

POLICY NOTE

QUEEN MARGARET UNIVERSITY, EDINBURGH (SCOTLAND) AMENDMENT ORDER OF COUNCIL 2019

S.S.I. 2019/213

Purpose of the instrument: To amend the Queen Margaret University (Scotland) Order of Council 2007 to reflect the requirements of the Higher Education Governance (Scotland) Act 2016.

1. The above instrument is made in exercise of the powers conferred upon the Privy Council by sections 45 and 60(3) of the Further and Higher Education (Scotland) Act 1992. The instrument is subject to negative resolution procedure.

Policy Objectives

2. The constitution of Queen Margaret University (“the University”) is principally contained in the Queen Margaret University, Edinburgh (Scotland) Order of Council 2007 (S.I 2007/116) (“the 2007 Order”) made under section 45 of the Further and Higher Education (Scotland) Act 1992. The 2007 Order was amended in 2015 by the Queen Margaret University, Edinburgh (Scotland) Amendment Order of Council 2015 (S.S.I 2015/305). The University now proposes a number of further amendments to the 2007 Order.

3. The purpose of this instrument is to amend the 2007 Order to ensure that it complies with the requirements of the Higher Education Governance (Scotland) Act 2016 (“the 2016 Act”). Chapter 1 of Part 1 of the 2016 Act makes provision in relation to the governing body of a higher education institution. It makes provision for the membership of each governing body to include a senior lay member (or “chair”) with responsibility for the leadership and effectiveness of the governing body (section 1). The senior lay member is to be appointed following an appointment process which includes election by the staff and students of the institution (sections 3 to 8). Chapter 1 of Part 1 of the 2016 Act (sections 10 to 14) makes provision for the membership of the governing body. Chapter 2 of Part 1 of the 2016 Act (sections 15 to 17) makes provision in relation to the composition of the academic board.

4. Section 10 of the 2016 Act provides that the governing body of a higher education institution is to be composed of: the senior lay member; two persons elected by the staff; two persons nominated by a trade union with a connection to the institution (one from the academic staff and one from the support staff); two student members nominated by the students’ association of the institution; and such other persons appointed by virtue of an enactment or in accordance with the governing document of the institution. Sections 11 and 12 provide that the election and nomination process for the staff, student and trade union members is to be conducted in accordance with rules made by the governing body of the institution.

5. Section 15 of the 2016 Act provides that the Academic Board is to be composed of: the principal; the heads of school; persons elected by the staff of the institution who are to make up more than 50% of the total membership; persons elected by the students of the institution who are to make up at least 10% of the total membership; and such others as are appointed by virtue of an enactment or in accordance with the institution’s governing document or decision of the governing body. Section 16 provides that the election of staff and student members is to be conducted in accordance with rules made by the governing body of the institution.

6. The amendments which this instrument makes to the governance arrangements set out in the 2007 Order are further described below.

Proposals

7. Article 1 of the Order provides that the Order comes into force on 1 October 2019 and provides a definition of the 2007 Order for the purposes of this Order.

8. Article 2(2) of the Order amends article 2(1) of the 2007 Order, which sets out relevant definitions of terms that are used in that Order. It omits the definition of “all other staff” as that term will not appear in the 2007 Order following amendment. It also omits the definition of “Memorandum of Association”, inserting a new definition of “Articles of Association” and substituting the definition of “objects of the University” to reflect that. There are also new definitions for “the 2016 Act” and “Chair”.

9. Article 2(3) of the Order amends article 4 of the 2007 Order, which makes provision for the Court. A new article 4(2) sets out the new composition of the Court. The new composition is to include the members required by the 2016 Act and the Principal, one or two Vice-Principals, one person nominated by the Senate, and 11 to 15 lay members. The Court is to make rules for the election of the staff members and for the nomination of those members nominated by the trade union and students’ association in accordance with sections 11 and 12 of the 2016 Act and this requirement is set out in article 4(5) and (7ZA). Article 4(3) and (4) are omitted and amendments are made to article 4(6) and (7) to reflect changes made to the composition of the Court.

10. Article 2(4) of the Order inserts a new article 4A (Chair of the Court) into the 2007 Order. Article 4A(1) provides that the Chair is to be appointed in accordance with sections 3 to 8 of the 2016 Act and an appointment process prescribed by the Court. Article 4A(2) provides that the Court is to prescribe the duties, responsibilities, and terms and conditions of the Chair, which may include reasonable remuneration and allowances.

11. Article 2(5) of the Order makes consequential amendments to article 5 of the 2007 Order (Vice-Chair of the Court) to reflect the changes made to the composition of the Court. It also makes amendments to reflect the amendment of article 6(7) and insertion of article 6(8A) discussed below.

12. Article 2(6) of the Order makes amendments to article 6 of the 2007 Order (members of the Court) to reflect changes made to the composition of the Court. Article 6(7) (vacation of office of member) is amended to remove certain grounds for automatic removal of members of the Court and a new paragraph (8A) provides the Court with the power to make rules about the procedure for the resignation and removal of Court members in accordance with section 13 of the 2016 Act. Article 6(9) (filling of vacancies) is also amended in consequence of those amendments.

13. Article 2(7) of the Order amends article 9(1) of the 2007 Order (allowances to members of the Court) to provide that the Court’s power to reimburse members for expenses does not apply to the Chair as that power is now included in new article 4A.

14. Article 2(8) of the Order amends article 14(1) of the 2007 Order (Senate) to provide that the Senate is to be constituted in accordance with Chapter 2 of Part 1 of the 2016 Act. Section 15 of the 2016 Act, which sets out the requirements which must be complied with in relation to the composition of the Senate, is discussed at paragraph 6 above.

15. Article 2(9) of the Order omits the schedule of the 2007 Order which made amendments to the Articles of Association of the University which have since been superseded.

16. Article 3(1) of the Order makes transitional provision to provide that the Chair and student members appointed under the 2007 Order who are in office immediately before commencement of this Order are treated as if appointed in accordance with the 2007 Order as amended by this Order.

Commencement

17. The Order will come into force on 1 October 2019.

Consultation

18. The Scottish Government consulted the Privy Council Office, Queen Margaret University and the Scottish Further and Higher Education Funding Council during the preparation of this instrument.

Impacts

19. 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
Higher Education and Science Division
21 May 2019**