



Instruments of Governance

This document contains the full text and explanatory notes of the four Orders of Council which form the instruments of governance for Edinburgh Napier University. Links to the official UK government repository at legislation.gov.uk for each are below:

The [Napier University \(Scotland\) Order of Council 1993](#) is the founding Statutory Instrument of the University.

This was modernised in 2007 through the [Amendment Order of Council 2007](#) which took effect from 1 August 2007, updating the University's governance framework in line with the Court's 2005 Governance Review.

A further amendment was made via the [Edinburgh Napier University Order of Council 2008](#) which enabled the University's change of name to Edinburgh Napier University.

The [Edinburgh Napier University Amendment Order of Council 2018](#) came into force on 15 September 2018, with amendments to bring the University's governance into alignment with the [Higher Education Governance \(Scotland\) Act 2016](#).

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(a) 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(b) is amended in accordance with the following articles.

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

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

(a) 1992 c.37, to which there are amendments not relevant to this Order.

(b) 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.

(c) Article 2(1) was relevantly amended by article 2(2)(a) of S.S.I. 2007/160.

(d) 2016 asp 15.

4. In article 3 (the Court)(a)—

(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—

“(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.

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

(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)(a)—

(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)(b) 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(c) 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 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.

(a) Part B of schedule 1 was relevantly amended by article 2(8) of S.S.I. 2007/160.

(b) Schedule 2 was substituted by article 2(9) of S.S.I. 2007/160.

(c) Paragraph (6) of Part B of schedule 1 of the 1993 Order was amended by article 2(8) of S.S.I. 2007/160.

(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^(a).

Ceri King
Deputy Clerk of the Privy Council

^(a) As added by this Order.

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.

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2008 No. 388

EDUCATION

The Edinburgh Napier University Order of Council 2008

Made - - - - - *21st November 2008*

Laid before the Scottish Parliament *2nd December 2008*

Coming into force - - - *25th January 2009*

At the Council Chamber, Whitehall, the 21st day of November 2008

By the Lords of Her Majesty's Most Honourable Privy Council

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

Citation and commencement

1. This Order may be cited as the Edinburgh Napier University Order of Council 2008 and comes into force on 25th January 2009.

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

2. In the Napier University (Scotland) Order of Council 1993^(b)—

(a) in article 2(1) (interpretation), for the definition of “the University” substitute—

““the University” means Edinburgh Napier University designated under section 44 of the Act being the institution formerly known as Napier University and as Napier Polytechnic of Edinburgh and now renamed in accordance with section 49 of the Act”;
and

(b) after article 13(1) (savings and transitional provisions), insert—

“(1A) References to “Napier University” or “the Court of Napier University”, to “Napier Polytechnic of Edinburgh” or “the Governors of Napier Polytechnic of Edinburgh”, to “Napier College of Commerce and Technology” or “the Governors of Napier College of Commerce and Technology”, to “Napier College of Science and Technology” or “the Governors of Napier College of Science and Technology”, or to “Napier Technical College” or “the Governors of Napier Technical College” in any:

(a) agreement, deed, bond or other writing, document or instrument of any description;

(b) action or proceeding pending or existing at 24th January 2009 by or against Napier University or the Court of Napier University before any court or other tribunal; and

^(a) 1992 c.37; to which there are amendments not relevant to this Order.

^(b) S.I. 1993/557, amended by S.S.I. 2007/160.

(c) document relating to or affecting any property, right, liability or obligation of Napier University or the Court of Napier University,
shall be read on or after 25th January 2009 as referring to “Edinburgh Napier University” or “the Court of Edinburgh Napier University” as the context requires; and no rights, interests, obligations or liabilities of any person shall be affected by the change of name of the institution or its governing body.”.

Amendment of the Napier College of Commerce and Technology (No. 2) Regulations 1985

3. In regulation 3 of the Napier College of Commerce and Technology (No. 2) Regulations 1985^(a) (continuation of governing body), for “the Court of Napier University” substitute “the Court of Edinburgh Napier University”.

Judith Simpson
Clerk of the Privy Council

^(a) S.I. 1985/1163, partially revoked and amended by S.I. 1988/1715 and 1993/557.

EXPLANATORY NOTE

(This note is not part of the Order)

In accordance with the requirements of section 49 of the Further and Higher Education (Scotland) Act 1992, the governing body of Napier University resolved on 16th June 2008 to change the name of Napier University to Edinburgh Napier University and the Privy Council consented to the change of name on 23rd September 2008. The change of name takes effect on 25th January 2009.

This Order amends the governance instruments of Napier University to reflect the change of name. Article 2 amends the Napier University (Scotland) Order of Council 1993 and article 3 amends the Napier College of Commerce and Technology (No. 2) Regulations 1985.

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EXECUTIVE NOTE

THE EDINBURGH NAPIER UNIVERSITY ORDER OF COUNCIL 2008

SSI/2008/388

The above instrument was made in exercise of the powers conferred upon the Lords of Her Majesty's Most Honourable Privy Council by sections 45 and 60 of the Further and Higher Education (Scotland) Act 1992 ("the 1992 Act"). The instrument is subject to negative resolution procedure.

Policy Objectives

Napier University ("University"), along with the majority of other post 1992 universities and designated higher education institutions, has a Governance Order, the Napier University (Scotland) Order of Council 1993 made by the Privy Council. The Napier College of Commerce and Technology (No. 2) Regulations 1985 also contain provisions which apply to the University. The purpose of this instrument is to amend these governance instruments to reflect a change of name to "Edinburgh Napier University".

Name

In accordance with the requirements of section 49 of the Further and Higher Education (Scotland) Act 1992, the governing body of the University resolved on 16th June 2008 to change the name of the University to Edinburgh Napier University and the Privy Council consented to the change of name on 23rd September 2008. The change of name takes effect on 25th January 2009.

The University wished to change its name to "Edinburgh Napier University" as it considers that including 'Edinburgh' in its name will build on its reputation as an increasingly successful international university by improving its recognition around the UK and internationally. The University feels that capitalising on its geographical location in Scotland's capital city will raise its profile with business and industry and that market research consistently demonstrates that students choose to study at a university because of the courses it offers, its reputation and its location.

Consultation on new name

Prior to the Privy Council granting its consent, the University conducted a comprehensive consultation on the proposed name change, seeking the views of a wide range of stakeholder organisations, including colleges, universities, MPs, MSPs, City of Edinburgh councillors, local authorities, local and national civic, community and business organisations, as well as staff and students at the University.

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.

2007 No. 160

EDUCATION

**The Napier University (Scotland) Order of Council 1993
Amendment Order of Council 2007**

Made - - - - - *2nd March 2007*

Laid before the Scottish Parliament *8th March 2007*

Coming into force - - - *1st August 2007*

At the Council Chamber, Whitehall, the 2nd day of March 2007

By the Lords of Her Majesty's Most Honourable Privy Council

Their Lordships, in exercise of the powers conferred upon Them by sections 45 and 60 of the Further and Higher Education (Scotland) Act 1992(a) and of all other powers enabling Them in that behalf, order as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Napier University (Scotland) Order of Council 1993 Amendment Order of Council 2007 and shall come into force on 1st August 2007.

(2) In this Order “the 1993 Order” means the Napier University (Scotland) Order of Council 1993(b).

Amendments to the Napier University (Scotland) Order of Council 1993

2.—(1) The 1993 Order is amended as follows.

(2) In article 2(1) (interpretation)–

(a) before the definition of “the Act” insert the following definitions–

““academic staff eligible to participate in elections” means all persons employed under permanent academic contracts that are either full-time or part-time;

“non-academic staff eligible to participate in elections” means all persons employed under permanent non-academic contracts that are either full-time or part-time;”;

(b) for the definition of “the students” substitute–

““the students” means all enrolled students of the University or sabbatical officers of the Students’ Association;”.

(a) 1992 c.37.

(b) S.I. 1993/557.

(3) For article 3 (the court), substitute—

“The Court

3.—(1) The Court shall be the governing body of the University, and shall administer it for the objects of providing education, carrying out research, and promoting teaching, research and general scholarship.

(2) Subject to paragraph (3), the Court shall consist of—

- (a) one person to be appointed by the Chancellor who shall act as Assessor to the Chancellor;
- (b) the Principal and Vice-Chancellor referred to in article 5;
- (c) any Vice-Principal referred to in article 9, subject to the following:—
 - (i) no more than three Vice-Principals may serve on the Court; and
 - (ii) where there are more than three Vice-Principals of the University at any time, the Principal and Vice-Chancellor shall appoint the three Vice-Principals to serve on the Court;
- (d) three members of the staff of the University to be appointed or elected as follows—
 - (i) one who shall be appointed by the Academic Board from the members of the academic staff of the University who are members of the Academic Board, and who shall be below the level of Head of Department;
 - (ii) one who shall be elected by and from among the academic staff of the University eligible to participate in elections; and
 - (iii) one who shall be elected by and from among the non-academic staff of the University eligible to participate in elections;
- (e) the President of the Students’ Association and one other office-bearer of the Students’ Association to be selected by that Association in accordance with the scheme referred to in article 7(4); and
- (f) persons appointed by the Court 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, being not less than 12 nor more than 15 persons as the Court may from time to time determine.

(3) It shall be competent for the Court (on a two-thirds majority of its whole members) from time to time to vary the number of persons to be appointed or elected under any of paragraph 2(c) to (f), provided that—

- (a) no category referred to in paragraph 2(c) to (f) shall cease to be represented on the Court; and
- (b) those persons appointed under paragraph 2(f) shall remain in overall majority in the Court.

(4) Other than those members of the staff of the University appointed or elected to the Court under paragraph (2)(b), (c) and (d), no member of staff of the University shall be eligible for appointment to the Court. Those members of staff appointed or elected under paragraph (2)(b), (c) and (d) shall continue to receive payments from the University in terms of their contracts of employment.

(5) In carrying out the University’s objects, the Court shall be entitled to carry on any activity of any type, in particular the functions and powers of the Court as set out in Schedule 1, and those activities and functions shall be exercised without prejudice to any person on grounds of gender, race, age, disability, sexual orientation, religion or other belief and in a manner which promotes academic freedom.

(6) No failure or defect in the appointment or election of any member of the Court and no vacancy in the office of a member of the Court shall prevent the Court from acting in the

execution of its functions, nor shall any act or proceeding of the Court or of any committee appointed by it be invalidated or be illegal by reason of or in consequence of any such defect in the appointment or election of any member of the Court or of any such vacancy in the office of a member of the Court.

(7) No person other than an *ex officio* member shall be appointed or elected to the Court for a term of office of more than 4 years.

(8) Subject to paragraph (9), no person other than an *ex officio* member shall be appointed or elected to the Court for a term of office that, if aggregated with any previous term of office, whether served consecutively or non-consecutively, would exceed a period of 9 years.

(9) Where a person other than an *ex officio* member has, at any time during a period of appointment or election to the Court, been elected as Chair of the Court(a), the maximum aggregate period for the purposes of paragraph (8) is 12 years.

(10) For the purposes of paragraphs (7), (8) and (9)–

- (a) “*ex officio* member” is a member referred to in article 3(2)(a), (b) or (c); and
- (b) “term of office” shall include any term of office as a member, including any period of office as Chair of the Court whether served before or after the coming into force of this Order.”.

(4) In article 7 (the Students’ Association) each time it occurs and article 13(4) (savings and transitional provisions) where it second occurs, for “Council”, substitute “governing body”.

(5) Article 8 (the Graduates’ Association) is revoked.

(6) In article 9(1) (staff), for “Assistant Principles” substitute “Assistant Principals”.

(7) In article 10 (prizes and bequests), for “funds to which Schedule 3 hereto relates, apply the free income of each fund for the purposes specified in column (3) of the said Schedule against the name of that fund”, substitute “prize funds within its powers, apply the free income of each fund for the purposes for which it was established”.

(8) In Schedule 1, Part B (administration)–

- (a) in paragraph (6) for “3(2)(g)” substitute “3(2)(f)”; and
- (b) in paragraph (10) omit “including limitations by reason of age”.

(9) For Schedule 2 (the Academic Board), substitute–

“SCHEDULE 2

Article 6(1)

THE ACADEMIC BOARD

1. The Academic Board shall comprise the following:

(a) *Ex officio* members–

Principal and Vice-Chancellor

Vice-Principals

University Secretary

Deans of the University

Director of Educational Development

Director of Learning Information Services

(a) The Chair is elected by and from among the members of the Court in terms of the Court’s Standing Orders of 18th June 2001, as amended.

Director of Lifelong Learning
Director of Quality Enhancement Services
Director of the Graduate School

(b) Elected members–

One member of academic staff from each School elected by and from that School^(a) (excluding the Head of School)

One Senior Lecturer/Reader from each Faculty elected by and from that Faculty

One member elected by and from among the Professoriate

One member elected by and from among Teaching Fellows/Senior Teaching Fellows

One Associate Dean from each Faculty elected by and from that Faculty

One Head of School from each Faculty elected by and from that Faculty

(c) Student representatives–

The President of the Students' Association, or a sabbatical officer of the Students' Association nominated by the President

One student from each Faculty nominated by the Students' Association

2. The elected members shall be members of the full-time or part-time academic staff of the University employed under permanent contracts and the student representatives (other than the Sabbatical Officer) shall be matriculated students at the University.

3. The elected members shall hold office for such a period, not exceeding 4 years, as may be determined by the Academic Board, and the student representatives shall hold office for a period not exceeding 1 year.

4. The elected members shall be eligible for re-election.”.

(10) Schedule 3 (special funds connected with the University) is revoked.

Meriel McCullagh
Deputy Clerk of the Privy Council

(a) The Schools are the primary teaching groups of the University established under Part C(4) of Schedule 1 to the 1993 Order.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Napier University (Scotland) Order of Council 1993 (S.I. 1993/557) (“the 1993 Order”) in respect of the provisions regarding the constitution, functions and powers of the Court of Napier University, as governing body of that University, and the arrangements to be adopted by the governing body in discharging its functions.

Napier University was formerly known as Napier College of Commerce and Technology and later as Napier Polytechnic of Edinburgh. It has adopted the name “Napier University” in accordance with section 49 of the Further and Higher Education (Scotland) Act 1992.

Article 2 amends the 1993 Order. Paragraph (2) provides for new definitions of persons referred to in the 1993 Order. Paragraph (3) substitutes a new article 3 in the 1993 Order which provides for the constitution of the Court of the University and makes specific provision for the University to carry on any activity of any type in carrying out its objects, without unlawful discrimination. Paragraph (4) changes references in the 1993 Order to the “Council” of the Students’ Association to the “governing body”. Paragraph (5) revokes article 8 (Graduates’ Association) of the 1993 Order. Paragraph (6) corrects an error in the 1993 Order. Paragraph (7) amends article 10 of the 1993 Order to make provision for the Court in relation to the application of the free income of each of the prize funds within its powers. Paragraph (8) makes a consequential amendment to paragraph 6 of Schedule 1 to the 1993 Order as a result of the new article 3 and removes the reference in paragraph 10 of Schedule 1 to the 1993 Order to limitations on age, in respect of the University Court’s powers to make provision for the composition of the Academic Board. Paragraph (9) replaces Schedule 2 to the 1993 Order with a new Schedule 2, which makes provision for a different composition for the Academic Board. Paragraph (10) revokes Schedule 3 (Special Funds Connected with the University) to the 1993 Order.

EXECUTIVE NOTE

THE NAPIER UNIVERSITY (SCOTLAND) ORDER OF COUNCIL 1993 AMENDMENT ORDER OF COUNCIL 2007 (SSI 2007/160)

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

Napier University has a Governance Order - the Napier University (Scotland) Order of Council 1993 (“the 1993 Order”), made by the Privy Council.

The purpose of this instrument is to make a number of changes to the 1993 Order to modernise the University’s governance framework. This follows a comprehensive review of governance effectiveness undertaken by the Napier University Court in 2005. The changes are in line with the Governance code of practice and general principles set out in the Committee of University Chairmen’s ‘Guide for Members of Higher Education Governing Bodies in the UK’, available on the internet at the following link: http://www.hefce.ac.uk/pubs/hefce/2004/04_40/.

The Order amends the 1993 Order in the following ways:

- Article 2 (2) (a) reflects the fact that all permanent employees, whether full time or part time should be eligible to vote and to stand for election to serve as a member of the Court;
- Article 2 (2) (b) provides a new definition of ‘student’ to include those students holding positions as sabbatical officers of the Students’ Association;
- Article 3 (5) provides for the University to carry on any activity of any type in carrying out its objects without prejudice to any person on grounds of gender, race, age, disability, sexual orientation, religion or other belief;
- Article 3 (2) changes the maximum number of members of the Court from 27 to 25;
- Articles 3 (7), (8) and (9) reduces the aggregate time for which a member (who is not an *ex officio* member of the Court) may serve on the Court, from 12 to 9 years;
- Article 9 removes the age limitation in the 1993 Order on those who are eligible to take office as a member of the Court;
- Article 4 changes reference to the ‘Council’ of the Students’ Association to the ‘governing body’ in accordance with the present constitution of the Association;
- Article 5 removes reference to the Graduates’ Association since this association is to be disbanded;
- Article 7 makes provision in relation to the application of the free income of each of the prize funds under the control of the Court;
- Schedule 2 removes the age limitations on tenure of membership of the Academic Board and alters the composition of the Academic Board.

Consultation

The Privy Council and Napier University have been consulted during the preparation of the instrument.

Financial Effects

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

Scottish Executive
Enterprise, Transport and Lifelong Learning Department
February 2007

Statutory Instrument 1993 No. 557 (S. 76)

The Napier University (Scotland) Order of Council 1993

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STATUTORY INSTRUMENTS

1993 No. 557 (S. 76)

EDUCATION, SCOTLAND

The Napier University (Scotland) Order of Council 1993

<i>Made</i>	<i>8th March 1993</i>
<i>Laid before Parliament</i>	<i>11th March 1993</i>
<i>Coming into force</i>	<i>1st April 1993</i>

At the Council Chamber, Whitehall

By the Lords of Her Majesty's Most Honourable Privy Council

Their Lordships, in exercise of the powers conferred upon Them by sections 45 and 60 of the Further and Higher Education (Scotland) Act 1992^[1] and all other powers enabling Them in that behalf, are pleased to order, and it is hereby ordered, as follows:

Citation and commencement

1. This order may be cited as the Napier University (Scotland) Order of Council 1993 and shall come into force on 1st April 1993.

Interpretation

2.—(1) In this Order, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them:

"the Act" means the Further and Higher Education (Scotland) Act 1992;

"the graduates" means all persons who have been registered students of the University, or the former Napier College, Edinburgh College of Commerce or Napier Polytechnic of Edinburgh and have duly completed their particular course of study and received their due award;

"the students" means all persons registered for a course of study of the University;

"the Academic Board" means the Board appointed under article 6(1);

"the University" means Napier University designated under section 44 of the Act being the institution formerly known as Napier Polytechnic of Edinburgh and now renamed in accordance with section 49 of the Act;

"the Court" means the Court of the University, being the governing body constituted as a body corporate by regulation 3 of the Napier College of Commerce and Technology (No. 2) Regulations 1985^[2] and now renamed

in accordance with section 49 of the Act; and

"the 1988 Regulations" means the Central Institutions (Scotland) Regulations 1988^[3].

(2) In this Order, unless the context otherwise requires, any reference to a numbered article, Part or Schedule shall be construed as a reference to the article, Part or Schedule, as the case may be, which bears that number in this Order and any reference to a numbered paragraph in an article of, or Schedule to, the Order is to be construed as a reference to the paragraph bearing that number in that article or, as the case may be, that Schedule.

The Court

3.—(1) The Court shall be the governing body of the University, and shall administer it for the objects of providing education, carrying out research, and promoting teaching, research and general scholarship.

(2) The Court shall consist of the following persons:

- (a) one person to be appointed by the Chancellor who shall act as Assessor to the Chancellor;
- (b) the Principal and Vice-Chancellor referred to in article 5;
- (c) any Vice-Principal or Vice-Principals referred to in article 9 provided that their numbers shall not exceed two. In the event of there being more than two Vice-Principals at any time, the Principal and Vice-Chancellor shall nominate the two Vice-Principals to serve on the Court;
- (d) four members of the staff of the University to be appointed as follows:
 - (i) two who shall be appointed by the Academic Board from the members of the full-time academic staff of the University who are members of the Academic Board, at least one of whom shall be below the level of Head of Department;
 - (ii) one who shall be elected by the full-time academic staff of the University from among such staff; and
 - (iii) one who shall be elected by the full-time non-academic staff of the University from among such staff;
- (e) the President of the Students' Association and one other office-bearer of the Association to be selected by that Association as referred to in article 7;
- (f) one person to be appointed by the Graduates' Association referred to in article 8; and
- (g) such other persons appointed by the Court 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, being not less than 12 nor more than 16 persons as the Court may from time to time determine.

(3) It shall be competent for the Court from time to time to vary the numbers of persons to be appointed under any of paragraphs 2(c) to 2(g), provided that no category there referred to shall cease to be represented on the Court. In any such variation those persons appointed under paragraph 2(g) shall remain in overall majority in the Court, and no variation shall be effective unless determined by a two-thirds majority of the whole members of the Court.

(4) Other than those members of the staff of the University appointed to the Court under articles (2)(b), (c) and (d), no members of staff of the University shall be eligible for appointment to the Court.

(5) The functions and powers of the Court shall be as set out in Schedule 1, and shall be exercised without prejudice to any person on grounds of gender, race, religion or other belief and in a manner which promotes academic freedom.

(6) No failure or defect in the appointment of any member of the Court and no vacancy in the office of a member of the Court shall prevent the Court from acting in the execution of its functions, nor shall any act or proceeding of the Court or of any Committee appointed by it be invalidated or be illegal by reason of or in consequence of any such vacancy or of any such defect in the appointment of any member of the Court.

(7) No person other than an *ex officio* member shall be appointed to the Court for a term of office of more than 4 years; and no person other than an *ex officio* member shall be appointed to the Court where his term of office, if aggregated with any previous terms of office, whether served before or after the coming into force of this Order, would cause him to serve for more than 12 years on the Court.

(8) A person who has attained the age of 70 years shall not thereafter be eligible to take office, whether for a first or subsequent term, as a member of Court; provided that nothing in this article shall prohibit a person who attains the said age during a term of office from continuing as a member of Court until the expiry of that term.

Chancellor

4.—(1) There shall be a Chancellor of the University appointed in a manner to be determined by the Court who shall be the titular head of the University and shall be entitled to confer degrees and other awards of the University.

(2) The period of office of the Chancellor shall be determined by the Court on appointment, and may be renewed.

Principal and Vice-Chancellor

5.—(1) There shall be a Principal of the University who shall also be the Vice-Chancellor. The Principal and Vice-Chancellor shall be the chief Academic and Administrative Officer of the University. In the absence of the Chancellor or during a vacancy in that office, the Principal and Vice-Chancellor may exercise and perform all the functions of the Chancellor including the conferment of degrees.

(2) The Principal and Vice-Chancellor shall be appointed by the Court in a manner to be determined by the Court from time to time.

(3) The Court shall secure that its functions (other than those referred to in article 9(1) and those delegated to the Academic Board by virtue of article 6) relating to the organisation and management of the University and to the appointment, promotion and discipline of staff therein shall be discharged by the Principal and Vice-Chancellor and subject thereto may delegate such other of its functions and powers as are set out in Part A of Schedule 1 as the Court may from time to time determine.

(4) In discharging the functions specified in paragraph (3), the Principal and Vice-Chancellor shall be subject to the general control and direction of the Court, but otherwise the Principal and Vice-Chancellor shall have all the powers and duties of the Court in relation to those functions.

The Academic Board

6.—(1) The Court shall appoint and maintain by further appointment an Academic Board of the University constituted and appointed in accordance with Schedule 2. The Principal and Vice-Chancellor shall preside over meetings of the Academic Board.

(2) The Academic Board may from time to time with the approval of the Court regulate the procedures to be adopted by it including the appointment by the Academic Board of such committees as may be considered appropriate, and any other matters connected with the functions of the Academic Board, provided that any such procedures shall secure:

- (a) the appointment of a Vice-Chairman of the Academic Board; and
- (b) a minimum number of meetings of the Academic Board in each year.

(3) The Court may from time to time delegate to the Academic Board or assume in place of the Academic Board such particular powers and functions as they may determine but subject thereto the Court shall delegate to the Academic Board their whole functions set out in Part C of Schedule 1 hereto provided however that they may from time to time require that such matters as they may specify shall only be determined with the approval of the Court.

(4) The Academic Board may make such rules and regulations as may be necessary for the implementation of their functions or any of the functions delegated to them by the Court.

The Students' Association

7.—(1) There shall be an Association of the students of the University, known as "the Students' Association".

(2) The Students' Association shall have a Council, a President and such other office-bearers as it may from time to time determine.

(3) The principal functions of the Students' Association shall be to advise, assist and represent the students, to provide a channel of communication between the students and the authorities of the University, to provide social and recreational services and facilities for the students and to enable its members to co-operate with members of other institutions for their mutual benefit.

(4) The Students' Association shall be constituted initially in accordance with the scheme for the constitution and functions of the Students' Association of Napier Polytechnic of Edinburgh, made under the Napier College of Commerce and Technology (No.2) Regulations 1985, which scheme shall continue in force subject to paragraph (5).

(5) Subject to paragraphs (2) and (3), the Association shall have power, with the approval of the Court, to determine its own constitution and functions, to amend or

revoke any provision of the scheme referred to in paragraph (4), and to make regulations as to the manner of election of the Council and the office bearers and any other matter relating to the powers, functions, membership and administration of the Association.

The Graduates' Association

8.—(1) There shall be an Association of the graduates of the University, known as "the Graduates' Association", with a Council, President and such other office-bearers as the Association may from time to time determine.

(2) The principal functions of the Graduates' Association shall be to foster and develop the relationships between the graduates and the University and among the graduates themselves, and to promote, assist and support the University in any ways which may from time to time seem appropriate and useful.

(3) The initial constitution of the Graduates' Association shall be determined by the Court.

(4) The manner of election of the Council and the Office-bearers, and any other matters relating to the powers, functions, membership and administration of the Association which at any time it may be thought proper to regulate shall be determined by the Association with the approval of the Court.

Staff

9.—(1) In addition to the appointment of a Principal and Vice-Chancellor as referred to in article 5 hereof, the Court may as the need arises and after consultation with the Principal and Vice-Chancellor appoint a Secretary, and such Vice-Principals and Assistant Principles as the Court may consider necessary for the discharge of its functions.

(2) The Court may also appoint such other staff as it may consider necessary for the discharge of its functions.

Prizes and Bequests

10. The Court shall, after paying any necessary expenses of management and the burdens and taxes affecting each of the funds to which Schedule 3 hereto relates, apply the free income of each fund for the purposes specified in column (3) of the said Schedule against the name of that fund. If at the end of any financial year there is an unexpended balance of income on any of the said funds, it shall be in the power of the Court to carry the said balance or part thereof forward to the following financial year or to add the said balance or part thereof to the capital of the said fund.

Variations and Revocations of Regulations specific to the University

11. In the Napier College of Commerce and Technology (No. 2) Regulations 1985, without prejudice to the validity of anything done thereunder:

(a) all provisions except the preamble and regulations 1 and 3 are hereby revoked; and

(b) in regulation 3, for "The Governors of Napier Polytechnic of Edinburgh" there shall be substituted "The Court of Napier University".

Partial Revocation of the 1988 Regulations

12.—(1) The 1988 Regulations shall cease to have effect in so far as they apply to the University.

(2) In Schedule 2 to those Regulations, paragraph 9 relating to The Napier College of Commerce and Technology (No. 2) Regulations 1985 is hereby revoked.

Savings and Transitional Provisions

13.—(1) For the avoidance of doubt, nothing in this Order shall be taken to affect the continuance of the Court as a body corporate in accordance with The Napier College of Commerce and Technology (No. 2) Regulations 1985.

(2) Any governors in office at the commencement of this Order in accordance with any provision of the 1988 Regulations shall continue for the remainder of their period of office as if they had become members of the Court in accordance with the corresponding provision of this Order.

(3) Any members of the Academic Board established under the 1988 Regulations in office at the commencement of this Order shall continue as members of the Academic Board established under article 6 for the remainder of their period of office.

(4) Any office-bearers or members of the Council of the Students' Association established under the Napier College of Commerce and Technology (No. 2) Regulations 1985 in office at the commencement of this Order shall continue as office-bearers or members of the Council of the Students' Association established under article 7 for the remainder of their period of office.

(5) The whole arrangements prevailing at the time of the coming into force of this instrument shall continue to operate unless or until varied or superseded by the Court.

N. H. Nicholls

Clerk of the Privy Council

Notes:

[1] 1992 c. 37

[2] S.I. 1985/1163, amended by S.I. 1988/1715

[3] S.I. 1988/1715

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SCHEDULE 1

Article 3(5)

Without prejudice to the generality of its functions and powers in the overall management of the University the Court shall have the following functions and powers:

A. Finance and Property

(1) To make such arrangements as they think fit for the conduct of the financial affairs of the University, for the deposit of money and for the drawing and signing of cheques.

(2) To hold, buy, accept, acquire, use, occupy, sell, convey, exchange and lease any property whether heritable or moveable and to grant security over such heritable or moveable property.

(3) To accept and hold in trust any property or asset given, transferred or bequeathed for any purpose connected with the University and apply the same in accordance with purposes of the trust.

(4) To levy and receive fees for all services provided by the University and to raise, generate and receive income from any sources for the furtherance of the objects of the University.

(5) To build, construct, provide, maintain, repair, alter, improve, enlarge, replace, and renew all such property, buildings, assets, furniture, apparatus and equipment as they may from time to time deem appropriate.

(6) To appoint such professional advisers as they may from time to time think appropriate.

(7) To provide, equip, maintain, administer and conduct any facilities for sports, social and recreational purposes, libraries, reading rooms, teaching support services, residential accommodation, and such other facilities of any kind as they may from time to time deem appropriate.

(8) To receive and expend recurrent and capital funds, to borrow funds and to offer securities, to lend and apply the funds all in such way as they shall deem appropriate for the objects of the University, provided always that they shall cause accounts to be made of income and expenditure and shall appoint auditors to audit the same.

(9) To invest any moneys belonging to the University, including unapplied income, in such stocks, funds, shares, securities or accounts as they shall from time to time think fit, whether authorised by the general law for the investment of trust funds or not, and whether inside the United Kingdom or not, or in the purchase of heritable property, with the like power of varying such investments from time to time.

(10) To give guarantee for the payment of any sum or sums of money or the performance of any contract or obligation by any company, body, society or person.

(11) To enter into, vary, carry out or terminate contracts including insurance and contracts of employment.

(12) To apply for and to hold letters patent, patent rights, copyrights, Armorial Bearings or other such rights by themselves or in conjunction with others.

(13) To make provisions for the superannuation of members of staff and the provision of benefits to them, their spouses, their dependants and others.

(14) In consultation with the Academic Board to determine all University fees.

(15) To initiate and establish commercial companies in their own right or in association with other persons or institutions as they may deem appropriate, to hold or continue to hold shares and interests in such companies, and to carry on any trade or business whatsoever calculated to carry out the objects of or to be for the benefit of or to advance the interest or well being of the University.

(16) To manage all matters of the finance and property of the University including businesses, patents and all enterprises whatsoever.

(17) To pay to any of its members such travelling and subsistence allowances as it thinks appropriate.

(18) To conduct legal proceedings.

B. Administration

(1) To determine the dates, times and places of its meetings, and the provisions for the calling and notice of meetings including the convening of special meetings on the requisition of any three members of the Court, provided that there shall be at least four ordinary meetings in each calendar year.

(2) To determine the necessary quorum for any meeting, the

majorities required for determinations of the Court, and the methods and procedures for the recording and publication of determinations of the Court.

(3) To determine the form, custody and use of the common seal of the University.

(4) To determine the arrangements to be made for the execution and custody of all deeds and other documents and the custody of all property belonging to them.

(5) To make such rules, Standing Orders, ordinances, statutes, or regulations as they think fit in the implementation of their functions.

(6) To appoint a chairman and vice-chairman of the Court from among those appointed to the Court under article 3(2)(g) and to prescribe their respective duties and tenures.

(7) 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, and to remove members of the Court in such circumstances as the Court may prescribe.

(8) To appoint such committees of their own number for such particular purposes as they may think fit, including consultative and negotiating committees with staff, and to appoint such other persons not being members of the Court to any such Committee as they may deem appropriate.

(9) To delegate to any such Committee such of their functions as they may currently retain in their own hands where they consider it expedient to make such delegation and to discharge and discontinue any committee appointed by them.

(10) After consultation with the Academic Board, to make such variations in the composition of the Academic Board as set out in Schedule 2 as they shall from time to time think fit and to determine the method of appointment to membership of that body and the tenure of the members including limitations by reason of age, and to remove members of the Board in appropriate circumstances,

(11) To review any decisions of the Academic Board or the Principal and Vice-Chancellor referred to the Court by any person aggrieved by such determination in accordance with such procedures as the Court may from time to time determine.

(12) To receive and consider recommendations and reports from the Academic Board provided that the Court shall not amend

or vary any determinations made by the Academic Board which require the approval of the Court without further reference to the Academic Board.

(13) To award such Honorary Degrees and Honorary Fellowships as the Court may determine with the approval of the Academic Board.

(14) To make and from time to time to vary the procedures to be adopted for the efficient working of the Court.

C. Academic

(1) To deal with the overall planning, co-ordination, development and supervision of the academic work of the University.

(2) To admit to the University all persons for whom a place on a course of study is available and who are deemed able to benefit from the education provided at the University; to exclude any person from admission to any course, or part thereof, if the admission of the said person would be likely to prejudice the University.

(3) To prescribe such conditions as may be considered necessary and appropriate for admission to the University.

(4) To establish Faculties, Departments, Schools, Institutes or other groups, to prescribe their organisation, constitution and functions and to vary or abolish any such groups.

(5) To institute professorships and readerships, to confer such titles and to make such rules and conditions as they deem appropriate for the conferment of such titles.

(6) To confer the titles of emeritus professor, honorary professor, honorary reader, honorary lecturer.

(7) To institute, maintain and grant fellowships, scholarships, studentships, and other aids to and encouragements to research and education.

(8) To undertake, to assist others to undertake and to make provision for research, design, development, testing, consultancy, laboratory and other services and to charge such fees for these services as they may deem appropriate.

(9) To award degrees, diplomas, certificates and prizes, and to prescribe such rules and conditions as they deem appropriate for the receipt of the same.

(10) To arrange for the affiliation of the University with other educational institutions, associations or bodies whether public or

private for any purposes connected with the University.

(11) To publish, print, provide and sell books, stationery and other goods as they deem appropriate.

(12) To frame such codes of discipline and regulations for students as may be necessary for the maintenance of the good order of the University.

(13) To keep a register of the graduates of the University.

D. General

Generally and without prejudice to any of the foregoing to do anything incidental to the performance of any of their functions and to the furtherance of the objects of the University.

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SCHEDULE 2

Article 6(1)

THE ACADEMIC BOARD

- 1.** The Academic Board shall comprise the following:
 - (a) *Ex-Officio members*:—
Principal and Vice-Chancellor (Chairman)
Vice-Principals
Assistant Principals
Deans of Faculty
Secretary and Academic Registrar
Director of the Computer Unit
Director of the Educational Development Unit
Chief Librarian
 - (b) *Elected members*:—
2 Heads of Departments per Faculty
1 Senior Lecturer per Faculty
2 Lecturers per Faculty
 - (c) *Student representatives*:—
1 per Faculty nominated annually by the Students' Association
1 Sabbatical Officer of the Students' Association (normally President)
 - (d) *Co-opted members*:—
Not more than 2 co-opted members
- 2.** The elected members shall be members of the full-time academic staff of the University and the student representatives (other than the Sabbatical Officer) shall be matriculated students at the University.
- 3.** The elected members of the full-time academic staff shall hold office for such a period not exceeding 4 years, as may be determined by the Board, and the student representatives shall hold office for a period not exceeding 1 year.
- 4.** The elected members shall be eligible for re-election.

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SCHEDULE 3

Article 10

SPECIAL FUNDS CONNECTED WITH THE UNIVERSITY

(1)	(2)	(3)
Serial No.	Name of Fund	Purpose
1.	James Dick Memorial Prize	To provide a prize for the best student in Medical Microbiology.
2.	Clark Bequest	To provide a travelling bursary for students in the Department of Print, Media, Publishing and Communication.
3.	Heriot-Watt College Prize	To provide prizes for Napier students.
4.	Heriot-Watt College Printing Prize Fund	To provide prizes for students attending printing classes.
5.	Frank P Restall, Heriot-Watt College Prize Fund	To provide prizes for students attending printing classes.
6.	Blyth and Blyth Service Co Fund	To provide prizes for students in the Civil and Transportation Engineering Department.
7.	J B Scott Memorial Prize Fund	To provide a prize for the best Engineering student at Napier.
8.	John Napier Memorial Prize	To provide a prize for the most promising student in the Energy Engineering Degree Course.
9.	David McMillan Memorial Prize Fund	To provide a prize for the best student in Music.

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes new provision regarding the constitution, functions and powers of the Court of Napier University, as governing body of that University, and the arrangements to be adopted by it in discharging its functions. It replaces most of the provisions of the Napier College of Commerce and Technology (No.2) Regulations 1985, and also the provisions of the Central Institutions (Scotland) Regulations 1988 so far as relating to Napier University.

Napier University is an institution designated by the Secretary of State as eligible to receive support from the Scottish Higher Education Funding Council. It was formerly known as Napier College of Commerce and Technology and later as Napier Polytechnic of Edinburgh. It has adopted the name "Napier University" under section 49 of the Further and Higher Education (Scotland) Act 1992.

Article 3 provides for the Court to be the governing body of the University and makes provision for the composition and membership, functions and powers of the Court.

Article 4 provides for the appointment of a Chancellor as titular head of the University. Article 5 provides for the appointment of a Principal and Vice-Chancellor as Chief Academic and Administrative Officer of the University and for the delegation to him of responsibility for discharging most of the Court's functions regarding the organisation and management of the University and regarding staff.

Article 6 provides for appointment of an Academic Board and for the delegation to it of the Court's functions regarding academic matters.

Article 7 provides for the establishment and functions of a Students' Association and Article 8 for the establishment and functions of a Graduates' Association. Article 9 makes further provision about appointments of staff. Article 10 enables the Court to administer certain funds for provision of prizes and bursaries.

Articles 11 and 12 make consequential revocations and amendments of existing instruments affecting the University and Article 13 makes saving and transitional provisions.
