

Changes to legislation: Education (Scotland) Act 1996 is up to date with all changes known to be in force on or before 26 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 1

Section 1.

THE SCOTTISH QUALIFICATIONS AUTHORITY

Status

- 1 SQA shall not—
- (a) be regarded as a servant or agent of the Crown;
 - (b) have any status, immunity or privilege of the Crown;
- and its property shall not be regarded as property of, or held on behalf of, the Crown.

Qualifications and tenure of office

- 2 Subject to the provisions of this Schedule each member of SQA—
- (a) shall hold and vacate office in accordance with the terms of his appointment^{F1} . . . ;
 - (b) may, by giving notice in writing to the appointing authority, resign his office; and
 - (c) after ceasing to hold office shall be eligible for reappointment as a member.

Textual Amendments

F1 Words in Sch. 1 para. 2(a) repealed (19.8.2002) by 2002 asp 14, s. 1(5); S.S.I. 2002/355, art. 3(2)

^{F2}3

Textual Amendments

F2 Sch. 1 para. 3 repealed (19.8.2002) by 2002 asp 14, s. 1(6); S.S.I. 2002/355, art. 3(2)

- 4 (1) A person is not eligible for appointment as a member of SQA if—
- (a) he has, within five years of the date his appointment would take effect, been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine;
 - (b) his estate has been sequestrated, he has made an arrangement with his creditors, he has been adjudged bankrupt, he has granted a trust deed for his creditors or made a composition with his creditors; or
 - (c) he has been removed from office by the appointing authority under paragraph 6(c) below.
- (2) Where a person is disqualified under sub-paragraph (1)(b) above by reason of having had his estate sequestrated, the disqualification shall cease if and when—

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- (a) the sequestration of his estate is recalled or reduced; or
 - (b) he is discharged under or by virtue of the ^{M1}Bankruptcy (Scotland) Act [^{F3}2016].
- (3) Where a person is disqualified under that sub-paragraph by reason of having been adjudged bankrupt, the disqualification shall cease—
- (a) unless the bankruptcy order made against him is previously annulled, on his discharge from bankruptcy; and
 - (b) if the bankruptcy order is so annulled, on the date of the annulment.
- (4) Where a person is disqualified under that sub-paragraph by reason of his having made an arrangement with his creditors, granted a trust deed for his creditors or made a composition with his creditors, the disqualification shall cease when the arrangement or, as the case may be, trust deed or composition is no longer in force.

Textual Amendments

F3 Word in Sch. 1 para. 4(2)(b) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), [sch. 8 para. 15](#) (with [ss. 232](#), [234\(3\)](#), [235](#), [236](#)); [S.S.I. 2016/294](#), [reg. 2](#)

Marginal Citations

M1 1985 c. 66.

- 5 If at any time the appointing authority is satisfied that any member has been convicted as mentioned in sub-sub-paragraph (a) of paragraph 4(1) above or has become a person to whom sub-sub-paragraph (b) of that paragraph applies, it shall remove him from office; and thereupon the office shall become vacant.
- 6 If at any time the appointing authority is satisfied that any member—
- (a) has failed to comply with any requirement of paragraph 11 or 12 below; or
 - (b) has been absent, without the permission of SQA, from all meetings of SQA and any of its committees to which he has been appointed, for a period longer than six consecutive months; or
 - (c) without prejudice to paragraph 5 above, has become otherwise unable or unfit to discharge his functions as a member of SQA,
- the appointing authority may remove him from office; and thereupon the office shall become vacant.
- 7 The appointing authority shall give notice in writing to any member who is to be removed from office under paragraphs 5 or 6 above.

Chairman

- 8 (1) The chairman shall hold and vacate office in terms of his appointment.
- (2) The chairman may resign his office by notice given in writing to the Secretary of State.
- (3) Where the chairman—
- (a) ceases to be a member of SQA, he shall cease to be chairman;
 - (b) ceases to be chairman he shall not thereby cease to be a member of SQA but where he ceases to be chairman otherwise than on the expiry of his term of office, the Secretary of State may (without prejudice to his powers

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of removal under paragraphs 5 and 6 above) remove him from office as a member by notice in writing.

Remuneration, pensions, etc.

- 9 (1) SQA shall—
- (a) pay to its members such [^{F4}remuneration and] travelling and other allowances [^{F4}and expenses]; ^{F5} . . .
 - ^{F5}(b)
- as the Secretary of State may determine [^{F6}under section 1(2)(a) of this Act].
- (2) The Secretary of State may determine that SQA shall, as regards the chairman—
- (a) pay such pension, allowance or gratuity to or in respect of him; or
 - (b) make such payments toward the provision of such pension, allowance or gratuity,
- as may be so determined.
- (3) If the chairman ceases to be a member of SQA otherwise than on the expiry of his term of office, and it appears to the Secretary of State that there are special circumstances which might make it right for that person to receive compensation, the Secretary of State may require SQA to pay to that person a sum of such amount as the Secretary of State may determine.

Textual Amendments

- F4** Words in Sch. 1 para. 9(1)(a) inserted (19.8.2002) by 2002 asp 14, s. 1(7)(a)(i); S.S.I. 2002/355, art. 3(2)
- F5** Sch. 1 para. 9(1)(b) and word preceding it repealed (19.8.2002) by 2002 asp 14, s. 1(7)(a)(ii); S.S.I. 2002/355, art. 3(2)
- F6** Words in Sch.1, para. 9(1) inserted (19.8.2002) by 2002 asp 14, s.1(7)(a)(iii); S.I. 2002/355, art. 3(2)

Proceedings

- 10 (1) The quorum for a meeting of SQA shall be [^{F7}six].
- (2) Subject to this paragraph, paragraphs 11 and 12 below and section 3(5) of this Act, SQA may regulate its own procedure and that of any committee established by it.
- [^{F8}(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) The proceedings of SQA and of any committee established by it shall not be invalidated by any vacancy amongst its members or the members of such committee or by any defect in the appointment of such member or failure to comply with any requirement of paragraph 11 or 12 below.

Textual Amendments

- F7** Word in Sch. 1 para. 10(1) substituted (19.8.2002) by 2002 asp 14, s. 1(8); S.S.I. 2002/355, art. 3(2)

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F8 Sch. 1 para. 10(2A) inserted (7.8.2002) by 2002 asp 14, s. 1(4)(a); S.S.I. 2002/355, art. 3(2)

Conflict of interest

- 11 (1) Subject to sub-paragraph (5) below, where, whether before or during any meeting of SQA or any of its committees, any member becomes aware that he or any person connected with him has (whether directly or indirectly) a material interest in or relating to any matter to be or being considered by SQA or, as the case may be, the committee, he shall declare such interest and SQA or, as the case may be, the committee, shall record such declaration in the minutes of the meeting.
- (2) Where a member makes a declaration under sub-paragraph (1) above and the other members present at the meeting in question decide by resolution that such interest might prejudicially affect that person's consideration of the matter in question, that person shall withdraw from the meeting during consideration of that matter and shall not vote on any question relating to it.
- (3) Notwithstanding sub-paragraphs (1) and (2) above, where in relation to any member mentioned in sub-paragraph (4) below, any matter referred to in that sub-paragraph is to be considered by any meeting of SQA or any of its committees, that member shall withdraw from the meeting during such consideration and shall not vote on any question relating to the matter.
- (4) The members mentioned in sub-paragraph (3) above in relation to particular matters are—
- (a) the chief executive in relation to his terms and conditions of employment, his suspension, dismissal or any other disciplinary measure relating to him, his re-appointment or the appointment of his successor;
 - [^{F9}(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.]
- (5) Subject to sub-paragraph (4) above, nothing in this paragraph shall require a member to declare an interest or withdraw from consideration of any matter where his interest exists only by reason of his being a member.
- (6) Section 346(2) of the ^{M2}Companies Act 1985 (meaning of “connected person”) shall apply for the purpose of determining whether a person is connected with a member as it applies for the purpose of determining whether a person is connected with a director of a company; and for such purpose references in that section to a director of a company shall be construed as if they were references to a member.
- (7) In this paragraph “member” includes any person appointed to a committee by virtue of paragraph 13 below and any person appointed to the Accreditation Committee by virtue of section 3(3) of this Act .

Textual Amendments

F9 Sch. 1 para. 11(4)(b)(c) substituted (19.8.2002) by 2002 asp 14, s. 1(9); S.S.I. 2002/355, art. 3(2)

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Marginal Citations

M2 1985 c. 6.

Confidentiality of information

- 12 Any information which is received or obtained by any person in connection with his functions as a member of SQA or a member of any committee established by it, on the basis that such information shall be treated as confidential, shall be treated by him as confidential to SQA or, as the case may be, the committee.

Committees

- 13 (1) Subject to section 3(3) of this Act, SQA may establish committees for or in connection with the discharge of such of its functions as it may determine and any such committee may, with the consent of SQA, appoint sub-committees.
- (2) Such committees may include persons who are not members of SQA.
- (3) SQA may pay to the members of any committee established by it (whether or not they are also members of SQA) such allowances and expenses as it may determine; and any allowances and expenses to be paid by virtue of this sub-paragraph shall be calculated by reference to such criteria as the Secretary of State may determine.

Delegation of powers

- 14 (1) Anything authorised or required by or under any enactment to be done by SQA may be done by any of its committees which, or by any of its members or employees who, is authorised (generally or specifically) for the purpose by SQA.
- (2) Nothing in sub-paragraph (1) above shall prevent SQA from doing anything that a committee, member or employee has been authorised or required to do.
- (3) Nothing in this paragraph shall apply to anything which is to be done by the Accreditation Committee in pursuance of section 3(3) of this Act.

Staff

- 15 The Secretary of State shall, after consultation with the chairman or person designated to be chairman (if there is a person holding or designated to hold that office), make the first appointment of chief executive on such terms and conditions as he may determine; and thereafter SQA may, with the approval of the Secretary of State, make subsequent appointments to that office on such terms and conditions as it may with such approval determine.
- 16 SQA may appoint such other employees as it thinks fit on such terms and conditions as it may, with the approval of the Secretary of State determine.
- 17 SQA shall, in the case of such of its employees or former employees as it may, with the approval of the Secretary of State, determine—
- (a) pay or make arrangements for the payment of pensions, allowances or gratuities to or in respect of those employees;
 - (b) make such payments towards provision of such pensions, allowances or gratuities; or

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- (c) provide and maintain such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities, as it may, with the approval of the Secretary of State, determine.

Disposal of property

- 18 (1) SQA shall not dispose of any property acquired, improved or maintained wholly or partly, directly or indirectly out of funds provided by the Secretary of State or from the proceeds of or any consideration for the disposal of any property so acquired, improved or maintained without the prior consent, given in writing, of the Secretary of State.
- (2) The consent of the Secretary of State may be given in respect of a particular disposal of property or of disposals of any class or description and may be given subject to such conditions as the Secretary of State may determine.
- (3) The consent of the Secretary of State is not required for the disposal of land which is or forms part of property mentioned in sub-paragraph (2) above where the disposal is in consequence of the compulsory acquisition of such land by any authority in pursuance of any power of compulsory acquisition under any enactment; but SQA shall inform the Secretary of State of any such compulsory acquisition.
- (4) Where any such property is disposed of, SQA shall pay to the Secretary of State such portion of the proceeds or value of the consideration for the disposal, after deduction of such expenses as appear to the Secretary of State to have been reasonably incurred in the disposal, as the Secretary of State may, after consultation with SQA determine.

Interpretation

- 19 (1) In this Schedule—
- “the appointing authority”, in relation to any person who is or has been a member of SQA, means the Secretary of State or SQA, according to whether that person was appointed as a member by the Secretary of State or SQA;
- “committee” shall include a reference to any sub-committee appointed by such committee; and
- “member”, except in paragraphs 11 and 12 above, shall not include the chief executive.
- (2) Any reference in this Schedule to payment or provision of pensions, allowances or gratuities includes a reference to their payment or provision by way of compensation for loss of office or employment or loss or diminution of emoluments.

SCHEDULE 2

Section 19.

FURTHER PROVISIONS AND SAVINGS RELATING TO THE WINDING DOWN PERIOD

Vesting of existing bodies’ foreign property in the Scottish Qualifications Authority

- 1 (1) It shall be the duty of each existing body and SQA to take, at such time during the existing body’s winding down period as SQA considers appropriate, all such steps as may be requisite to secure that the vesting in SQA, by virtue of section 17 of this Act

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or this paragraph, of any foreign property, right, liability or obligation is effective under the relevant foreign law.

- (2) During their winding down period, until such vesting as is mentioned in sub-paragraph (1) above in SQA is effective in foreign law, it shall be the duty of each existing body to hold the property or right in question for the benefit of, or to discharge the liability on behalf of, SQA.
- (3) Nothing in sub-paragraphs (1) and (2) above shall be taken as prejudicing the effect under the law of any part of the United Kingdom of such vesting as is so mentioned.
- (4) Each existing body shall have all such powers as may be requisite for the performance of its duty under this paragraph, but—
 - (a) it shall be the duty of SQA during the existing body's winding down period to act on its behalf (so far as possible) in performing the duty imposed on the existing body by this paragraph; and
 - (b) any foreign property, right, liability or obligation acquired or incurred by the existing body during that period shall immediately become the property, right, liability or obligation of SQA.
- (5) References in this paragraph to any foreign property, right, liability or obligation are references to any property, right, liability or obligation as respects which any issue arising in any proceedings would have been determined (in accordance with the rules of private international law) by reference to the law of a country or territory outwith the United Kingdom.

Final reports and accounts of existing bodies etc.

- 2 (1) Notwithstanding the repeal by this Act of section 129 of the ^{M3}Education (Scotland) Act 1980, regulations 14 and 16 of the ^{M4}Scottish Examination Board Regulations 1981 (duty to keep accounts and submit annual report to Secretary of State), shall continue to apply to the Scottish Examination Board in respect of—
 - (a) each financial year ending before the transfer date;
 - (b) such subsequent period ending with the SEB dissolution date (notwithstanding that period is longer than twelve months) as if the SEB dissolution date were the last day of the subsequent financial year.
- (2) The Scottish Vocational Education Council shall be under a duty to continue to keep accounting records, to submit them for auditing purposes and to make a report to the Secretary of State in accordance with Articles 42 to 49 of its Articles of Association in respect of—
 - (a) each financial year ending before the transfer date;
 - (b) such subsequent period ending with the SCOTVEC dissolution date (notwithstanding that period is longer than twelve months) as if the SCOTVEC dissolution date were the last day of the subsequent financial year.
- (3) In this paragraph “financial year”—
 - (a) in relation to the Scottish Examination Board, means the period of twelve months ending with 31st December;
 - (b) in relation to the Scottish Vocational Education Council, means the period of twelve months ending with 31st March.

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Marginal Citations

- M3** 1980 c. 44.
M4 S.I. 1981/1562.

SCHEDULE 3

Section 20.

TRANSITIONAL PROVISIONS FOR SQA

Continuity of exercise of functions

- 1 (1) Any relevant thing done by or in relation to the existing body before the dissolution date appointed in relation to that body by virtue of section 19(3) of this Act shall, so far as is required for continuing its effect on and after that date, have effect as if done by or in relation to SQA.
- (2) Any relevant thing which, immediately before that date, is in the process of being done by or in relation to the existing body may continue to be done by or in relation to SQA.
- (3) In this paragraph “relevant” in relation to anything done by or in relation to the existing body before that date means anything which, if it were to be done on or after that date, would be done by or in relation to SQA.

Payment of grants by Secretary of State

- 2 (1) The Secretary of State may make grants to SQA in respect of any expenditure incurred by it in pursuance of its functions under section 20 of this Act and this Schedule.
- (2) Grants made under this paragraph may be made subject to such conditions as, with the consent of Treasury, the Secretary of State thinks appropriate and such conditions—
- (a) may be imposed before, after or at the time the grant is made; and
 - (b) may relate to any time, whether before or after the payment of the grant.
- (3) The terms and conditions on which the Secretary of State may make any grants under this paragraph may include in particular conditions—
- (a) enabling him to require the repayment, in whole or in part, of sums paid by him if any other condition subject to which the sums were paid is not complied with; and
 - (b) requiring the payment of interest in respect of any period during which a sum due to him in accordance with any other condition remains unpaid.
- (4) A condition imposed in pursuance of sub-paragraph (2) above shall not have effect as regards anything done, or omitted to have been done, before the date the condition was imposed.

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Information

- 3 The existing bodies shall provide SQA with all information which SQA may reasonably require for the purpose of the exercise of its functions under this Schedule and section 20 of this Act.

Application of Part I

- 4 Sections 9, 10 and 12 of this Act shall have effect in relation to SQA during the transitional period.

^{F10}SCHEDULE 4

Section 31.

AMENDMENT OF THE SCHOOL BOARDS (SCOTLAND) ACT 1988

Textual Amendments

F10 Sch. 4 repealed (1.8.2007) by [Scottish Schools \(Parental Involvement\) Act 2006 \(asp 8\)](#), s. 24(2), [Sch.](#); [S.S.I. 2007/31](#), art. 2(b), [Sch. 2](#)

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SCHEDULE 5

Section 36.

MISCELLANEOUS AND CONSEQUENTIAL AMENDMENTS

The House of Commons Disqualification Act 1975 (c.24)

- 1 In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified) at the appropriate place there shall be inserted the following entry—

“The Scottish Qualifications Authority.”

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The Education (Scotland) Act 1980 (c. 44.)

- 2 After section 51(2B) of the Education (Scotland) Act 1980 (provision of transport and other facilities) there shall be inserted the following subsection—

“(2C) In considering whether to make any arrangements under subsection (1) above in respect of pupils attending schools, an education authority shall have regard to the safety of such pupils.”

- 3 After section 66(1) of that Act (inspection of educational establishments) there shall be inserted the following subsection—

“(1A) Without prejudice to subsection (1) above, the Secretary of State shall have power to cause inspection to be made at premises where education is provided or proposed to be provided by a person to whom the Secretary of State has power to make a grant in pursuance of section 23 of the Education (Scotland) Act 1996, and such inspections shall be made by Her Majesty’s Inspectors or other persons appointed by the Secretary of State for the purpose.”

The Self-Governing Schools etc. (Scotland) Act 1989 (c.39.)

- 4 After section 13(3) of the Self-Governing Schools etc. (Scotland) Act 1989 (eligibility for self-governing status) there shall be inserted the following subsections—

“(3A) Without prejudice to subsection (3) above, where an education authority makes a proposal to discontinue a school by virtue of section 22A of the 1980 Act, no resolution shall be passed or request made under subsection (1) above during the relevant period.

(3B) The relevant period is whichever is the shorter of the period from the date when the education authority decides to consult persons in accordance with section 22A of the 1980 Act to the date the decision to discontinue the school is reached or—

- (a) where no consent is required under section 22B, 22C or 22D of the 1980 Act as regards the decision to discontinue the school, three months later;
- (b) where consent of the Secretary of State is so required, six months later.”

- 5 In section 30(1) of that Act (change in characteristics of self-governing school)—

- (a) after the word “than” in the second place where it occurs there shall be inserted the word “(a)”;
- (b) after the word “needs” there shall be inserted the words “; or
(b) provision of a nursery class,”.

The Education (Student Loans) Act 1990 (c.6)

- 6 In Schedule 1 to the Education (Student Loans) Act 1990 (courses of higher education)—

- (a) in paragraph 4(b), for the words “Scottish Vocational Education Council” there shall be substituted the words “ Scottish Qualifications Authority ”; and

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- (b) in paragraph 6(b), for the words “of the Councils” there shall be substituted the words “ the Council or the Authority ”.

The Finance Act 1991 (c.31)

- 7 In section 32(10)(a)(ii) of the Finance Act 1991 (definition of qualifying course of vocational training) for the words “Scottish Vocational Education Council” there shall be substituted the words “ Scottish Qualifications Authority ”.

The Further and Higher Education (Scotland) Act 1992 (c.37)

- 8 In subsection (1)(b)(i) of section 6 of the Further and Higher Education (Scotland) Act 1992 (further education to which section 1 of that Act applies) for the words “Scottish Examination Board qualification” there shall be substituted the words “ qualification awarded by the Scottish Qualifications Authority ”.

- 9 In section 38 of that Act (meaning of higher education)—

- (a) in subsection (3)(d), for the words “Scottish Vocational Education Council” there shall be substituted the words “ Scottish Qualifications Authority ”; and

- (b) in subsection (5)—

(i) after the word “amend” there shall be inserted the word “(a)”; and

(ii) at the end there shall be inserted the words “; and

(b) subsection (3) above.”

SCHEDULE 6

Section 36.

REPEALS

Commencement Information

- II** Sch. 6 wholly in force at 1.4.1997; Sch. 6 not in force at Royal Assent see s. 37(2); Sch. 6 in force for certain purposes at 18.9.1996 by [S.I. 1996/2250](#), [arts. 2, 3](#); Sch. 6 in force at 1.4.1997 insofar as not already in force by [S.I. 1997/365](#), [art. 2](#).

Chapter	Short title	Extent of repeal
1980 c. 44.	The Education (Scotland) Act 1980.	In section 2, the word “general”. In section 19(1), the word “general”. In section 20, in subsection (1), the words “, subject to subsection (2) below,”; and subsections (2) and (3). In section 65F, the word “general”.

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		Section 129.
1988 c. 47.	The School Boards (Scotland) Act 1988.	In section 2, subsections (8) to (12). In Schedule 2, in paragraph 3, the words from “(other than” to “or sit”.
1989 c. 39.	The Self-Governing Schools etc. (Scotland) Act 1989.	In section 7(7), the word “general”. Section 69(3).

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Changes and effects yet to be applied to :

- Sch. 1 para. 9(2)(3) repealed by [2002 asp 14 s. 1\(7\)\(b\)](#)