

SCOTTISH QUALIFICATIONS AUTHORITY ACT 2002

EXPLANATORY NOTES

COMMENTARY ON THE ACT

Section 1 - Scottish Qualifications Authority: members

4. [Section 1](#) makes new arrangements for the appointment of members to the SQA board and changes the number of members required for meetings of the board to be quorate.
5. Subsection (4) amends section 1 of the 1996 Act to provide that the SQA board must comprise—
 - between 8 and 10 members, including a chair; and
 - a chief executive.
6. Subsection (4)(b) requires that one of the members appointed under the amended section 1 of the 1996 Act must be a person appearing to the Scottish Ministers to have special knowledge of the interests of the employees of the SQA. Subsection (4)(b) also provides that Scottish Ministers shall consult the employees of the SQA or their representatives, as they think fit, to establish what knowledge of staff interests or other attributes the person to be appointed should possess.
7. Section 1 of the 1996 Act requires the SQA board to have between 16 and 25 members. Subsection (1) therefore provides that the current members of the board (other than the chief executive) will cease to hold office on the day on which this section comes into force. The Act does not preclude members who so cease to hold office from being re-appointed to the board.
8. Subsection (5) amends paragraph 2 of Schedule 1 to the 1996 Act to remove the provision limiting appointments to the SQA to a maximum four-year term. Appointments will continue to be governed by the non-statutory guidance issued by the Office of the Commissioner for Public Appointments, or by any Scottish commissioner for public appointments that may be appointed.
9. All board members, other than the chief executive, are to be appointed by the Scottish Ministers. Paragraph 15 of Schedule 1 to the 1996 Act will continue to apply in relation to the chief executive. That paragraph provides that the chief executive is to be appointed by the SQA, with the approval of the Scottish Ministers. The amendment made by subsection (7) will also allow the SQA to pay remuneration and other allowances to all members of the Board, including the chair. Under the current provisions remuneration may be paid only to the chief executive and the chair.
10. In line with the reduction in the size of the board, the quorum for a meeting of the SQA will, by virtue of the amendment made to the 1996 Act by subsection (8), be reduced from nine to six.

*These notes relate to the Scottish Qualifications Authority Act
2002 (asp 14) which received Royal Assent on 6 June 2002*

11. Paragraph 3 of Schedule 1 to the 1996 Act requires the Scottish Ministers to satisfy themselves that members of the SQA have no interests likely to affect prejudicially performance of their duties. As the [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(asp 7\)](#) and the Code of Conduct for members of the SQA prepared under that Act make provision in relation to these issues, the provisions of the 1996 Act are no longer necessary. Subsection (6) therefore repeals paragraph 3 of Schedule 1.
12. Subsection (9) amends paragraph 11(4) of Schedule 1 to the 1996 Act, which deals with members' avoidance of conflicts of interest. The provision introduced at subsection (4) (b) of the Act for the appointment of a person with special knowledge of the interests of SQA employees allows such a person to be an employee of the SQA. Subsection (9) therefore supplements the existing provision to ensure that the conflicts of interest provision in the 1996 Act applies to any member who is appointed under the new section 1(2A) of the 1996 Act and is an employee of the SQA.