

SCOTTISH LANGUAGES BILL

EXPLANATORY NOTES

INTRODUCTION

1. As required under Rule 9.3.2A of the Parliament’s Standing Orders, these Explanatory Notes are published to accompany the Scottish Languages Bill, introduced in the Scottish Parliament on 29 November 2023.
2. The following other accompanying documents are published separately:
 - a Financial Memorandum (SP Bill 39–FM);
 - a Policy Memorandum (SP Bill 39–PM);
 - a Delegated Powers Memorandum (SP Bill 39–DPM);
 - statements on legislative competence made by the Presiding Officer and the Scottish Government (SP Bill 39–LC).
3. These Explanatory Notes have been prepared by the Scottish Government 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.
4. 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.

CROWN APPLICATION

5. 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. As such, this Bill applies to the Crown in the same way as it applies to everyone else. However, where the Bill amends an existing enactment, it makes no change to the application of the enactment to the Crown.

OVERVIEW OF THE BILL

6. The Bill consists of three Parts. Part 1 is on Gaelic, Part 2 is on Scots and Part 3 contains final provisions. Parts 1 and 2 are each divided into two Chapters.

7. Part 1 Chapter 1 is titled “Support for the Gaelic language” and makes provision about the status of the Gaelic language and the functions of Bòrd na Gàidhlig, as well as making provision about the functions of the Scottish Ministers and relevant public authorities in relation to Gaelic.
8. Part 1 Chapter 2 is titled “Education” and makes provision about the functions of the Scottish Ministers and education authorities in relation to Gaelic education, as well as modifying various enactments relating to education to increase the support for Gaelic education.
9. Part 2 Chapter 1 is titled “Support for the Scots language” and makes provision about the status of the Scots language, as well as making provision about the functions of the Scottish Ministers and relevant public authorities in relation to Scots.
10. Part 2 Chapter 2 is titled “School education” and makes provision about the functions of the Scottish Ministers and education authorities in relation to Scots language education in schools.
11. Part 3 is titled “Final provisions” and includes provision for ancillary powers and commencement.
12. In these Notes:
 - the “1980 Act” means the Education (Scotland) Act 1980,
 - the “2005 Act” means the Gaelic Language (Scotland) Act 2005,
 - the “2016 Act” means the Education (Scotland) Act 2016.

COMMENTARY ON PROVISIONS

Part 1 – Gaelic

Chapter 1: Support for the Gaelic language

Section 1: Status of the Gaelic language

13. Section 1 of the Bill inserts a new section before section 1 of the 2005 Act, providing for the status of the Gaelic language. The statement in subsection (1) that the Gaelic language has official status within Scotland is given legal effect by the provisions of the 2005 Act conferring functions on Bòrd na Gàidhlig, the Scottish Ministers and other persons (relevant public authorities, as defined in section 10 of the 2005 Act) and enactments relating to Gaelic education.
14. The terms “Gaelic language” and “Gaelic education” are defined in section 10 of the 2005 Act.
15. Subsection (3) provides that subsection (1) does not affect the operation of any other enactment (as defined in the Interpretation and Legislative Reform (Scotland) Act 2010) or the status of any other language. For example, this provision does not affect the operation of the Equality Act 2010, modification of which is a reserved matter under the Scotland Act 1998.

Section 2: Functions of Bòrd na Gàidhlig

16. Section 2 of the Bill adjusts the functions of Bòrd na Gàidhlig, the public body established by the 2005 Act.

17. Subsection (2)(a) inserts new paragraphs into section 1(2) of the 2005 Act to confer additional functions on Bòrd na Gàidhlig, and repeals the function of monitoring, and reporting to the Scottish Ministers on, the implementation of the European Charter for Regional or Minority Languages dated 5 November 1992 in relation to the Gaelic language. “Gaelic language”, “Gaelic education” and “Gaelic culture”, referred to at inserted paragraph (ab) are all defined in section 10 of the 2005 Act.

18. Subsection (2)(b) removes reference to securing the status of Gaelic as an official language from the description of how Bòrd na Gàidhlig’s functions are to be exercised, as the status of the Gaelic language is now dealt with by inserted section A1. It also adjusts the list in section 1(3) of the 2005 Act, which describes how Bòrd na Gàidhlig’s functions are to be exercised, to make reference to areas of linguistic significance, introduced by section 4 of the Bill.

19. New subsections (3A) and (3B) are relocated from sections 8(9) and (10) of the 2005 Act, since the remaining provisions of section 8 are being repealed and so it is clearer for these provisions to be understood as part of the functions of Bòrd na Gàidhlig. The reference to section 8(9) in schedule 1 paragraph 11(2) is amended as a result.

Section 3: Bòrd na Gàidhlig corporate plan

20. Section 4 of the Bill amends schedule 1 of the 2005 Act to require Bòrd na Gàidhlig to prepare a corporate plan and submit this to the Scottish Ministers for approval. The inserted paragraph 7A sets out the matters which must be included in the corporate plan and the process by which it will be approved by the Scottish Ministers.

Section 4: Areas of linguistic significance

21. Section 4 of the Bill modifies the 2005 Act to insert two new sections.

22. Inserted section 1A sets out the criteria by which an area may be designated as an area of linguistic significance under section 1B.

23. Under subsection (1)(a), an area may be designated if it contains a significant number of people with Gaelic language skills. Gaelic language skills would include being able to speak, read or write Gaelic, or being able to understand spoken Gaelic, at any level of fluency. Under subsection (2), a “significant number” is taken to be 20% of the area’s population. This could be established for example by looking at census figures.

24. Under subsection (1)(b), an area which does not contain a significant number of people with Gaelic language skills may still be designated if it is historically connected with the use of Gaelic (for example because there have been a significant number of people with Gaelic language skills in the past), it is one in which teaching and learning by means of the Gaelic language is

provided (for example, through the provision of Gaelic medium education by the education authority for that area) or it is one in which significant activity relating to the Gaelic language or Gaelic culture takes place (for example, the area hosts a music festival including music by Gaelic speaking artists).

25. An “area” does not have to be a local authority area: it could be a smaller area forming part of a local authority area.

26. Inserted section 1B sets out the process for a local authority to designate all or part of its area as an area of linguistic significance, if it considers that the area falls within the description set out in section 1A(1). In particular, the local authority must consult interested persons and publicise the proposed designation before submitting it to the Scottish Ministers for approval. A designation may be varied or revoked, with such variation or revocation being subject to the same process of consultation, publication and submission for approval. The Scottish Ministers may give guidance to local authorities relating to their functions under this section and a local authority must have regard to such guidance. Guidance under this section could, for example, set out more detail about the kinds of activity which would result in an area being capable of designation under section 1A(1)(b).

27. Section 4 also amends section 3(4) of the 2005 Act so that a relevant public authority (as defined in section 10 of the 2005 Act) must set out the measures to be taken in relation to the exercise of its functions in an area of linguistic significance in its Gaelic language plan. Section 4 also expands section 3(8) of the 2005 Act (which sets out more detail on the regulation-making power in section 3(7)) to allow the Scottish Ministers to make further provision about the required content of Gaelic language plans in respect of areas of linguistic significance.

Section 5: Gaelic language strategy

28. Section 5 of the Bill replaces the National Gaelic language plan prepared by Bòrd na Gàidhlig under section 2 of the 2005 Act with a Gaelic language strategy to be prepared by the Scottish Ministers.

29. Inserted section 2A sets out the required content of the Gaelic language strategy, publication requirements and timescales for its preparation and review and revision.

30. Inserted section 2B requires that the Scottish Ministers must have regard to the strategy when making policies and exercising their functions, and that a relevant public authority must have regard to it in exercising the authority’s functions.

31. Section 2 of the 2005 Act is repealed. Section 2 contains the requirements for the preparation of a national Gaelic language plan. Because it does not contain any provision as to the effect of that plan, any plan prepared will continue in effect for the period it was prepared for, notwithstanding the repeal of section 2.

Section 6: Gaelic language standards

32. Section 6 of the Bill inserts a new section 2C into the 2005 Act, giving the Scottish Ministers a power to make regulations to specify standards and requirements relating to promoting and facilitating the use of the Gaelic language which are to apply to relevant public authorities in exercising their functions.

33. Regulations under section 2C may in particular make provision about how functions are to be exercised in areas of linguistic significance and otherwise make different provision for different areas (including different parts of the area in which the authority exercises its functions, for example different parts of a local authority area).

34. Regulations under section 2C are subject to the affirmative procedure and the Scottish Ministers must consult interested parties before laying a draft of them before the Scottish Parliament.

Section 7: Functions of relevant public authorities

35. Section 7 of the Bill inserts three new sections into the 2005 Act.

36. Inserted section 2D requires a relevant public authority to have regard to the desirability of promoting and supporting the use of the Gaelic language, and developing and encouraging Gaelic culture, in exercising its functions. “Gaelic language” and “Gaelic culture” are defined in section 10 of the 2005 Act.

37. Inserted section 2E gives the Scottish Ministers a power to give guidance to relevant public authorities relating to their duty under inserted section 2D, and inserted section 2F gives the Scottish Ministers a power to give directions. The power in section 2F could be used, for example, to direct a relevant public authority to include Gaelic language in its branding or signage. The Scottish Ministers must consult with a relevant public authority before giving a direction to that authority.

Section 8: Reporting on Gaelic language strategy, standards and duties

38. Section 8 of the Bill inserts a new section 2G into the 2005 Act, providing that Bòrd na Gàidhlig must prepare and publish reports about the Scottish Ministers’ progress towards meeting the objectives set out in the Gaelic language strategy published under section 2A (inserted by section 5 of the Bill).

39. Section 8 also inserts section 2H into the 2005 Act, requiring Bòrd na Gàidhlig to prepare and publish reports about the compliance by relevant public authorities (either generally or specifically) with their duty to have regard to the Gaelic language strategy, their duty to comply with standards and requirements specified in regulations under section 2C(1) and the duties imposed by section 2D, and lay these reports before the Scottish Parliament.

Section 9: Gaelic language plans

40. Section 9 of the Bill makes various changes to section 3 of the 2005 Act on Gaelic language plans, to take account of the new Gaelic language strategy and to adjust the process for preparation of Gaelic language plans. Section 4 of the 2005 Act is modified to adjust various timescales and to express these consistently in terms of periods of time.

41. Section 5 of the 2005 Act is amended to require a relevant public authority to provide Bòrd na Gàidhlig with any additional information required following submission of its Gaelic language plan for approval: for example, this could include any background figures or evidence the authority has used in formulating its Gaelic language plan. Section 5(5)(c) is replaced: the new paragraph (c) sets out that the duty to refer the matter to the Scottish Ministers arises on the later of the expiry of two months of the authority advising that modifications are not agreed, or the date that Bòrd na Gàidhlig considers that it will not be able to approve the plan. Bòrd na Gàidhlig can continue to discuss the plan with the authority and need only refer it to the Scottish Ministers once it considers that it will not be able to approve the plan either as originally submitted or with agreed modifications. If an authority fails to respond at all to a request for modifications to its plan, new subsection (5A) provides that Bòrd na Gàidhlig may either approve the plan as originally submitted, or refer the matter to the Scottish Ministers. Otherwise, the Gaelic language plan could simply be left in limbo if an authority did not respond to a request for modifications.

42. Section 6 of the 2005 Act is also modified so that a relevant public authority must proactively report to Bòrd na Gàidhlig on the implementation of its Gaelic language plan within 15 months of the plan being approved, and every 12 months thereafter. Those reports may be published by Bòrd na Gàidhlig. The Bòrd must also report to the Scottish Ministers where it considers that a relevant public authority is failing to implement adequately measures in its Gaelic language plan, must publish those reports, and may lay them before the Scottish Parliament. The Scottish Ministers must lay the reports before the Scottish Parliament if the Bòrd has not already done so.

43. Section 9 also inserts a new section 7A to the 2005 Act allowing the Scottish Ministers to give guidance to relevant public authorities on Gaelic language plans, and to give directions relating to the application of the standards and requirements specified in regulations under section 2C(1) to the preparation of the plan. This replaces the guidance powers of Bòrd na Gàidhlig in section 8 of the 2005 Act, which is repealed. Section 7A is itself modified by section 12 of the Bill, which adds provision for the regulations relating to education inserted by that section.

Section 10: Land rights and responsibilities statement: regard to be had to supporting Gaelic

44. Under section 1 of the Land Reform (Scotland) Act 2016, the Scottish Ministers must prepare and publish a land rights and responsibilities statement: a statement of principles for land rights and responsibilities in Scotland. Section 10 of the Bill adds the desirability of promoting, facilitating and supporting the Gaelic language to the list of matters to which the Scottish Ministers must have regard in preparing the statement.

Chapter 2: Education

Section 11: Duty of Scottish Ministers to promote Gaelic education

45. Section 11 of the Bill inserts a new section 6A into the 2016 Act. This imposes a duty on the Scottish Ministers to promote, facilitate and support the provision in schools of Gaelic learner education and Gaelic medium education and the teaching of the Gaelic language in the provision of further education by education authorities. Those terms are defined in section 18 of the 2016 Act. Section 11 also amends the definition of “Gaelic language” in the 2016 Act so that it refers to Gaelic being “used” rather than “spoken”, to make the definition consistent with the definition in the 2005 Act.

Section 12: Power for Scottish Ministers to set standards relating to Gaelic education

46. Section 12 of the Bill inserts a new section 6B into the 2016 Act. This gives the Scottish Ministers power to make regulations to prescribe the standards and requirements to which an education authority must conform in discharging its functions in relation to Gaelic learner education, Gaelic medium education and teaching of the Gaelic language in its provision of further education. This is modelled on the power to prescribe standards and requirements in section 2 of the 1980 Act. However, unlike that section, the standards and requirements will not have to apply to every education authority. This will allow for the flexibility needed to account for differing levels of provision of Gaelic education across different education authorities.

47. In preparing regulations under this section, the Scottish Ministers must consult the various interested parties listed in subsection (4). The regulations may make different provision for different purposes and different areas (including different parts of an education authority’s area) and are subject to the negative procedure by virtue of section 31(4) of the 2016 Act.

48. Section 12 also modifies section 7A of the 2005 Act, inserted by section 9(6) of the Bill, so that the Scottish Ministers may give directions to an education authority relating to the application of the standards and requirements specified in these regulations to the preparation of its Gaelic language plan. A direction may be varied or revoked, and an education authority must comply with a direction given to it.

Section 13: Guidance to public authorities relating to Gaelic education

49. Section 13 of the Bill inserts a new section 6C into the 2016 Act, giving the Scottish Ministers a power to give guidance to Scottish public authorities relating to Gaelic learner education and Gaelic medium education, the teaching of the Gaelic language in the provision of further education by education authorities, and the development of such education. The Scottish Ministers must consult the interested parties listed in subsection (3) in preparing the guidance.

50. By virtue of schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010, “Scottish public authority” has the meaning given to it by section 126(1) of the Scotland Act 1998, which is “any public body (except the Parliamentary corporation), public office or holder of such an office whose functions (in each case) are exercisable only in or as regards Scotland”.

51. A Scottish public authority having functions relating to education must, to the extent that the guidance relates to those functions, have regard to the guidance. For example, this power could be used to give guidance to Scottish public authorities which produce resources to be used in schools.

52. This replaces section 9(1) to (2A) of the 2005 Act, which conferred a guidance-making power on Bòrd na Gàidhlig. Those provisions (and section 16 of the 2016 Act which inserted them into the 2005 Act) are repealed. References in the 2016 Act to guidance under section 9 of the 2005 Act are changed to be references to guidance under this section.

Section 14: Directions to education authorities relating to Gaelic education

53. Section 14 of the Bill inserts a new section 6D into the 2016 Act, conferring power on the Scottish Ministers to give directions to education authorities relating to the exercise of their functions under Part 2 of the 2016 Act relating to Gaelic learner education and Gaelic medium education, and to their functions relating to the teaching of the Gaelic language in their provision of further education. The Scottish Ministers must consult with an education authority before giving a direction to that authority.

Section 15: General duty to provide education includes Gaelic education

54. Section 15 of the Bill modifies the 1980 Act so it is clear that the provision of Gaelic learner education and Gaelic medium education comes within the definition of school education, and that therefore an education authority's duty to secure the provision of adequate and efficient school education for the authority's area may include Gaelic learner education and Gaelic medium education (inserting definitions of those terms into the 1980 Act to be consistent with the 2016 Act). This no longer applies only in Gaelic speaking areas (which was not defined in the 1980 Act, resulting in potential uncertainty). The teaching of the Gaelic language as part of an education authority's duty to provide further education also no longer applies only in Gaelic speaking areas.

Section 16: Duty to promote Gaelic education in exercising functions under the Education (Scotland) Act 1980

55. Section 16 of the Bill inserts a new section 14A into the 2016 Act. In exercising its functions under the 1980 Act, an education authority must promote, facilitate and support Gaelic learner education, Gaelic medium education and the teaching of the Gaelic language in its provision of further education, and have regard to the needs and interests of pupils and prospective pupils.

56. Although section 15 of the 2016 Act imposes a duty to promote and support Gaelic medium education and learning, that relates only to provision which the education authority is already making. The duty in inserted section 14A is therefore a broader duty.

Section 17: Information-sharing about Gaelic education

57. Section 17 of the Bill inserts a new section 16A into the 2016 Act. This allows Bòrd na Gàidhlig to serve a notice on an education authority requiring it to provide information about

Gaelic learner education, Gaelic medium education or the teaching of the Gaelic language in its provision of further education. An education authority must comply with the notice.

Section 18: Gaelic education delivery planning

58. Section 18 modifies section 3 of the 2005 Act, which sets out the requirements for Gaelic language plans. Where the authority preparing the plan is an education authority, the plan must set out the authority’s plan for the provision of Gaelic education, and the authority must consult the interested persons listed in inserted subsection (6A) on those elements of the plan. The existing power for the Scottish Ministers to make regulations about the content of Gaelic language plans is expanded to allow for further provision about the matters which an education authority must include in its Gaelic language plan under inserted subsection (4A).

59. Definitions of “Gaelic learner education” and “Gaelic medium education” are added for the purposes of this section. Gaelic medium education will include Gaelic medium early learning and childcare, because “education” includes education provided to pre-school children. The definition in section 46 of the Children and Young People (Scotland) Act 2014 Act defines early learning and childcare as including such education and section 1(5)(a)(i) of the 1980 Act includes early learning and childcare in the definition of school education. Therefore, the education aspects of the Gaelic language plan will need to include plans for the provision of Gaelic medium early learning and childcare. Section 7 on review of plans is amended to make sure that the new subsection (6A) is correctly referenced.

Section 19: Duty to support access to Gaelic medium education

60. Section 19 modifies section 15 of the 2016 Act to place an education authority under a duty to support a child who is resident in its area to access Gaelic medium education provided in the area of another education authority, so far as reasonably practicable. This applies both where the home authority does not provide Gaelic medium education, and where it does but it is not reasonably practicable for the child to access it (for example, because it is too far to travel).

Section 20: Duty to establish a catchment area for schools providing Gaelic medium education

61. Section 20 inserts a new section 15A into the 2016 Act, requiring an education authority to establish a catchment area for Gaelic medium schools within a period of 2 years of this section coming into force. The catchment area may, but need not, be the same as for other schools, or for any English medium education at the same school. In establishing a catchment area, the education authority must take account of the need to provide reasonable travel arrangements.

Section 21: Transport to Gaelic medium education: application of Schools (Consultation) Scotland Act 2010

62. Section 21 adds a proposal to discontinue arrangements for transport for pupils in Gaelic medium education to schedule 1 of the Schools (Consultation) (Scotland) Act 2010, with the effect that an education authority will have to follow the process set out in that Act for any such relevant proposal. New paragraph 7A inserted into schedule 2 provides the list of relevant consultees for such a relevant proposal, and the substitution of paragraph 11 means that Comann nam Pàrant (Nàiseanta) will also be a relevant consultee for all proposals affecting Gaelic medium education.

Section 22: Assessments: power to make different provision for different areas

63. Section 22(2)(a) modifies the 2016 Act so that the power in section 9(7) to vary the number of children which will trigger the requirement for a full assessment of Gaelic medium primary education provision can apply to different areas within an education authority's area.

64. If the power in section 9(7)(b) were to be used to make different provision for different parts of an education authority's area, that could result in a different number being specified for different parts of a GMPE assessment area (which an education authority sets under section 8 of the 2016 Act as the basis for assessing need). For example, if the power was used to set different numbers for rural and urban areas, a GMPE assessment area which was mostly rural but which included a housing development on the outskirts of a city would be subject to different numbers of children to satisfy the condition in section 9(6). Inserted subsection (7A) provides that in that situation, the lowest number is to be read as applying to the whole of the GMPE assessment area, so that it is clear whether or not the condition in section 9(6) has been met.

Section 23: Extension of assessments to early learning and childcare

65. Section 23 modifies the 2016 Act with the effect that the process set out for the assessment of Gaelic medium primary education (GMPE) will also apply to early learning and childcare. Definitions of "Gaelic medium early learning and childcare" and the abbreviation "GMELC" are added to section 18 (interpretation) of the 2016 Act and inserted into sections 7 to 13 so that all references to Gaelic medium primary education also extend to Gaelic medium early learning and childcare.

66. Sections 7(2) and (3) and 9(3) are amended to refer to children who are, or are likely to be, in the same or a different year group to the child whose parent has made a request under section 7(1).

67. By virtue of section 32(3) of the 1980 Act, a child who is born after the school commencement date (usually 1 August each year) is deemed to turn 5 the following year and so not to be "of school age". That child does not have to start school at the same time as a child who is born in, for example, July of the same year as them. An authority must fix the "appropriate latest date" by which a child must turn 5 in order to attend school that year (generally in March). A child who turns 5 after the school commencement date but before that appropriate latest date must be allowed to attend school in the August before they turn 5, but a parent does not have to enrol their child in school until the following school commencement date after their 5th birthday. So in any given school year, a Primary 1 class could include children who are 4 ½ years old and children who are almost 6.

68. Section 38 of the Standards in Scotland's Schools etc. Act 2000 also allows education authorities to allow a child who is under school age to be admitted to primary school earlier if the school education provided in such a class is suited to the ability and aptitude of the child.

69. Therefore, it is not possible for a parent to tell definitively which children are in the same yearly stage of primary education as their child before they start school, and referring to children who are, or are likely to be, in that stage more accurately reflects how the 1980 Act works.

70. Section 11(1) of the 2016 Act sets out conditions which mean that a repeat request under section 7(1) does not have to be considered by an education authority. Subsection (8)(a)(iv) adds a condition that either both the original and the further request are requests to assess the need for GMPE, or both are requests to assess the need for GMELC. This will have the effect that where a request is made to assess the need for GMPE, a request within two years to assess the need for GMELC will still need to be considered (and vice versa).

71. Section 14, which conferred a power to extend Part 2 of the 2016 Act to early learning and childcare, is repealed.

Section 24: Duty to consult and plan on delivery of early learning and childcare

72. Section 24 amends section 50 of the Children and Young People (Scotland) Act 2014 so that an education authority is required to consult on whether and if so how it should make Gaelic medium early learning and childcare available.

Section 25: Conditions of grants to the Scottish Further and Higher Education Funding Council

73. Section 25 amends the Further and Higher Education (Scotland) Act 2005 to insert a new section 9E.

74. The Further and Higher Education (Scotland) Act 2005 establishes the Scottish Further and Higher Education Funding Council. Section 9 allows the Scottish Ministers to make grants to the Council subject to such terms and conditions as the Scottish Ministers consider appropriate. New section 9E provides that the Scottish Ministers may impose terms and conditions for the purpose of enabling, encouraging or increasing participation in fundable further education and fundable higher education in the Gaelic language and in Gaelic culture (as defined in subsection (2)). Section 5(1) and (2) of the Further and Higher Education (Scotland) Act 2005 defines fundable further education and section 5(3) defines fundable higher education.

75. Section 25(2) makes consequential amendments to add references to section 9E where there are other references to terms and conditions.

Part 2: Scots

Chapter 1: Support for the Scots language

Section 26: Status of the Scots language

76. Section 26 provides for the status of the Scots language. The statement in subsection (1) that the Scots language has official status within Scotland is given legal effect by the provisions of the Bill conferring functions on the Scottish Ministers and other persons (primarily relevant public authorities, as defined in section 29(3)).

77. Subsection (3) provides that subsection (1) does not affect the operation of any other enactment (as defined in the Interpretation and Legislative Reform (Scotland) Act 2010) or the

status of any other language. For example, this provision does not affect the operation of the Equality Act 2010, modification of which is a reserved matter under the Scotland Act 1998.

Section 27: Scots language strategy

78. Section 27 requires the Scottish Ministers to prepare a Scots language strategy. The section sets out the required content of the Scots language strategy, consultation and publication requirements and timescales for its preparation and review and revision.

Section 28: Reporting on Scots language strategy

79. Section 28 requires the Scottish Ministers to report on the strategy as soon as reasonably practicable after the end of the period of 5 years from when the strategy was last published. The report must be published and laid before the Scottish Parliament.

Section 29: Effect of Scots language strategy

80. Section 29 requires that the Scottish Ministers must have regard to the strategy when making policies and exercising their functions, and that a relevant public authority must have regard to it in exercising its functions. Subsection (3) defines relevant public authority, consistent with the definition in section 10 of the 2005 Act.

Section 30: Power for Scottish Ministers to give guidance

81. Section 30 gives the Scottish Ministers a power to give guidance to relevant public authorities relating to promoting, facilitating and supporting the use of the Scots language and developing and encouraging Scots culture. The Scottish Ministers must consult interested persons in preparing the guidance. Such persons could include, for example, the Scots Language Centre, Scots Hoose and Yaldi Books.

82. Subsection (5) defines Scots culture in an analogous way to the definition of Gaelic culture in section 10 of the 2005 Act.

Chapter 2: School education

Section 31: Scots language education in schools

83. Section 31 requires the Scottish Ministers to promote, facilitate and support Scots language education in schools. An education authority must also promote, facilitate and support Scots language education in the schools under its management.

Section 32: Guidance to education authorities relating to Scots language education

84. Section 32 gives the Scottish Ministers a power to give guidance to education authorities relating to Scots language education in schools. The Scottish Ministers must consult interested persons in preparing the guidance. Such persons could include, for example, the Scots Language Centre, Scots Hoose and Yaldi Books.

Section 33: Standards relating to Scots language education

85. Section 33 gives the Scottish Ministers power to make regulations to prescribe the standards and requirements to which an education authority must conform in discharging its functions in relation to Scots language education in the schools under its management. This is modelled on the power to prescribe standards and requirements in section 2 of the 1980 Act and the equivalent power in relation to Gaelic education created by section 12. Unlike section 2 of the 1980 Act, the standards and requirements will not have to apply to every education authority, allowing for flexibility across different education authorities. The Scottish Ministers must consult interested persons in preparing the regulations.

86. Regulations under this section may make different provision for different purposes and different areas (including different parts of an education authority's area). Regulations are subject to the negative procedure.

Section 34: Reporting on Scots language education

87. Section 34 requires the Scottish Ministers to secure the provision of reports (for instance from a third party provider) setting out progress made in the delivery of Scots language education in schools.

Section 35: Interpretation of Chapter 2

88. Section 35 imports defined terms from the 1980 Act for the purposes of this Chapter.

Part 3: Final provisions

Section 36: Ancillary provision

89. This section gives the Scottish Ministers a freestanding regulation-making power to make any incidental, supplementary, consequential, transitional, transitory or saving provision that they consider appropriate for the purposes of, or in connection with, or for giving full effect to, the Bill.

90. Subsection (2) allows such regulations to modify any legislation, including the Bill itself: in doing so the regulations would be subject to the affirmative Parliamentary procedure. Otherwise they are subject to the negative procedure.

Section 37: Commencement

91. Section 37 provides for Part 3 of the Bill to come into force on the day after Royal Assent.

92. All other provisions of the Bill are to come into force on a day appointed by regulations made by the Scottish Ministers. These regulations may make transitional, transitory or saving provision related to commencement and may make different provision for different purposes. These regulations are also required to be laid before the Parliament under section 30 of the Interpretation and Legislative Reform (Scotland) Act 2010, but they are not otherwise subject to any Parliamentary procedure.

This document relates to the Scottish Languages Bill (SP Bill 39) as introduced in the Scottish Parliament on 29 November 2023

Section 38: Short title

93. Section 38 provides for the short title to be the Scottish Languages Act 2024.

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SCOTTISH LANGUAGES BILL

EXPLANATORY NOTES

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