



# Scottish Qualifications Authority Act 2002

## 2002 asp 14

### **1 Scottish Qualifications Authority: members**

- (1) The members, including the chairman, of the Scottish Qualifications Authority (the “SQA”) appointed under the Education (Scotland) Act 1996 (c. 43) (“the 1996 Act”) and holding office as at the coming into force of this section shall, subject to subsection (2) below, then cease to hold office.
- (2) Subsection (1) above does not operate in relation to the chief executive of the SQA.
- (3) The 1996 Act is amended as follows.
- (4) In section 1 (establishment of SQA)—
  - (a) for paragraph (a) of subsection (2) there is substituted—
    - “(a) not fewer than eight nor more than ten individuals (including a chairman) appointed by the Scottish Ministers on such terms and conditions as they may, subject to and in accordance with paragraph 9 of Schedule 1 to this Act, determine;”;
  - (b) after subsection (2) there is inserted—
    - “(2A) One of the individuals appointed under paragraph (a) of subsection (2) above shall be a person appearing to the Scottish Ministers to have special knowledge of the interests of the employees of SQA.
    - (2B) Before inviting applications for appointment as the member mentioned in subsection (2A) above, the Scottish Ministers shall consult such employees, or persons representing those employees, as they think fit as to—
      - (a) the particular knowledge of such interests; and
      - (b) any other attributes,that persons seeking such appointment should possess.”; and
  - (c) subsections (3) and (4) are repealed.
- (5) In paragraph 2(a) (terms of appointment of SQA members) of Schedule 1, the words “for a maximum period of four years” are repealed.
- (6) Paragraph 3 (qualification of members of SQA) of that Schedule is repealed.

- (7) In paragraph 9 (remuneration and expenses of SQA members) of that Schedule—
- (a) in sub-paragraph (1)—
    - (i) in sub-sub-paragraph (a), after “such” there is inserted “remuneration and” and after “allowances” there is inserted “and expenses”;
    - (ii) sub-sub paragraph (b) and the word “and” which immediately precedes it are repealed; and
    - (iii) at the end there is inserted “under section 1(2)(a) of this Act”; and
  - (b) sub-paragraphs (2) and (3) are repealed.
- (8) In paragraph 10(1) (quorum for a meeting of SQA) of that Schedule, for “nine” there is substituted “six”.
- (9) In paragraph 11(4) (relationship between members and matters for purposes of avoidance of conflicts of interest) of that Schedule, for sub-sub-paragraphs (b) and (c) there is substituted—
- “(b) each other member who is an employee of SQA in relation to his terms and conditions of employment, his suspension, dismissal or any other disciplinary measure relating to him as an employee, his remuneration, allowances or expenses as a member, his re-appointment as a member or the appointment of his successor as a member; and
  - (c) each other member (including the chairman) in relation to his remuneration, allowances, expenses, re-appointment or the appointment of his successor.”

## **2 Power to regulate SQA procedures**

In paragraph 10 (proceedings of SQA) of Schedule 1 to the 1996 Act, after sub-paragraph (2) there is inserted—

“(2A) The Scottish Ministers may by regulations make such provision in relation to the procedure of the SQA, and of any committee established by it, as they think fit; and such regulations may make provision allowing a representative of the Scottish Ministers, other than a member of the SQA, to participate at meetings of the SQA or of any committee established by it.”

## **3 Advisory Council**

- (1) The Scottish Ministers may by regulations establish a committee (to be known as the Advisory Council) for the purposes of—
- (a) considering matters relating to—
    - (i) qualifications devised or awarded by the SQA; and
    - (ii) the functions, and procedure, of the SQA;
  - (b) providing, when asked by the SQA or the Scottish Ministers to do so, advice to the SQA or, as the case may be, the Scottish Ministers in relation to those matters; and
  - (c) providing, at any time, advice to—
    - (i) the SQA; and
    - (ii) the Scottish Ministers,
 in relation to such of those matters as the Advisory Council thinks appropriate,

and those regulations may make such incidental or supplementary provision as the Scottish Ministers think fit.

- (2) Those regulations may make provision for or in connection with—
  - (a) the appointment of a convener of the Advisory Council (including any conditions of appointment);
  - (b) the appointment of other members of the Advisory Council (including the number, or limits on the number, of those who may be appointed and any conditions of appointment);
  - (c) the tenure of office of the convener and other members (including the circumstances in which they are to cease to hold office or may be removed or suspended from office);
  - (d) the appointment of, constitution of and exercise of functions by committees and sub-committees (including committees and sub-committees which consist of or include persons who are not members of the Advisory Council);
  - (e) the procedure of the Advisory Council (including the validation of proceedings in the event of vacancies or defects in appointment);
  - (f) allowing a representative of the Scottish Ministers, other than a member of the SQA, to observe or participate at meetings of the Advisory Council;
  - (g) the manner in which the Advisory Council is to provide advice (including the manner in which, and persons to whom, it is to provide copies of advice);
  - (h) the provision by the SQA of responses to any advice provided to it by the Advisory Council (including the manner in which, and persons to whom, it is to provide copies of such responses); and
  - (i) the payment by the SQA to the convener and other members of the Advisory Council of such allowances and expenses as the Scottish Ministers may determine.
- (3) A person may be convener of the Advisory Council only if that person is a member of the SQA.
- (4) Regulations under subsection (1) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.

#### **4 Advisory Council and SQA: consultation**

- (1) The Advisory Council shall, before providing advice on any matter which it is considering—
  - (a) consult such other persons having an interest in that matter as it thinks fit; and
  - (b) have regard to any representations made to it by any person so consulted.
- (2) The Advisory Council shall have regard to any guidance issued by the Scottish Ministers as to compliance with subsection (1) above.
- (3) The SQA and the Advisory Council shall each, in exercise of its functions, consult the other in every case in which it appears to the body exercising the function appropriate to do so.
- (4) The SQA and the Advisory Council shall have regard to any guidance issued by the Scottish Ministers as to the fulfilment, by each, of the requirement imposed by subsection (3) above.

## **5 Advice to SQA**

In section 7 (SQA to have regard to certain considerations) of the 1996 Act—

- (a) the word “and” which immediately precedes paragraph (b) is repealed; and
- (b) at the end there is inserted “; and
- (c) have regard to any advice provided by the Advisory Council.”.

## **6 Short title and commencement**

- (1) This Act may be cited as the Scottish Qualifications Authority Act 2002.
- (2) This Act (except this section) shall come into force on such date as the Scottish Ministers may by order made by statutory instrument appoint.
- (3) Different dates may be so appointed for different purposes.