SCOTTISH QUALIFICATIONS AUTHORITY BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament’s Standing Orders, the following documents are published to accompany the Scottish Qualifications Authority Bill introduced in the Scottish Parliament on 31 January 2002:
   - Explanatory Notes;
   - a Financial Memorandum;
   - an Executive Statement on legislative competence; and
   - the Presiding Officer’s Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 47–PM.
EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Executive in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

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

THE BILL

Background

4. The Scottish Qualifications Authority (“the SQA”) is established under the Education (Scotland) Act 1996 (c.43) (“the 1996 Act”).

Section 1 – Scottish Qualifications Authority: members

5. Section 1 makes new arrangements for the appointment of members to the SQA board and changes the number of members required for meetings of the board to be quorate.

6. Subsection (4) amends section 1 of the 1996 Act to provide that the SQA board must comprise—

   • between 7 and 9 members, including a chair; and

   • a chief executive.

7. Section 1 of the 1996 Act requires the SQA board to have between 16 and 25 members. Subsection (1) therefore provides that the current members of the board (other than the chief executive) will cease to hold office on the day on which this section comes into force. The Bill does not preclude members who so cease to hold office from being re-appointed to the board.

8. Subsection (5) amends section 1, paragraph 2 of schedule 1 to the 1996 Act to remove the provision limiting appointments to the SQA to a maximum four-year term. Appointments will continue to be governed by the non-statutory guidance issued by the Office of the Commissioner for Public Appointments, or by any Scottish commissioner for public appointments that may be appointed.

9. All board members, other than the chief executive, are to be appointed by the Scottish Ministers. Paragraph 15 of Schedule 1 to the 1996 Act will continue to apply in relation to the chief executive. That paragraph provides that the chief executive is to be appointed by the SQA, with the approval of the Scottish Ministers. The amendment made by subsection (7) will also
allow the SQA to pay remuneration and other allowances to all members of the Board, including the chair. Under the current provisions remuneration may be paid only to the chief executive and the chair.

10. In line with the reduction in the size of the board, the quorum for a meeting of the SQA will, by virtue of the amendment made to the 1996 Act by subsection (8), be reduced from nine to five.

11. Paragraph 3 of Schedule 1 to the 1996 Act requires Ministers to satisfy themselves that members of the SQA have no interests likely to affect prejudicially their performance of their duties. As the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7) and the Code of Conduct for members of the SQA prepared under that Act make provision in relation to these issues, the provisions of the 1996 Act are no longer necessary. Subsection (6) therefore repeals paragraph 3 of Schedule 1.

Section 2 – Power to regulate SQA procedures

12. Section 2 gives the Scottish Ministers a power to make regulations about the procedure of the SQA and its committees. Among other things, these regulations could make specific provision for a representative of the Scottish Executive to participate at meetings of the SQA and its committees.

13. By virtue of section 35 of the 1996 Act, such regulations will be subject to annulment in pursuance of a resolution of the Scottish Parliament.

Section 3 – Advisory Council

14. Section 3 gives Ministers a power to make regulations to establish an Advisory Council. The purposes of the Council will be considering and advising on matters relating to the qualifications which are devised or awarded by the SQA or to the functions and procedures of the SQA. The Council may provide advice to the SQA and to the Scottish Ministers on these issues (either at the request of the SQA or Ministers or on the Council’s own initiative). Subsection (2) sets out particular matters that may be provided for by regulations under this section, including the appointment of a convener of the Council. Subsection (3) provides that only a member of the SQA may be appointed as convener of the Council. Subsection (1) enables incidental or supplementary provisions relating to the Council to be included in any regulations that Ministers make.

15. Regulations made under this section will be subject to annulment in pursuance of a resolution of the Scottish Parliament.

Section 4 – SQA and Advisory Council: consultation

16. Section 4 deals with consultation. Subsection (1) places a duty on the Advisory Council, having regard to any advice issued by the Scottish Ministers in that connection, to consult other parties that have an interest in the matters it considers and to have regard to their views in its consideration and provision of advice. Subsection (3) places a duty on the SQA to consult the
Advisory Council on all appropriate issues relating to carrying out its functions; and a corresponding duty on the Advisory Council to consult the SQA. The Scottish Ministers will be able to issue guidance to the SQA and the Advisory Council as to how this duty should be carried out.

Section 5 – Advice to SQA

17. This section amends section 7 of the 1996 Act and will require the SQA, in carrying out its functions, to have regard to advice from the Advisory Council.

FINANCIAL MEMORANDUM

INTRODUCTION

18. The Bill will have some financial impact as a result of the introduction of remuneration for the SQA board members and the creation of a new Advisory Council.

COSTS ON THE SCOTTISH ADMINISTRATION

19. The provisions relating to the terms and conditions of the SQA board members will lead to an increase in the annual costs of the SQA. This excludes the chair, who is already entitled to remuneration. Depending on the frequency of SQA board meetings, other commitments required of board members and the level of remuneration, the additional annual cost of remuneration and travel and related allowances to the board members, excluding the chair, will be in the range £20,000 to £30,000.

20. It is estimated that the costs of the creation and proceedings of the new Advisory Council will be in the range £20,000 to £25,000 per year. This estimate includes estimated costs of staff support and ‘secretariat’ functions, postage, travel and subsistence, accommodation etc. For calculation purposes, a membership of around 20 people drawn from across Scotland has been assumed, meeting six times a year as a whole group, with two or three sub-groups also each meeting six times a year.

21. Until the exams diet in 2000-01 the SQA was largely self-funding and received the majority of its funds from a variety of sources other than the Scottish Executive, most notably in the form of fees charged to local authorities and presenting centres for the provision of awards and examinations. Since then the SQA has received additional deficit funding support from the Executive to meet the necessary additional costs involved in restoring the exams system. However, the increased costs outlined above will not have a discernible impact on the charging regime of the SQA, in the context of the £41m total budget of the SQA in 2001-02.
COSTS ON LOCAL AUTHORITIES

22. As outlined in paragraph 21, there should be no discernible impact on the charges imposed on local authorities in consequence of the Bill.

COSTS ON OTHER BODIES, INDIVIDUALS AND BUSINESSES

23. As outlined in paragraph 21, there should be no discernible impact on costs to other bodies, individuals or businesses in consequence of the Bill.

EXECUTIVE STATEMENT ON LEGISLATIVE COMPETENCE

24. On 29 January 2002, the Minister for Education and Young People (Cathy Jamieson) made the following statement:

“In my view, the provisions of the Scottish Qualifications Authority Bill would be within the legislative competence of the Scottish Parliament.”

PRESIDING OFFICER’S STATEMENT ON LEGISLATIVE COMPETENCE

25. On 29 January 2002, the Presiding Officer (Sir David Steel) made the following statement:

“In my view, the provisions of the Scottish Qualifications Authority Bill would be within the legislative competence of the Scottish Parliament.”