POLICY NOTE

THE EDUCATION (SCOTLAND) ACT 2025 (COMMENCEMENT NO. 1 AND TRANSITORY PROVISION) REGULATIONS 2025

SSI 2025/351 (C. 25)

The above instrument was made in exercise of the powers conferred by section 66(2) and (4) of the Education (Scotland) Act 2025 ("the 2025 Act"). The instrument has been laid in the Scottish Parliament but is subject to no procedure.

Summary Box

This instrument brings into force various provisions of the 2025 Act on 1 December 2025, and makes one transitory provision in relation to temporarily expanding the qualifying experience for the membership of the initial Board of Qualifications Scotland to SQA qualifications, not just Qualifications Scotland qualifications.

Policy Objectives

This SSI has two objectives which support the overarching aim of bringing the 2025 the Act into force. Firstly, the provisions commenced by this SSI will establish Qualifications Scotland; appoint the Chair, enable powers for the appointment of initial members via regulations and enable the appointment of other Board members, as well as commencing other connected provisions. This will ensure Qualifications Scotland can be established with a functioning Board on 1 December 2025 to embed the governance arrangements and support transition from the Scottish Qualifications Authority (SQA) to Qualifications Scotland.

Secondly, the instrument includes a transitory provision that expands the meaning of the term "relevant qualification" to include qualifications devised or awarded by the SQA, or those accredited by the SQA, in relation to paragraph 3(10) of schedule 1 of the Act. This is in relation to criteria that certain Board members must have.

This provision is needed because the current meaning of the term "relevant qualification" only covers qualifications awarded or accredited by Qualifications Scotland. Paragraph 3(2) of schedule 1 provides that members of Qualifications Scotland must include one or more persons with knowledge of the interests of persons undertaking a relevant qualification, and registered teachers and college teaching staff providing relevant teaching or training. However, none of the very first Board members of Qualifications Scotland will have knowledge of the interests of persons undertaking a Qualifications Scotland qualification, or experience of delivering teaching or training for a Qualifications Scotland qualification, because Qualifications Scotland will have not delivered any qualifications at the point at which these individuals are appointed to the Board.

The meaning of the term "relevant qualification" is therefore expanded for a temporary period until 30 November 2029. This is a period of four years from the appointment of Qualifications Scotland's first Board. This four year period reflects the standard appointment terms that individuals will be appointed for from 1 December 2025, as well as a proportionate number of years for Qualifications Scotland to deliver and accredit qualifications that will

mean future Board member appointments can fulfil this criteria. The time period also acts as a safeguard should any members of the initial Qualifications Scotland Board step down before 30 November 2029, allowing experience around SQA qualifications (devised, awarded or accredited) to qualify prospective members of the Board before the end of this transitory period.

EU Alignment Consideration

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU

Consultation

While there was no specific consultation on this instrument, consultation on the 2025 Act sought views on the creation of Qualifications Scotland. The response to the consultation showed support for the creation of this new body. The creation of this new body was agreed to by Scottish Parliament when they passed the 2025 Act. This SSI supports the outcomes of that public consultation by commencing the provisions in this Act and making related transitory provision.

Impact Assessments

The impact assessments, or screenings, that were completed for the Education (Scotland) Act 2025 are available[1]. No further impact assessments were considered necessary for this SSI.

Financial Effects

A Financial Memorandum for the Education (Scotland) Act 2025 was completed and is available[2]. A supplementary Financial Memorandum was provided after Stage 2 and is available[3].

The Cabinet Secretary confirms that no Business and Regulatory Impact Assessment (BRIA) is necessary as this instrument only brings into force provisions of the 2025 Act and makes related transitory provision. This instrument of itself has no financial effects on the Scottish Government, local government or on business. A full BRIA was completed for the Education (Scotland) Act 2025 and is available[4]. This instrument is not expected to incur any new or routine costs.

---

1 https://www.gov.scot/publications/education-scotland-bill-child-rights-wellbeing-impact-assessment-crwia/
https://www.gov.scot/publications/education-scotland-bill-data-protection-impact-assessment/
https://www.gov.scot/publications/education-bill-equality-impact-assessment/
https://www.gov.scot/publications/education-scotland-bill-fairer-scotland-duty-summary/
https://www.gov.scot/publications/education-bill-island-communities-impact-assessment/
https://www.gov.scot/publications/education-scotland-bill-strategic-environment-assessment-sea-pre-screening-notification/
2https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/education-scotland-bill/introduced/financial-memorandum.pdf
3https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/education-scotland-bill/stage-2/spbill49afms062025accessible.pdf
4 https://www.gov.scot/publications/education-bill-business-regulatory-impact-assessment/

Scottish Government
Education Reform Directorate
November 2025