

Higher Education Governance (Scotland) Bill

Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections A1 to 23
Long Title

Schedule

Amendments marked * are new (including manuscript amendments) or have been altered.

Section A1

Chic Brodie

- 27 In section A1, page 1, line 11, at beginning insert <Except where there is a rector with the functions referred to in section A2(1),>

Chic Brodie

- 28 In section A1, page 1, line 14, after <body> insert <when issues of policy affecting the institution are being considered>

Chic Brodie

- 29 In section A1, page 1, line 15, after <meetings> insert <in relation to such matters>

Liz Smith

Supported by: Liam McArthur

- 1 In section A1, page 1, leave out lines 18 and 19 and insert <subject to such functions of the senior lay member as are provided for by virtue of any enactment or in accordance with the governing document of the institution.>

Chic Brodie

- 30 In section A1, page 1, line 23, after <are> insert <subject to section (*Co-chair of governing body*).
(5) Subsection (3) is>

Section A2

Chic Brodie

- 31 In section A2, page 2, line 6, leave out from beginning to second <to> in line 7 and insert <The rector has the functions described in section A1(2) in relation to the governing body of>

Section A3

Chic Brodie

- 32 In section A3, page 2, line 15, after <committee> insert <appointed by it>

Liz Smith

2 In section A3, page 2, line 18, at end insert—

<having regard to any principles which appear to the Scottish Further and Higher Education Funding Council to constitute good practice in relation to higher education institutions in accordance with section 9A of the Further and Higher Education (Scotland) Act 2005.>

Chic Brodie

33 In section A3, page 2, line 19, after first <the> insert <availability,>

Chic Brodie

34 In section A3, page 2, line 25, at end insert—

<() The committee is to consist of no more than 6 members.>

Clare Adamson

35 In section A3, page 2, line 25, at end insert—

<() Each time the process for filling the position is undertaken, the committee must make publically available a report indicating by way of overview (and without disclosing individual identities or confidential information)—

(a) the number of applicants for the position,

(b) so far as consent to disclosure has been received by the committee from the applicants, the characteristics listed in section 149(7) of the Equality Act 2010 with respect to—

(i) the applicants,

(ii) the applicants invited to an interview for the position,

(iii) the applicants entitled to stand as candidates in an election for the position following such an interview.>

Liz Smith

3 In section A3, page 2, line 28, leave out <of the institution> and insert <members of the governing body>

Liz Smith

4 In section A3, page 2, line 29, leave out <students of the institution> and insert <student members of the governing body>

Angela Constance

11 In section A3, page 2, line 30, leave out <make provision for> and insert <contain provision about>

Section A4

Gordon MacDonald

- 36 In section A4, page 2, line 35, leave out from <by> to end of line 38 and insert <widely by the governing body, in a manner suitable for bringing the vacancy to the attention of a broad range of persons.>

Liam McArthur

- 12* In section A4, page 2, line 36, leave out from <including> to end of line 38 and insert <as the governing body sees fit, having regard to principles which appear to the Scottish Further and Higher Education Funding Council to constitute good practice in relation to higher education institutions in accordance with section 9A of the Further and Higher Education (Scotland) Act 2005.>

Chic Brodie

- 37 In section A4, page 2, line 37, at end insert—
<() through appropriate media outlets considered to be particularly relevant to students and staff of the institution, and>

Liam McArthur

- 13 In section A4, page 3, leave out lines 6 to 12

Chic Brodie

- 38 In section A4, page 3, leave out line 8

Angela Constance

- 14 In section A4, page 3, line 9, leave out <what> and insert <that>

Angela Constance

- 15 In section A4, page 3, line 11, leave out <what> and insert <that>

Section A5

Liam McArthur

- 16 In section A5, page 3, line 20, leave <applicant must> and insert <application will be considered further by the committee in terms of how well the applicant meets the relevant criteria, together with other additional relevant information contained in the application and, having considered all of the applications made in accordance with subsection (1)(a), the committee will produce a shortlist of candidates to>

Liam McArthur

- 17 In section A5, page 3, line 21, leave out from beginning to <is> in line 22 and insert—
<() At such interviews the committee is to assess—
(a) how well each of the shortlisted applicants performs at interview,
(b) the overall suitability of the applicants to hold the position.

- () Having completed interviews of all applicants, the committee is to produce a list of those applicants who are>

Section A6

Angela Constance

- 18 In section A6, page 3, line 29, leave out <convened> and insert <arranged by the governing body>

Liz Smith

Supported by: Liam McArthur

- 5 In section A6, page 3, line 29, leave out <convened> and insert <held>

Liz Smith

Supported by: Liam McArthur

- 6 In section A6, page 3, line 29, leave out <more than> and insert <at least>

Liz Smith

Supported by: Liam McArthur

- 7 In section A6, page 3, line 32, leave out subsection (2)

Liz Smith

Supported by: Liam McArthur

- 8 In section A6, page 4, line 1, leave out from <is> to <the> in line 2 and insert <may make such rules as it sees fit concerning the procedures and conduct of an election for the position of senior lay member, including rules about the institution's contribution to expenses that are incurred by any>

Section A7

Chic Brodie

- 39 In section A7, page 4, line 10, leave out subsections (2) to (5) and insert—

<() An election under section A6 is to be conducted on the basis of a single transferable vote system, to be specified by the governing body of the institution after consulting the Electoral Reform Society.>

Liam McArthur

- 19 In section A7, page 4, line 11, leave out subsections (3) to (5) and insert—

<() A vote under subsection (1) is a vote by a person with membership of a body listed in paragraph (a), (b) or (c) of subsection (1) to elect a person or persons to vote on behalf of that body in an election under section A6 for the position of senior lay member of the governing body of a higher education institution.

- () Rules for the operation of the election and qualification for membership of the bodies listed in paragraphs (a), (b) and (c) of subsection (1) are to be made by the governing body of the institution.>

Section A9

Angela Constance

- 20 In section A9, page 4, line 28, leave out <reasonable remuneration and allowances to the person> and insert <such remuneration and allowances to the person as the governing body considers to be reasonable>

Angela Constance

- 21 In section A9, page 4, line 30, leave out <that capacity> and insert <the capacity as senior lay member>

Liz Smith

Supported by: Liam McArthur

- 9 Leave out section A9 and insert—

<Payment of remuneration and allowances to senior lay member

- (1) The governing body of a higher education institution may make such arrangements for the institution to pay remuneration or allowances to the senior lay member of that governing body as it sees fit.
- (2) Any remuneration or allowances paid to the senior lay member are to be determined by the governing body of the institution, having regard to any principles which appear to the Scottish Further and Higher Education Funding Council to constitute good practice in relation to higher education institutions in accordance with section 9A of the Further and Higher Education (Scotland) Act 2005.
- (3) The senior lay member is not entitled to vote in respect of any decision of the governing body under subsection (1) or any determination by it under subsection (2).>

Section 1A

Angela Constance

- 22 Leave out section 1A

After section 1A

Chic Brodie

- 40 After section 1A, insert—

<Co-chair of governing body

Co-chair of governing body

- (1) The members of the governing body of a higher education institutions are to elect one of their members as a co-chair of the governing body (the “elected co-chair”).
- (2) The elected co-chair has—
 - (a) the duty to preside at meetings of the governing body when it is considering matters other than those to be presided over by the senior lay member (or, as the case may be, rector),
 - (b) a deliberative and casting vote at such meetings in relation to such matters,

- (c) joint responsibility with the senior lay member (or, as the case may be, rector) for—
 - (i) the leadership and effectiveness of the governing body,
 - (ii) ensuring that there is an appropriate balance of authority between the governing body and the principal of the institution.
- (3) In the absence of the senior lay member (or, as the case may be, rector), the elected co-chair has the functions described in paragraphs (a) and (b) of section A1(2).
- (4) Another member of the governing body of a higher education institution may be selected by the governing body to exercise any of the functions mentioned in subsection (2) in the absence of the elected co-chair or while the position is vacant.
- (5) The governing body of a higher education institution may—
 - (a) conduct an election for the position of elected co-chair in such manner as it sees fit, and
 - (b) apply, with such modifications as it sees fit, any of the other provisions of sections A8, A9 and 1A in respect of the position of elected co-chair.>

Section 4

George Adam

- 41 In section 4, page 5, line 38, leave out <, recognised in relation to the academic staff of the institution,>

George Adam

- 42 In section 4, page 6, line 1, leave out <, recognised in relation to the support staff of the institution,>

Mark Griffin

- 43 In section 4, page 6, line 9, at end insert—
 <() Where the governing body of a higher education institution establishes a remuneration committee, the membership of that committee must include at least one member of the governing body appointed by virtue of each of paragraphs (c), (d) and (e) of subsection (1).>

George Adam

- 44 In section 4, page 6, line 10, leave out from <is> to <institution> in line 11 and insert <nominating a person from among a category of staff must be one that>

George Adam

- 45 In section 4, page 6, line 12, leave out <so recognises it> and insert <is recognised by the institution in relation to the category of staff,>

George Adam

- 46 In section 4, page 6, line 14, leave out <recognises it as> and insert <appears to the institution to be>

George Adam

- 47 In section 4, page 6, line 14, after <staff> insert <, having regard to all relevant factors>

Cara Hilton

- 48 In section 4, page 6, line 14, at end insert—

<() The governing body of a higher education institution must ensure that the number of women appointed to the governing body is at least 40 per cent of the membership of the governing body.>

Section 5A

Angela Constance

- 23 Leave out section 5A

After section 6

Angela Constance

- 24 After section 6, insert—

<Resignation and removal

- (1) Rules made by the governing body of a higher education institution may contain provision about the procedure for the resignation or removal of—
 - (a) the person appointed to the position of senior lay member of the governing body,
 - (b) the other persons within the membership of the governing body.
- (2) Provision as to removal is to (in particular)—
 - (a) prescribe grounds for removal, for example—
 - (i) inability to exercise the senior lay member's functions or (as the case may be) the functions of membership generally,
 - (ii) misconduct (whether or not in the capacity as member),
 - (b) ensure that removal can be effected only by a resolution based on the grounds and passed by a specified majority of the members of the governing body,
 - (c) allow the person who is the subject of the resolution, if the resolution is so passed, to seek a review in order to have the resolution reconsidered or quashed.
- (3) For the purpose of subsection (2)(b)—
 - (a) a specified majority may be a majority of any particular size,
 - (b) the person who is the subject of the resolution does not count in any calculation arising (and the person is not eligible to vote on the resolution).
- (4) Provision under subsection (1)(a) need not be the same as provision under subsection (1)(b).>

After section 7

Alison Johnstone

49 After section 7, insert—

<Functions of remuneration committee

Functions of remuneration committee

Where the governing body of a higher education institution establishes a remuneration committee, in exercising its functions the committee must have regard to—

- (a) pay settlements agreed through the New Joint Negotiating Committee for Higher Education Staff,
- (b) the desirability of reducing the ratio between the remuneration of the highest paid and lowest paid employee within the institution, and
- (c) the overall financial situation of the institution.>

After section 18A

Liam McArthur

25 After section 18A, insert—

<CHAPTER

EXEMPTIONS FROM PROVISIONS OF PART 1

Exemptions from provisions of Part 1

- (1) If a higher education institution considers that it cannot reasonably comply with any provision of this Part, it must apply in writing to the Scottish Ministers requesting an exemption in respect of that provision.
- (2) Where the Scottish Ministers receive an application under subsection (1) they must—
 - (a) within 2 months of receiving the application, determine whether to grant the exemption,
 - (b) give notice of their determination in writing to the higher education institution.
- (3) Where the determination of the Scottish Ministers is to grant the exemption, notice under subsection (2)(b) must set out—
 - (a) the extent to which and duration for which the institution need not comply with a provision,
 - (b) such other conditions as the Scottish Ministers consider appropriate.>

Schedule

Liz Smith

10 In the schedule, page 12, line 9, leave out from <<“consist”> to end of line 10 and insert <the beginning of the section to “provided;” are repealed.>

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