

# **SCOTTISH LANGUAGES BILL**

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## **POLICY MEMORANDUM**

### **INTRODUCTION**

1. As required under Rule 9.3.3 of the Parliament's Standing Orders, this Policy Memorandum is 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:
  - Explanatory Notes (SP Bill 39–EN);
  - a Financial Memorandum (SP Bill 39–FM);
  - a Delegated Powers Memorandum (SP Bill 39–DPM);
  - statements on legislative competence by the Presiding Officer and the Scottish Government (SP Bill 39–LC).
3. This Policy Memorandum has been prepared by the Scottish Government to set out the Government's policy behind the Bill. It does not form part of the Bill and has not been endorsed by the Parliament.

### **POLICY OBJECTIVES OF THE BILL**

4. The policy objective of this Bill is to provide further support for Scotland's indigenous languages, Gaelic and Scots. Its provisions take their lead from Scottish Government manifesto commitments and make statements about the status of Gaelic and Scots. Although the provisions of this Bill take their lead from Scottish Government commitments, the Bill also seeks to respond to the clearly expressed wish in the Gaelic and Scots communities for further support to be put in place for the languages. This has been demonstrated in formal consultation responses but also in regular engagement with Gaelic and Scots representatives and interests.
5. The Bill will strengthen the support for and promotion of Gaelic and Scots by introducing a range of measures that will have implications in a number of sectors in Scottish public life. The provisions of this Bill are building on current policy priorities that are currently in place with the aim of making the new package of measures more effective for the progress that is needed for Gaelic and Scots. The Bill will include a duty on Scottish Ministers to prepare a Gaelic language strategy and a power to prepare standards for public authority activity, including Gaelic education. As at present, there will be a requirement on Scottish public authorities to produce a Gaelic language plan and in future these plans will take their lead from the strategy and standards. The Bill will introduce the possibility of areas of linguistic significance to allow for proportionate delivery. Bòrd na Gàidhlig will have a key role in these new provisions but with

both an increased focus on delivery at a community level and reporting on compliance for the above.

6. The Bill will include a duty on Scottish Ministers to prepare a languages strategy for Scots and to prepare secondary legislation on Scots. This is the first time that Scots has featured in legislation and the Bill provisions will include a statement about the status of the Scots language. This is a long-standing wish of the speaker community. Statements on the status of Scots has frequently been made in non-legal documents and in ministerial statements but not in legislation. Scots has been recognised in the Council of Europe for Regional and Minority Languages and in proceedings of the British Irish Council. In addition to this, the Bill will include other important provisions to promote the use and recognition of Scots in public and community life.

7. The provisions of this Bill will demonstrate continuity with the measures that are already in place. The aim is to make the new package of measures more effective for the progress that is needed for Gaelic and Scots. Where the Bill makes statements on official recognition for Gaelic, it is building on current status statements in the Gaelic Language (Scotland) Act, 2005. Scottish Ministers will prepare a Gaelic language strategy which will replace the Bòrd na Gàidhlig duty to prepare a National Gaelic Language Plan. Scottish Ministers will prepare Gaelic language standards which will replace the Bòrd na Gàidhlig duty to prepare guidance.

8. Scottish public authorities will now be required to have regard to the Gaelic language strategy and Gaelic language standards in the preparation of their Gaelic language plans rather than guidance on Gaelic language plans. Bòrd na Gàidhlig will report to the Scottish Parliament and to the Scottish Ministers on Gaelic language plan compliance and this will supplement the current Bòrd na Gàidhlig monitoring regime. Scottish Ministers will prepare a Scots strategy which will be supported by provisions for guidance and standards for Scots language education. These will replace the current Scottish Government Scots policy.

## **Background**

9. The establishment of the Scottish Parliament in 1999 marked a turning point in support for Scotland's languages. That year the Scottish Executive established a taskforce on the public funding of Gaelic. Its findings, known as the MacPherson Report, stated that:

“The bottom line for Gaelic is that, in a new Scotland, the survival and revival of a national asset is surely desirable and possible. It's time for revitalisation. It's time for a paradigm shift.”

This was followed in 2002 by the establishment of a Ministerial Advisory Group on Gaelic which recommended that:

“a pre-election pledge be sought from all parties to achieve a Gaelic Language Act within 3 years...A Gaelic Act should underpin future Gaelic language strategies.”

This was achieved with the Gaelic Language (Scotland) Act 2005 (the “2005 Act”). In the years since then support for Gaelic in Scotland's schools has been enhanced by the School Consultation (Scotland) Act 2010 and in the Education (Scotland) Act 2016 (the “2016 Act”). Further progress

can be seen in the work of MG ALBA, Sabhal Mòr Ostaig and the work of a number of Gaelic organisations. For Gaelic this progress will be strengthened and built on with the provisions of this Bill and for the first time there will be legislative provision in relation to Scots.

10. The Scottish Government made a number of manifesto commitments to the Gaelic and Scots languages in 2021. Among these are four which can be regarded as key commitments. These are to establish a new strategic approach to Gaelic medium education, to explore the creation of a Gàidhealtachd, to review the structure and functions of Bòrd na Gàidhlig (BnG) and to take action on the Scots language.

11. The Scottish Government consulted on these commitments between August 2022 and December 2022. Over 750 responses were received. The responses and analysis<sup>1</sup> of the consultation were published in June 2023. The provisions of the Bill take account of the consultation responses as set out in further detail below.

## **Part 1: Gaelic**

### **Chapter 1: Support for the Gaelic Language**

#### ***Status of the Gaelic language***

12. The 2005 Act established Bòrd na Gàidhlig as “a body having functions exercisable with a view to securing the status of the Gaelic language as an official language of Scotland commanding equal respect to the English language”. This provision of the Bill seeks to recognise Gaelic as having official status within Scotland. Official status will be confirmed by the success of Bòrd na Gàidhlig in securing Gaelic’s position across Scotland’s public life in the years since the 2005 Act was passed. It would also recognise the work done by many other public bodies within their Gaelic language plans towards securing this aim. Furthermore, official status is a provision which will strengthen the confidence of the speaker community and lend greater weight to future efforts on behalf of Gaelic.

#### ***Functions of Bòrd na Gàidhlig***

13. Bòrd na Gàidhlig is a non-departmental public body funded by the Scottish Government to support the promotion of Gaelic. Through the Bill, Bòrd na Gàidhlig will be required to publish reports on compliance by public bodies with the Gaelic language strategy and standards for Gaelic. What is changing is the focus of its work so that it is looking at practice across the public sector. It will be able to report directly to Parliament rather than only through Scottish Ministers. These measures and the fact of its being able to publish reports will increase its voice and leverage, making its messages more impactful and efficient. Section 2 of the Bill adjusts the functions of Bòrd na Gàidhlig.

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<sup>1</sup> Scottish Languages Bill, Consultation Analysis - <https://www.gov.scot/publications/analysis-consultation-responses-gaelic-scots-commitments-relative-scottish-languages-bill/documents/> Scottish Languages Bill, Consultation, Published responses - <https://consult.gov.scot/education-reform/gaelic-and-scots-scottish-languages-bill/>

### ***Bòrd na Gàidhlig corporate plan***

14. This section introduces a statutory requirement for Bòrd na Gàidhlig to have a corporate plan. Bòrd na Gàidhlig currently produces both the National Gaelic Language Plan and its own Corporate Plan. Under Section 5, the Gaelic language strategy developed by Scottish Ministers will gradually supersede the National Gaelic Language Plan. From this point, Bòrd na Gàidhlig's Corporate Plan will specify how the Bòrd exercises its functions to contribute to the delivery of the Scottish Ministers' Gaelic language strategy. This will elevate the status of the Gaelic language strategy document while at the same time ensuring that Bòrd na Gàidhlig's role is clear in contributing to the Gaelic language strategy and that this is set out in the corporate plan.

15. 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.

### ***Areas of Linguistic Significance***

16. The Bill will introduce areas of linguistic significance. An area may be designated as such if it has a significant number of people with Gaelic language skills, is historically connected with the use of Gaelic, has Gaelic educational provision or has significant Gaelic activity. It will be for the local authorities to consider their communities and to designate which of them they wish to be classed as an area of linguistic significance. This provision is important for demonstrating that steps will be taken in areas that have a significant percentage of Gaelic speakers while at the same time recognising that Gaelic should be supported throughout Scotland. Both were clear messages in consultation.

17. A number of pilot initiatives are in place, in areas such as Staffin and South Uist, where groups in local areas are working together with the support of Bòrd na Gàidhlig to articulate their language planning needs and strategy for their local areas. These are local community initiatives which will agree a set of Gaelic measures for the area. These initiatives will continue to be supported by BnG as they are now. This provision described above, will contribute to and consolidate these local initiatives.

18. 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 issue guidance to local authorities relating to their functions under this section and a local authority must have regard to such guidance. A relevant public authority 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.

### ***Gaelic language strategy***

19. The Scottish Ministers will be required to prepare and consult on a Gaelic language strategy. The Gaelic language strategy will replace the five-year National Gaelic Language Plan currently prepared by Bòrd na Gàidhlig. In order to make progress with Gaelic it is essential that there is an agreed set of priorities for the language and that the provision of a Gaelic language strategy will be given increased status by being issued directly from Ministers.

### ***Gaelic language standards***

20. The Bill makes provision for Scottish Ministers to have a power to set standards for Gaelic in regulations. The intended use of the standards powers in the initial period of implementation of the Bill will be to move content and requirements that have appeared in statutory guidance and Gaelic language plans into regulations. This will consolidate base line requirements that the Scottish Administration will have to comply with and will ensure that standards continue to be adhered to. The three elements of Gaelic language strategy, standards and Gaelic language plans will work together to ensure progress and consistency in the promotion of Gaelic in Scotland.

### ***Duties of relevant public authorities***

21. Under the Bill, relevant public authorities will be required to have regard to the desirability of promoting and supporting the use of the Gaelic language in exercising their functions. Scottish Ministers will have a power to give guidance to relevant public authorities relating to their duty to Gaelic and Scottish Ministers will also have a power to give directions. A more proactive approach is required for the promotion and support of Gaelic. This provision will build on the achievements of institutional Gaelic language plans since the 2005 Act. Guidance and directions from the level of Scottish Ministers will ensure these duties have greater authority.

### ***Reporting on Gaelic language strategy, standards and duties***

22. The Bill requires Bòrd na Gàidhlig to prepare and publish reports about the Scottish Ministers' progress towards meeting the objectives in the Gaelic language strategy, and the compliance by relevant public authorities (either generally or specifically) with their duty to have regard to the Gaelic language strategy and to comply with standards and requirements specified in regulations, and to publish and lay these reports before the Scottish Parliament. This reporting requirement will encourage Bòrd na Gàidhlig to highlight good practice and share examples of progress along with identifying areas which need attention and suggesting what actions could be considered to address gaps.

### ***Gaelic language plans***

23. The Bill makes various changes to section 3 of the 2005 Act on Gaelic language plans such as taking account of the new Gaelic language strategy. The direction making power is an important lever in the overall structure. It would, however, be intended to be used infrequently and as a last resort.

24. A Gaelic language strategy will be introduced in place of the current National Gaelic Language Plan. This makes possible the desired shift in authorship from Bòrd na Gàidhlig to the Scottish Ministers. As such, the framework within which the Gaelic language plans of individual public bodies are produced will be one which emanates from the level of Scottish Ministers. Scotland's public bodies will therefore be responding to a national language strategy prepared by Scottish Ministers and further supported by a duty on Scottish Ministers to promote and support Gaelic education.

25. This provision also makes a change to section 6 of the 2005 Act concerning the monitoring of Gaelic language plan implementation. Within the current system, annual monitoring reports on Gaelic language plans are submitted following a formal request to a public body by Bòrd na

Gàidhlig. Under this provision, public bodies will be required to proactively report to Bòrd na Gàidhlig on the implementation of their plans. The desired effect of this is to ensure greater accountability on the part of public bodies in their efforts to support and promote Gaelic – answering the expressed need for greater action across Scotland’s public landscape in implementing the commitments of Gaelic language plans.

26. 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 2D(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.

27. Guidance on Gaelic language plans is currently issued by Bòrd na Gàidhlig. This change will ensure the preparation of such guidance follows the more common practice of being issued from the level of Scottish Ministers rather than a non-departmental public body. The direction making power is considered necessary in support of our indigenous minority languages in the event that there are circumstances where a direction is necessary to achieve a national policy aim or to support a body to take the action it proposes.

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

28. 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 which the Scottish Ministers must have regard to in preparing the statement.

29. The concentration of much of Gaelic speaking Scotland in rural, island communities means that the questions of language development and land use closely intersect. This is seen in the recent Report of the Short Life Working Group on Economic and Social Opportunities for Gaelic. Among its recommendations was that landowners in designated Gaelic communities should articulate and demonstrate their support of the language within their Land Rights and Responsibilities Statement. The closeness of land issues with Gaelic revitalisation is also seen in the work done by the Scottish Government’s Gaelic & Scots Division and Bòrd na Gàidhlig with bodies such as Community Land Scotland or individual estate trusts. While it does not relate to landowners’ statements, this provision is a means of ensuring that Gaelic is consistently accounted for in matters relating to land use in Scotland.

**Chapter 1: Alternative approaches**

30. The manifesto commitments of 2021, including the introduction of a Scottish Languages Bill, were endorsed by Scottish Ministers and within this, alternative approaches were considered in key areas such as language status, Bòrd na Gàidhlig functions, Gaelic language plans and areas of linguistic significance. These have been discussed below.

### ***Language status***

31. All minority languages share a concern for profile and status in the countries and regions where they belong. As an alternative to including an express statement about status, the Scottish Government considered that, to an extent, this wish for enhanced status would be achieved by virtue of the provisions that are being brought forward in this Bill. The Bill provisions will create a stronger structure for these languages and introduce significant improvements to the support available to them. These measures will also have a positive impact on the status of the language. However, in considering consultation responses a strong wish has also been identified that, in addition, a clear statement of language status should also be included in the Bill. This has now been included and was also supported in discussions with other jurisdictions considering minority language policy

### ***Bòrd na Gàidhlig***

32. Alternative approaches were considered for Bòrd na Gàidhlig and where it sat in relation to Government, including agency status. These discussions concluded that there was value in having a public body, at arms-length to government and continuing to have both a promotional and supportive role along with a monitoring function. Although used in other countries, the context is different. When Wales appointed a Language Commissioner the work of the Welsh Language Board ceased. In Scotland, as mentioned above there is still a need for and value in having a Gaelic public body with promotional functions. In relation to this, the approach of a language commissioner was considered, as with Wales and Ireland, and this restructuring was not recommended to Scottish Ministers.

33. As above, there is value in Bòrd na Gàidhlig maintaining a supportive and promotional role and combining this monitoring of Gaelic activity. However, steps have been taken in the Bill which strengthen the monitoring and reporting role of BnG to ensure improved compliance with Gaelic priorities and commitments.

### ***Areas of linguistic significance***

34. In relation to support for Gaelic, consideration was given to the creation of a Gàidhealtachd. This would be a geographical area, possibly following the Irish model, where there was a significant percentage of Gaelic speakers and certain measures in support of the language were expected. Although the term Gàidhealtachd is familiar in Scotland as referring historically to the Highlands, it has never been a term that has featured in a policy context.

35. Following consultation, discussions with other jurisdictions, and consideration of the Gaelic profile in Scotland, this approach lacked support as the principal model and policy to adopt for this Bill. The more persuasive message from consultation and preferred policy priority was that Gaelic was a language for all of Scotland and an approach should be taken that supported Gaelic both in urban environments and in island communities. There is significant Gaelic activity and learning in towns and cities. This contributes to the overall task of support for Gaelic and there would be little benefit in a narrow Gàidhealtachd policy which might diminish the importance of this activity. The approach has been adopted that Gaelic should be supported throughout Scotland, yet this has also included the possibility of a proportionate support, dependant on the profile of the language in differing areas.

36. With the adoption of the phrase and concept of areas of linguistic significance, there were alternative options to consider in relation to where the responsibility should rest for the designation of these areas. Alternatives, including Scottish Ministers and Bòrd na Gàidhlig, were considered and assessed and following this assessment the decision was taken that the Bill provisions should place the duty of designation with local authorities as they sit closest to the communities where this will have an impact and they already deliver services to these areas. Other options, as mentioned above, would not have the same level of relationships with the areas under consideration.

### ***Gaelic language plans***

37. Alternative approaches were also considered for Gaelic language plans and the National Gaelic Language Plan. The Scottish Government is aware of some concerns about the effectiveness of Gaelic language plans. There were consultation responses that took the view that there is little value in the activity associated with Gaelic Language Plans. At the same time, other consultation responses wanted to see stronger commitments and improved delivery in Gaelic language plans. Gaelic language plans are, however, embedded in Scottish public life, they have contributed to progress with Gaelic development and the Scottish Government assessment is that they should remain. The National Gaelic Language Plan will be replaced by a Gaelic language strategy which will be prepared by Scottish Ministers and this Strategy will be important for the continuing priorities and commitments contained in Gaelic language plans.

### **Chapter 1: Consultation**

38. The consultation did not specifically ask about the official status of either Gaelic or Scots. However, the consultation paper did state that the Scottish Languages Bill would take “further steps to support Gaelic, act on the Scots language and recognise that Scotland is a multilingual society.” Responses received to the consultation, mostly from individuals from the speaker community, indicated a desire for Gaelic to receive official recognition within Scotland. This was viewed as a measure which would add to the prestige of the language and give greater weight to practical efforts on its behalf. That point of view was articulated by one respondent who stated that such a measure would elevate Gaelic’s importance across public life: “I believe an excellent way to combat this would be to make Gaelic an official language of Scotland, to give it similar protection and education guarantees as Welsh receives in Wales, and Irish in the Republic of Ireland. This would also raise the public perception surrounding its importance.”

### ***Bòrd na Gàidhlig***

39. The consultation asked respondents to offer their views on Bòrd na Gàidhlig’s current duties, how these could operate more efficiently, and structural changes to the Bòrd which would strengthen the promotion of and support for Gaelic in Scotland.

40. The response to the consultation expressed a desire for Bòrd na Gàidhlig to have more influence in decisions regarding the promotion of Gaelic. The greater voice and leverage the body will have as a result of the Bill will go some way towards meeting that desire. Consultation responses were also mindful of the difficulties faced by Bòrd na Gàidhlig through having its resources divided between language promotion, regulation and enforcement. One respondent stated that “Bord na Gaidhlig is trying to do too much with too little. Gaelic language plans take

up a lot of resources and BnG is unable to police them. There is an argument for a separate organisation to regulate plans and focus on this element.” These comments were predominantly received from community groups and from individuals with a language interest and less so from public authorities.

41. The Bill, by placing the duty for regulation on Scottish Ministers and enabling Bòrd na Gàidhlig to focus on promotion and enforcement, will contribute towards a more efficient working method for the Bòrd. There are provisions which have the potential to reduce the workload on BnG and these include the Scottish Ministers taking responsibility for the Gaelic language strategy and Gaelic language standards and including the Scottish Parliament in compliance tasks.

### ***Gaelic language plans***

42. Another criticism, that was offered by community groups, was the habit of bodies working with Gaelic language plans to operate in silos. It was felt that a greater emphasis on partnership was needed across the public and private sectors. This criticism also took the view that Gaelic development should be mindful of the language’s distinct needs in different parts of Scotland and different social sectors. The following response was informative in revealing various aspects of a point of view expressed across the consultation: “A new joint pan-Highlands and Islands and a pan-Scotland programme of development activity should be created and implemented between the Bòrd and other development bodies to mitigate against a ‘silo’ mentality being attached to Gaelic development and recognising that support in terms of the promotion and protection for Gaelic reaches beyond the remit of the Bòrd.”. The combined initiatives of a Gaelic language strategy, Gaelic language standards and areas of linguistic significance will facilitate this closer working and co-operation with a focus on the distinct needs of an area.

43. Arguably, the desire for a “pan-Highlands and Islands” and a “pan-Scotland programme” of Gaelic development is, to some extent at least, answered by existing programmes such as the Scottish Government’s Convention of the Highlands and Islands and its Faster Rate of Progress initiative. At the same time, the Bill aims to increase the ability of public bodies to develop Gaelic policies suited to their geographical and professional remits through the issuing of standards and guidance by Scottish Ministers.

44. This will enable Bòrd na Gàidhlig, through its enhanced monitoring role, to provide a more comprehensive overview of the Gaelic policy landscape will allow greater communication between public bodies and be a means of resolving the “siloesation” of Gaelic development. Placing a duty on public bodies to proactively report to Bòrd na Gàidhlig on the implementation of their Gaelic language plans is a measure whose aim is to ensure that efforts for Gaelic promotion are more effectively taken by Scotland’s public bodies – easing the burden currently placed on Bòrd na Gàidhlig.

45. It was important to consultation respondents that Bòrd na Gàidhlig be a visible organisation in the promotion of Gaelic and one which was able to hold other bodies accountable in their promotion of Gaelic. One response which was of this view suggested that Bòrd na Gàidhlig “seems as if it hasn’t got much to tell us. Strengthening it...would increase its valency and purpose.” Ensuring that the Bòrd’s Corporate Plan clearly outlines its exercises and functions in relation to the Scottish Ministers’ Gaelic language strategy will achieve this. As Bòrd na Gàidhlig is no longer drawing up a set of Gaelic priorities as previously in the National Gaelic Language Plan,

this provision makes possible a public statement of BnG priorities, and it makes the link with the Gaelic language strategy and it also provides a clear statement of what ministers can expect of Bòrd na Gàidhlig.

### ***A Gàidhealtachd***

46. Under the Gàidhealtachd manifesto commitment, the consultation asked respondents for their views on the measures which should be in place to support Gaelic speakers in areas with significant numbers of speakers; how these areas should be defined; and how such measures and definitions could be balanced with the principle that Gaelic was a national language for all of Scotland.

47. Some responses to the consultation expressed a demand for more targeted support for Gaelic, particularly in island areas. The view was also expressed that this support should integrate other social and economic issues, such as housing and employment, affecting the language at community level. However, it was also strongly argued that any such support should not undermine Gaelic's status as a national language for all Scots nor create divisions between first and second language Gaelic-speakers or between speakers based in island communities and the central belt.

48. The policy approach taken within the areas of linguistic significance provision has sought to balance these views. It has also drawn on other sources such as the recommendations of the Short Life Working Group on Economic and Social Opportunities for Gaelic. This report was commissioned by Scottish Ministers and employed the concept of Key Gaelic Communities as an important policy device for prioritising certain Gaelic provision in the Highlands and Islands. The policy choice of areas of linguistic significance rather than Gàidhealtachd or key Gaelic communities is due to the ability of areas of linguistic significance to be able to apply to a broad range of areas, not just areas of low population in the Highlands and Islands. This was a recurring point of criticism in the consultation responses.

49. The need for official Gaelic policy to take greater heed of community level development was a common response within the consultation – especially as regards the operations of Bòrd na Gàidhlig. Designating areas of linguistic significance provides a community framework within which Gaelic language planning activity can take place. With Gaelic development it has always been recognised that a proportionate approach should be followed as it is unlikely that the same policy approach should be adopted in, for example, Highland Council and Scottish Borders in relation to Gaelic.

50. This proportionate policy approach has always been part of Gaelic promotion and development but never adopted as a formal policy approach. In taking a lead from the manifesto commitments and the consultation responses, this proportionate policy approach is being incorporated into Gaelic development yet not at the expense of the promotion of Gaelic throughout Scotland.

### ***A Gaelic language strategy***

51. There was a request within the consultation responses for a national Gaelic language strategy which would provide a more cohesive approach to language development across the

country. This is a widely held view among Gaelic interests and has been consistently expressed over the last thirty years and before. Consultation responses were elaborating on the proposals to establish a national strategic approach to Gaelic medium education and to review the structures and functions of Bòrd na Gàidhlig. The clearest statement of this request was one respondent's view that "A Scottish Languages Bill must deliver a national Gaelic language strategy for the next 25 years – A clear vision for the language to catch the imagination of the public - led at ministerial level with Scottish Government expectations very clear."

52. Despite the long-term ambition stated in this particular response, a shorter timeframe has been maintained within the Bill to grant greater flexibility to the strategy and enable it to respond to changing circumstances. The provision for a Gaelic language strategy aims to satisfy some aspects of this demand – most notably the need for the long-term vision for Gaelic's development to emanate from the level and authority of Scottish Ministers.

53. However, respondents also recognised Bòrd na Gàidhlig's expertise in Gaelic development and the valuable work done by the body in promoting Gaelic in the educational sector. The University of Glasgow, for example, in its response acknowledged "the excellent work carried out by Bòrd na Gàidhlig by a relatively small organisation of dedicated and hard-working individuals. They have been an invaluable resource to the University as we have developed our third Gaelic language plan recently."

### ***A Languages Commissioner***

54. Some responses to the consultation argued for a new post to be created for a Language Commissioner. To some extent this would follow the example of equivalent offices in Wales and Ireland. This view was shared by academic interests and community groups. Submissions on the topic varied in their view on whether a Language Commissioner should supersede or supplement the role of Bòrd na Gàidhlig. Such a position would have powers to monitor the compliance of public bodies with their duties to support Gaelic. This would ensure accountability in adhering to the national Gaelic language strategy. Other responses argued for this role to be assumed by Bòrd na Gàidhlig – specifically in reference to Gaelic medium education.

55. The commissioner role is one which would allow the body to act as an ombudsman, mediating between the national language strategy and its implementation by local authorities. The latter approach in the paragraph above, is the one chosen for the Bill in view of the operating context in Scotland. Although a commissioner has been appointed in other countries, the context is different in Scotland. When Wales appointed a Language Commissioner the work of the Welsh Language Board ceased. In Scotland, as mentioned in the paragraph 38 above, there is still a need for and value in having a Gaelic public body which has the function of promoting Gaelic and also monitoring Gaelic activity.

56. It was requested that local authorities better promote and make use of Gaelic through their functions. Greater accountability was desired for the extent to which a national language strategy and local language plans are implemented by local authorities and how relevant funds are utilised. Respondents also argued that these directions must come from the ministerial level. Within the Bill this is provided for by the placing of duties on relevant public authorities to consider the promotion and support of Gaelic while exercising their functions. This will be strengthened by the

issuing of guidance and directions by Scottish Ministers on the duty of public bodies towards Gaelic.

57. In addition to the burden of duties currently borne by Bòrd na Gàidhlig, a need was identified for more context specific Gaelic language plans suited to the needs of individual authorities. This could be achieved by Scottish Ministers assuming the guidance role currently held by Bòrd na Gàidhlig. Scottish Ministers could then direct authorities in the particular standards they must meet within their Gaelic language plans, with regard to the context in which the plans are being implemented. As above, this will be facilitated by the issuing of guidance and direction by Scottish Ministers.

58. The Bill provisions have been informed by feedback beyond the formal consultation. Prominent here has been the Report of the Short Life Working Group on Economic and Social Opportunities for Gaelic. Among its recommendations was for landowners to “articulate and demonstrate how they support the language in their Land Rights and Responsibilities statement”. In particular, it was argued that they should provide evidence of projects and initiatives that deliver social and economic outcomes for Gaelic. While it does not relate to landowners, section 10 of the Bill goes some way towards addressing this desire for Gaelic to be accounted for within issues of land use in Scotland.

## **Chapter Two: Education**

### ***Duty of Scottish Ministers to promote and support Gaelic education***

59. Section 11 of the Bill inserts a new section 6A into the 2016 Act. This imposes a duty on the Scottish Ministers to promote 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.

60. Gaelic medium and Gaelic learner education have made significant progress through the efforts of local authorities. This will be strengthened with the new national strategic approach which this Bill will introduce. A duty will be imposed on Scottish Ministers to promote, facilitate and support the provision of Gaelic learner education, Gaelic medium education in schools and the teaching of the Gaelic language in an Education Authorities provision of further education. This duty on the Scottish Ministers will combine with and build on the individual efforts of education authorities as part of the national language strategy and will also help local authorities address the challenges they currently face in their provision of Gaelic medium, learner and further education.

### ***Power for Scottish Ministers to set standards for Gaelic education in schools***

61. 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 Gaelic in its provision of further education.

62. In preparing regulations, the Scottish Ministers must consult the various interest parties listed in subsection (4). 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. Although good progress has been seen in Gaelic education, the provision of standards will address a number of the issues which are still viewed as obstacles in Gaelic medium education and will make clear to parents what can be expected when a young person commences Gaelic medium education. In general, the issues that would be considered as areas that need to be addressed in GME/GLE include the following. GME access to provision and local authority promotion of GME, GME as a 3-18 experience and GME continuity, GME subject choice, curriculum and assessment arrangements, GME teacher recruitment, placement, retention and professional learning, Teacher and pupil support and resources, O-3, early years provision and linguistic acquisition, Class sizes, language assistants, immersion and fluency, Taking account of GME when setting national expectations, Inclusion of GME in the planning for and reporting by schools where GME is provided, Gaelic learner education at all levels and establishing how national bodies and agencies can better work together to support GME and GLE. Some of these have been included in the Statutory Guidance on Gaelic education and will also be addressed in Standards and Strategy.

### ***Guidance to public authorities on Gaelic education***

63. Section 13 of the Bill inserts a new section 6C into the 2016 Act, giving the Scottish Ministers a power to give guidance to relevant public authorities (as defined in subsection (5), to be consistent with the definition in the 2005 Act) in relation to the provision of Gaelic learner education and Gaelic medium education. The provision of guidance will assist with further detail on the implementation of these provisions and Scottish Ministers must consult interested parties in preparing the guidance.

64. Statutory guidance is already in place for Gaelic education. However, what the Bill changes is the author of the guidance – with Scottish Ministers assuming the power currently held by Bòrd na Gàidhlig. This will follow the more conventional process for statutory guidance being issued by Scottish Ministers rather than an NDPB. This will enable statutory guidance to take account of advice and practical expertise from a range of areas and to keep pace with changes in wider policy areas.

### ***Directions to education authorities about Gaelic education***

65. 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 about the performance of their functions under Part 2 of the 2016 Act relating to Gaelic learner education and Gaelic medium education.

66. While the delivery of education is for local authorities, in a minority sector such as Gaelic medium education, there may be circumstances where recourse to a direction power is helpful or necessary to achieve a national policy aim or support certain action.

### ***General duty to provide education includes Gaelic education***

67. Section 15 of the Bill modifies the Education (Scotland) Act 1980 so that it is clear that 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. This no

longer applies only in Gaelic speaking areas. 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. This provision makes a change which is also important for the status of Gaelic.

68. This section recognises that the geography of Scotland's Gaelic speaking communities has changed significantly since the Education (Scotland) Act 1980. The Gaelic speaking population is now almost evenly divided between the traditional Gaelic speaking areas within Comhairle nan Eilean Siar, Highland Council and Argyll & Bute Council and the Gaelic communities of Glasgow City Council and Edinburgh City Council among other local authorities. The latter areas also constitute some of the language's greatest areas of growth and the ability to access each form of Gaelic education within them is vital to its sustainability. This provision contributes to the aim of widening the areas in which Gaelic is considered.

#### ***Duty to promote Gaelic education in exercising functions under the Education (Scotland) Act 1980***

69. Section 16 of the Bill inserts a new section 14A into the 2016 Act. In exercising its functions under the Education (Scotland) Act 1980, an education authority must promote and support Gaelic learner education and Gaelic medium education and have regard to the needs and interests of pupils and prospective pupils.

#### ***Information-sharing about Gaelic education***

70. 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 Gaelic in its provision of further education. This provision is necessary for the task that Bòrd na Gàidhlig has of reporting on compliance and an education authority must comply with the notice.

#### ***Gaelic education delivery planning***

71. 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 interested persons on those elements of the plan. The power for the Scottish Ministers to make regulations about the content of Gaelic language plan is expanded to allow for further provision about the matters which must be included. The Gaelic language plans of education authorities will be strengthened by greater specificity for how the delivery of Gaelic medium education and Gaelic learner education should be approached as part of the Gaelic language planning process.

#### ***Duty to support access to Gaelic medium education***

72. 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). The alternative approach would be that the young person in a certain location or situation would not be

able to gain access to Gaelic education and this approach would not enable a young person to secure GME provision.

***Duty to establish a catchment area for schools providing Gaelic medium education***

73. Section 20 inserts a new section 15A into the 2016 Act, requiring an education authority to establish a catchment area for Gaelic medium schools under its management. For existing provision, this must be done within 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.

74. Gaelic medium education is a minority sector within the Scottish school system and one whose needs do not perfectly map onto those of that wider system. In the case of catchment areas, specific accommodation has to be made for Gaelic medium schools or units often being the only facilities of their kind within a local authority. Occasionally they are the only ones within several local authorities. Gaelic medium schools or units therefore require catchment areas which match their specific needs. The Guidance on Gaelic education deals with this issue and there is provision in the Bill. The expectation in the Guidance is that a GME catchment 'overlays' a number of, eg, primary catchment areas, to facilitate access and because the GME provision may be the only GME provision in the area or authority. The alternative approach was not one that was seriously considered. The alternative approach would be that that GME catchment was the same as the EME catchment at the same school and this would have the potential to work against encouraging GME uptake. The provisions of the Bill build on the provisions of the 2017 Statutory Guidance.

***Application of Schools (Consultation) (Scotland) Act 2010 to transport to Gaelic medium education***

75. 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.

***Assessments: power to make different provision for different areas***

76. Section 22 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.

***Extension of assessments to early learning and childcare***

77. Section 23 modifies the 2016 Act with the effect that the process set out for the assessment of Gaelic medium primary education will also apply to early learning and childcare.

78. Primary education in Gaelic medium is provided through total immersion learning – where a child is taught entirely through the medium of Gaelic, to ensure maximum fluency in the

language. At the outset of Gaelic medium education in Scotland, this was a method adapted from the teaching of minority languages elsewhere. The full phase of total immersion is meant to start during early learning and childcare – helping the child to be fully prepared for formal schooling in the relevant language. The current process for assessing the need for Gaelic medium education within a local authority does not guarantee the provision of Gaelic early learning and childcare. This leads to shortcomings within the school system which unfairly impact the learning experience of pupils and the work burdens of teachers. Ensuring that early learning and childcare will be considered part of the same provision as primary education in Gaelic will lead to a more effective system of schooling.

### ***Duty to consult and plan on delivery of early learning and childcare***

79. 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 it should make Gaelic medium early learning and childcare available.

### ***Conditions of grants to the Scottish Further and Higher Education Funding Council***

80. Section 25 amends the Further and Higher Education (Scotland) Act 2005 to insert a new section 9E. Section 9 of the Further and Higher Education (Scotland) Act 2005 allows the Scottish Ministers to make grants to the Scottish Further and Higher Education 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.

## **Chapter 2: Alternative approaches**

81. The Scottish Government has a firm commitment to maintain Gaelic medium education (GME) in Scottish schools. Although there were views offered on Gaelic medium education, the nature of Gaelic medium education in schools and the support in place, the Scottish Government does not wish to significantly alter the core structure and delivery model for GME in Scottish schools. Gaelic medium education and Gaelic learner education will continue to be delivered by local authorities and with important support from both the Scottish Government and a range of public bodies. The Scottish Government is, however, aware that Gaelic education interests and particularly parental groups are keen to see progress with Gaelic medium education and for a range of concerns to be addressed. As a result of familiarity with the sector, the Scottish Government is aware that Gaelic education interests have had a focus on a number of issues such as access to Gaelic medium education, early years provision and immersion in primary schools, teacher recruitment and support, resources for Gaelic education and secondary provision. The Gaelic education sector or wider Gaelic community is regularly consulted on views on Gaelic plans, National Plans, OECD proposals, cultural strategies, community matters and a whole range of Scottish Government, parliamentary, public body and local authority consultations. In addition, input is provided in officials meetings with Gaelic interests and in ministerial consultation exercises.

82. In the section above, the key alternative approaches that have been considered have been outlined. There are other provisions in the Bill which did not require the same level of assessment of alternative approaches. This was largely because the alternative approach to be considered would not have presented a credible route for implementing the overall policy or delivering the manifesto commitment. This would include issues such as the promotion of GME, the adoption of GME catchment areas and support for travel to GME schools. In relation to these provisions, the alternative approach would be not to draw up GME catchment areas and not to support travel to GME provision. These alternative approaches did not receive consideration as they fell outside the overall policy objective of supporting Scotland's indigenous languages

83. In view of this an approach has been adopted which combines key amendments to current Gaelic education legislation with power to make regulations to set standards. Although an alternative approach has not been considered to the delivery of Gaelic education in Scottish schools, a wide range of amendments were considered to respond to the messages in the consultation. This included a number of amendments which have not been pursued such as provision for establishing stand-alone Gaelic schools or simplifying the process whereby parents can request Gaelic medium education for their children. These issues will be dealt with through the Gaelic language strategy and standards.

## **Chapter 2: Consultation**

84. The following themes emerged from the consultation responses on Gaelic medium education.

- There is an increased need for funding and resources.
- Barriers which hinder the growth and promotion of GME need to be addressed.
- Access to GME needs to be improved.
- Continuous provisions between early years, primary, and secondary needs to be guaranteed.
- More stand-alone GME schools are required.
- GME teachers need more support.
- There must be greater duties on local authorities to promote and support GME.
- For Gaelic learner education (GLE), there was a desire for more access to it throughout the school system and for more children in GLE to have opportunities to enter GME beyond P1. There was also a desire for GME and GLE to be less of a discretionary choice for local authorities and for its provision and promotion to have greater direction from the level of Scottish Ministers.

85. The current system, in which GME is at the discretion of local authorities, contains gaps in provision between different stages of school – early years, primary and secondary. It also contains gaps in resources between GME and English medium education – in terms of basic learning materials as well as additional learning support. This was a common topic in the responses of individual parents and parent groups. Regulations prepared by ministers, in consultation with interested parties, were viewed as a means of prescribing basic levels of GME provision which an education authority must meet.

86. The burden of duties upon Bòrd na Gàidhlig was also a feature of consultation responses on the subject of GME and GLE. While respondents were generally appreciative of Bòrd na Gàidhlig's efforts in providing guidance to parents and local authorities on Gaelic school provision, many were of the view that it would work more efficiently in a monitoring role, with Scottish Ministers providing direction in the establishment of GME and GLE.

87. Respondents expressed frustration at the difficulty of finding information about GME and GLE provision within their local authorities. It was argued that local authorities should have a duty to be more proactive in advertising the GME and GLE opportunities which existed. This tied in with a desire for the authorities to emphasise the benefits of bilingual education. Respondents also argued for a duty on local authorities to ensure parents from non-Gaelic speaking backgrounds were aware of the opportunities for GME. It was also requested that local authorities should have to continually assess the demand within their areas for Gaelic education.

88. A lack of transport options to GME schools or units was identified as a barrier for children either commencing primary GME or hoping to continue GME in secondary school. Such transport is provided by some local authorities when their own GME centres are at a distance from a child's residence or when the child must access secondary GME in another local authority. However, it is not guaranteed. Therefore, a greater statutory obligation for local authorities to provide this service as part of their GME provision was cited as one of the barriers which had to be overcome.

89. At various points, the inclusion of GME in local authority catchment reviews was named as a factor which undermined pupils' access to Gaelic schooling. One respondent argued that "undertaking mixed GME/EME catchment reviews" was "discriminatory" against GME due to GME pupils usually only having a choice of one school in their area. This had the consequence of blocking potential GME families from this educational path.

90. The importance of Comann nam Pàrant to the wider development of Gaelic provision was recognised due to its role as the specific parent council for GME. Therefore it was argued that it should have a role as a statutory consultee under schedule 2 of the Schools (Consultation) (Scotland) Act 2010.

91. Early learning and childcare was identified as a distinct sector of GME which needed greater support. Responses from parents and schoolteachers remarked upon the challenges faced by children starting primary GME with no early years experience of Gaelic. There was a demand for early years and childcare provision to form part of the process for general GME provision within the 2016 Act.

## **Part 2: Scots**

92. As with Gaelic, the policy objective of this Bill is to provide further support for the Scots language and improve its status, profile and use both in public life and in community life. The Scottish Government has consistently recognised that the Scots language is an important part of Scotland's heritage and national identity. The Scottish Government also recognises that the Scots language is an essential part of Scotland's distinctive cultural life and has greatly influenced our song, poetry and literature. Scots also is important to family and community life. In recognition

of this the Scottish Government prepared a Scots language policy in 2015 and has worked closely with education and cultural bodies to develop this support for Scots.

93. The Scots language, although similar to Ulster Scots, is only spoken within Scotland. Therefore, steps have been taken within Scotland, to ensure its use and promotion. The 2011 Census indicated that over 1.5 million people identified themselves as Scots speakers. The Scottish Government also supports the application of the provisions of The Council of Europe's Charter on Regional or Minority Languages.

94. The Scots provisions in this Charter include the undertakings that policies should be based on recognition of the regional or minority languages as an expression of cultural wealth and also include the need for resolute action to promote regional and minority languages. The undertakings also include the facilitation and encouragement of the use of Scots in speech and writing; in public and private life and the provision of appropriate forms and means for the teaching and study of Scots. . The Scottish Government is committed to build on this and take further steps to support Scots through the provisions of the Scottish Languages Bill.

## **Chapter 1: Support for the Scots language**

### ***Status of the Scots language***

95. Section 26 provides for the status of the Gaelic language. The statement in subsection (1) that the Scots language has official status within Scotland is given legal effect by the provision of the Bill conferring functions on the Scottish Ministers and other persons. This is the first time that legislation has made a statement about the status of the Scots language. The official nature of Scots has frequently been recognised in non-legal document and in ministerial statements but not in legislation. Scots has been recognised in the Council of Europe for Regional and Minority Languages and in proceedings of the British Irish Council. This step will help address the negative views that are at times attached to Scots and the stigma and discrimination that Scots speakers often refer to.

### ***Scots language strategy***

96. 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. The Scottish Government, along with a number of other public authorities, has a Scots policy with priorities for the language. The provisions in the Bill to prepare a Scots strategy will add importance to these priorities and to the work being done by Scots bodies and other authorities to make progress with these priorities.

### ***Reporting on strategy***

97. 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. This report will provide additional prestige and status for the Scots language strategy and will assist with demonstrating progress with the priorities listed in the strategy and where further action or support is needed.

### ***Effect of strategy***

98. 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. There are a number of Scots bodies that are active in areas such as education, publishing, media and the arts. There is also good support from some public authorities. The effect of the strategy will ensure Scots has a more prominent role in Scottish public and community life.

### ***Power for Scottish Ministers to issue guidance***

99. Section 30 gives the Scottish Ministers a power to give guidance to relevant public authorities in relation to promoting 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. This will strengthen the provisions that are in place for Scots and give additional role and profile to several Scots bodies.

## **Chapter 1: Alternative approaches**

100. The provisions of this Bill seek to raise the profile of Scots in a number of sectors in Scottish public life. The Scottish Government is aware that there are some members of the speaker community that hoped to see a public body established to make progress with Scots priorities. Consideration was given to this as an alternative approach, but this has not been pursued in the Bill provisions. There are a number of small Scots bodies operating with support from the Scottish Government. These bodies have considerable expertise and good community links and as a result will be well placed to support and take forward the provisions of this Bill. The Scots bodies also have good working relations with Scottish public authorities in relation to support for Scots.

101. This network of Scots bodies and public authorities is a strong foundation to take forward the next important steps to promote and support Scots. The approach adopted takes the view that the measures included are the right steps at this time and will result in important improvements for Scots provision. In addition, there are a number of small Scots bodies active in this area and the provisions of this Bill will strengthen the role and status of these bodies.

## **Chapter 1: Consultation**

102. The consultation exercise of 2022 also asked questions about Scots. The key themes that featured in the responses included improvement of Scots education provision and with the request for improved resources, recognition and accreditation. Improved funding and legislative support for Scots also featured in the consultation responses along with the promotion of Scots and that social stigmas in relation to Scots should be countered. There was also a wish to see and hear more Scots in the media and more visibility and resources for Scots. The need for a Scots strategy, support for Scots bodies and community engagement also featured in the consultation exercise.

103. In consultation, views were received about the establishment of a Scots Language Board to promote the Scots Language and this was combined with the request for legislation and statutory

provisions to promote the language. Some responding felt there was a lack of awareness about the work of Scots bodies which required more visibility and influence. It was felt that the Scottish Languages Bill should provide legal and official recognition of Scots as an official minority language in Scotland and initiatives to give the language greater visibility should be encouraged.

104. Funding also featured in consultation responses for the purpose of developing and promoting any projects or policies about the Scots language. Some consultation responses also suggested that the Scottish Government should provide funding for cultural aspects of Scots, including funding for films, broadcasting, media, and other art forms. Any promotion of Scots must ensure that it is inclusive and does not entrench negative stereotypes. There should be more opportunities for engagement within local communities to ensure stakeholder involvement.

## **Chapter 2: School education**

### ***Scots language education in schools***

105. Section 31 requires the Scottish Ministers to promote and support Scots language education in schools. An education authority must also promote and support Scots language education in the schools under its management. This is responding to key messages in the consultation.

### ***Guidance on Scots language education***

106. Section 32 gives the Scottish Ministers a power to give guidance to education authorities about 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. Again, this provision is responding to key messages of the consultation.

### ***Power for Ministers to set standards for Scots language education in schools***

107. 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. Regulations 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.

### ***Reporting on Scots language education***

108. Section 34 gives the Scottish Ministers a power to give guidance to education authorities about 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.

### ***Interpretation of Chapter 2***

109. Section 35 imports defined terms from the Education (Scotland) Act 1980 for the purposes of this Chapter.

## **Chapter 2: Alternative approaches**

110. There are a number of small Scots bodies operating with support from the Scottish Government. These bodies have considerable educational expertise and good community links and as a result will be well placed to support and take forward the Scots education provisions of this Bill. The Scots bodies also have good working relations with Scottish public authorities in relation to support for Scots education.

111. This network of Scots bodies and public authorities is a strong foundation to take forward the next important steps to promote and support Scots education. The approach adopted takes the view that the measures included are the right steps at this time and will result in important improvements for Scots education provision. In addition, there are a number of small Scots bodies providing Scots education support and the provisions of this Bill will strengthen the role and status of these bodies.

## **Chapter 2: Consultation**

112. There was support for the Scots language to be more integrated into the education system. Some responding hoped to see improved access to and support for Scots language in education and for the recognition and certification of fluent Scots speakers and supporting the retention of Scots-speaking teachers at primary and secondary levels throughout Scotland. There was also support in consultation for Scots to have more profile in Scottish universities where learners can pursue the study of Scots in-depth and at tertiary level.

113. There were also grammar and orthography comments and Scots bodies and authorities should consider standardising the Scots language. The hope was expressed that any standardised spelling, grammar and dictionary should follow recognisable conventions and historic precedents whilst accommodating all dialects. A standard orthography of the Scots language was claimed to be essential for raising the status of the language and improving its practicality of communication and education. The hope was also expressed that the Scottish Government should establish a language planning board of experts to research, discuss and implement an agreed standardised orthography and grammar for the Scots language.

## **Part 3: Final provisions**

### ***Commencement***

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

115. 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 (including different parts of the area of an education authority). 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.

## **EFFECTS ON EQUAL OPPORTUNITIES, HUMAN RIGHTS, ISLAND COMMUNITIES, LOCAL GOVERNMENT, SUSTAINABLE DEVELOPMENT ETC.**

### **Equal opportunities**

116. The provisions of the Bill will support and strengthen the ambition that equal opportunities should feature as an important element of Scottish public and cultural life. In the first place, the provisions which this Bill will support and put in place are open to all and there will not be any individuals or communities that are excluded. This is true at present of the main elements of Gaelic and Scots provision, education, arts, media, Gaelic learning and this will continue. At the same time equal opportunities in Scotland will be an emphasis of this Bill as it will be making provision for speaker communities in Scotland that at times in the past have been marginalised and provision has been lacking for these communities.

### **Human rights**

117. Support for human rights covers a number of areas of social and political activity. Strong support for human rights can be found in the statements of institutions such as the UN, the Council of Europe and also in the statements of national parliaments. The right to learn and express oneself in a preferred language regularly features in areas of activity included in a list of human rights. As such, this Bill will contribute to recognising language and cultural rights and at the same time the provisions of this Bill will not encroach on or deny the human rights of other citizens. This Bill is consistent with and supportive of the UN Convention of the Rights of the Child and with the requirements of the ECHR.

### **Island communities**

118. This Bill will also provide important support for island communities. The Bill will aim to introduce areas of linguistic significance for Gaelic where, among other areas, it is recognised there are island areas with significant Gaelic speaking communities. In the same way, the Scots provisions of this Bill will contribute to support for the language where it is also prominent in island communities.

### **Local government**

119. A number of local authorities have important provision in place for Gaelic, decisions on this provision are taken locally and there is also a measure of support from the Scottish Government and from public authorities for this provision. This Bill will take forward provisions which will provide structure and support for the language provision that local authorities have in place. The provisions of this Bill place importance on local government and local decision making to support the Gaelic and Scots languages.

### **Sustainable development**

120. Gaelic and Scots bodies are committed to measures that promote economic development and do so in a way that is mindful of resources and the environment. Gaelic brings a range of benefits to areas of low population and seeks to support communities in these areas.

## **International opinions**

121. A further relevant concern is the question of how a country deals with indigenous language minorities for which it is responsible. A number of such languages are located within the British Isles and these language communities are in regular contact looking at comparative provision. This Bill will demonstrate to other minority language communities that the Scottish Ministers are taking important steps to promote and support Gaelic and Scots within Scotland.

## **CROWN CONSENT**

122. It is the Scottish Government's view that the Bill as introduced does not require Crown consent. Crown consent is required, and must be signified during a Bill's passage, where the Bill impacts the Royal prerogative, the hereditary revenues of the Crown or the personal property or interests of the Sovereign, the Prince and Steward of Scotland or the Duke of Cornwall. The Scottish Government's view is that this Bill does none of those things.

123. For the source of the requirement for Crown consent, see [paragraph 7 of schedule 3 of the Scotland Act 1998](#), and [rule 9.11 of the Parliament's Standing Orders](#). For further information about the considerations that go into determining whether Crown consent is required for a Bill see [Erskine May](#), the guide to procedure in the UK Parliament.



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

# **SCOTTISH LANGUAGES BILL**

## **POLICY MEMORANDUM**

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