

## **Lower Saxony Higher Education Act (Niedersächsisches Hochschulgesetz - NHG)**

### **Article 24 - 30**

*in the version disclosed on 26th February 2007 (Nds. GVBl. [Lower Saxony Law and Ordinance Gazette] No. 5/2007 p. 69), as amended by Art. 1 of the law of 10.06.2010 (Nds. GVBl. p. 242), last amended by the law of 29 June 2011 (Nds. GVBL. P. 202)*

### **Article 24**

#### **Official tasks of the professors**

(1) <sup>1</sup>Professors shall independently carry out the tasks incumbent upon their university in science and art, research and teaching, the promotion of academic trainees as well as the further education and the provision of services in their subjects and shall participate in performing the other university functions. <sup>2</sup>Their official tasks include conducting examinations and student guidance. <sup>3</sup>The type and scope of their official tasks, which are subject to a review at appropriate intervals, are based on the structure of the employment and the job description, in due consideration of clauses 1 and 2. <sup>4</sup>Tasks in matters of research, artistic development or teaching can predominantly be assigned to them. <sup>5</sup>The work in a national or for a national academic organisation which is primarily financed by government funds can be declared as an official task upon request.

(2) <sup>1</sup>The Presidential Board can commit professors to holding lectures in all courses of study and in all locations of its university in the scope of their employment in order to safeguard the courses offered. <sup>2</sup>Work in other universities or in institutions with which the university cooperates in order to perform its functions requires the consent of the Presidential Board.

(3) <sup>1</sup>The Presidential Board can entirely or partly release professors for research and artistic development projects, for tasks in science and technology transfer as well as for development tasks in the teaching of other official tasks at appropriate intervals for the duration of one semester or trimester, upon their request, after hearing the faculty and the responsible student dean. <sup>2</sup>The same shall apply to the execution of practice-related activities which are official tasks and which are necessary for the tasks in teaching. <sup>3</sup>The exemption requires proper representation of the subject.

### **Article 25**

#### **Conditions of employment for professors**

(1) The conditions of employment for professors are:

1. a completed university course of education,
2. educational teaching suitability confirmed through practical experience,
3. the particular aptitude to carry out advanced independent academic work which is generally demonstrated through an outstanding doctorate or the particular aptitude to carry out artistic work and
4.
  - a) additional academic achievements which are usually obtained in the scope of a junior chair or a post-doctoral lecturing qualification, but also in the scope of work as an academic member of staff at a university or non-university research institution or in the scope of other academic work at home or abroad,
  - b) additional artistic achievements or
  - c) particular achievements regarding the application or development of academic knowledge and methods in professional practice lasting at least five years, at least three of which must have been executed outside of the field of university.

(2) <sup>1</sup>Only those persons who demonstrate additional practical or appropriate educational experience lasting three years or experience in empirical research which corresponds to the tasks should be appointed to a chair that has a job description which includes the execution of tasks of educational science or teaching the subject. <sup>2</sup>Professors in Universities of Applied Science and for courses of study of Universities of Applied Science at other universities

must meet the conditions of employment according to para. 1, clause 1, No. 4 letter c; those who meet the conditions of employment according to para. 1, clause 1, No. 4, letter a or b can be appointed in special justified exceptional cases. <sup>3</sup>Only those who provide evidence of recognition as a medical specialist, dental surgeon, veterinary surgeon or, should this not be intended in the respective field, medical work lasting a minimum of five

years after receiving the licence to practice as a doctor, the appointment or the authorisation to practice a profession can be appointed to a chair with medical, dental or veterinary tasks.

(3) Provided it corresponds to the character of the subject and the requirements of the position, those who demonstrate excellent subject-related achievements in practice and teaching suitability can also be appointed, notwithstanding para. 1 and 2.

## **Article 26** **Appointment of professors**

(1) <sup>1</sup>Chairs shall be advertised in public. <sup>2</sup>An advertisement can be waived if:

1.

a) a junior professor or

b) the manager of the trainees' group, who received their position after external assessment, is to be appointed to a chair with civil servant status for life or in indefinite employment,

2. a professor by appointment is to be permanently appointed to the same chair,

3. this is necessary in order to keep a professor of the university, who has received an appointment offer from another university or another employment offer, at the university by offering a superior chair position,

4. a chair is financed by an inter-university financing program, the awarding conditions of which provides for an advertisement or an application process and a selection process with external assessment or

5. a particularly qualified personality, who the university is particularly interested in to improve its quality and to strengthen its profile, is to be obtained for the chair.

<sup>3</sup>The body responsible for appointing professors according to Article 48 para. 2 or Article 58 para. 2 shall make the decision on waiving an advertisement at the request of the university. <sup>4</sup>For the cases in which the advertisement can be waived, the university can regulate the appointment procedures by regulation, notwithstanding para. 2, clauses 2 to 6 and para. 5, clauses 1 to 4.

(2) <sup>1</sup>The Faculty Council shall be responsible for drawing up the appointment proposal. <sup>2</sup>It shall set up an Appointment Commission for the preparation of this in consultation with the Presidential Board and the Appointment Commission shall be formed according to groups (Article 16 para. 2, clause 4). <sup>3</sup>The participation of external university lecturers shall be guaranteed. <sup>4</sup>Members of the MTV group shall not be entitled to vote in the Appointment Commission. <sup>5</sup>At least 40 out of one hundred of the voting members should be women and half of them should belong the university lecturers' group; exceptions require the approval of the equal rights representative. <sup>6</sup>The Appointment Commission shall submit a recommendation to the Faculty Council. <sup>7</sup>The Faculty Council shall resolve the appointment proposal and shall present it with a statement from the equal rights representative to the Presidential Board through the Senate, which shall express its opinion on it and refer back to it once. <sup>8</sup>The Presidential Board shall refer the appointment proposal back if the equal rights representative asserts a violation of the equal rights statement; Article 42 para. 4, clause 3 shall apply accordingly. <sup>9</sup>The Presidential Board shall decide on the appointment proposal and shall present it to the relevant Ministry or the Foundation Council with the statement from the Senate for a decision.

(3) <sup>1</sup>If a faculty is to be entirely or largely fundamentally re-structured due to university development or for quality assurance, the Presidential Board can resolve that, after hearing the Senate and in agreement with the relevant Ministry or the Foundation Council, the Appointment Commission can exclusively be occupied with external professors as well as with equally suitable persons, notwithstanding para. 2. <sup>2</sup>In such a case, a representative of both the employees' and students' group shall belong to the Appointment Commission as a non-voting member.

<sup>3</sup>The Appointment Commission shall submit a recommendation to the Presidential Board, upon which the Faculty Council, the Senate and the equal rights representative shall express their opinion. <sup>4</sup>Para 2, clauses 8 and 9 shall apply accordingly.

(4) <sup>1</sup>As regards the staffing of professor positions in areas of the university which develop its profile, the Presidential Board can resolve that, in agreement with the Senate and the Faculty Council, the Appointment Commission can be staffed exclusively with professors as well as similarly suitable persons, notwithstanding para. 2, clause 2. <sup>2</sup>A regulation which requires approval shall govern the further details.

(5) <sup>1</sup>The appointment proposal should include three persons and it should extensively and comparatively acknowledge their personal suitability and professional achievement, particularly in teaching and justify the selected order. <sup>2</sup>Reports from external experts on the achievements in science or art including the teaching, who should generally express their opinion comparatively on the short-listed applicants, shall be obtained. <sup>3</sup>Reports in terms of clause 2 can be waived if the Appointment Commission has included at least three external members.

<sup>4</sup>Persons who have not applied can be taken into consideration with their agreement. <sup>5</sup>Junior professors in the same university can only be considered for an appointment to a chair if they had changed university after being awarded the doctorate or were academically employed outside of the appointing university for a minimum of two years. <sup>6</sup>Other members of the university can only be considered for the appointment to a chair if they are deemed more suitable than other applicants and upon presentation of the conditions of clause 5.

(6) Professors shall be appointed at the request of the university according to Article 48, para. 2 or Article 58, para. 2.

(7) <sup>1</sup>The Presidential Board can commission a suitable person to appropriately manage a chair on a transitional basis with a public employment status without implementing an appointment procedure. <sup>2</sup>The Articles 33 to 37, 42, 44 to 48, 50 and 52 of the BeamtStG, the Articles 10, 46, 49 to 55, 58 to 60, 62, 65 to 69, 80 to 95 and 104 of the NBG, the regulations of the German Law on the Pension for Civil Servants (*Beamtenversorgungsgesetz*) on the support for honorary civil servants as well as for regulations of this law which apply to professors as civil servants shall be accordingly applied. <sup>3</sup>Article 27 para. 7 shall not be applied.

(8) The universities can implement joint appointment procedures with scientific institutions which do not belong to any university, for the staffing of chairs; the statutes shall govern the further details in due consideration of para. 2 and 3.

## **Article 27**

### **Special regulations for professors**

(1) <sup>1</sup>The provisions on the trial period, careers, partial retirement and the non-active status as well as on the working time, with the exception of the regulations on part-time employment, shall not be applied to professors employed as civil servants. <sup>2</sup>The Presidential Board can arrange for a regular or scheduled attendance.

(2) <sup>1</sup>Only those persons under the age of 50 may be appointed as professors with a civil servant status for the first time. <sup>2</sup>The maximum age limit according to clause 1 shall increase by the periods of time in which an under-age child living in the domestic environment is cared for, however, by a maximum of three years. <sup>3</sup>Clause 1 shall not apply to persons who were employed as a civil servant for life or as direct or indirect state officials of Lower Saxony for life at the point the appointment came into effect. <sup>4</sup>Professors shall reach the retirement age at the age of 68, notwithstanding Article 35, clause 2 of the NBG.

(3) <sup>1</sup>Professors can be delegated or transferred to another university without their consent if the university in which the person concerned is employed is closed down or merged with another university. <sup>2</sup>The delegation or transfer according to clause 1 is still possible if the assuming university is maintained by another principle in the scope of this law. <sup>3</sup>The clauses 1 and 2 shall apply as regards the consolidation of organisational units of the same or several universities. <sup>4</sup>Professors can be relocated within the university without their consent if a course of study or the organisational unit in which they are working is reduced or essentially changed in terms of its capacity or closed in the scope of the development planning of the university. <sup>5</sup>Furthermore, the delegation of professors is permitted in order to perform teaching tasks in another university based on a cooperation agreement, even if this university is maintained by another principal. <sup>6</sup>Regulations corresponding to clauses 1 and 2 shall be accordingly included in employment contracts with professors with an employee status.

(4) <sup>1</sup>Professors with medical, dental or veterinary tasks who have a civil servant status can be given leave for the duration of their work for the maintaining body of their university, should the earnings in employment not governed by a collective agreement be discontinued. <sup>2</sup>Clause 1 shall apply accordingly for official senior consultants who are not professors.

(5) <sup>1</sup>The personnel and tangible resources which are assured in addition to the basic equipment for research and teaching in the scope of appointment and continuation of employment negotiations shall be subject to a review based on the results of the evaluation, the conditions of an amended target agreement and a current development plan, in principle five years after the commitment was made. <sup>2</sup>Assurances can also be repeatedly temporarily granted.

(6) <sup>1</sup>The commitment to provide additional resources according to para. 5 in appointment and continuation of employment agreements can be linked with the obligation to ensure that the professor shall remain at the university for a reasonable period of time to be determined in individual cases. <sup>2</sup>Should the professor leave the university early, for reasons attributable to the professor, a complete or partial reimbursement of the funds according to clause 1 shall be agreed upon. <sup>3</sup>A requirement for the reimbursement is that, after the professor leaves, these funds shall not be able to be used or applied elsewhere or shall only be applied with economic loss.

(7) <sup>1</sup>The academic title "professor" shall be awarded upon transfer of the official tasks to a chair. <sup>2</sup>Those who were indefinitely employed as professors may also continue to hold the title after leaving the university. <sup>3</sup>The rights associated with the authorisation to perform professional teaching shall remain valid.

(8) <sup>1</sup>The state government can award the title of "honorary professor" to outstanding personalities who have rendered outstanding services in science, technology, culture of art in Lower Saxony, at the request of the relevant Ministry and in agreement with the state university conference of Lower Saxony. <sup>2</sup>The membership in a university is not connected with this.

## **Article 28 Temporary professors**

(1) Professors can be appointed indefinitely:

1. in their first appointment,
2. for tasks in matters of science and art, research and teaching as well as service providing which have a limited period of time,
3. to obtain excellent qualified academics, artists or professionals,
4. to assume the role of senior physicians or to independently represent a subject within a department or a centre,
5. in the case of complete or predominant coverage of the costs from the funds of third parties or
6. in connection with management work in a scientific institution outside of the university which is occupied in the scope of a joint appointment procedure.

(2) <sup>1</sup>Employment in a chair by appointment is only possible for a maximum of five years. <sup>2</sup>Extensions by up to five years are permitted in the cases of para. 1, No. 2 to 6.

(3) Civil servants who are to be appointed to a chair by appointment can be granted special leave for this period without the continuation of the earnings; Article 22 para. 3 of the BeamStG as well as Article 7 para. 3 and Article 37 of the NBG shall not be applied.

## **Article 29 Part-time professors**

<sup>1</sup> Professors can be permanently or temporarily employed part-time under public law of its kind with less than half of the teaching obligations of the professors employed full-time. <sup>2</sup>The regulations of this law which are applicable to full-time professors with a civil servant status as well as the Lower Saxony Law on Civil Servants shall apply accordingly; the regulations on secondary employment shall not be applied with the exception of the regulation on

charging a user fee. <sup>3</sup>Professors employed part-time for whom an independent or dependant professional activity either entirely or partly replaces the research should be predominantly assigned teaching tasks in the scope of this employment contract.

**Article 30**  
**Junior professors**

(1) <sup>1</sup>The aim of the junior professors is to qualify for the appointment to a professor at a university by independently carrying out the tasks incumbent upon their university in matters relating to science and art, research and teaching as well as further education and service provision. <sup>2</sup>The requirements for this shall be guaranteed when designing the employment contract and the job description.

(2) <sup>1</sup>Employment conditions for junior professors are:

1. a completed university course of study,
2. suitability in educational teaching and
3. the particular aptitude to carry out advanced independent academic work which is generally demonstrated by the outstanding quality of a doctorate or the particular talent related to independent artistic work.

<sup>2</sup>Junior professors with medical, dental or veterinary tasks should also demonstrate the recognition as a medical specialist or, if this is not provided for in the respective field, medical work of at least five years after obtaining the licence to practice, the appointment or the authorisation to practice the profession. <sup>3</sup>Article 25, para. 2 clause 1 shall apply accordingly.

(3) <sup>1</sup>Junior professors shall be appointed by the Presidential Board at the request of the Faculty Council. <sup>2</sup>The proposal shall be drawn up by a Selection Commission of the faculty, which is formed like an Appointment Commission, taking the reports of external expert persons into account; the Senate shall participate in drawing up the proposal, just like the proposals to appoint professors according to Article 26. <sup>3</sup>Reports in terms of clause 2 can be waived if at least three external members have belonged to the Selection Commission. <sup>4</sup>The proposal should be rejected if the equal rights representative asserts a violation of the equal rights statement; Article 42 para. 4, clause 3 shall apply accordingly. <sup>5</sup>Article 26 para. 4 and 8 apply accordingly.

(4) <sup>1</sup>Junior professors shall be employed for the duration of three years. <sup>2</sup>The employment can be extended by up to three years by the Presidential Board at the request of the Faculty Council if a teaching evaluation and an external assessment of the services in research or art justify this. <sup>3</sup>Alternatively, the employment can be extended by up to one year. <sup>4</sup>The extensions according to clauses 2 and 3 shall remain unconsidered when applying Article 21 a para. 2. <sup>5</sup>Article 27 para. 1, 3, 5 and 6 shall apply accordingly.

(5) If a person is employed as an academic member of staff or academic assistant before or after the doctorate has been awarded, the doctorate and employment phase should not have amounted to more than six years or no more than nine years in the field of medicine.

(6) Junior professors shall hold the academic title of "professor" for the duration of their employment.