Procedure for alteration of college statutes

The following sets out the procedures to be followed to comply with the Universities of Oxford and Cambridge Act 1923, and the latest information from the Privy Council Office (PCO) on its requirements as to the submission of documentation, to amend college statutes.

**1. Informal review by the Privy Council Office**

In order to save time and avoid the possibility of late amendments, the PCO has suggested that, before amendments to college statutes are submitted to the governing body for approval, they should be submitted to the PCO, which will then liaise with the Charity Commission and the Department for Business, Energy & Industrial Strategy (the government department with responsibility for higher education), and then send any comments back to the college. The college can then take any comments into account when preparing the revised statute for submission to the governing body for approval.

**2. The governing-body meeting**

The 1923 Act ensures that any college statute (or ordinance or regulation) may be altered ‘by statute made by the college under this Act and passed at a general meeting of the governing body of the college specially summoned for the purpose by the votes of not less than two-thirds of the number of persons present and voting’ (s. 7(2)).

**Note:**

*(a)*For a statute to be made ‘under this Act’, the full procedure leading to approval by Order in Council must be followed. Without such approval, the statute would not be fully effective; moreover, if any part of the procedure had been disregarded but an Order in Council was made nevertheless, the validity of the order would be open to challenge.

*(b)*‘The Governing Body’ of a college is defined in section 2 in the Schedule to the Act. Some persons normally entitled to attend, and vote at, certain (or all) governing-body meetings may be found to be excluded from the definition.

*(c)*Some colleges are required by their statutes to follow prescribed procedures and observe prescribed timetables for the summoning of their various governing-body meetings, and certain votes may be required to be ratified at a later meeting. Colleges should ensure that the effective vote for the purposes of the Act was at a *general* meeting *specially* summoned for the purpose.

*(d)*The alteration must be passed by the votes of not less than two-thirds of the number of persons present and voting. Persons not within the definition of ‘The Governing Body’ should not be counted for this purpose as ‘present and voting’ even if they purported to vote (whether for or against the alteration).

*(e)*Failure to comply with the Act’s requirements regarding the governing body meeting would invalidate the purported alteration (and involve the college, and the other bodies concerned, in much subsequent effort to no avail). To help avoid inadvertent non-compliance, the Committee on Statutes before the Privy Council will request that **all colleges**, when supplying to the University Offices details of proposed statutory alterations for consideration by the committee (see section 2 below), should **state specifically that the proposed alterations were passed at a general meeting of the governing body of the college specially summoned for the purpose by the votes of not less than two-thirds of the number of persons present and voting.**

Failure to provide such a statement on submission will lead to delay as the committee will require confirmation in writing.

**3. Notice to the University, and the need for the latter’s consent**

The Act requires that notice of any proposed statute for a college shall be given to the University before the statute is submitted to the Privy Council; and that a college statute which affects the University shall not be altered except with the consent of the University (provisos to s. 7(2)).

**Note:**

The consent of the University (insofar as it is required) is secured by publication of a notice in the *Gazette*, which becomes effective fifteen days after publication in the *Gazette* unless notice of a resolution calling upon Council to annul or amend the proposed statute is received by the Registrar by noon on the eleventh day after the day on which it was published. Publication of the notice in the *Gazette* must be accompanied by an explanatory note explaining the effect of the proposed statute.

Under the guidance prepared by the PCO in the form of the template explanatory memorandum (see right-hand menu), the college is required to provide a description of the effect of the change(s) resulting from the new statute (section 2 of the template) and a note on the policy background (section 4 of the template).

The committee will examine colleges’ proposals to revise their statutes and will report on whether the proposed changes constitute alterations of statutes which affect the University within the meaning of section 7 (2) of the Act. The committee will also draw attention to the implications, if any, which alterations to college statutes may have for the University and colleges as a whole. This is in accordance with the regulations setting out the committee’s terms of reference ([Council Regulations 15 of 2002](http://www.admin.ox.ac.uk/statutes/regulations/520-122u.shtml)). **In order to aid this work, please could colleges submit proposed statutes electronically, with tracked changes to identify the changed text (if statutes have been completely rewritten, please could colleges provide the current text of the relevant statutes). It is also helpful if colleges submit a copy of the PCO’s explanatory memorandum to the committee to aid its deliberations.**

It is likely that the committee will take the view that the information provided in the PCO memorandum prepared by the colleges should constitute the explanatory note required to be published in the *Gazette*.

It is the responsibility of the secretary of the committee to arrange the publication of the statutory changes in the *Gazette*.

When it is known that the notice has been published in the *Gazette* and that no request for repeal or annulment has been received, colleges will need to put in motion the remaining procedures prescribed by the Act.

**4. Formal approval by His Majesty in Council**

After notice has been given to the University and it is known that the University’s consent has been obtained (or is not required), colleges seal their formal statute effecting the agreed alterations and submit the following documents to the PCO (submission to the Privy Council Office must be effected ‘within one month’ of the statute being made (i.e. sealed)). The documents are now only accepted electronically.

1. A covering letter.
2. A scan of the sealed statute, showing both the date that the statute was made by the college (i.e. the date of the governing body meeting at which the statute was approved) and the date of sealing.
3. An explanatory memorandum for each statute (see the template included in the right-hand menu).
4. A copy of the consultative notice published in the *Gazette*.
5. Any additional information that is necessary to explain the background to the changes which is not indicated in the explanatory note.

The PCO prefers the use of a Wafer Seal and the photocopies of the statute that are sent should be copies of the original version which contain the Wafer Seal (so that when the statutes are laid before Parliament the Parliamentary officials can see immediately that sealing has taken place). A note of the signatories should be included in the covering letter as this information is needed when the statute is printed by the PCO.

Details of the officer at the PCO who deals with University business are set out below.

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The Schedule to the 1923 Act details the procedure leading to approval by Order in Council. In brief, notice of the submission of the statute is published by the PCO in the *London Gazette*, and eight weeks exclusive of any university vacation are allowed for persons or bodies directly affected to petition against the statute (s. 46). Within one month of the expiration of the eight-week period, the statute is laid before both Houses of Parliament. (If Parliament is not then sitting, the statute is laid before both Houses within fourteen days after the next meeting of Parliament.) The two Houses have four weeks in which to present an address seeking the withholding of consent (ss. 49 and 50). Only after these procedures have been completed can approval by Order in Council be expected, and such approval would be forthcoming only at one of the formal meetings of the Council. Meetings are generally held monthly with the exception of January, August and September.

**5. The time from submission to approval**

The PCO advises colleges that they should expect to wait for from six to nine months after submission of their statutes to the PCO before approval by Order in Council is granted and recent experience confirms this expected timeline. The shortest time is likely to occur when statutes are submitted between October and February; at other times, Parliamentary recesses and university vacations inevitably delay the procedure although the PCO officers make every effort to keep delays to the minimum.