

2019 No. 163

EDUCATION

The Abertay University (Scotland) Order of Council 2019

Made - - - - - *15th May 2019*

Laid before the Scottish Parliament *17th May 2019*

Coming into force - - - *1st September 2019*

At the Council Chamber, Whitehall, the 15th day of May 2019

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(a) and all other powers enabling them to do so.

PART 1

Citation, commencement and interpretation

Citation and commencement

1. This Order may be cited as the Abertay University (Scotland) Order of Council 2019 and comes into force on 1 September 2019.

Interpretation

2. In this Order—

“the 2016 Act” means the Higher Education Governance (Scotland) Act 2016(b),

“the 1975 Scheme” means the Dundee College of Technology Scheme 1975(c),

“Chair of Court” means the person referred to in article 8(a),

“objects of the University” means the objects of the University as set out in article 4,

“Principal” means the Principal and Vice-Chancellor referred to in article 17 or any person authorised, whether for the purposes of this Order or otherwise, for the time being to act as Principal and Vice-Chancellor of the University,

“Senate” means the body referred to in article 20,

(a) 1992 c.37.

(b) 2016 asp 15.

(c) S.I. 1975/698, as amended by schedule 2 of S.I. 1994/1980. The 1975 Scheme had previously been amended by S.I. 1988/1715, but S.I. 1988/1715 was revoked by article 42 of S.I. 1994/1980, insofar as it applied to the University, and the previous amendments to the 1975 Scheme ceased to have effect.

“University” means Abertay University, a designated institution under section 44 of the Further and Higher Education (Scotland) Act 1992(a) and renamed in accordance with section 49 of that Act as narrated in article 3,

“University Court” means the governing body of the University constituted as a body corporate by paragraph 3 of the 1975 Scheme(b) and renamed as narrated in article 3,

“Vice-Principal” means a Vice-Principal and Deputy Vice-Chancellor referred to in article 18.

PART 2

The University

Name

3.—(1) The name of the University, previously “University of Abertay Dundee”, “Dundee Institute of Technology” and “Dundee College of Technology”, is Abertay University(c).

(2) The name of the governing body of the University, previously “the University Court of the University of Abertay Dundee”, “The Governors of Dundee Institute of Technology” and “The Governors of Dundee College of Technology”, is the University Court of Abertay University.

(3) The change of names effected by paragraphs (1) and (2) does not affect the rights or obligations of any person or render defective any legal proceedings and any reference in any agreement, instrument or document or other writing in force or in existence immediately before the coming into force of this Order to—

- (a) the University of Abertay Dundee, the Dundee Institute of Technology or the Dundee College of Technology,
- (b) the University Court of Abertay University, The Governors of Dundee Institute of Technology or The Governors of Dundee College of Technology,

is to be read as a reference to Abertay University or the University Court of Abertay University as appropriate.

Objects of the University

4. The objects of the University are to provide education, to undertake and carry out research and to make suitable and adequate provision for teaching, learning, scholarship and research.

PART 3

The University Court

Powers and functions of the University Court

5.—(1) The University Court is to conduct the affairs of the University and carry out and promote the objects of the University.

(2) The University Court has all the rights, powers and privileges necessary and expedient for the purposes of, or in connection with, the furtherance of the objects of the University, and in particular has the powers and functions set out in schedule 1.

(a) Section 44 was amended by paragraph 6(1)(c) of schedule 3 of the Further and Higher Education (Scotland) Act 2005 (asp 6).

(b) Paragraph 3 was amended by schedule 2 of S.I. 1994/1980.

(c) The name of the University was changed to Abertay University in accordance with section 49 of the Further and Higher Education (Scotland) Act 1992 by resolution of the University Court dated 14 November 2018 and consent of the Privy Council dated 6 February 2019.

Delegation of powers, functions and duties of the University Court

6.—(1) Subject to paragraph (2), the University Court may delegate any of its powers, functions or duties to any person or body according to a scheme made by the University Court.

(2) The University Court is not to delegate—

- (a) the approval of the strategic direction of the University,
- (b) the appointment of the Chancellor under article 16,
- (c) the appointment of the Principal under article 17,
- (d) the appointment of any Vice-Principal under article 18,
- (e) the appointment of the Secretary to the University Court under article 19,
- (f) the consideration of any amendment or revocation of this Order,
- (g) the approval of the annual budget and financial forecasts,
- (h) the approval of the annual report and financial statements for the University,
- (i) approval of the standing orders of the University Court.

Financial arrangements

7.—(1) Subject to the following paragraphs, the University Court is to make such arrangements that it considers appropriate and that it thinks fit for the conduct of the financial affairs of the University.

(2) The University Court is to keep such accounts (including capital and revenue accounts) and funds as are necessary for the proper and efficient conduct of its business.

(3) The University Court may intrude with the whole funds under its control in any way not inconsistent with statute or common law or the conditions attached to the payment of such funds to the University Court.

(4) The University Court is to invest monies which it holds and which are not immediately required for the purposes of its activities in any accounts, investments and securities and may dispose of and vary any accounts, investments and securities that it considers necessary or desirable in any manner that may from time to time be considered by the University Court to be advantageous.

Composition of the University Court

8. The membership of the University Court is to be composed of—

- (a) the Chair of Court, being the person appointed by the University Court to the position of senior lay member by virtue of section 8 of the 2016 Act,
- (b) the Principal,
- (c) one or two Vice-Principals, appointed by being nominated by the Principal,
- (d) two persons appointed by being elected by the staff of the University from among their own number,
- (e) 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, in accordance with section 10(2) of the 2016 Act,
- (f) 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, in accordance with section 10(2) of the 2016 Act,
- (g) two persons appointed by being nominated by the students' association of the University from among the students of the University,
- (h) one person appointed by being nominated by the Senate from among its members,

- (i) 10 to 14 other persons appointed by the University from time to time, in accordance with its rules and procedures, with the aim of the membership having the skills and experience that the University Court determines to be relevant, and who may not be members of staff or students of the University.

Appointment of Chair of Court

9.—(1) The Chair of Court is to be appointed in accordance with sections 3 to 8 of the 2016 Act and an appointment process prescribed by the University Court.

(2) Subject to article 13, the University Court is to prescribe the duties, responsibilities and terms and conditions of the Chair of Court, which may include such remuneration and allowances as the University Court considers to be reasonable in accordance with section 9 of the 2016 Act.

Appointment and role of Vice-Chair

10.—(1) The University Court is to make rules for the appointment of a Vice-Chair from among the members appointed under article 8(i).

(2) The Vice-Chair is to preside at meetings of the University Court and is to exercise the functions of the Chair of Court in the absence of the Chair of Court or while the position is vacant.

(3) In the absence of both the Chair of Court and the Vice-Chair at any meeting, the University Court may appoint a chair from among the members appointed under article 8(i) who are present at the meeting.

Elections to University Court

11.—(1) The members of the University Court referred to in article 8(d) are to be elected in accordance with rules made by the University Court in accordance with section 11 of the 2016 Act.

(2) Before making or modifying rules under paragraph (1), the University Court is to consult the staff of the University.

Nominations to University Court

12.—(1) The members of the University Court referred to in article 8(c) are to be nominated in accordance with rules made by the University Court.

(2) The members of the University Court referred to in article 8(e), (f) and (g) are to be nominated in accordance with rules made by the University Court in accordance with section 12 of the 2016 Act.

(3) Before making or modifying rules under paragraph (2), the University Court must consult the representatives of anyone with a right of nomination under and affected by the proposed rules or (as the case may be) modification.

(4) The member of the University Court referred to in article 8(h) is to be nominated in accordance with rules made by the Senate and approved by the University Court.

Term of office of members

13.—(1) The University Court is to make rules relating to the term of office of members appointed under article 8 and the rules may make different provision for different categories of member.

(2) Rules made under paragraph (1) are to prescribe (in particular)—

- (a) the term of office, but no term is to be longer than 4 years,
- (b) eligibility for re-appointment,

- (c) the maximum term of office when aggregated with any previous term of office, but the term of office—
 - (i) is to include any term served before the coming into force of this Order, and
 - (ii) is not to include any term of office served by a member under article 8(b) or (c).

Resignation and removal of members from office

14. The University Court may make rules about the procedure for the resignation and removal of its members in accordance with section 13 of the 2016 Act.

Conflicts of interest

15. The University Court may make rules in relation to identifying and managing conflicts of interests of its members and of the members of its committees.

PART 4

Appointments

Appointment of Chancellor

16. The University Court is to appoint a Chancellor to be the titular head of the University who is to confer degrees, diplomas and other academic distinctions and who is not to be an employee of the University.

Appointment of Principal and Vice-Chancellor and discharge of functions

17.—(1) The University Court is to appoint a Principal and Vice-Chancellor as the chief academic and executive officer of the University.

(2) The University Court is to make arrangements for the Principal to carry out any of its functions relating to the organisation, management and discipline of the University as the University Court may prescribe.

(3) In discharging those functions, the Principal has all the powers and duties of the University Court in relation to those functions but is subject to the University Court's general control and direction.

(4) In the absence of, or during any vacancy in the office of, Chancellor, the Principal (or any person that the Principal determines from time to time) is to carry out any of the functions of the Chancellor as the University Court may prescribe.

Appointment of Vice-Principal and Deputy Vice-Chancellors

18.—(1) The University Court is to appoint such Vice-Principal and Deputy Vice-Chancellors as it considers appropriate.

(2) A Vice-Principal appointed under paragraph (1) has the powers and functions that the University Court may determine from time to time.

(3) In the absence of, or during any vacancy in the office of, the Chancellor and the Principal, the University Court may appoint a Vice-Principal to carry out any of the functions of the Chancellor as the University Court may prescribe.

Appointment of Secretary

19. The University Court is to appoint a Secretary to the University Court and to prescribe the duties of the Secretary.

PART 5

Senate

Composition of Senate

20.—(1) Subject to paragraph (2), the University Court is to appoint and maintain by further appointment a Senate constituted and appointed in accordance with Chapter 2 of Part 1 of the 2016 Act.

(2) The University Court is to make rules relating to the term of office of members of the Senate, and the rules may make different provision for different categories of member.

(3) Rules made under paragraph (2) are to prescribe (in particular)—

- (a) the term of office, but no term is to be longer than 4 years,
- (b) eligibility for re-appointment.

(4) The Principal is the Chair of the Senate and is to nominate a Vice-Principal to serve as Vice-Chair.

Proceedings of Senate

21. The proceedings of the Senate are to be regulated by a scheme made by the Senate and approved by the University Court and the scheme—

- (a) must provide for a minimum number of meetings of the Senate in each year,
- (b) may provide for—
 - (i) the appointment by the Senate of any committees that it considers appropriate,
 - (ii) any other matters connected with the functions of the Senate.

PART 6

Students' association

Students' association

22.—(1) The University Court is, in consultation with the students of the University, to make a scheme for the constitution and functions of a students' association representing the students of the University.

(2) The scheme is to include rules under which the students' association is entitled to make representations to the University Court.

(3) The constitution of the students' association, and any changes to that constitution, is subject to the approval of the University Court and to review by the University Court at intervals of not more than five years.

(4) The University Court is to pay any monies to the students' association that it considers appropriate.

PART 7

Miscellaneous

Transitional provisions

23.—(1) The person appointed as Chairman under article 9 of the University of Abertay Dundee (Scotland) Order of Council 1994^(a) who is in office immediately before 1 September 2019 is to be regarded, for the remainder of that person’s period in office as Chairman, as if appointed to the position of Chair of Court in accordance with articles 8(a) and 9(1) of this Order.

(2) The president of the students’ association appointed as a member of the University Court under article 6(1)(b) of the University of Abertay Dundee (Scotland) Order of Council 1994 who is in office immediately before 1 September 2019 is to be regarded, for the remainder of that member’s period in office, as if appointed to the University Court in accordance with article 8(g) of this Order.

Amendment of the 1975 Scheme

24. The 1975 Scheme is amended in accordance with schedule 2.

Revocation

25. The University of Abertay Dundee (Scotland) Order of Council 1994 is revoked.

Richard Tilbrook
Clerk of the Privy Council

^(a) S.I. 1994/1980.

SCHEDULE 1

Article 5(2)

Powers and functions of the University Court

- 1.** The University Court has the powers and functions set out in the following paragraphs.
- 2.** To establish any departments, faculties, schools, centres and other units of organisation in regard to both the academic and non-academic requirements and functions of the University that the University Court considers appropriate or necessary, and to determine their functions, duties, responsibilities and powers.
- 3.** To grant degrees, diplomas, certificates and any other academic awards and distinctions that the University Court considers appropriate and which may be conferred by the University.
- 4.** To award honorary degrees and honorary fellowships to any persons that fulfil the conditions which the University Court may prescribe for the receipt of such awards.
- 5.** Subject to consultation with the Senate, to deprive a recipient of a degree, diploma, certificate or other academic award or distinction previously conferred by the University.
- 6.** To prescribe conditions for admission and attendance at the University.
- 7.** To exclude any person from the University or any part of it if, in the opinion of the University Court, the admission or attendance of the person would be likely to prejudice the efficiency or development of the University.
- 8.** To levy and receive fees and charges for all services, including the provision of courses (whether or not leading to a degree, diploma, certificate or other academic award or distinction).
- 9.** To frame any codes of discipline and any regulations that the University Court considers necessary or desirable for maintaining good order within the University.
- 10.** To institute, provide, maintain and award fellowships, studentships, scholarships, prizes and other encouragements to teaching and research and to vary and withdraw the same as the University Court considers appropriate.
- 11.** To provide, equip, maintain, administer and otherwise promote the development of residential, catering, chaplaincy, sports, social and recreational facilities, library and teaching support services for staff and students.
- 12.** To establish and maintain an association of former students of the University.
- 13.** To pay any of its members appointed under article 8(b) to (i) any financial loss allowances and travelling and subsistence allowances that the University Court considers appropriate.
- 14.** Subject to articles 17 to 19, to appoint any members of staff that the University Court considers appropriate.
- 15.** To prescribe the salaries and terms and conditions of staff and to discipline and remove staff either by suspension from or termination of the appointment.
- 16.** To make arrangements to pay any sum or sums by way of pension, allowance or gratuity that the University Court considers appropriate to—
 - (a) any member of staff of the University, on retirement, through age or permanent incapacity, from the employment of the University, or
 - (b) the surviving spouse or any dependant of any such member of staff in the event of the death of the member in the employment of the University,in respect of any period of the member of staff's service in the employment of the University.

17. To receive and accept donations, legacies, covenants, annuities, subscriptions, gifts and other income for the furtherance of the objects of the University and such funds are to be applied in accordance with the directions of the respective testators or donors so far as operable and, subject to the terms attaching to any such funds, to apply such funds in whole or in part to the capital funds held by the University Court or to apply such funds in whole or in part towards defraying the expenditure of the University Court in carrying out its functions.

18. To acquire and take over the whole or any part of the business of any person, firm, company or body corporate or any rights or property suitable for the functions of the University Court or for any of the objects of the University.

19. To initiate, establish or acquire companies, whether charitable or commercial, alone or in association with any other persons or entities for the purpose of, or in connection with, any of the objects of the University or the functions of the University Court.

20. To receive and expand the recurrent and capital funds, to lend money and to borrow or raise money.

21. To apply for letters patent, patent rights, licences, trade marks, trade names, designs, inventions, copyrights or secret processes in its own right or in conjunction with others.

22. To publish, print or provide for publication, in any form of media, any result of or matter arising from, or in connection with, research or scholarship and to sell or otherwise provide or supply books, publications and other goods as the University Court considers appropriate.

23. To sell, let, hire, lease, license, charge or grant security over, give in exchange or otherwise dispose of all or any part of the business, property, assets and liabilities of the University Court.

24. To arrange for the association or affiliation by the University with any educational institution or association having objects wholly or partly similar to the objects of the University and with any other bodies public and private that the University Court considers necessary or desirable to carry out or further the objects of the University, all on such terms and conditions as may be arranged.

25. To enter into arrangements or co-operate with any persons, educational institutions, schools, associations or public and private bodies having objects wholly or partly similar to the objects of the University for the purposes of, or for purposes incidental to, the functions of the University Court upon such terms and conditions as may be arranged.

26. To build, alter, exchange, improve, lease, demolish or dispose of any building as the University Court considers appropriate.

27. To effect any insurances against any risks that the University Court considers appropriate.

28. To appoint any professional advisers that the University Court considers appropriate.

29. To conduct legal proceedings.

30. To determine the arrangements to be made for the execution of deeds, including delegation of the execution of any deeds to any persons or bodies that the University Court considers appropriate.

31. To make regulations, rules and standing orders for the exercise of the University Court's functions and regulation of its proceedings, and to make different provision for different purposes, including provision to—

(a) establish committees,

(b) determine the quorum and arrangements for meetings of the University Court and any of its committees.

SCHEDULE 2

Article 24

Amendment of Dundee College of Technology Scheme 1975

1. In paragraph 2(1) of the 1975 Scheme (interpretation)(a)—
 - (a) for the definition of “College”, substitute—

““College” means Abertay University,”
 - (b) for the definition of “governing body”, substitute—

““governing body” means the University Court of Abertay University,”.
2. For paragraph 2A of the 1975 Scheme (application of the University of Abertay Dundee (Scotland) Order of Council 1994)(b) and the cross heading immediately preceding it, substitute—

“Application of the Abertay University (Scotland) Order of Council 2019

2A. This scheme is amended by and is subject to the Abertay University (Scotland) Order of Council 2019.”.
3. In paragraph 3 of the 1975 Scheme (constitution of the governing body), for “the University of Abertay Dundee”, substitute “Abertay University”.
4. Paragraphs 27, 31, 43, 49 to 52 and 54 and schedule 3 of the 1975 Scheme(c) are revoked.

(a) Paragraph 2 was amended by schedule 2 of S.I. 1994/1980.
(b) Paragraph 2A was inserted by schedule 2 of S.I. 1994/1980.
(c) Paragraphs 43 and 49 and schedule 3 were amended by schedule 2 of S.I. 1994/1980.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order sets out the governance arrangements for Abertay University (“the University”), replacing the arrangements set out in the University of Abertay Dundee (Scotland) Order of Council 1994, which is revoked.

Article 1 provides that the Order comes into force on 1 September 2019. Article 2 provides various definitions of terms that are used in the Order.

Articles 3 and 4 in Part 2 of the Order make provision for the University. Article 3 narrates the change of name of the University to Abertay University and of the governing body to the University Court of Abertay University and provides that references to previous names of both are to be read as references to the new names from the date of coming into force of this Order. Article 4 sets out the objects of the University.

Articles 5 to 15 in Part 3 of the Order make provision for the University Court. Article 5 makes provision for the powers and functions of the University Court, which are further set out in schedule 1. Article 6 provides that the University Court may delegate its powers, functions and duties but sets out matters that must not be delegated. Article 7 provides for the University Court to make appropriate financial arrangements for the University, which includes keeping accounts and investing funds. Further provision for financial arrangements is set out within the powers and functions of the University Court in schedule 1.

Article 8 sets out the composition of the University Court which is to comprise a Chair of Court who is the senior lay member by virtue of section 8 of the Higher Education Governance (Scotland) Act 2016 (“the 2016 Act”), the Principal and Vice-Chancellor (“the Principal”), one or two Vice-Principal and Deputy Vice-Chancellors (“Vice-Principals”) nominated by the Principal, two persons elected by and from the staff of the University, two persons nominated by a trade union with a connection to the University (one from among the academic staff and one from among the support staff), two persons nominated by the students’ association, one person nominated by the Senate and 10 to 14 members appointed by the University Court (“lay members”).

Article 9 makes further provision for the appointment of the Chair of Court who is to be appointed in accordance with the 2016 Act and an appointment process prescribed by the University Court. Article 10 provides that the University Court is to appoint a Vice-Chair from among the lay members who, in the absence of the Chair of Court or when that position is vacant, is to chair meetings of the University Court and exercise the functions of the Chair of Court. In the absence of both the Chair of Court and the Vice-Chair at any meeting, the University Court is to appoint a chair from among the lay members.

Article 11 provides that the University Court is to make rules for the election of members by the staff and is to consult the staff before making those rules. Article 12 provides that the University Court is to make rules for the nomination of the members nominated by the Principal, trade union and students’ association (and, in relation to the trade union and students’ association nominees, is to consult the representatives of anyone with a right of nomination under and affected by the proposed rules). The University Court is to approve rules made by the Senate for nomination of the member nominated by that body.

Article 13 provides that the University Court is to make rules relating to the term of office of its members, eligibility for re-appointment and maximum term of office. Article 14 provides that the University Court may make rules relating to the procedure for resignation and removal of its members. Article 15 provides that the University Court may make rules for identifying and managing conflicts of interest of its members and members of its committees.

Articles 16 to 19 in Part 4 of the Order make provision relating to the appointment of the Chancellor, Principal, Vice-Principals and Secretary to the University Court. Article 16 provides that the University Court is to appoint a Chancellor as the titular head of the University who is to confer degrees and other awards. Article 17 provides for the appointment by the University Court

of the Principal and for the University Court to make arrangements for the discharge of such of its functions by the Principal as it may prescribe. In carrying out those functions the Principal has all the powers of the University Court but is subject to its overall control. In the absence of the Chancellor, the Principal is to carry out any of the functions of the Chancellor that the University Court may prescribe. Article 18 provides for the appointment of such Vice-Principals as the University Court considers appropriate and makes provision for the functions of the Vice-Principals. In the absence of the Chancellor and the Principal, the University Court may appoint a Vice-Principal to carry out such of the functions of the Chancellor as it may prescribe. Article 19 provides that the University Court is to appoint a Secretary to the University Court and is to prescribe the Secretary's duties.

Articles 20 and 21 in Part 5 of the Order make provision relating to the Senate. Article 20 provides that the composition of the Senate is to be determined by the University Court in accordance with the 2016 Act and the University Court is to make rules relating to the term of office of Senate members, including eligibility for re-appointment. Article 21 requires for the proceedings of the Senate to be regulated by a scheme made by the Senate and approved by the University Court.

Part 6 of the Order makes provision relating to the students' association. Article 22 provides that the University Court is to make a scheme for the constitution and functions of a students' association which is to include rules for the students' association to make representations to the University Court. It provides that the University Court is to approve the constitution of the students' association and any changes to the constitution, and is to review the constitution at intervals of not more than 5 years. It also provides that the University Court is to pay any monies to the students' association that it considers appropriate.

Articles 23 to 25 in Part 7 of the Order make miscellaneous provision. Article 23 makes transitional provision for the Chairman of the University Court and the president of the students' association who are in office immediately before the coming into force of this Order to be treated for the remainder of their period in office as if appointed under article 8 of this Order. Article 24 makes amendments to the Dundee College of Technology Scheme 1975 as set out in schedule 2. Finally, article 25 revokes the University of Abertay Dundee (Scotland) Order of Council 1994.

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