarded.

Consultation

The Privy Council and the University of the West of Scotland were consulted during the preparation of the instrument. The University also consulted and received consent from The Office of the Scottish Charity Regulator (OSCR) for the amendments to its constitution in respect of its charitable purpose.

Financial Effects

A Regulatory Impact Assessment has not been prepared as this instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government, Lifelong Learning Directorate
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