POLICY NOTE

THE ROYAL CONSERVATOIRE OF SCOTLAND AMENDMENT ORDER OF COUNCIL 2020

S.S.I. 2020/3

Purpose of the instrument: To amend the Royal Conservatoire of Scotland Amendment Order Of Council 2014 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 1992 Act"). The instrument is subject to the negative resolution procedure.

Policy Objectives

2. The constitution of the Royal Conservatoire of Scotland ("RCS") is principally contained in the Royal Conservatoire of Scotland Order Of Council 2014 (S.S.I. 2014/268) ("the 2014 Order") made under section 45 of the Further and Higher Education (Scotland) Act 1992. RCS now propose a number of amendments to the 2014 Order.

3. The purpose of this instrument is to amend the 2014 Order to ensure 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 2014 Order are further described below.

Proposals

7. Article 1 of the Order provides that the Order comes into force on **28 February 2020** and provides a definition of the 2014 Order for the purposes of this Order.

8. Article 2(2) of the Order amends article 2 of the 2014 Order (interpretation), which sets out relevant definitions of terms that are used in the Order. It omits the definition of "Deputy Principal", "the Office" and "Senior Academic Manager", because those terms will not appear in the 2014 Order following amendment. It also inserts a new definition of "the Chair", because the Board will now refer to that person holding that position as "the Chair" rather than "the Chair of the Board". There is also a new definition for "the 2016 Act", and for "Governor" and "student" as these terms were not defined in the 2014 Order.

9. Article 2(3) of the Order amends the 2014 Order by omitting articles 3 and 4 in the 2014 order, and substituting new articles 3, 4, 4A and 4B. The new article 3 sets out the composition of the Board; article 4 makes provisions for the appointment of the Chair in accordance with sections 3 to 8 of the 2016 Act; article 4A and 4B make provision for the Board to make rules relating to the election and nomination of its Governors.

10. Article 2(4) of the Order amends article 5 of the 2014 Order (appointment of chair and vice-chair) makes consequential amendments. Article 2(5) amends the heading of article 5 of the 2014 Order to "Appointment and role of Vice-Chair", because this article will only make rules for the appointment of the vice-chair.

11. Article 2(6) of the Order makes amendments to article 6 of the 2014 Order (period of office of governors). Article 6(2) is amended so that the provisions in subparagraphs (2) and (3) apply to all Governors other than the Principal and Assistant Principal. A new paragraph (2A) is inserted into article 6 of the 2014 Order, which provides that the Assistant Principal may be further appointed on expiry of that person's term of office.

12. Articles 2(7), (9), (10) and (11) of the Order makes consequential amendments to the 2014 Order.

13. Article 2(8) of the Order substitutes a new article 8 which provides a power for the Board to make rules for the resignation and removal of its members.

14. Article 2(12) of the Order amends article 19(1) of the 2014 Order (academic board) to provide that the Academic Board is to be constituted in accordance with Chapter 2 of Part 1 of the Higher Education Governance (Scotland) Act 2016.

15. Article 2(13) of the Order omits article 20 and schedule 2, which amend the Articles of Association of the Royal Conservatoire of Scotland. Article 2(13) of the Order omits Part I of schedule 1 of the 2014 Order as a consequence and makes other amendments.

16. Article 3(1) of the Order makes transitional provision relating to the current chair of the Board who is in office immediately before commencement of this Order and article 3(2) makes transitional provision relating to the current student members of the Board.

Commencement

17. The Order will come into force on 28 February 2020.

Consultation

18. The Scottish Government consulted the Privy Council Office, the Royal Conservatoire of Scotland 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
22 November 2019