

EXPLANATORY NOTES

Education (Scotland) Act 2025 (asp 11)

£14.80

These notes relate to the Education (Scotland) Act 2025 (asp 11)
which received Royal Assent on 6 August 2025

EDUCATION (SCOTLAND) ACT 2025

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Education (Scotland) Act 2025. They do not form part of the Act and have not been endorsed by the Parliament.

2. These Notes should be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

NOTE ON INTERPRETATION ETC.

3. The Act's freestanding text (that is, its sections and schedules) is to be interpreted in accordance with the Interpretation and Legislative Reform (Scotland) Act 2010. Among other things, this provides default definitions for certain expressions (such as "financial year", "person" and "writing").

CROWN APPLICATION

4. Section 20 of the Interpretation and Legislative Reform (Scotland) Act 2010 provides that the Crown will be bound by an Act of the Scottish Parliament or Scottish statutory instrument unless the provision expressly exempts it. The freestanding text in this Act applies to the Crown in the same way as it applies to everyone else. Schedule 4 of the Act also amends a number of existing enactments, some of which do, and some of which do not, apply to the Crown. The Act makes no change to the application of those enactments to the Crown.

OVERVIEW OF THE ACT

5. The Act consists of 3 Parts.

- Part 1 establishes a new body, Qualifications Scotland. It sets the functions of that body; requires the establishment of a Strategic Advisory Council and an Expert Group on Qualifications Standards; provides for Qualifications Scotland to prepare and publish a learner charter and a teacher and practitioner charter; requires it to publish a corporate plan, annual report, annual quality assurance compliance report and accounts; and introduces schedule 1 which makes further administrative provision about Qualifications Scotland. Provision is also made about various committees of Qualifications Scotland but in particular about the Accreditation

Committee, which is subject to its own provisions regarding reporting as well. It further requires the carrying out of reviews considering the effectiveness of Qualifications Scotland's arrangements for ensuring the quality of qualifications, and the operation of the Act's accreditation provisions, at defined points following the commencement of the relevant provisions.

- Part 2 establishes a new office holder, His Majesty's Chief Inspector of Education in Scotland. It sets out the functions and powers of the Chief Inspector; makes provision for supporting roles; requires the establishment of an Advisory Council; requires the Chief Inspector to publish an inspection plan, reports on inspections and annual reports; requires educational establishments to cooperate with inspections; and makes provision about the enforcement measures that can follow a school-related inspection. It also introduces schedule 2, which makes further administrative provision about the office of Chief Inspector.
- Part 3 contains the general and miscellaneous provisions applying to the Act, including the transitional provisions for the transfers of staff and property between the Scottish Qualifications Authority and Qualifications Scotland, and the dissolution of the Scottish Qualifications Authority. It further introduces schedule 3 which makes further provision about the transfers, and schedule 4 which modifies other enactments in consequence of the Act.

PART 1: QUALIFICATIONS SCOTLAND

Establishment

Section 1 – Qualifications Scotland

6. This section establishes the body to be known as 'Qualifications Scotland'. The body's Gaelic name, 'Teisteanasan Alba', has equal legal status. As a body corporate, Qualifications Scotland has a legal personality separate from that of the people who comprise it.

7. This section also provides that Qualifications Scotland has the functions conferred on it under or by virtue of this Act and any other enactment, as well as introducing the schedule which makes further provision about the body's composition and other matters. See paragraphs 152 to 199 of these Notes for commentary on schedule 1.

Functions

Section 2 – The function of awarding qualifications

8. Section 2 sets out Qualifications Scotland's functions relating to qualifications. These functions are:

- devising qualifications (this includes the ability to develop different types of qualifications and awards – for example, school based qualifications such as National Qualifications and post-school qualifications such as Scottish Vocational Qualifications – and also includes the ability to devise and develop the subject-matters qualifications might cover),

- approving establishments suitable for presenting people for qualifications which are either devised or awarded by it, having regard to the matters set out in section 3(b) in relation to the quality assurance function (this includes ensuring places like schools, colleges, training providers and employers have the right systems set up and meet quality standards to deliver qualifications for learners),
- determining entitlement to the qualifications it devises or awards, and as part of this awarding and recording the qualifications (for example, this enables Qualifications Scotland to set entry requirements to study for a certain qualification, as well as determining whether an individual undertaking a qualification has met all the requirements and has done so to a certain level in order to be awarded the qualification or award),
- keeping the qualifications it devises under review and revising them, having regard to the requirement in section 3(a) to make appropriate arrangements to satisfy itself as to the quality of the qualifications it devises,
- making arrangements for, assisting in and carrying out the assessment of persons undertaking education and training (for example, arranging any examination processes for Qualifications Scotland qualifications, or providing services to other organisations to support the development or delivery of assessment for other qualifications and awards).

9. These functions of devising qualifications and reviewing/revising them include the power to devise a programme of learning, determine what is required to attain the qualification and determine how the qualification is to be assessed.

10. These functions may not be exercised in relation to degrees awarded by universities or other specified institutions.

Section 3 – The quality assurance function

11. Section 3 makes provision for Qualifications Scotland to satisfy itself as to the quality of the qualifications it devises, and the suitability of education and training establishments which have been approved for presenting people for qualifications devised or awarded by Qualifications Scotland. This latter function includes satisfying itself as to the quality of the procedures adopted by those establishments to assess standards of attainment (in particular for people with educational support needs (as defined in section 63(1))) and the quality of the internal arrangements for monitoring and controlling the effectiveness of those procedures.

Section 4 – The accreditation function

12. Section 4 provides for Qualifications Scotland to have the function of accrediting qualifications which meet the requirements specified and published by it, and of satisfying itself as to the suitability of establishments providing accredited qualifications.

13. This function is to be carried out by the Accreditation Committee which must be established and maintained by Qualifications Scotland under paragraph 13 of schedule 1. For further information about the Accreditation Committee and the manner in which it will operate, see paragraphs 186 to 189 of these Notes.

14. This function is not to be exercised in relation to degrees.

Section 5 – The advisory function

15. Section 5 requires Qualifications Scotland to give the Scottish Ministers advice when they request it. The section also allows Qualifications Scotland to give Ministers such other advice as it thinks fit on any matter relating to its functions.

Section 6 – Working with, or recognition of, others

16. Section 6 allows Qualifications Scotland to provide services and act as agent for others. It requires Qualifications Scotland to work in collaboration with others in every case in which it appears to it appropriate to do so, in respect of any matter to which its functions relate. It also allows Qualifications Scotland to confer fellowships or other awards on those who it considers have made an outstanding contribution to the advancement of education or training.

Section 7 – Duties when exercising functions

17. Section 7 imposes several duties on Qualifications Scotland when exercising its functions:

- Qualifications Scotland must promote and advance education and training (including training and education reflecting the current and future needs in relation to improving Scotland's economy).
- In every case in which it appears to it appropriate to do so, Qualifications Scotland must consult such persons with an interest as it considers appropriate. The relevant persons with an interest are defined in subsection (2) as being persons undertaking a Qualifications Scotland qualification, persons providing teaching or training in respect of such a qualification, and such other persons as Qualifications Scotland considers appropriate.
- Qualifications Scotland must have regard to the needs and interests of persons using its services (for example, those seeking to attain its qualifications or education establishments presenting people for qualifications). This includes those who are receiving, or wish to receive, British Sign Language learner education or medium education, Gaelic learner education or medium education, or the teaching of British Sign Language or the Gaelic language in further education.
- Qualifications Scotland must also have regard to any advice provided to it by the Strategic Advisory Council, which is to be established by the Scottish Ministers under section 9 (see paragraphs 19 to 21 of these Notes).

- Qualifications Scotland must have regard to the Scottish Credit and Qualifications Framework prepared by the Scottish Credit and Qualifications Framework Partnership. However, this requirement does not apply during any period in which the credit and qualifications framework mentioned there does not have affect. Subsection (3)(a) also provides the Scottish Ministers with the power to modify subsection (1)(e) through regulations to substitute in another credit and qualifications framework (as defined in subsection (5)). Any such regulations would be subject to the negative procedure (see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010).
- Qualifications Scotland must have regard to any representations made in writing to it about the exercise of its functions by either the Scottish Further and Higher Education Funding Council or the Skills Development Scotland Co. Limited. The Scottish Ministers have the power (under subsection (3)(b)) to modify subsection (1)(f)(ii) through regulations to substitute another person or to change the reference where the person mentioned there changes name. Regulations changing the person would be subject to the negative procedure but regulations simply updating the text following a name change are subject to no procedure and are just laid before the Parliament.
- Qualifications Scotland must also have regard to any developments in how people undertake education and training which are relevant to carrying out assessments, to the economic, social and environmental priorities of the Scottish Ministers, and to the need to operate in a way which is transparent and accountable.
- Qualifications Scotland must also, so far as is reasonably practicable, prioritise the provision of services in Scotland. This does not prevent Qualifications Scotland from delivering services outwith Scotland, and simply requires that, where practicable, priority be given to services within Scotland.

Section 8 – Consultation with Strategic Advisory Council

18. Section 8 requires Qualifications Scotland to consult the Strategic Advisory Council (which is to be established by the Scottish Ministers by regulations under section 9) in every case where it considers it appropriate to do so in the exercise of its functions. Qualifications Scotland must have regard to any guidance issued by the Scottish Ministers as to the fulfilment of this requirement. The Scottish Ministers must publish any such guidance they issue. Qualifications Scotland must publish its procedures (and any revisions made to those procedures) for fulfilling the consultation requirement and responding to any advice provided to it by the council.

<u>Strategic Advisory Council</u>

Section 9 – Strategic Advisory Council

19. Section 9 requires the Scottish Ministers to establish a Strategic Advisory Council, by regulations (subject to the negative procedure – see section 28 of the Interpretation and Legislative Reform (Scotland) Act 2010). The council will be established to consider matters

relating to the functions and procedure of Qualifications Scotland and the qualifications devised or awarded by it, and to provide advice to Qualifications Scotland and the Scottish Ministers.

20. The regulations establishing the council may provide (among other things) for the appointment of its members, the terms of appointment of these people and other administrative and procedural matters relating to how the council is to operate.

21. The regulations must make provision for the appointment of co-conveners, one of whom is to be a member of Qualifications Scotland and one of whom is not to be such a member (though it would be possible for the regulations to make provision by virtue of subsection (2)(d) allowing the council to continue to function in the event of a temporary vacancy in these positions). The regulations are further required to make provision about the council's membership, specifically that—

- members of staff of Qualifications Scotland cannot be appointed to the council (though see also subsection (3)(f)(iii), as commented on at paragraph 22 below),
- one or more of the council members must represent the interests of children and young people (regardless of whether they are undertaking a Qualifications Scotland qualification),
- one or more members must represent the interests of parents of children and young people undertaking a Qualifications Scotland qualification,
- members are to be appointed for a term not exceeding 4 years (with the potential of reappointment for one or more further terms, up to a total membership duration of 12 years). It should be noted that because the co-conveners are drawn from the ordinary membership (see subsection (3)(a)), these rules on the maximum duration would apply to the co-conveners just as they would apply to other members.

22. The regulations must also make provision requiring the council, in the exercise of its functions and in every case in which it appears to it appropriate to do so, to consult such of the persons and committees mentioned in subsection (4) as the council considers appropriate and to have regard to any consultation carried out by Qualifications Scotland. The regulations must further provide that the council must have regard to any guidance issued by the Scottish Ministers as to compliance with these requirements (which must be published by the Scottish Ministers), and that the council must allow members of staff of Qualifications Scotland to observe or participate in meetings of the council (at the discretion of the conveners).

Expert Group on Qualifications Standards

Section 10 - Expert Group on Qualifications Standards

23. Section 10 requires Qualifications Scotland to establish an Expert Group on Qualifications Standards. The purpose of this group is to advise Qualifications Scotland on the quality of qualifications devised by Qualifications Scotland (under the function conferred by section 2(1)(a)). The membership of this group cannot contain members of, or members of staff of, Qualifications Scotland.

Charters

Section 11 – The learner charter

24. Section 11 requires Qualifications Scotland to prepare and publish a learner charter within 6 months of this section coming into force. The charter must be prepared in collaboration with the Learner Interest Committee (as established by paragraph 11 of schedule 1) and such other invited persons as wish to participate.

25. The charter must set out what children, young people and adults undertaking a qualification devised or awarded by Qualifications Scotland should expect from Qualifications Scotland in the exercise of its functions. For example, these expectations could include: how and when Qualifications Scotland communicates with and involves learners; how Qualifications Scotland adapts processes to meet different learner needs or interests; or how it will remove barriers to accessing qualifications and awards for different learners. The learner charter may also include such other information as Qualifications Scotland considers appropriate. In the preparation of the charter, Qualifications Scotland must have regard to the desirability of the charter securing better or further effect of the rights of children.

26. The persons Qualifications Scotland invites to participate in the preparation of the learner charter must include children and young people undertaking a Qualifications Scotland qualification, parents of children and young people undertaking such a qualification, other persons undertaking such a qualification, other persons whom Qualifications Scotland believes represent the interests of persons undertaking such qualifications, persons undertaking such a qualification who use British Sign Language, persons who have educational support needs (as defined in section 63(1)), persons who have experience of being in the care system as children and young people, and persons who are from socio-economically disadvantaged backgrounds. When inviting people to participate in the preparation of the charter, Qualifications Scotland must encourage equal opportunities and in particular the observance of the equal opportunity requirements. The preparation of the charter may take place before this section comes into force.

27. Prior to the finalisation of the charter, Qualifications Scotland must provide the Strategic Advisory Council (see paragraphs 19 to 21 of these Notes) and the Scottish Ministers with the opportunity to comment on the charter, and must have regard to any comments received from the council and Ministers in response.

Section 12 – The teacher and practitioner charter

28. Section 12 requires Qualifications Scotland to prepare and publish a teacher and practitioner charter within 6 months of this section coming into force. This charter must be prepared in collaboration with the Teacher and Practitioner Interest Committee (as established by paragraph 12 of schedule 1) and such other invited persons as wish to participate.

29. The charter must set out what persons providing teaching or training in respect of a qualification devised or awarded by Qualifications Scotland should expect from Qualifications Scotland in the exercise of its functions. For example, these expectations could include: how

and when Qualifications Scotland communicates with and involves teachers and other practitioners; what Qualifications Scotland will do to act on teacher and other practitioners' concerns with qualifications or assessments; or how teachers and other practitioners are better supported in delivering learning and teaching for Qualifications Scotland qualifications. The teacher and practitioner charter may also include such other information as Qualifications Scotland considers appropriate.

30. The persons Qualifications Scotland invites to participate in the preparation of the teacher and practitioner charter must include persons providing teaching or training for a Qualifications Scotland qualification, persons training to be a teacher, and persons whom Qualifications Scotland believes represent the interests of such persons. When inviting persons to participate in the preparation of the charter, Qualifications Scotland must encourage equal opportunities, and in particular the observance of the equal opportunity requirements. The preparation of the charter may take place before this section comes into force.

31. Prior to the finalisation of the charter, Qualifications Scotland must provide the Strategic Advisory Council (see paragraphs 19 to 21 of these Notes) and the Scottish Ministers with the opportunity to comment on the charter, and must have regard to any comments received from the council and Ministers in response.

Section 13 – Reviewing and revising the charters

32. Qualifications Scotland must review each of the charters within 5 years of their respective publication dates, and then within 5 years of each subsequent review relating to that charter. Qualifications Scotland may revise a charter following a review of that charter, and must publish any revised version as soon as reasonably practicable. As any revised charter will still be "the charter", the rules about its content (as set out in sections 11 and 12 respectively) will apply automatically. The requirements for collaborative production of the charters which are set out in sections 11 and 12 apply to production of any revised charters.

Section 14 – Other charters

33. Qualifications Scotland must, from time to time, consider whether to prepare and publish charters for persons using its services, other than those covered by the learner charter and the teacher and practitioner charter (provided for in sections 11 and 12 respectively).

<u>Guidance</u>

Section 15 - Guidance about assistance for people with educational support needs

34. Section 15 requires Qualifications Scotland, within 6 months of this section coming into force, to prepare are publish guidance on arrangements that can be made to assist people with educational support needs with undertaking Qualifications Scotland qualifications. The term "educational support needs" is defined in section 63(1). Qualifications Scotland may revise this guidance from time to time and, where it does so, it must publish the revised guidance.

Accountability of Qualifications Scotland

Section 16 – Corporate plan of Qualifications Scotland

35. Section 16 makes provision about Qualifications Scotland's corporate plan. This must be prepared by Qualifications Scotland as soon as reasonably practicable after this section comes into force.

36. The corporate plan must set out the main objectives of Qualifications Scotland, the outcomes which will be used to assess whether those objectives have been achieved, a general description of its planned activities, and what it intends to do to meet the requirements set out in section 7 and the expectations set out in its charters. The charters which must be covered for this purpose will include the learner charter under section 11 and the teacher and practitioner charter under section 12, as well as any other charters produced (e.g. under section 14). The corporate plan may also include such other material as Qualifications Scotland considers appropriate. However, the corporate plan need not include details of objectives and activities which relate to the activities of the Accreditation Committee, because it is required to prepare its own corporate plan under section 24.

37. Before preparing a corporate plan, Qualifications Scotland is required to consult with a variety of persons on how Qualifications Scotland can, in the exercise of its functions, align with the economic, social and environmental priorities of the Scottish Ministers. The groups from which consultees must be sought are persons who are undertaking (or have recent experience of undertaking) a Qualifications Scotland qualification, persons who are providing teaching or training in respect of a Qualifications Scotland qualification, employers, and such other persons as Qualifications Scotland considers appropriate. When consulting, Qualifications Scotland is only required to consult with such persons in these groups as it considers appropriate.

38. Once a plan has been prepared, it must be put to a vote of the members of Qualifications Scotland. In order to be approved, a majority of those voting must cast their vote in favour of the plan. The plan must then be submitted to the Scottish Ministers. Ministers can approve the plan without any modifications, approve it with modifications (following consultation with Qualifications Scotland), or reject it. If it is rejected, the Scottish Ministers must publish their reasons for rejecting the plan, and Qualifications Scotland must submit a modified plan as soon as reasonably practicable. Any modified plan will be subject to the same approval requirements as the plan that was initially submitted. Furthermore, the same options for responding are available to the Scottish Ministers in respect of a modified plan.

39. As soon as reasonably practicable following approval of the corporate plan, Qualifications Scotland must publish it and the Scottish Ministers must lay a copy of it before the Scottish Parliament.

40. Once a corporate plan is approved, it remains in force until such time it is superseded by a new corporate plan. Qualifications Scotland can opt to prepare a new corporate plan at any time, or it can be compelled to do so by the Scottish Ministers. In each case, because a new corporate plan is still a corporate plan, its content must satisfy the requirements of

subsection (3) and it must be published and laid before the Scottish Parliament under subsection (9). Further, by virtue of subsection (11), the same rules about approval apply as applied to the first corporate plan.

Section 17 – Annual report of Qualifications Scotland

41. This section places an obligation on Qualifications Scotland to report after each financial year on its activities during that year. The phrase "financial year" is defined in schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010 as a year ending with 31 March. Qualifications Scotland must publish this report and share a copy with the Scottish Ministers as soon as reasonably practicable after the end of each financial year. Following receipt of this, the Scottish Ministers must lay a copy of the report before the Scottish Parliament.

42. The report must include a statement of what Qualifications Scotland has done during that year to meet the requirements set out in section 7 and the expectations set out in its charters. In the event that Qualifications Scotland has failed to satisfy any expectation set out in its charters during that year, the report must set out these failures, the reasons for such failures, and the steps that Qualifications Scotland has taken, or intends to take, to remedy those failures. The charters which must be covered for this purpose will include the learner charter under section 11 and the teacher and practitioner charter under section 12, as well as any other charters produced (e.g. under section 14). The report need not include details of activities carried out by the Accreditation Committee, because it is required to report separately under section 25. Otherwise, the content and form of the report is a matter for Qualifications Scotland.

Section 18 – Annual quality assurance compliance report of Qualifications Scotland

43. This section requires Qualifications Scotland to prepare and publish a report after each financial year (see paragraph 41 of these Notes for a definition of financial year) on the arrangements it has made in accordance with the requirements of section 3(a) (see paragraph 11 of these Notes), being those necessary to satisfy itself as to the quality of the qualifications it devises under the function conferred by section 2(1)(a). In particular, this report must set out the arrangements that were in place during the relevant financial year, and detail how Qualifications Scotland complied with those arrangements during that year. Otherwise, the content and form of the report is a matter for Qualifications Scotland. In particular, the report can be combined with another report (such as the annual report under section 17).

44. When preparing the report, Qualifications Scotland must consult the Learner Interest Committee and the Teacher and Practitioner Interest Committee. Qualifications Scotland must send a copy of the published report to the Scottish Ministers, and in turn the Scottish Ministers must lay a copy of the report before the Scottish Parliament.

Section 19 – Reports of advice to Qualifications Scotland from certain committees

45. Section 19 places an obligation on Qualifications Scotland to prepare and publish reports setting out a summary of any advice provided to it by its mandatory committees (i.e. the Learner Interest Committee, the Teacher and Practitioner Interest Committee and the

Accreditation Committee). These reports must also set out a summary of Qualifications Scotland's response to such advice. Qualifications Scotland is required to publish the first of these reports within the period of 12 months beginning with the day on which this section comes into force. Subsequent reports must be published within 12 months of the day on which the last report was published.

Section 20 – Accounts and audit of Qualifications Scotland

46. This section requires Qualifications Scotland to keep accounts, and to prepare a statement of accounts for each financial year and send a copy to the Scottish Ministers. The Scottish Ministers must then submit the statement to the Auditor General for Scotland for audit.

47. As Qualifications Scotland's accounts are required, by statute, to be sent to the Auditor General for Scotland for auditing, sections 21 and 22 of the Public Finance and Accountability (Scotland) Act 2000 then apply. Amongst other things, those sections provide for the accounts, and the auditor's report on them, to be laid before the Scottish Parliament and published (see section 22(5) of that Act). In addition, the principal accountable officer for the Scottish Administration can designate someone to be the body's accountable officer (see section 15(3) of that Act), and the Auditor General for Scotland can look into whether the body has been using its resources appropriately (see section 23 of that Act).

Section 21 – Scottish Ministers' power to direct Qualifications Scotland

48. This section requires Qualifications Scotland to comply with any direction issued to it by the Scottish Ministers. This could, for example, relate to the exercising of Qualifications Scotland's core functions or it could relate to a more administrative matter such as how the body is to keep its accounting records.

49. Directions given by the Scottish Ministers to Qualifications Scotland must be in writing and published as soon as reasonably practicable after being given. A direction may be varied or revoked by a subsequent direction. There is, however, an obligation on the Scottish Ministers to consult Qualifications Scotland before issuing a direction, unless that direction is merely revoking an earlier direction.

50. In general, Qualifications Scotland will be able to respond to a direction issued by the Scottish Ministers by, where appropriate, passing on a corresponding direction to its committees and the committee must then comply with it under paragraph 10(4) of schedule 1. However, under paragraph 13(3)(a) of schedule 1, this does not include its Accreditation Committee. There is therefore a separate power for the Scottish Ministers to direct the Accreditation Committee (see section 26).

Section 22 – Guidance by the Scottish Ministers to Qualifications Scotland

51. This section requires Qualifications Scotland to have regard to any guidance issued by the Scottish Ministers in respect of the exercise of Qualifications Scotland's functions. This obligation is in addition to Qualifications Scotland having regard to any guidance issued by the Scottish Ministers to it under section 8(2) (see paragraph 18 of these Notes) and to its Strategic

Advisory Council under section 9(3)(f)(ii) (see paragraph 21 of these Notes). Where any guidance as mentioned in this section is issued, the Scottish Ministers must publish it. There are equivalent publication requirements for the additional guidance mentioned in section 8 (see section 8(3)) and section 9 (see section 9(5)).

Section 23 – Provision of information by Qualifications Scotland

52. This section requires Qualifications Scotland to provide the Scottish Ministers with such information as they reasonably request relating to the exercise of Qualifications Scotland's functions. This allows Ministers to be provided with information they require without needing to issue a direction in order to obtain it.

Accountability of the Accreditation Committee

Section 24 – Corporate plan of the Accreditation Committee

53. Section 24 requires the Accreditation Committee of Qualifications Scotland (established by paragraph 13 of schedule 1) to prepare and publish its own corporate plan, separate from that prepared by Qualifications Scotland, as soon as reasonably practicable after this section comes into force.

54. The corporate plan must set out how the committee intends to exercise the accreditation function under section 4 as well as its function of providing advice to Ministers (see paragraph 13(2) of schedule 1), for which it is responsible, and may include such other material as it considers appropriate. The committee may prepare a new corporate plan at any time and must publish any such new plan. The provision regarding the content of the plan also applies automatically to any new plan.

Section 25 – Annual report of the Accreditation Committee

55. This section places an obligation on the Accreditation Committee to report after each financial year on its activities during that year, separate from the report prepared by Qualifications Scotland. As noted above, the phrase "financial year" is defined in schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010 as a year ending with 31 March. The committee must publish this report and share a copy with the Scottish Ministers as soon as reasonably practicable after the end of each financial year. Following receipt of this, the Scottish Ministers must lay a copy of the report before the Scottish Parliament. The form and content of the report is to be decided by the committee.

Section 26 – Scottish Ministers' power to direct the Accreditation Committee

56. This section requires the Accreditation Committee to comply with any direction issued to it by the Scottish Ministers. This could, for example, relate to the exercising of the committee's functions or it could relate to a more administrative matter such as how the body is to keep its records. While the Scottish Ministers will therefore be able to direct the Accreditation Committee under this section, Qualifications Scotland itself will not be able to do so (see paragraph 13(3)(a) of schedule 1).

57. Directions given by the Scottish Ministers to the committee must be in writing and published as soon as reasonably practicable after being given. A direction may be varied or revoked by a subsequent direction. There is, however, an obligation on the Scottish Ministers to consult the committee before issuing a direction, unless that direction is merely revoking an earlier direction.

Funding and powers

Section 27 – Financial assistance

58. This section enables the Scottish Ministers to give financial support, of various kinds, to Qualifications Scotland. Conditions may be attached if desired, including the requirement for interest to be paid.

Section 28 – Funding and use of resources

59. This section sets out the powers Qualifications Scotland has in respect of its funding and resources and the limitations on these powers.

60. In particular, Qualifications Scotland can charge for providing a service, though this is subject to the satisfaction of any criteria set by the Scottish Ministers. In addition, the Scottish Ministers may set an upper limit in terms of the value of a contract, beyond which Ministerial authorisation is required to enter into a contract.

Section 29 – General powers

61. This section provides that Qualifications Scotland may do anything necessary or expedient for, or otherwise conducive to, the performance of its functions. This will in practical terms be subject to any constraints found elsewhere in legislation (for example, section 28(2) of the Act sets some limits upon the powers which Qualifications Scotland has).

Supporting provisions

Section 30 – Publication of documents

62. This section applies when Qualifications Scotland is publishing a document under this Part of the Act. It requires Qualifications Scotland to have regard to the importance of communicating in an inclusive way that best meets the needs of children and young people, persons with educational support needs (as defined in section 63(1)), users of British Sign Language, users of Gaelic, users of Scots and other users of Qualifications Scotland's services. For example, this section would require Qualifications Scotland to consider publishing the learner charter in an accessible format (including for users of British Sign Language) and translating it into Gaelic and Scots.

Reviews

Section 31 – Review of arrangements for assuring quality of qualifications

63. This section requires the Scottish Ministers to appoint a person to undertake a review of the effectiveness of the arrangements Qualifications Scotland has made in accordance with the requirements of section 3(a) (see paragraph 11 of these Notes), being those necessary to satisfy itself as to the quality of the qualifications that Qualifications Scotland devises (as per the function conferred on it by section 2(1)(a)). This appointment must be made as soon as reasonably practicable and, in any event, no later than 3 months after this section comes into force. A member, or member of staff of, Qualifications Scotland cannot be appointed to this position.

64. Following the review, the person appointed must prepare a report of the review and submit the report to the Scottish Ministers. The Scottish Ministers must then give a copy of the report to Qualifications Scotland, lay a copy of the report before the Scottish Parliament, and publish the report.

Section 32 - Review of accreditation function

65. This section requires the Scottish Ministers (or another person the Scottish Ministers delegate their reporting function under this section to) to undertake a review of the operation of the accreditation provisions. The accreditation provisions are defined in subsection (5) as being sections 4, 24, 25, paragraph 13 of schedule 1, and paragraphs 10, 14 and 15 of schedule 1 insofar as they relate to the Accreditation Committee. This review must be undertaken as soon as reasonably practicable after the end of the 2 year period which starts the day the accreditation provisions come into force (or the day the last of those provisions comes into force).

66. When undertaking this review, the Scottish Ministers (or the delegated person) must consult Qualifications Scotland and such other persons as the Scottish Ministers (or delegated person) consider appropriate.

67. Following the review, the Scottish Ministers (or delegated person) must prepare a report of that review. Regardless of whether the report's preparation was delegated or not, the Scottish Ministers are then required to publish the report, and lay a copy of the report before the Scottish Parliament. The report prepared must, in particular, set out an assessment of the scope of Qualifications Scotland's accreditation function (being the function conferred on Qualifications Scotland by section 4(1)), an assessment of whether that function should remain a function of Qualifications Scotland, and detail what steps (if any) the Scottish Ministers intend to take as a result of the findings of the review. In the event that the production of the report is delegated to an external person, this will essentially require that person to seek information about Ministers' intentions from the Scottish Ministers and include that response in the delegated person's report.

68. When setting out an assessment of the steps (if any) the Scottish Ministers intend to take as a result of the review, Ministers must confirm whether they intend to bring forward legislation in relation to the accreditation provisions. As defined in subsection (5), this legislation could take the form of a draft Scottish statutory instrument under Part 2 of the Public Services Reform (Scotland) Act 2010, or a Bill.

69. If the Scottish Ministers report that they intend to bring forward such legislation, they must bring forward the legislation within 1 year of publication of the report or, if they do not do so then they must, as soon as reasonably practicable after that 1 year period, lay a statement before the Scottish Parliament setting out whether or not they still intend to bring forward such legislation. If the Scottish Ministers still intend to bring forward legislation, then the statement must set out their timescales for bringing forward the legislation. On the other hand, if the Scottish Ministers no longer intend to bring forward such legislation, then the statement must set out their reasons for that decision.

PART 2: HIS MAJESTY'S CHIEF INSPECTOR OF EDUCATION IN SCOTLAND

Establishment

Section 33 – His Majesty's Chief Inspector of Education in Scotland

70. Subsection (1) of section 33 establishes the office of His Majesty's Chief Inspector of Education in Scotland and provides for its Gaelic name. The Gaelic name, 'Àrd-Neach-sgrùdaidh an Rìgh airson Foghlam ann an Alba', has equal legal status.

71. Subsection (2) introduces schedule 2 which makes detailed provision for the status and terms of appointment of the Chief Inspector, as well as various matters of an administrative nature relating to the office of Chief Inspector. See paragraphs 200 to 209 of these Notes for commentary on that schedule.

Section 34 – Deputy Chief Inspector of Education in Scotland

72. Section 34 requires the Chief Inspector to appoint a deputy from among the Inspectors who are appointed under section 35. This appointment is subject to the approval of the Scottish Ministers.

73. There is further provision made in relation to deputising for the Chief Inspector at paragraphs 6 and 7 of schedule 2 (see paragraphs 207 and 208 of these Notes).

Section 35 – His Majesty's Inspectors of Education in Scotland

74. Section 35 provides for the appointment by the King of His Majesty's Inspectors of Education in Scotland. Inspectors will be appointed by His Majesty by Order in Council on the recommendation of the Scottish Ministers.

75. Under subsection (2), the Scottish Ministers are to determine the number of Inspectors to be appointed by His Majesty. Subsection (3) provides that the Inspectors hold and vacate office at His Majesty's pleasure, and otherwise operate in accordance with terms and conditions determined by the Scottish Ministers. Under subsection (4), a defect in the appointment process for an Inspector does not call into question the validity of anything done by that person.

76. Subsection (5) provides for inspectors appointed under the Education (Scotland) Act 1980 (see sections 66 and 135 of that Act) to be treated as if appointed under this section, so that existing inspectors will automatically become Inspectors under the provisions of this Act.

Section 36 – Assistance with inspections

77. Subsection (1) allows the Chief Inspector to appoint suitable persons to assist in the carrying out of inspections.

78. The remuneration, allowances and other terms and conditions applicable to such persons are to be determined by the Chief Inspector, with the approval of the Scottish Ministers.

Functions

Section 37 – Purpose of inspection

79. Section 37(1) sets out the purposes which the Chief Inspector is, so far as relevant, to carry out their functions with a view to achieving. The qualifier "so far as relevant" recognises that there may be times where the Chief Inspector is, for example, performing a purely administrative task where it is difficult to draw a direct line between the task and achieving the purposes of inspection.

80. The purposes of inspection encompass recognising effective practice that has been adopted by relevant educational establishments, promoting improvements that could be made in the quality of education in Scotland, and providing assurance to the public that the quality of education provided in relevant educational establishments is being assessed.

81. Subsection (2) allows the Scottish Ministers by regulations (subject to the affirmative procedure – see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010) to modify this section so as to add, remove or vary a purpose of inspection. However, under subsection (3) this is subject to the requirement to first consult the Chief Inspector, the Advisory Council established under section 44, and such other persons as Ministers consider appropriate.

Section 38 – The inspection function

82. Section 38 provides that the Chief Inspector is to secure the inspection of relevant educational establishments, as defined in section 39, subject to the detailed provision made in this section.

83. Under subsection (2)(a) of section 38, inspections of relevant educational establishments – other than excepted establishments – are to be carried out at the intervals the Chief Inspector considers appropriate, within the parameters set under subsection (4). The terms "relevant educational establishment" and "excepted establishment" are both defined in section 39 (see paragraphs 87 to 91 of these Notes). The Scottish Ministers may, under subsection (4), make regulations specifying the minimum frequency with which these inspections must be carried out, though such regulations may only be made after consultation

under subsections (5) and (6). Any such regulations would be subject to the affirmative procedure (see section 29 of the Interpretation and Legislative Reform (Scotland) Act 2010). Excepted establishments are to be inspected only on a request from Ministers (see subsection (2)(c)).

84. Under subsection (2)(b), the Scottish Ministers may also require the Chief Inspector to inspect a particular educational establishment (including an excepted establishment), a type of educational establishment (for example, grant-aided schools), or a sample of a type of educational establishment. The last of these would allow the Chief Inspector to require inspection of a sample of educational establishments, for example to assess how a specific issue is being addressed by them or how well a particular aspect of the curriculum is being delivered.

85. Subsection (3) provides that an inspection is secured by the Chief Inspector directing an Inspector or a person appointed to assist with inspections under section 36 to carry out the inspection, by the Chief Inspector carrying out the inspection personally, or by any combination of the foregoing people carrying out the inspection.

86. Subsection (7) links to subsection (4) (discussed above in paragraph 83). It requires the Scottish Ministers, within 12 months of the section coming fully into force, to put draft regulations before the Parliament for approval which would set the minimum frequency of inspection of schools (as defined in subsection (8)). If the draft regulations are approved, Ministers would be required to make them.

Section 39 – Meaning of "relevant educational establishment" and "excepted establishment"

87. This section sets out the meaning of "relevant educational establishment" which will, other than excepted establishments (also defined in this section), be subject to inspection at the discretion of the Chief Inspector under section 38 (subject to any minimum frequency of inspection set by Ministers under section 38(4)). Excepted establishments are subject to inspection under section 38 too, but only at the request of the Scottish Ministers.

88. The Scottish Ministers may modify this section to amend either or both of these definitions by regulations under subsection (6), after consultation with the Chief Inspector, the Advisory Council and any others the Scottish Ministers consider it appropriate to consult. Any such regulations would be subject to the affirmative procedure.

89. The definition of "relevant educational establishment" includes schools and other places where school education is provided (such as prisons and secure care), school accommodation, further education establishments such as colleges, and higher education institutions providing teacher training. It also includes education authorities (defined by section 135(1) of the Education (Scotland) Act 1980 as meaning local authorities). Subsection (2) clarifies that a reference to an establishment which is an organisation includes a reference to its premises.

90. Subsection (3) provides higher education institutions are only subject to inspection in relation to the teacher training they provide and not in relation to their operations more generally. In addition, residential accommodation is only to be inspected in regard to the adequate safeguarding and promotion of welfare (because the accommodation will not be where the education is provided). Finally, education authorities are only to be inspected in regard to the provision of school education (because local authorities have many other functions which are not relevant to these inspections).

91. As noted above, the section also sets out the meaning of "excepted establishments" – those which the Scottish Ministers may order inspection of, but which are not to be inspected at the Chief Inspector's instance. In brief, these are places where fundable further education is provided by a post-16 education body or where teacher training is provided. The former is already subject to review and assessment by the Scottish Funding Council (see section 13 of the Further and Higher Education (Scotland) Act 2005), and higher education institutions are similarly subject to separate quality assurance processes. As such, it is considered that there would be a risk of double inspection if the Chief Inspector took on this role.

Section 40 – The voluntary arrangements function

92. This section allows the Chief Inspector to provide inspections or advice in relation to the provision of education by private arrangement. For example, an establishment providing both further and higher education might want to ask the Chief Inspector to inspect the higher education elements which do not fall under section 38. Alternatively, an establishment might want/need to enter into an arrangement with the Chief Inspector in order to contract for the provision of recognised 'educational oversight' for the purposes of UK Visas and Immigration sponsor status for some of its students. The Chief Inspector may recover the expenses of carrying out the inspections or providing the advice.

Section 41 – The advisory function

93. Section 41 requires the Chief Inspector to give the Scottish Ministers advice when they request it, and allows the Chief Inspector to give such other advice as the Chief Inspector thinks fit, on any matter to relating to the Chief Inspector's functions.

Section 42 – Working with others

94. This section requires the Chief Inspector to work in collaboration with others, in every case in which it appears to the Chief Inspector appropriate to do so, on any matter relating to the Chief Inspector's functions.

Section 43 – Duties when exercising functions

95. Section 43 places several duties on the Chief Inspector, when exercising the functions of the Chief Inspector.

96. The Chief Inspector is required to set and uphold high standards in education governance and accountability (paragraph (a) of subsection (1)).

97. The Chief Inspector is further required to have regard to a number of things, including the National Improvement Framework (defined in subsection (2)) and the statutory roles and responsibilities of persons or bodies the Chief Inspector works with. There is also a safeguarding duty, as the Chief Inspector is required to have regard to the need for relevant educational establishments to have adequate arrangements in place to safeguard and promote the welfare of children and young people. In addition, the Chief Inspector must have regard to the needs and interests of persons who are receiving or will receive education at a relevant educational establishment (as defined in section 39), including those with educational support needs (as defined in section 63) and those who are receiving, or wish to receive, British Sign Language learner education, British Sign Language medium education, Gaelic learner education, Gaelic medium education, or the teaching of British Sign Language or the Gaelic language in further education. Finally, the Chief Inspector is to have regard to the experience of those providing teaching or training in relevant educational establishments, and also the experience of those providing support to individuals with educational support needs at relevant educational establishments.

Advisory Council

Section 44 – Advisory Council

98. This section requires the Chief Inspector to establish and maintain an Advisory Council, the function of which will be to advise the Chief Inspector in relation to the exercise of the Chief Inspector's functions (either on its own initiative or at the request of the Chief Inspector).

99. The Chief Inspector is to appoint members having regard to the need to ensure that the Advisory Council is representative of the interests of persons likely to be affected by the Chief Inspector's functions. Those likely to be so affected include the groups named in subsection (2): those receiving education at relevant educational establishments; parents and carers of such persons; persons providing teaching or training at such places; and the Chief Inspector's staff.

100. Under subsection (4), the Chief Inspector must have regard to any advice provided by the Advisory Council, and, in any cases where the Chief Inspector decides not to follow that advice, provide the Advisory Council with an explanation of the action (if any) to be taken and the reasons for that.

Accountability

Section 45 – Inspection plan

101. The Chief Inspector is required to, as soon as reasonably practicable after this section comes into force, publish an inspection plan and lay it before the Scottish Parliament.

102. The inspection plan must set out details of inspections to be carried out during the period to which the plan applies (other than in relation to excepted establishments, where inspections happen only upon request by the Scottish Ministers). The detail which must be covered by the plan includes—

- the period to which the plan relates (which must comply with any rule set by virtue of subsection (8) of this section),
- information about the frequency with which the Chief Inspector intends to instigate inspections (which must be within the parameters set by virtue of section 38(4)),
- the approximate number of institutions to be inspected as a result,
- information about how and when advance notice will be provided of an inspection in cases where advance notice is being given,
- information about the different models of inspection (which might include, for example, abbreviated and full inspections, and scheduled and unscheduled),
- information about the standards against which all establishments (including any excepted establishments) are to be assessed,
- information about how inspections will evaluate the extent to which relevant educational establishments are taking action to secure better or further effect of the rights of children,
- information about the extent to which outdoor education will be evaluated and how it will be evaluated in the cases where it is evaluated (including the standards it will be measured against),
- information about the processes for making recommendations to establishments and for establishments to respond to such recommendations.

103. The plan may also include such other material as the Chief Inspector considers appropriate.

104. The Chief Inspector must consult in accordance with subsection (4) in preparing the plan.

105. The Chief Inspector must keep the plan under review and may publish and lay before the Parliament a new inspection plan at any time. The rules about what an inspection plan must contain will apply automatically to any new inspection plan, as will the requirements as to consultation.

106. Before publishing an inspection plan (whether the first inspection plan under subsection (1)(a) or a new inspection plan under subsection (3)(c)), the Chief Inspector is required to lay a draft of the plan before the Scottish Parliament for a period of 40 days (not including any time in which Parliament is dissolved or in recess for more than 4 days). The Chief Inspector must have regard to any representations made about the plan during that 40 day period, any resolution relating to the draft plan passed by Parliament, and any report relating to the draft plan published by a committee of the Parliament.

107. Subsection (8) also allows the Scottish Ministers to make regulations (subject to the affirmative procedure) specifying how frequently the inspection plan must be reviewed, subject to consulting as required by subsection (9).

Section 46 – Reports on inspections

108. Subsection (1) requires the Chief Inspector to prepare and publish a report on the findings of each inspection carried out in pursuance of section 38(2). When preparing the report, the Chief Inspector is required by subsection (2) to have regard to any representations made by persons representing the interests of registered teachers or college teaching staff providing teaching or training in the establishment which is the subject of the inspection report.

109. Subsections (3) and (4) make provision about the sharing of advance copies of inspection reports. This rule applies where an inspection is carried out in respect of a single educational establishment or what the Chief Inspector considers to be connected establishments (for example, a boys' school and a girls' school which operate as a pair). The rule would therefore not apply to, for example, a thematic inspection report on maths which was produced under section 38(2)(b)(iii) and which sampled 30 different institutions. Where the rule applies, the Chief Inspector must share an advance copy of the inspection report with the institution unless the Chief Inspector considers that there are exceptional circumstances which justify not sharing the advance copy. Section 47(2)(b) makes related provision requiring reporting on the number of times this exception is relied upon.

110. Under subsection (5), where the report is one that relates to an inspection which the Chief Inspector was required to carry out under a Ministerial request, a copy of the report must be passed to the Scottish Ministers. The Chief Inspector is empowered under subsection (6) to lay a copy of any report on an inspection before the Scottish Parliament but is not required to do so (given the expected volume and the fact that they are published anyway).

111. It is for the Chief Inspector to determine the form and content of any report (subsection (7)). Among other things, this flexibility as to content will allow the Chief Inspector to take account of other existing obligations (such as data protection) and good practice when considering the level of detail that it is appropriate to include in each case, balancing the public interest in the outcomes of inspections with privacy considerations.

112. Subsection (8) requires the managers of a relevant educational establishment to have regard to the most recent report published in respect of their establishment. They would be free to have regard also to relevant aspects of older reports, or of reports published in respect of other establishments, but the obligation is only in respect of the current report about their own establishment. The term "managers" is defined in subsection (9).

Section 47 – Annual report

113. Section 47 requires the Chief Inspector to prepare an annual report on the Chief Inspector's activities during the financial year. This must include a summary of any advice provided by the Advisory Council and the Chief Inspector's response (for example, actions in response), as well as information about the number of times during the year that the exception

in section 46(4) has been relied upon in order to not provide an advance copy of a report to an establishment (see paragraph 109 of these Notes). It may also include any other content determined by the Chief Inspector.

114. The report must be published and sent to the Scottish Ministers, as soon as practicable after the end of each financial year. At the same time as the report is sent to the Scottish Ministers, a copy of the report must be laid before the Scottish Parliament.

Section 48 – Report on performance of the Scottish education system

115. This section requires the Chief Inspector to prepare and publish a report assessing the performance of the Scottish education system, as far as it relates to the Chief Inspector's functions. A copy of this report must also be sent to the Scottish Ministers, and laid before the Scottish Parliament at the same time. This report must include an overview of the findings set out in inspection reports published under section 46(1) during the reporting period insofar as they relate to the performance of the Scottish education system. The form of the report is to be decided by the Chief Inspector, and it may form part of another document: for example, it could be included as part of the annual report to be prepared under section 47.

116. There is an obligation on the managers of a relevant educational establishment to have regard to the most recent report under this section when exercising their functions. They would be free to have regard also to relevant aspects of older reports under this section, but the obligation exists only in respect of the current report. The term "managers" is defined in subsection (5).

117. The report must be prepared annually, as soon as reasonably practicable after the end of each reporting period (being the period between the date this section comes into force and the following 31 July, and each subsequent period of 1 year beginning on 1 August). Subsection (7) allows the Scottish Ministers to make regulations (subject to the affirmative procedure) to modify the reporting period, subject to consulting with the Chief Inspector, the Advisory Council, and such other persons as the Scottish Ministers consider appropriate.

Section 49 – Other reports

118. This section allows the Chief Inspector to prepare and publish a report about any other matter relating to the Chief Inspector's functions as the Chief Inspector considers appropriate. A copy of any such report must be sent to the Scottish Ministers and laid before the Scottish Parliament at the same time as being sent to Ministers.

Section 50 – Protection from actions of defamation

119. This section provides for statements made in a report published by the Chief Inspector to have absolute privilege (meaning they cannot form the basis of an action of defamation by any person referred to in those statements).

120. What is meant by a "statement" is "words, pictures, visual images, gestures or any other method of signifying meaning". This definition is set out in section 36(b) of the Defamation and Malicious Publication (Scotland) Act 2021.

Powers

Section 51 – General powers

121. This section provides that the Chief Inspector has the power to do anything necessary, expedient or conducive to the performance of the Chief Inspector's functions. This will in practical terms be subject to any constraints found elsewhere in legislation (for example, the Chief Inspector is required under section 34 to obtain Ministerial approval to the appointment of an Inspector as the Deputy Chief Inspector).

Cooperation with inspections

Section 52 – Powers of entry and inspection

122. This section provides a person tasked with carrying out an inspection (whether the Chief Inspector, another Inspector, or a person asked to assist with an inspection) with the authority to enter any relevant educational establishment (as defined in section 39) in order to be able to fulfil that function.

123. This power must be exercised at a reasonable hour and only allows entry to a dwelling-house with the permission of the Scottish Ministers (this could be relevant to, for example, an inspection of residential accommodation where a student is living in a placement arranged to secure their attendance at a school). This power does not authorise entry by force.

124. A person exercising this power of entry must produce evidence of their identity and authority if asked to do so. They may also take onto the premises such other persons as they require in order to carry out the inspection.

Section 53 – Duty to provide assistance

125. This section requires the managers of a relevant educational establishment (as defined in section 39) which is being inspected to provide assistance and co-operation to the persons carrying out the inspection, in particular making available any relevant documents and taking all reasonable steps to secure access to places where education is provided by arrangement with the establishment to those in attendance at the establishment. For example, where a school uses private property owned by someone else for its pupils' sporting activities, this might include entering into suitable contractual arrangements which allow for the provision of access for inspections, and making the necessary practical arrangements.

Section 54 – Offences

126. Section 54 provides that failing to comply with the duty to provide assistance in section 53 without reasonable excuse is an offence. Intentionally obstructing an Inspector or other person carrying out an inspection under this Part is also an offence. The penalty for these offences is a fine not exceeding level 4 on the standard scale (£2,500 as at the date of production of these Notes).

Enforcement following school-related inspections

Section 55 – Necessary improvements: referral to Scottish Ministers

127. This section and the two that follow make provision for the situation where a certain inspection (of a public school, a grant-aided school or an education authority) results in a finding that improvement is needed, it does not appear to the Chief Inspector that the necessary steps are being taken to react to that finding, and the Chief Inspector considers that the failure is a sufficiently serious one to justify the issuing of an enforcement direction.

128. The provisions simply restate and relocate the previous law as found in section 66B to 66D of the Education (Scotland) Act 1980 and sections 10A to 10C of the Standards in Scotland's Schools etc. Act 2000, but with the Chief Inspector now taking on the role previously held by the Sovereign's inspectors of schools.

129. Where the situation referred to in paragraph 127 above arises, section 55 imposes an obligation on the Chief Inspector to make a referral to the Scottish Ministers. A referral must be in writing, set out the failure concerned, and include recommendations as to the action that should be taken by the person with responsibility for the institution concerned. The Chief Inspector must notify that person that a referral to the Scottish Ministers has been made.

Section 56 – Preliminary notice of enforcement action

130. This section provides for the Scottish Ministers to respond to a referral made under section 55. If the Scottish Ministers consider that the person with responsibility for the institution concerned is failing or has failed to take satisfactory action to improve a matter and consider that an enforcement direction is justified, they may issue a preliminary notice. This serves to notify the relevant person that the use of an enforcement direction is being considered and requires that person to give the Scottish Ministers a written response either explaining why they think that they have not failed to take satisfactory action, or accepting that there is a failure and giving reasons (if any) as to why they consider that an enforcement direction should not be given despite the failure.

Section 57 – Enforcement direction

131. This section allows the Scottish Ministers to issue an enforcement direction following the service of a preliminary notice under section 56, if they have received a written response to the notice or the specified time period in the notice has expired. Such a direction may be issued where Ministers continue to consider that the person concerned is failing or has failed to take

satisfactory action to address the matter and that, having regard to the seriousness of the failure, the use of an enforcement direction would be justified. The action that is then taken where this test is met may be the issuing of an enforcement direction, or it could be (instead or as well) the giving of recommendations.

132. An enforcement direction is a written direction requiring the taking of steps set out in the direction to address the failure. It can place conditions on the carrying out of functions by the person concerned. It will specify a time period for compliance (or in the case of more than one course of action, may specify more than one time period). It must be complied with.

133. An enforcement direction can be varied by the giving of a further direction (without the need for another preliminary notice) and can also be revoked. Before giving, varying or revoking such a direction, the Scottish Ministers must consult the Chief Inspector. Where any of those powers are exercised, the Scottish Ministers must lay before the Scottish Parliament a report on their exercise of that power.

Supporting provisions

Section 58 – Publication of documents

134. This section applies when the Chief Inspector is publishing a document under this Part of the Act. It requires the Chief Inspector to have regard to the importance of communicating in an inclusive way that best meets the needs of children and young people, persons with educational support needs (as defined in section 63), users of British Sign Language, users of Gaelic, users of Scots, and other people affected by the Chief Inspector's functions. For example, this section would require the Chief Inspector to consider publishing the inspection plan under section 45 in an accessible format and translating it into Gaelic.

PART 3: GENERAL AND MISCELLANEOUS

Section 59 – Transfer of staff, property etc. to Qualifications Scotland

135. This section introduces schedule 3, which makes further provision about the transfer of staff and property from the Scottish Qualifications Authority to Qualifications Scotland. See paragraphs 210 to 226 of these Notes for commentary on schedule 3.

Section 60 – Dissolution of the Scottish Qualifications Authority

136. Section 60 dissolves the Scottish Qualifications Authority.

Section 61 – Transitional provisions

137. Subsections (1) and (2) of this section provide that any relevant thing (defined in subsection (5)) done by or in relation to the Scottish Qualifications Authority, or in the process of being done, before its dissolution is to be treated after the dissolution date as being done by, in relation to, or in the process of being done to or by, Qualifications Scotland.

138. Subsection (3) requires the Scottish Qualifications Authority to provide Qualifications Scotland with any information it may reasonably require for the exercise of its functions.

139. Subsection (4) confirms that this section does not apply to things done by or in relation to the Scottish Qualifications Authority which relate to its functions that are exercisable otherwise than in or as regards Scotland.

140. Subsection (5) sets out the defined terms for this section.

Section 62 – Consequential modifications

141. This section introduces schedule 4 of the Act, which contains modifications of certain enactments in relation to both Part 1 and Part 2 of the Act. See paragraphs 227 to 265 of these Notes for commentary on those modifications.

Section 63 – Interpretation

142. Subsection (1) of this section sets out the meanings of key terms used in the Act.

143. Subsection (2) sets out what is meant by undertaking a qualification. This includes taking education or training with a view to obtaining the qualification, and would therefore include (for example) a student who takes a class but does not end up completing the assessments as well as including those for whom the assessments have not yet occurred.

Section 64 – Regulation-making powers

144. This section makes further provision about the powers the Scottish Ministers are given under this Act to make regulations. It provides that a power to make regulations includes the power to make different rules for different purposes or make incidental, supplementary, consequential, transitional, transitory or saving provision when doing so.

145. It also sets out the parliamentary procedure to which each regulation-making power is subject (i.e. affirmative or negative – see sections 28 and 29 of the Interpretation and Legislative Reform (Scotland) Act 2010).

146. However, the section does not apply to commencement regulations. Provision is made in relation to them in section 66 instead (see paragraphs 149 and 150 of these Notes).

Section 65 – Ancillary provision

147. This section provides the Scottish Ministers with the power to make any ancillary provision which they consider appropriate for the purposes of, in connection with, or for giving full effect to the Act or any provision made under it. Regulations made under this section may modify any legislation (including the Act itself).

148. This power is exercisable by regulations. Where the regulations amend primary legislation, they are subject to the affirmative procedure. Otherwise, they are subject to the negative procedure.

Section 66 – Commencement

149. This section sets out when the provisions of the Act will come into force (i.e. begin to have effect). Some of the final sections of the Act, including this section, will come into force automatically on the day after Royal Assent is granted. However, for the most part, commencement will take place on the date or dates specified by the Scottish Ministers in regulations. These regulations will be laid before the Scottish Parliament but will not otherwise be subject to any parliamentary procedure (see section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010). Subsection (3) provides that any regulations bringing section 60 and paragraph 11 of schedule 4 into force can only be made once the Scottish Qualifications Authority has no remaining functions that are exercisable otherwise than in or as regards Scotland.

150. In addition, this section provides that commencement regulations may include transitional, transitory or saving provision and may make different provision for different purposes. In particular, this allows different sections of the Act to be commenced on different days.

Section 67 – Short title

151. This section provides for the short title of the Act to be the Education (Scotland) Act 2025.

SCHEDULE 1 – QUALIFICATIONS SCOTLAND

152. Schedule 1 makes further provision about Qualifications Scotland.

Status

Exclusion of Crown status

153. Paragraph 1 provides that Qualifications Scotland is not a servant or agent of the Crown. The Crown, which for this purpose broadly means the executive branch of government, enjoys certain privileges and immunities in law. Qualifications Scotland is not to be regarded as a government body and therefore none of the particular legal rules that apply to government bodies apply to it.

154. This paragraph also states that Qualifications Scotland's members and staff are not to be regarded as civil servants. This means that none of the statutes that make provision about the civil service (see, for example, Part 1 of the Constitutional Reform and Governance Act 2010) apply to the people who comprise, or work for, Qualifications Scotland.

Membership

Number and appointment of members

155. Paragraph 2 provides that Qualifications Scotland is to consist of a member appointed by the Scottish Ministers as its chairing member, a member appointed by the Scottish Ministers as the convener of the Accreditation Committee to be established under paragraph 13, the organisation's chief executive appointed under paragraph 8(1)(a), and between 8 and 12 other members appointed by the Scottish Ministers. Qualifications Scotland can also appoint co-opted members under paragraph 7 (see paragraphs 167 to 168 of these Notes). This means that in total the body will have between 11 and 15 members (excluding any co-opted members, who do not have voting rights). If co-opted members are included in the total then the body will have between 11 and 17 members.

156. However, there is a power (subject to the negative procedure) for Ministers to make regulations which would vary the number of "other" members (i.e. those appointed under paragraph 2(1)(d)). Qualifications Scotland must be consulted before any regulations are made using this power.

157. For details of how the first members of Qualifications Scotland will be appointed (as a transitional measure), see paragraphs 222 to 225 of these Notes.

Appointment as a member: criteria

158. Paragraph 3 deals with who may be appointed as a member. This therefore covers the appointment of all members of Qualifications Scotland other than co-opted members (see paragraph 7(11) which provides that they are not covered by references to "member" here) and the chief executive (who is not appointed as a member but who becomes a member *ex officio* by dint of being appointed chief executive).

159. The Scottish Ministers can only appoint persons who they believe have skills, knowledge and expertise relevant to the carrying out of the body's functions. In addition, there are a number of designated places which must be filled (whether by people appointed as "other" members under paragraph 2(1)(d) or by people appointed under paragraph 2(1)(a) to (c)). In addition, prior to appointment, there is to be consultation with the relevant cohort whose interests are being represented (see sub-paragraph (5)). Consultation may take place before this paragraph comes into force.

160. The positions which must be filled are as follows—

- There is to be at least 1 member who appears to the Scottish Ministers to have knowledge of the interests of persons undertaking a relevant qualification (as defined in sub-paragraph (10)). Before inviting applications for the member(s) to be appointed to satisfy this category, the Scottish Ministers must take such steps as they consider appropriate to encourage applications from persons who are 16 or 17 years old, or are young adults. These steps may be taken before this paragraph comes into force. This requirement applies in addition to the required consultation (see sub-paragraph (5)(a)).

- There are to be at least 5 members who are either registered teachers providing relevant teaching or training in schools (as defined at sub-paragraph (10)) or college teaching staff providing relevant teaching or training. Of these members, the difference between the number of registered teachers and college teaching staff appointed cannot be more than one (so if there are 5 persons appointed, this would need to be either 3 teachers and 2 college staff or vice versa). The Scottish Ministers must also ensure that the total combined number of registered teachers and college teaching staff appointed is more than one third of the total members of Qualifications Scotland. For this purpose, any co-opted members can be disregarded as paragraph 7(11) provides that any reference to "members" in paragraph 3 does not include co-opted members. Where any members who are appointed to satisfy the requirement in paragraph 3(2)(b) cease to be a registered teacher providing relevant teaching or training, or as the case may be a member of college teaching staff providing relevant teaching or training, sub-paragraph (4) provides that the member is to be treated as though they are continuing to fulfil the requirements of this category for the duration of their appointment as a member of Qualifications Scotland. However, in such a scenario, the Scottish Ministers must have regard to the desirability of appointing another member who satisfies sub-paragraph (2)(b) (i.e. is a registered teacher or college teaching staff providing relevant teaching) as soon as reasonably practicable.
- There is to be at least one member who appears to the Scottish Ministers to have knowledge of the interests of the staff of Qualifications Scotland.
- There is to be at least one member who appears to the Scottish Ministers to have knowledge of the skills relevant to business and industry.

161. This paragraph also sets out at sub-paragraph (7) certain categories of person who may not be appointed – namely an MSP, an MP or a member of the House of Lords, or a person who is disqualified from acting as a company director, charity trustee or analogous position (unless they are disqualified only by reason of being an undischarged bankrupt, in which case sub-paragraph (8) allows them to be appointed). In addition, it provides that Ministers must encourage equal opportunities when appointing members.

Period and conditions of membership

162. Paragraph 4 deals with the terms and conditions of appointment for individuals who are appointed as members of Qualifications Scotland. Again, this therefore covers all members other than the chief executive (who is not appointed as a member but becomes one automatically) and any co-opted members (who, under paragraph 7(11), do not count as "members" for the purpose of paragraph 4).

163. Members are to be appointed for a term of up to 4 years, although they may be reappointed. They are appointed on such terms and conditions as the Scottish Ministers determine (subject to the provision made by the Act). Although a maximum period of appointment is not specified here, it should be noted that the appointment of a member of Qualifications Scotland is, as a result of paragraph 4 of schedule 4, made subject to the code of

practice issued by the Commissioner for Ethical Standards in Public Life[1]. This code generally places a limit (currently 8 years as of the date of production of these Notes) on the overall length of appointment which will be relevant where members are reappointed.

164. This paragraph also allows a member (but not a co-opted member) to be appointed by the Scottish Ministers to deputise for the chairing member – which covers deputising for someone who is appointed but is unable to act and also acting when there is a vacancy in that role. Any function of so deputising is assigned for such period as the Scottish Ministers specify when making the appointment and the appointment is subject to any other terms and conditions that are specified by Ministers. This role of deputising can be resigned without resulting in resignation as a member.

Early termination of membership

165. Paragraph 5 sets out the circumstances in which a person's appointment as a member will terminate prior to the person's period of appointment coming to an end. Again, this provision therefore applies to all members other than the chief executive and co-opted members (who are excluded by paragraph 7(11)). The circumstances which end the appointment are where the person gives written notice of their resignation, where the person becomes disqualified from being appointed as a member (see paragraph 3(7) and (8)), or where the person is removed as a member by the Scottish Ministers because:

- the person is apparently insolvent,
- the person has been absent without reasonable excuse from meetings for a period of longer than 6 months,
- the person was appointed to satisfy paragraph 3(2)(b)(i) or (ii) (see paragraph 160 of these Notes), and they have ceased to be a person mentioned in that paragraph (i.e. they have ceased to be a registered teacher or member of college teaching staff providing relevant teaching or training), or
- in the opinion of the Scottish Ministers, the person is unable or unsuitable to continue as a member.

Members' remuneration and allowances

166. Paragraph 6 permits the payment of such remuneration and allowances (including expenses) to members as the Scottish Ministers authorise. This means that the level of this payment – if indeed any is authorised – is to be at the discretion of the Scottish Ministers. The term "member" here does not include co-opted members (see paragraph 7(11)) but remuneration and allowances for them are dealt with in paragraph 7.

[1] Code of Practice for Ministerial Appointments to Public Bodies in Scotland – March 2022 version | Ethical Standards Commissioner

Co-opted members

167. Paragraph 7 provides that Qualifications Scotland may appoint persons as co-opted members of Qualifications Scotland. Qualifications Scotland can have up to two co-opted members at the one time, and may only make such an appointment where Qualifications Scotland considers the appointment to be necessary to ensure that its members, as a whole, have the knowledge, skills and experience relevant to its functions. Appointments may only be made with the consent of the Scottish Ministers. Co-opted members can take part in the proceedings of Qualifications Scotland, but cannot vote in such proceedings.

168. Co-opted members of Qualifications Scotland can be appointed for a period up to 2 years. They can be reappointed to the position with the consent of the Scottish Ministers, provided that the total period of reappointment does not exceed 2 years, and their appointment is still considered to be necessary (as set out in paragraph 167 of these Notes). The exclusions that apply to the appointment of members of Qualifications Scotland (see paragraph 161 of these Notes) equally apply to the appointment and re-appointment of co-opted members.

169. In a similar manner to members of Qualifications Scotland, a co-opted member's period of appointment will end where the person gives written notice of their resignation, where the person becomes disqualified from being appointed as a co-opted member (under sub-paragraph (7)), or where the person is removed as a member by Qualifications Scotland or the Scottish Ministers because:

- the person is apparently insolvent,
- the person has been absent without reasonable excuse from meetings for a period of longer than 6 months,
- in the opinion of Qualifications Scotland or the Scottish Ministers, the person is unable or unsuitable to continue as a co-opted member.

170. Co-opted members can be paid remuneration and allowances as set by Qualifications Scotland, with the consent of the Scottish Ministers. Other than as provided for by the Act, it is also open to Qualifications Scotland, with the consent of the Scottish Ministers, to set the terms and conditions of co-opted members.

Staff

Chief executive, chief examiner, chief accreditation officer and other staff

171. Paragraph 8 provides that Qualifications Scotland must appoint a chief executive, chief examiner, and a chief accreditation officer. These roles must be undertaken by three separate individuals.

172. The chief examiner is to be appointed by Qualifications Scotland to undertake such role relating to the body's functions under sections 2 and 3 (see paragraphs 8 to 11 of these Notes) as Qualifications Scotland determines. The chief examiner's responsibilities must include

responding to written advice provided to Qualifications Scotland by the Expert Group on Qualifications Standards (see paragraph 23 of these Notes). Qualifications Scotland may only appoint a person as chief examiner if it considers that person to have suitable experience of working in the education, training, qualifications or skills development sector.

173. The chief accreditation officer is to be appointed by Qualifications Scotland to undertake such role relating to Qualifications Scotland's functions under section 4 (see paragraphs 12 to 15 of these Notes) as the Accreditation Committee (see paragraphs 186 to 189 of these Notes) determines. When performing this role, the chief accreditation officer can share information with the chief examiner, but must act independently of them.

174. The appointment of the chief executive is subject to Ministerial approval of the person appointed. This chief executive also automatically becomes a member of Qualifications Scotland (see paragraph 2(1)(c) of this schedule). The appointment by Qualifications Scotland of the chief examiner, chief accreditation officer and other staff members does not require Ministerial approval. However, the terms and conditions of employment for the chief executive, chief examiner, chief accreditation officer and other staff members set by Qualifications Scotland are all subject to a requirement to obtain Ministerial approval.

Staff pensions

175. Provision is also made at paragraph 9 for the payment of staff pensions and allowances. The power to pay staff salaries is not mentioned as it is implicit in the power to appoint staff; their remuneration will form part of the terms and conditions referred to in paragraph 8 on which they are appointed.

Procedure: Committees

Committees

176. Paragraph 10 allows Qualifications Scotland to set up committees in addition to those already expressly provided for by the Act. It may also establish sub-committees, except in relation to the Accreditation Committee where the committee itself has the power to establish its sub-committees. The membership of any such further committees or sub-committees may include those who are not members of Qualifications Scotland itself.

177. This paragraph also provides powers to pay, in return for their participation in committees, remuneration and allowances (including expenses) to those who are neither members nor staff – though it is for the Scottish Ministers to determine the level of any such remuneration or allowances.

178. A committee or sub-committee must comply with directions given to it by Qualifications Scotland, except for the Accreditation Committee and any of its sub-committees as it is independent of Qualifications Scotland.

179. In the event that Qualifications Scotland establishes a committee under this paragraph with functions that primarily concern the governance of Qualifications Scotland's staff, the convenor of the committee must be a member who is appointed to satisfy paragraph 3(2)(c) (being a person who appears to the Scottish Ministers to have knowledge of the interests of the staff of Qualifications Scotland).

The Learner Interest Committee

180. Paragraph 11 requires Qualifications Scotland to establish a Learner Interest Committee. The function of this committee is to advise the members and staff of Qualifications Scotland on the exercise of its functions from the point of view of those undertaking Qualifications Scotland qualifications.

181. The committee members may include only one member of Qualifications Scotland, and that member must have been appointed to Qualifications Scotland to satisfy paragraph 3(2)(a) (being a person who appears to the Scottish Ministers to have knowledge of the interests of persons undertaking a relevant qualification). If appointed as a member of the committee, that member must be appointed as co-convener of the committee, but is not entitled to vote at any meeting of the committee. Other than the one member of Qualifications Scotland appointed to the committee, there can be no other committee members who are members of Qualifications Scotland. Furthermore, members of staff of Qualifications Scotland cannot be appointed as committee members. The other persons appointed to the committee must consist of children and young people (as defined in sub-paragraph (11)) regardless of whether they are undertaking a Qualifications Scotland qualification, and other persons, who are undertaking, or have recent experience of undertaking, a Qualifications Scotland qualification. Qualifications Scotland must consult the Scottish Ministers before making an appointment to the committee. Qualifications Scotland must also, when appointing persons to the committee, seek to encourage equal opportunities and the observance of the equal opportunity requirements, and have regard to the desirability of appointing persons who have experience (whether current or historic) of being in the care system, are from a socio-economically disadvantaged background, or have educational support needs.

182. In the exercise of its functions, the committee must, in every case it considers appropriate to do so, consult with the Strategic Advisory Council, the Teacher and Practitioner Interest Committee, any other committee or sub-committee established by Qualifications Scotland, and such other persons as the committee considers appropriate. Qualifications Scotland members must meet with the committee where the committee reasonably requests it, or where Qualifications Scotland otherwise considers it appropriate to meet.

The Teacher and Practitioner Interest Committee

183. Paragraph 12 requires Qualifications Scotland to establish a Teacher and Practitioner Interest Committee. The function of this committee is to advise the members and staff of Qualifications Scotland on the exercise of its functions from the point of view of those providing teaching or training for Qualifications Scotland qualifications.

184. The committee members may include only one member of Qualifications Scotland, and that member must have been appointed to Qualifications Scotland to satisfy paragraph 3(2)(b) (being either a registered teacher or a member of college teaching staff providing relevant teaching or training). If appointed as a member of the committee, that member must be appointed as co-convener of the committee, but is not entitled to vote at any meeting of the committee. Other than the one member of Qualifications Scotland appointed to the committee, there can be no other committee members who are members of Qualifications Scotland. Furthermore, members of staff of Qualifications Scotland cannot be appointed as committee members. The other persons appointed to the committee must consist of one or more persons who are undertaking, or have recent experience of undertaking, training to be teachers in schools, and persons who are providing teaching or training, or have recent experience of providing teaching or training, in respect of a Qualifications Scotland qualification. Qualifications Scotland must consult the Scottish Ministers before making an appointment to the committee. Furthermore, Qualifications Scotland must, when appointing persons to the committee, encourage equal opportunities and the observance of the equal opportunity requirements.

185. In the exercise of its functions, the committee must, in every case it considers appropriate to do so, consult with the Strategic Advisory Council, the Learner Interest Committee, any other committee or sub-committee established by Qualifications Scotland, representatives from recognised trade unions which represent the interests of persons mentioned in sub-paragraph (3)(b), and such other persons as the committee considers appropriate. Qualifications Scotland members must meet with the committee where the committee reasonably requests it, or where Qualifications Scotland otherwise considers it appropriate to meet.

The Accreditation Committee

186. Paragraph 13 requires Qualifications Scotland to establish an Accreditation Committee. The function of this Committee is to perform the function conferred on Qualifications Scotland by section 4(1) – that is, the function of accrediting qualifications which meet requirements specified and published by Qualifications Scotland, and of satisfying itself as to the suitability of establishments providing accredited qualifications. The committee is also to advise the Scottish Ministers on any matters relating to that function.

187. The committee (and its sub-committees) cannot be directed by Qualifications Scotland and must act independently of it, although the committee (and its sub-committees) and Qualifications Scotland may share information with each other.

188. The convener of the Accreditation Committee (who is appointed under paragraph 2(1)(b)) is to appoint the other members to the committee, the majority of whom must be people other than members of Qualifications Scotland. Members of staff of Qualifications Scotland cannot be appointed as members of the committee, but they must be allowed to observe or participate in committee meetings at the discretion of the convener.

189. This paragraph also allows a member of Qualifications Scotland to be appointed by the Scottish Ministers to deputise for the convener – which covers deputising for someone who is appointed as convener but is unable to act and also acting when there is a vacancy in that role. Any function of so deputising is assigned for such period as the Scottish Ministers specify when making the appointment and the appointment is subject to any other terms and conditions that are specified by Ministers. This role of deputising can be resigned without resulting in resignation as a member. If the deputy is not already a member of the committee in their own right, they are to be treated as a member of the committee when acting as the deputy. It should be noted that the deputy may not be the chief executive of Qualifications Scotland, as the deputy may only be someone who is appointed as a member of Qualifications Scotland and the chief executive is not an appointed member but rather becomes a member *ex officio*.

Procedure: Administration of Qualifications Scotland and its Committees

Regulation of procedure

190. Paragraph 14 requires Qualifications Scotland to make at least one meeting each financial year open to the public, although it may temporarily exclude members of the public from those meetings if dealing with a confidential matter.

191. Qualifications Scotland must take reasonable steps to encourage members of the public to attend its public meetings.

192. Qualifications Scotland may also direct that its committees or sub-committees (other than the Accreditation Committee, which is not subject to direction by Qualifications Scotland) make at least one meeting each financial year open to the public and that reasonable steps be taken to encourage members of the public to attend.

193. A meeting of the Accreditation Committee is only quorate if a majority of members present are not members or staff of Qualifications Scotland (though members of staff may not be members of the Accreditation Committee anyway under paragraph 13(5), and mere attendance under that paragraph would not be expected to count towards the quorum anyway). This is to ensure the independence of the Accreditation Committee.

194. The Scottish Ministers may make regulations (subject to the negative procedure) further governing the procedure of Qualifications Scotland and its committees or sub-committees. Other than as set out in this paragraph and any such regulations, Qualifications Scotland is to regulate its own procedures and that of its committees and sub-committees (other than the Accreditation Committee, which is, subject to any regulations made under sub-paragraph (6), to regulate its own procedure and that of its sub-committees).

Authority to perform functions

195. Paragraph 15 permits Qualifications Scotland to delegate certain functions to members, committees, employees or, with the consent of the Scottish Ministers, any other person. This means that not everything that may, or must, be done by Qualifications Scotland needs to be done by the members as a collective body (though it still can be so dealt with if that is what is preferred). However, certain things may not be delegated. These are the approval of its corporate plan, annual reports and accounts, and the functions of the Accreditation Committee.

196. The Accreditation Committee may itself delegate certain functions to its members or sub-committees, or employees of Qualifications Scotland. However, the approval of its corporate plan and annual report may not be delegated.

197. If functions are delegated under this paragraph, Qualifications Scotland or (as the case may be) the Accreditation Committee remains responsible for the performance of those delegated functions, and are still able to decide to perform those functions themselves.

Member consultation requirement

198. Paragraph 16 provides that in the exercise of Qualifications Scotland's functions, the Qualifications Scotland members appointed to satisfy paragraph 3(2)(c) (being persons appearing to the Scottish Ministers to have knowledge of the interests of the staff of Qualifications Scotland) must, in every case in which Qualifications Scotland considers it appropriate to do so, consult with such persons with an interest as Qualifications Scotland considers appropriate. Persons with an interest are Qualifications Scotland staff members, representatives from recognised trade unions (defined in sub-paragraph (3)) representing Qualifications Scotland staff members, and other persons appearing to Qualifications Scotland to represent the interests of Qualifications Scotland staff members.

Validity of things done

199. Paragraph 17 provides that the validity of anything done by Qualifications Scotland or its committees is not affected by any vacancy in membership, defect in the appointment of a member or of the chief executive, or a member's appointment being terminated early by virtue of paragraph 5.

SCHEDULE 2 – THE OFFICE OF HIS MAJESTY'S CHIEF INSPECTOR OF EDUCATION IN SCOTLAND

Part 1: Status

Status

200. Paragraph 1 confirms the separate juristic personality of the Chief Inspector. This means that the office has legal personality, distinct from the individual holding the office of Chief Inspector from time to time. The result of this is that, for example, contracts signed by the office-holder are not personal to them but, rather, attach to the office. As such, if the Chief Inspector steps down and is replaced the contracts continue on in the same way as they would in a case where the contracts were with a company and the directors changed.

Independence

201. Paragraph 2 confirms the independence of the Chief Inspector, subject only to any provision made in legislation (such as section 38(2)(b)).

Part 2: Appointment and terms

Appointment

202. Under sub-paragraph (1) of paragraph 3, the Chief Inspector is to be appointed by His Majesty by Order in Council on the recommendation of the Scottish Ministers.

203. Paragraph 3(2) provides that the Scottish Ministers may recommend someone for appointment as Chief Inspector only if they consider that the individual has suitable teaching experience and relevant experience of acting in a leadership role in an educational establishment. The term "educational establishment" is undefined and so takes its natural meaning. The absence of the qualifier "relevant" before it means that section 39 does not apply, and accordingly the educational establishment might be one in Scotland or it might be one elsewhere in the world.

Period and conditions of office

204. Under paragraph 4, the Chief Inspector holds and vacates office at His Majesty's pleasure. The Chief Inspector therefore does not have any fixed tenure.

205. The Scottish Ministers are to determine the other terms and conditions on which the Chief Inspector is appointed.

Part 3: Staff

Staff

206. Paragraph 5 allows the Chief Inspector to appoint staff on terms and conditions to be determined by the Chief Inspector, subject to the approval of the Scottish Ministers.

Part 4: Procedure

Authority to perform functions

207. Under paragraph 6, while the Chief Inspector can delegate any function to an Inspector, ultimately the Chief Inspector remains responsible for the performance of those delegated functions. Having delegated functions, the Chief Inspector is still able to decide to perform those functions personally. This ability to delegate functions is additional to the authority that is granted by the Act to the Deputy Chief Inspector to deputise for the Chief Inspector (see section 34).

208. In addition, provision is made in paragraph 7 to cover the circumstance where there would otherwise be a gap because neither the Chief Inspector nor the Deputy Chief Inspector is able to act (either because a position is temporarily vacant or a person is incapacitated). This ensures that the functions of the Chief Inspector will still be able to be fulfilled. This role can

only be assigned to an Inspector and any assignment of this nature is for such period as the Scottish Ministers specify when making the appointment. The appointment is subject to any other terms and conditions that are specified by Ministers. This role can be resigned without resulting in resignation as an Inspector.

Validity of things done

209. Paragraph 8 provides that if there is a defect in a person's appointment as Chief Inspector, things done by the Chief Inspector are not invalidated by that defect.

SCHEDULE 3 – TRANSFER OF STAFF, PROPERTY ETC. TO QUALIFICATIONS SCOTLAND

210. Schedule 3 provides for the transfer of staff, property and membership of the Scottish Qualifications Authority to Qualifications Scotland.

211. Paragraph 1 provides that the "transfer date" referred to in the schedule will be the date on which that paragraph comes into force.

Transfer of staff

212. Paragraph 2 sets out how the staff of the Scottish Qualifications Authority will be transferred to Qualifications Scotland.

213. Sub-paragraph (1) provides that any person who is a staff member of the Scottish Qualifications Authority immediately before the transfer date will be transferred into the employment of Qualifications Scotland on that date.

214. Sub-paragraph (2) provides that the transfer of Scottish Qualifications Authority employees to Qualifications Scotland does not terminate their contracts of employment and has effect as if their contracts of employment were originally made with Qualifications Scotland.

215. Sub-paragraph (3) provides that all the rights, powers, duties and liabilities of, and anything done by or in relation to, the Scottish Qualifications Authority in respect of a transferred person (and their contract of employment) transfer to Qualifications Scotland. For example, an Employment Tribunal claim actionable against the Scottish Qualifications Authority by an employee would transfer with the employee and become actionable against Qualifications Scotland (subject to the time limits and other rules for bringing such claims).

216. Under sub-paragraph (4), if an employee of the Scottish Qualifications Authority does not want to become an employee of Qualifications Scotland, their employment will not be transferred, and their contract will be terminated on the day before the transfer date. Sub-paragraph (5) provides that this termination will not be treated as a dismissal of that person.

217. Sub-paragraph (6) provides that a transferred person's right to terminate their contract of employment, where there is a substantially detrimental change to the contract, is not affected by sub-paragraphs (1) to (3). However, sub-paragraph (7) clarifies that the change of a transferred person's employer from the Scottish Qualifications Authority to Qualifications Scotland is not to be treated as such a substantially detrimental change.

Transfer of property

218. Paragraph 3 sets out how the property, rights, liabilities and obligations of the Scottish Qualifications Authority will be transferred to Qualifications Scotland.

219. Sub-paragraphs (1) and (2) provide that on the transfer date, all of the property, rights, liabilities and obligations which on that date belong to or subsist in the Scottish Qualifications Authority are to be transferred to, and vest in, Qualifications Scotland.

220. Sub-paragraph (3) ensures that the Act overrides any other provisions that may prevent, penalise or restrict the transfers under this paragraph.

Duty to secure vesting of foreign property

221. Paragraph 4 requires the Scottish Qualifications Authority and Qualifications Scotland to take all steps as are required to ensure that the transfer to and vesting in Qualifications Scotland of any foreign property, right, liability or obligation of the Scottish Qualifications Authority is effective under the relevant foreign law.

Appointment of initial members

222. Paragraph 5 sets out how members of the Scottish Qualifications Authority will be appointed as initial members of Qualifications Scotland.

223. Sub-paragraph (1) appoints the chairing member of the Scottish Qualifications Authority (defined in sub-paragraph (5)) immediately before the transfer date as the chairing member of Qualifications Scotland. The chairing member is taken to have been appointed under paragraph 2(1)(a) of schedule 1 of this Act.

224. Sub-paragraph (2) provides that the Scottish Ministers may, by regulations subject to the negative procedure, appoint ordinary members of the Scottish Qualifications Authority as members of Qualifications Scotland (to be known, alongside the chair, as "initial members"). The ordinary members appointed are to be taken as having been appointed under paragraph 2(1) of schedule 1 of this Act.

225. Sub-paragraphs (3) and (4) provide that the regulations under sub-paragraph (2) may provide that where an initial member is a person mentioned in paragraph 3(2)(b)(i) or (ii) of schedule 1 (i.e. they were a registered teacher or member of college teaching staff providing relevant teaching or training) when they were appointed as a Scottish Qualifications Authority member, the appointment of that initial member can satisfy Qualifications Scotland's membership requirements under paragraph 3(2)(b)(i) or (ii). This can apply regardless of

whether the initial member has ceased to be a registered teacher or member of college teaching staff providing relevant teaching or training prior to the transfer date, as sub-paragraph (3)(b) provides that they will be treated as if they had ceased to have such role after being appointed as a member of Qualifications Scotland. In such a scenario, paragraph 3(4) of schedule 1 will apply to that initial member's appointment (see paragraph 160 of these Notes), and while the initial member will be treated as if they are continuing to satisfy paragraph 3(2)(b)(i) or (ii) for the duration of their appointment, the Scottish Ministers will be required to have regard to the desirability of appointing another member who satisfies the sub-paragraph (i.e. is a registered teacher or member of college teaching staff providing relevant teaching or training) as soon as is reasonably practicable.

226. Sub-paragraph (6) provides that, unless exceptions are agreed between the Scottish Ministers and an initial member, the terms of an initial member's appointment with Qualifications Scotland will continue to be the same as those on which the member had been appointed as a member of the Scottish Qualifications Authority, so far as is consistent with the Act.

SCHEDULE 4 – CONSEQUENTIAL MODIFICATIONS

Part 1: Qualifications Scotland

Chapter 1: Application of legislation relating to public bodies

227. This Chapter of schedule 4 amends relevant public bodies legislation so as to encompass Qualifications Scotland.

Ethical Standards in Public Life etc. (Scotland) Act 2000

228. Paragraph 1 adds Qualifications Scotland to the list of devolved public bodies in schedule 3 of the Ethical Standards in Public Life etc. (Scotland) Act 2000 ("the 2000 Act"). This means that Qualifications Scotland will need to:

- have a code of conduct for its members, whose compliance with the code will be policed by the Standards Commission for Scotland (see sections 3 and 9 of the 2000 Act), and
- maintain a public register of its members' interests (see section 7 of the 2000 Act).

Scottish Public Services Ombudsman Act 2002

229. Paragraph 2 adds Qualifications Scotland to the list of authorities in schedule 2 of the Scottish Public Services Ombudsman Act 2002 ("the 2002 Act"). The effect of this is to:

- make the exercise of administrative functions by Qualifications Scotland amenable to investigation by the ombudsman (see section 5 of the 2002 Act),
- oblige Qualifications Scotland to have its own complaints handling procedure that complies with the statement of principles published by the ombudsman under section 16A of the 2002 Act,

- permit Qualifications Scotland to be made subject to the further requirement to have a complaints handling procedure that complies with a model complaints handling procedure prepared by the ombudsman (see sections 16B and 16C of the 2002 Act).

Freedom of Information (Scotland) Act 2002

230. Paragraph 3 adds Qualifications Scotland to the list of Scottish public authorities in schedule 1 of the Freedom of Information (Scotland) Act 2002 ("the FOI (S) Act"). This means that Qualifications Scotland will be subject to the requirements which the FOI (S) Act places on public bodies, including requirements to provide information to the public on request and to have in place a scheme under section 23 of that Act for the pro-active publication of information it holds.

231. Being a public authority within the meaning of the FOI (S) Act also makes Qualifications Scotland a "Scottish public authority" to which the Environmental Information (Scotland) Regulations 2004 apply.

232. In addition, it means that Qualifications Scotland falls within the definition of a "public body" under section 44 of the Climate Change (Scotland) Act 2009. This means that it must act in a way calculated to contribute to the delivery of climate change targets and any climate change adaptation programme and in the way that it considers is most sustainable. It can also have further duties, including reporting duties, imposed upon it.

233. Further, as a public authority within the meaning of the FOI (S) Act, Qualifications Scotland is a "public authority" or "public body" for the purposes of the General Data Protection Regulation by virtue of section 7 of the Data Protection Act 2018 (provided the power under that section to remove such status is not exercised). The General Data Protection Regulation (also commonly referred to by the acronym "GDPR") is Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data. There are particular rules applied to bodies classified as "public authorities" (over and above those applied to all data processors) in the GDPR and the Data Protection Act 2018. An analysis of those rules is beyond the scope of these Notes.

Public Appointments and Public Bodies etc. (Scotland) Act 2003

234. Paragraph 4 adds Qualifications Scotland to the list of specified authorities in schedule 2 of the Public Appointments and Public Bodies etc. (Scotland) Act 2003 ("the 2003 Act"). This means that the Scottish Ministers, when appointing Qualifications Scotland's members, will need (under section 2 of the 2003 Act) to comply with the code of practice on public appointments produced by the Commissioner for Ethical Standards in Public Life in Scotland.

Public Services Reform (Scotland) Act 2010

235. Paragraph 5(2) adds Qualifications Scotland to the list of bodies in schedule 5 of the Public Services Reform (Scotland) Act 2010 ("the 2010 Act"). This means that Qualifications Scotland is a body in relation to which an order can be made under section 14 of the 2010 Act

where it would improve the exercise of public functions, having regard to efficiency, effectiveness or economy. An order under section 14 of the 2010 Act can (subject to restrictions, and only after the Scottish Parliament has approved a draft of the order):

- modify, confer, abolish, transfer or provide for the delegation of any function of a public body,
- amend the constitution of a public body.

236. Paragraph 5(3) adds Qualifications Scotland to the list of bodies in schedule 8 of the 2010 Act. This means that Qualifications Scotland will be subject to the duties to report after each financial year on:

- expenditure (see section 31 of the 2010 Act), and
- the steps it has taken to promote and increase sustainable growth and improve its efficiency, effectiveness and economy (see section 32 of the 2010 Act).

Public Records (Scotland) Act 2011

237. Paragraph 6 makes Qualifications Scotland subject to the duties created by the Public Records (Scotland) Act 2011 to produce, implement and keep under review a records management plan.

Procurement Reform (Scotland) Act 2014

238. Paragraph 7 makes Qualifications Scotland subject to the procurement rules applicable to contracting authorities in the Procurement Reform (Scotland) Act 2014 regarding their procurement activities and some specific measures aimed at promoting good, transparent and consistent practice in procurement.

Gender Representation on Public Boards (Scotland) Act 2018

239. Paragraph 8 adds Qualifications Scotland to the list of bodies in schedule 1 of the Gender Representation on Public Boards (Scotland) Act 2018 ("the 2018 Act"). This means that in appointing members to Qualifications Scotland, the Scottish Ministers must ordinarily give preference to a woman if there are equally qualified candidates – one who is a woman and one who is not – where appointing a woman would result in, or be a step towards, 50% of the body's membership being women (see section 4 of the 2018 Act).

240. In addition, the 2018 Act requires that steps be taken to encourage women to apply to be members of Qualifications Scotland (see section 5 of the 2018 Act), and further steps to be taken to promote gender balance in the membership if the 50% target has not been reached by particular dates (see section 6 of the 2018 Act).

Islands (Scotland) Act 2018

241. Paragraph 9 adds Qualifications Scotland to the list of relevant authorities in the schedule of the Islands (Scotland) Act 2018. This means that Qualifications Scotland must have regard to island communities in carrying out its functions (see section 7(1) of the Islands (Scotland) Act 2018).

Chapter 2: Other modifications

Further and Higher Education (Scotland) Act 1992

242. Paragraph 10 replaces reference to the Scottish Qualifications Authority in the Further and Higher Education (Scotland) Act 1992 with reference to Qualifications Scotland. This will have the effect of bringing qualifications awarded by Qualifications Scotland within the definition of "further education" in section 1 of that Act, and including any qualification known as the Qualifications Scotland national certificate in the list of courses which set the standard above which education is treated as "higher education".

Education (Scotland) Act 1996

243. Paragraph 11 repeals the bulk of the Education (Scotland) Act 1996, which amongst other matters established the Scottish Qualifications Authority. The provisions which are repealed all relate to the Authority's establishment.

Scottish Qualifications Authority Act 2002

244. Paragraph 12 repeals the Scottish Qualifications Authority Act 2002, which made provision for the membership and procedures of the Scottish Qualifications Authority and established a committee to consider and advise on qualifications awarded by it. The functions of the Authority will now be undertaken by Qualifications Scotland and the Accreditation Committee.

Further and Higher Education (Scotland) Act 2005

245. Paragraph 13 modifies the Further and Higher Education (Scotland) Act 2005 to replace references to the Scottish Qualifications Authority with references to Qualifications Scotland. This ensures that references to things which were previously done by the Scottish Qualifications Authority will continue to apply when those things are done by Qualifications Scotland.

Children and Young People (Scotland) Act 2014

246. Paragraph 14 modifies the Children and Young People (Scotland) Act 2014 so that Qualifications Scotland assumes the duty to publish a report of what steps it has taken to secure better or further effect of the rights and obligations set out in Part 1 of the United Nations Convention on the Rights of the Child and specified parts of the protocols to it, in place of the Scottish Qualifications Authority.

Coronavirus (Recovery and Reform) (Scotland) Act 2022

247. Paragraph 15 modifies the Coronavirus (Recovery and Reform) (Scotland) Act 2022 to replace references to the Scottish Qualifications Authority approving education and training establishments with references to Qualifications Scotland doing so.

Part 2: The Office of His Majesty's Chief Inspector of Education in Scotland

Chapter 1: Application of legislation relating to office-holders

248. This Chapter of schedule 4 amends relevant public bodies legislation so as to encompass His Majesty's Chief Inspector of Education in Scotland.

Freedom of Information (Scotland) Act 2002

249. Paragraph 16 of schedule 4 adds the Chief Inspector to the list of non-ministerial office holders in the Scottish Administration in schedule 1 of the FOI (S) Act. This means that the Chief Inspector will be subject to the requirements which the FOI (S) Act places on public bodies, including requirements to provide information to the public on request and to have in place a scheme under section 23 of that Act for the pro-active publication of information it holds.

250. Being a public authority within the meaning of the FOI (S) Act also makes the Chief Inspector a "Scottish public authority" to which the Environmental Information (Scotland) Regulations 2004 apply.

251. In addition, it means that the Chief Inspector falls within the definition of a "public body" under section 44 of the Climate Change (Scotland) Act 2009. This means that the Chief Inspector must act in a way calculated to contribute to the delivery of climate change targets and any climate change adaptation programme and in the way that the Chief Inspector considers is most sustainable. The Chief Inspector can also be made subject to further duties, including reporting duties.

252. Further, as a public authority within the meaning of the FOI (S) Act, the Chief Inspector is a "public authority" or "public body" for the purposes of the General Data Protection Regulation by virtue of section 7 of the Data Protection Act 2018 (provided the power under that section to remove such status is not exercised). The General Data Protection Regulation (also commonly referred to by the acronym "GDPR") is Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data. There are particular rules applied to bodies classified as "public authorities" (over and above those applied to all data processors) in the GDPR and the Data Protection Act 2018. An analysis of those rules is beyond the scope of these Notes.

Protection of Vulnerable Groups (Scotland) Act 2007

253. The Protection of Vulnerable Groups (Scotland) Act 2007 relates to the inclusion of individuals on a "children's list" and an "adult's list". Section 19(3) of the 2007 Act names persons who may be required to provide information to the Scottish Ministers under section 19(1)(b) for the purpose of assisting Ministers in deciding whether to list an individual. "HM Inspectors of Schools" is named here, and section 97 of the 2007 Act provides a definition for that term, which is repeated in the index in schedule 5 of the 2007 Act. Paragraph 17 of schedule 4 of this Act updates these references by substituting them for the Chief Inspector.

Public Services Reform (Scotland) Act 2010

254. Paragraph 18 of schedule 4 adds the Chief Inspector to the list of bodies in schedule 19 of the 2010 Act. This means that the Chief Inspector is subject to the user focus scrutiny duty set out in section 112 of the 2010 Act. This will require the Chief Inspector to secure continuous improvement in the involvement of users in the design and delivery of scrutiny functions, such as the inspection function set out in section 38.

255. It also adds the Chief Inspector to the list of bodies in schedule 20 of the 2010 Act. This means that the Chief Inspector is subject to section 114 of the 2010 Act and must co-operate and co-ordinate activity with the other bodies listed there and, where appropriate, the Scottish Ministers with a view to achieving the purpose of improving the exercise of the scrutiny functions of, among other things, local authorities.

Public Records (Scotland) Act 2011

256. Paragraph 19 of schedule 4 makes the Chief Inspector subject to the duties created by the Public Records (Scotland) Act 2011 to produce, implement and keep under review a records management plan.

Procurement Reform (Scotland) Act 2014

257. Paragraph 20 of schedule 4 makes the Chief Inspector subject to the procurement rules applicable to contracting authorities in the Procurement Reform (Scotland) Act 2014 regarding their procurement activities and some specific measures aimed at promoting good, transparent and consistent practice in procurement.

Chapter 2: Other modifications

Education (Scotland) Act 1980

258. Paragraph 21 of schedule 4 modifies the Education (Scotland) Act 1980 to remove the following provisions regarding inspections of educational establishments, as they are no longer required in light of the provision made by the Act:

- the power of the Scottish Ministers to request inspections of schools by Her Majesty's Inspectors (section 66 of the 1980 Act),
- provision regarding the issuing of a code of practice for inspections (section 66A of the 1980 Act),
- Her Majesty's Inspectors' duty to make a reference to the Scottish Ministers in relation to a failing identified in an inspection (section 66B of the 1980 Act),
- provision regarding the issuing of preliminary notices (section 66C of the 1980 Act),
- provision regarding the giving of enforcement directions (section 66D of the 1980 Act).

259. It also removes provisions permitting the Scottish Ministers to recover expenses from educational establishments following inspections requested by the establishment, and the power to inspect residential accommodation to ensure the safeguarding and promotion of a child's welfare. Both of these are superseded by the provision now made in the Act. This paragraph further removes the definitions of enforcement direction, Her Majesty's Inspections, and preliminary notice from the Act.

Standards in Scotland's Schools etc. Act 2000

260. Paragraph 22 of schedule 4 modifies the Standards in Scotland's Schools etc. Act 2000. It repeals the provisions in the 2000 Act that complement those that were repealed in the Education (Scotland) Act 1980 by paragraph 21 (see paragraph 258 of these Notes). These provisions related to the inspection of education authorities, which is now provided for in the Act instead.

Scottish Schools (Parental Involvement) Act 2006

261. Paragraph 23 of schedule 4 modifies the Scottish Schools (Parental Involvement) Act 2006 to replace references to Her Majesty's inspectors with references to His Majesty's Chief Inspector of Education in Scotland. This ensures that the current rules about when the Parent Council can make representations to Her Majesty's inspectors, and what must be done on receipt of such representations, will apply to representations which are made by the Parent Council to His Majesty's Chief Inspector of Education in Scotland.

Schools (Consultation) (Scotland) Act 2010

262. Paragraph 24 of schedule 4 modifies the Schools (Consultation) (Scotland) Act 2010 to replace references to Her Majesty's Inspectors of Education (HMIE) with references to the Chief Inspector of Education in Scotland. This ensures that references to things that were previously done by or in relation to HMIE will now apply to things that are done by or in relation to the Chief Inspector. Specifically, this means that the Chief Inspector will require to be involved in any relevant proposals made by an education authority. A relevant proposal is defined in schedule 1 of that Act but includes, for example, a proposal to permanently discontinue a school.

Public Services Reform (Scotland) Act 2010

263. Paragraph 25 of schedule 4 modifies the Public Services Reform (Scotland) Act 2010 to replace the reference in section 115(6) of that Act to Her Majesty's inspectors of schools with a reference to His Majesty's Chief Inspector of Education in Scotland. This ensures that this section will apply to His Majesty's Chief Inspector of Education in Scotland as it applied to Her Majesty's inspectors of schools. This means that the Scottish Ministers will be able to require the Chief Inspector to carry out a joint inspection with another specified body of children's or other services.

Education (Scotland) Act 2016

264. Paragraph 26 of schedule 4 modifies the Education (Scotland) Act 2016 to replace the reference in section 12(3) of that Act to Her Majesty's inspectors of schools with a reference to His Majesty's Chief Inspector of Education in Scotland. This ensures that this section will apply to His Majesty's Chief Inspector of Education in Scotland as it applied to Her Majesty's inspectors of schools. This means that the Chief Inspector must be notified by an education authority if it receives a request to assess the need for Gaelic medium primary education and decides to carry out a full assessment of that need.

Schools General (Scotland) Regulations 1975

265. Paragraph 27 of schedule 4 revokes part 4 of the Schools General (Scotland) Regulations 1975, which permits Inspectors acting under section 67 of the Education (Scotland) Act 1962 to visit schools under their management without notice and to inspect documents kept in the school.

PARLIAMENTARY HISTORY

266. The following is a list of the proceedings in the Scottish Parliament on the Bill for the Act and significant documents connected to the Bill published by the Parliament during the Bill's parliamentary passage.

Proceedings and reports	***Reference***
Bill as introduced	SP Bill 49 Session 6 (2024)
Explanatory Notes	SP Bill 49-EN Session 6 (2024)
Policy Memorandum	SP Bill 49-PM Session 6 (2024)
Financial Memorandum	SP Bill 49-FM Session 6 (2024)
Delegated Powers Memorandum	SP Bill 49-DPM Session 6 (2024)
Statements on Legislative Competence	SP Bill 49-LC Session 6 (2024)
Stage 1	
Education, Children and Young People Committee	
Education, Children and Young People Committee, 18 September 2024	Official Report
Education, Children and Young People Committee, 25 September 2024	Official Report
Education, Children and Young People Committee, 2 October 2024	Official Report
Education, Children and Young People Committee, 9 October 2024	Official Report
Education, Children and Young People Committee, 20 November 2024	In private
Education, Children and Young People Committee, Stage 1 report	Stage 1 Report (6th report, 2024, SPP 697)

Proceedings and reports	***Reference***
Delegated Powers and Law Reform Committee	
Delegated Powers and Law Reform Committee, 10 September 2024	Official Report
Delegated Powers and Law Reform Committee, 1 October 2024	Official Report
Delegated Powers and Law Reform Committee, Stage 1 report	Stage 1 Report (59th report, 2024, SPP 655)
Consideration by the Parliament	
Chamber, 18 December 2024	Official Report
Stage 2	
First Marshalled List of Amendments for Stage 2	SP Bill 49-ML Session 6 (2025)
First Groupings of Amendments for Stage 2	SP Bill 49-G Session 6 (2025)
Education, Children and Young People Committee, 23 April 2025	Official Report
Second Marshalled List of Amendments for Stage 2	SP Bill 49-ML2 Session 6 (2025)
Second Groupings of Amendments for Stage 2	SP Bill 49-G2 Session 6 (2025)
Education, Children and Young People Committee, 30 April 2025	Official Report
Third Marshalled List of Amendments for Stage 2	SP Bill 49-ML3 Session 6 (2025)
Third Groupings of Amendments for Stage 2	SP Bill 49-G3 Session 6 (2025)
Education, Children and Young People Committee, 7 May 2025	Official Report
Education (Scotland) Bill as amended at Stage 2	SP Bill 49A Session 6 (2025)
Supplementary Delegated Powers Memorandum	SP Bill 49A-DPM Session 6 (2025)
Supplementary Financial Memorandum	SP Bill 49A-FM Session 6 (2025)
Revised Explanatory Notes	SP Bill 49A-EN Session 6 (2025)
Delegated Powers and Law Reform Committee, 10 June 2025	In private
Delegated Powers and Law Reform Committee, Post-stage 2 report	Post-stage 2 Report (SPP 824)
Stage 3	
Revised Marshalled List of Amendments for Stage 3	SP Bill 49A-ML Session 6 (2025)
Timed Groupings of Amendments for Stage 3	SP Bill 49A-G Session 6 (2025)
Chamber, 24 June 2025	Official Report

These notes relate to the Education (Scotland) Act 2025 (asp 11)
which received Royal Assent on 6 August 2025

Proceedings and reports	***Reference***
Chamber, 25 June 2025	Official Report
Education (Scotland) Bill as passed	SP Bill 49B Session 6 (2025)
Royal Assent	
Education (Scotland) Act 2025	2025 asp 11

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