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SCOTTISH STATUTORY INSTRUMENTS

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**2018 No. 170**

**EDUCATION**

**The Edinburgh Napier University  
Amendment Order of Council 2018**

*Made* - - - - 22nd May 2018  
*Laid before the Scottish  
Parliament* - - - - 24th May 2018  
*Coming into force* - - 15th September 2018

At the Council Chamber, Whitehall, the 22nd day of May 2018  
By the Lords of Her Majesty's Most Honourable Privy Council

Their Lordships make the following Order in exercise of the powers conferred by sections 45 and 60(3) of the Further and Higher Education (Scotland) Act 1992(1) and all other powers enabling them to do so.

**Citation and commencement**

1. This Order may be cited as the Edinburgh Napier University Amendment Order of Council 2018 and comes into force on 15th September 2018.

**Amendment of the Napier University (Scotland) Order of Council 1993**

2. The Napier University (Scotland) Order of Council 1993(2) is amended in accordance with the following articles.

3. In article 2(1) (interpretation)(3)—

- (a) the entry for “academic staff eligible to participate in elections” and the entry for “non academic staff eligible to participate in elections” are omitted;
- (b) after the entry for “the Act”, insert—

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(1) 1992 c.37, to which there are amendments not relevant to this Order.  
(2) S.I. 1993/557, amended by S.S.I. 2007/160 and S.S.I. 2008/388. Article 2 of S.S.I. 2008/388 changed the name of Napier University to “Edinburgh Napier University” to reflect the change in name made in accordance with section 49 of the Further and Higher Education (Scotland) Act 1992 by resolution of the governing body on 16th June 2008 and consent of the Privy Council on 23rd September 2008.  
(3) Article 2(1) was relevantly amended by article 2(2)(a) of S.S.I. 2007/160.

““the 2016 Act” means the Higher Education Governance (Scotland) Act 2016(4);  
 “Chair of Court” means the person referred to in article 3(2)(a);”.

**4. In article 3 (the Court)(5)—**

(a) for paragraph (2), substitute—

“(2) The membership of the Court is to be composed of—

- (a) the Chair of Court, being the person appointed by the Court to the position of senior lay member by virtue of section 8 of the 2016 Act;
- (b) one person appointed by being nominated by the Chancellor to act as Assessor to the Chancellor;
- (c) the Principal and Vice-Chancellor referred to in article 5;
- (d) one Vice-Principal referred to in article 9, appointed by being nominated by the Principal and Vice-Chancellor;
- (e) one person appointed by being elected by the Academic Board from among the members of the academic staff of the University who are members of that Board;
- (f) two persons appointed by being elected by the staff of the University from among their own number;
- (g) one person appointed by being nominated by a trade union from among the academic staff of the University who are members of a branch of a trade union that has a connection with the University;
- (h) one person appointed by being nominated by a trade union from among the support staff of the University who are members of a branch of a trade union that has a connection with the University;
- (i) two persons appointed by being nominated by the Students’ Association of the University from among the students of the University; and
- (j) such other persons appointed by the Court in accordance with its rules and procedures with the aim of the membership of the Court having a broad range of skills and experience being not less than 12 and not more than 14 persons as the Court may from time to time determine.

(2A) The persons appointed under paragraph (2)(a) and (f) to (i) are to be appointed in accordance with Chapter 1 of Part 1 of the 2016 Act.”;

(b) paragraph (3) is omitted;

(c) in paragraph (4), for “(2)(b), (c) and (d)” in both places where it appears, substitute “(2)(c) to (h)”;

(d) in paragraph (9), for the words from “Where” to “Chair of the Court”, substitute “Where the person appointed as Chair of Court has at any time previous to that appointment served as a member of Court”;

(e) in paragraph (10)—

- (i) in sub-paragraph (a), for “3(2)(a), (b) or (c)”, substitute “3(2)(b), (c) or (d)”;
- (ii) in sub-paragraph (b), omit “the” where it first appears.

**5. In article 6 (the Academic Board)—**

(a) for paragraph (1), substitute—

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(4) 2016 asp 15.

(5) Article 3 was substituted by article 2(3) of S.S.I. 2007/160.

“(1) The Court is to appoint and maintain by further appointment an Academic Board of the University constituted and appointed in accordance with Chapter 2 of Part 1 of the 2016 Act, paragraphs (1A) to (1C) of this article and paragraph (10) of Part B of schedule 1.

(1A) Before making any changes to the composition of the Academic Board, the Court is to consult the Academic Board.

(1B) The persons appointed to the Academic Board by being elected by the academic staff of the University under section 15(1)(c) of the 2016 Act hold office for such a period, not exceeding 4 years, as may be determined by the Academic Board and are eligible for re-election.

(1C) The persons appointed to the Academic Board by being elected by the students of the University under section 15(1)(d) of the 2016 Act hold office for a period not exceeding one year and are eligible for re-election.

(1D) The Principal and Vice-Chancellor is to preside over meetings of the Academic Board.”;

(b) in paragraph (2)(a), for “Vice-Chairman”, substitute “Vice-Chair”.

**6. In Part B of schedule 1 (functions and powers of the Court - administration)(6)—**

(a) for paragraph (6), substitute—

“(6) To appoint a Chair of Court in accordance with an appointment process prescribed by the Court and to prescribe the duties, responsibilities, tenure and terms and conditions of the Chair of Court, which may include such remuneration and allowances as the Court considers to be reasonable, all in accordance with Chapter 1 of Part 1 of the 2016 Act.

(6A) To appoint a Vice-Chair of the Court from among those appointed to the Court under article 3(2)(j) in accordance with rules prescribed by the Court and to prescribe the duties, responsibilities and tenure of the Vice-Chair.”;

(b) for paragraph (7) substitute—

“(7) Subject to and in accordance with Chapter 1 of Part 1 of the 2016 Act and article 3, to appoint such new members of the Court as may from time to time be required, to determine the method of appointment to membership of the Court, including where appropriate the election process to be followed, and to remove members of the Court in such circumstances and in accordance with such rules as the Court may prescribe.”;

(c) for paragraph (10), substitute—

“(10) After consultation with the Academic Board, and subject to and in accordance with Chapter 2 of Part 1 of the 2016 Act and article 6(1B) and (1C), to determine the method of appointment to the membership of the Academic Board, including where appropriate the election process to be followed, and to determine the tenure of the members, and to remove members of the Academic Board in appropriate circumstances.”.

**7. Schedule 2 (the Academic Board)(7) is omitted.**

**Transitional provision**

**8.—(1)** The chairman appointed under paragraph (6) of Part B of schedule 1 of the Napier University (Scotland) Order of Council 1993<sup>(8)</sup> who is in office immediately before 15th September 2018 is to be regarded, for the remainder of that chairman’s period of office, as if appointed to the

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<sup>(6)</sup> Part B of schedule 1 was relevantly amended by article 2(8) of [S.S.I. 2007/160](#).

<sup>(7)</sup> Schedule 2 was substituted by article 2(9) of [S.S.I. 2007/160](#).

<sup>(8)</sup> Paragraph (6) of Part B of schedule 1 of the 1993 Order was amended by article 2(8) of [S.S.I. 2007/160](#).

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position of Chair of Court in accordance with article 3(2)(a) and paragraph (6) of Part B of schedule 1 of the Napier University (Scotland) Order of Council 1993 as amended by this Order.

(2) In this article, “Chair of Court” has the same meaning as in article 2(1) of the Napier University (Scotland) Order of Council 1993<sup>(9)</sup>.

*Ceri King*  
Deputy Clerk of the Privy Council

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<sup>(9)</sup> As added by this Order.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Napier University (Scotland) Order of Council 1993 (“the 1993 Order”). Article 2 of the Edinburgh Napier University (Scotland) Order of Council 2008 (S.S.I. 2008/388) changed the name of Napier University to “Edinburgh Napier University” but the 1993 Order remains the principal governance order in relation to the Edinburgh Napier University (“the University”). The 1993 order is made under section 45 of the Further and Higher Education (Scotland) Act 1992.

Article 3 of the Order amends article 2(1) of the 1993 Order which sets out relevant definitions. It omits the entries for “academic staff eligible to participate in elections” and “non academic staff eligible to participate in elections” and inserts new entries “the 2016 Act” and “Chair of Court”.

Article 4(a) amends article 3 of the 1993 Order by substituting a new article 3(2) setting out the composition of the Court. A new article 3(2A) is inserted which provides that certain members, including the Chair of Court, are to be appointed in accordance with the requirements of the Higher Education Governance (Scotland) Act 2016 (“the 2016 Act”). Article 4(b) to (e) makes consequential amendments.

Article 5 makes amendments to the 1993 Order in respect of the Academic Board. Article 5(a) substitutes article 6(1) of the 1993 Order to provide that the Court is to determine the composition of the Academic Board in accordance with the requirements of the 2016 Act and the 1993 Order as amended by this Order. As the composition of the Academic Board is no longer set out in the 1993 Order, schedule 2 is omitted by article 7.

Article 5(a) also inserts new paragraphs (1A) to (1D) into article 6 of the 1993 Order, which include provision that the Court is to consult the Academic Board before making any changes to the composition of that body and provision for the term limits of the academic staff members and student members.

Article 6 amends Part B of schedule 1 of the 1993 Order, which sets out the functions and powers of the Court in relation to the administration of the University. It substitutes new paragraphs (6) and (6A) to make new provision for the appointment of the Chair of Court and Vice-Chair. It substitutes a new paragraph (7) relating to the Court’s power to appoint and remove its members. It also substitutes a new paragraph (10) to make new provision relating to the method of appointment and the tenure and removal of Academic Board members. The Court’s power to vary the composition of the Academic Board is removed from schedule 1 as this power is now included in article 6(1) of the 1993 Order.

Article 8 makes transitional provision to ensure that the chairman of the Court who is in office immediately before commencement of this Order is treated as if appointed in accordance with article 3(2)(a) and paragraph (6) of Part B of schedule 1 of the 1993 Order, as amended by this Order.