POLICY NOTE

THE EDUCATION (SCOTLAND) ACT 2025 (CONSEQUENTIAL PROVISIONS) REGULATIONS 2025

SSI 2025/385

The above instrument was made in exercise of the powers conferred by section 96(10)(c) of the Equality Act 2010 and section 65(1) of the Education (Scotland) Act 2025. The instrument is subject to negative procedure.

Summary Box

Consequential amendments to support the implementation of the Education (Scotland) Act 2025. It makes changes to a range of Scottish Regulations and Orders to update references from the Scottish Qualifications Authority to Qualifications Scotland to ensure Qualifications Scotland takes on the SQA's full range of responsibilities, duties and powers, and so that the subordinate legislation has continued full effect.

Policy Objectives

The Education (Scotland) Act 2025 establishes Qualifications Scotland as Scotland's public body responsible for delivering, awarding and accrediting qualifications, replacing the Scottish Qualifications Authority (SQA). A range of regulations and orders make reference to the SQA for specific reasons. The instrument removes those references and where required updates them with references to Qualifications Scotland.

The Scottish Social Services Council (Consultation on Codes of Practice) Order 2001

Before making any changes to their Codes of Practice, the Scottish Social Services Council (Consultation on Codes of Practice) Order 2001 requires the Scottish Social Services Council to consult with every education and training establishment that is approved by the SQA as being suitable to present social service workers for SQA qualifications in Care and Higher National Certificates in Social Care. As Qualifications Scotland will be assuming SQA's functions and its portfolio of qualifications, these references to SQA qualifications need to be updated in order for the 2001 Order to have full effect.

The Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003

The Council Tax (Discounts) (Scotland) Consolidation and Amendment Order 2003 specifies courses and qualifications delivered by the SQA that make any individual undertaking them eligible for council tax discount. As Qualifications Scotland will assume SQA's functions and responsibilities, and take over their entire qualifications portfolio, the references to SQA qualifications need to be updated to Qualifications Scotland it the 2003 Order is to have full effect.

The Protection of Charities Assets (Exemption) (Scotland) Order 2006

The Protection of Charities Assets (Exemption) (Scotland) Order 2006 lists the SQA as a body that is exempt from being required to continue applying the assets it held while on the

Scottish Charity Register for charitable purposes, after it was removed from the Scottish Register in 2005. This SSI removes SQA from that list, as it will cease to operate once Qualifications Scotland becomes operational.

The Licensing (Training of Staff) (Scotland) Regulations 2007

The Licensing (Training of Staff) (Scotland) Regulations 2007 requires that in order for an individual's training to become an alcohol license holder to be valid they must have received training from an individual who at the time either already holds a personal license, or has a relevant qualification accredited by the SQA. As Qualifications Scotland will be assuming the SQA's Accreditation this reference will be updated to ensure these 2007 Regulations work as intended.

The Equality Act 2010 (Qualifications Body Regulator and Relevant Qualifications) (Scotland) Regulations 2010

Under the Equality Act 2010 (Qualifications Body Regulator and Relevant Qualifications) (Scotland) Regulations 2010, the SQA is currently assigned as a qualifications body regulator in relation to the Equality 2010 Act. This gives SQA the power to make judgements to determine whether reasonable adjustments for undertaking relevant qualifications should not or cannot be made. It in effect gives them powers to determine which National Qualifications in Scotland, as the relevant qualifications, can be exempt from the Equality Act 2010 duty for all qualifications bodies to make reasonable adjustments. As Qualifications Scotland will take over the responsibility for delivering National Qualifications, this SSI updates the 2010 Regulations to ensure Qualifications Scotland replaces the SQA as the qualifications body regulator.

The Welfare of Animals at the Time of Killing (Scotland) Regulations 2012

The Welfare of Animals at the Time of Killing (Scotland) Regulations 2012 prescribes that individuals must possess relevant qualifications in relation to these regulations. The 2012 Regulations set out that a relevant qualification certificate includes a certificate granted by a body that is recognised and regulated by the SQA. In effect, this means only SQA accredited qualifications meet this criteria. As Qualifications Scotland will assume the SQA's accreditation functions, oversight for qualifications previously/currently accredited by SQA, and its portfolio of qualifications, this SSI updates the SQA references to Qualifications Scotland.

The St Mary's Music School (Aided Places) (Scotland) Regulations 2015

The St Mary's Music School (Aided Places) (Scotland) Regulations 2015 requires that any examinations conducted by the SQA that include compulsory field study, in relation to music qualifications, St Mary's Music School must remit the charges. As Qualifications Scotland will take on the full portfolio of SQA's qualification and examinations it will become responsible for qualifying qualifications in relation to these regulations. The SSI therefore replaces SQA references with Qualifications Scotland.

The Road Works (Qualifications of Operatives and Supervisors) (Scotland) Regulations 2017

The SQA is currently the registration body for keeping a register of certificates of competence and certificates of recognition in relation to qualifications under the Road Works (Qualifications of Operatives and Supervisors) (Scotland) Regulations 2017. The SQA is also listed as an approved body for the purposes of issuing certificates of competence. As Qualifications Scotland will assume all functions of the SQA, and its portfolio of responsibilities, this SSI replaces all references to the SQA (and its enabling legislation) with references to Qualifications Scotland and the Education (Scotland) Act 2025.

The Student Support (Scotland) Regulations 2022

The Student Support (Scotland) Regulations 2022 prescribe certain courses provided by the SQA that are eligible for student loans and tuition fees, or just student loans. They also prescribe for that purpose certain courses of a higher standard than certain SQA courses. They also provide that courses of a standard not higher than certain SQA qualifications are eligible for maintenance allowances. As Qualifications Scotland will assume all of SQA's awarding functions, and its qualifications, courses and awards portfolio, it is essential that references are updated to Qualifications Scotland's courses to ensure individuals receive maintenance allowances, student loans and/or tuition fees where applicable.

Transitional arrangements

Transitional cases are expected to arise under some of the instruments amended by this SSI – for example, in relation to undertaking qualifications for alcohol licenses; applications and granting of council tax discounts; or the application to and granting of any relevant student support. This is in the instance that any of these were in progress or done in relation to the SQA before it dissolved and Qualifications Scotland took over its responsibilities. In these cases one option would have been to refer to both the SQA and Qualifications Scotland. This would have seen references to the SQA remain in legislation and it would increasingly become obsolete over the years. This was not considered necessary because the transitional provisions in the Education (Scotland) Act 2025, section 61, will apply. This ensures that any relevant thing done or in the process of being done, by or in relation to the SQA, at the point of transition and before it is dissolved has effect as if it had been done, or may continue to be done, by Qualifications Scotland. This approach ensures a simple approach to transition and ensures less outdated references to the SQA in the legislative landscape.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Education (Scotland) Act 2025 (Consequential Provisions) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

Statement required by the European Union (Withdrawal) Act 2018

The Cabinet Secretary for Education and Skills has made the following statement under paragraph 16(2) of Part 1 of schedule 8 of the European Union (Withdrawal) Act 2018:

"In my view there are good reasons for the amendment made by this instrument to the Welfare of Animals at the Time of Killing (Scotland) Regulations 2012 ("the 2012 Regulations"), made under section 2(2) of the European Communities Act 1972. The amendment is consequential on the Education (Scotland) Act 2025 ("the 2025 Act") and will ensure that the definition of "qualification certificate" in the 2012 Regulations continues to work as intended following replacement of the Scottish Qualifications Authority ("SQA") with Qualifications Scotland under the 2025 Act."

The Cabinet Secretary for Education and Skills has made the following statement under paragraph 16(3) of Part 1 of schedule 8 of the European Union (Withdrawal) Act 2018:

"The 2012 Regulations, make provision in Scotland for the administration and enforcement of Council Regulation (EC) 1099/2009 on the protection of animals at the time of killing and certain national rules. The 2012 Regulations are assimilated law. The 2012 Regulations provide that a condition for obtaining a certificate of competence for certain operations is that a qualification certificate must be submitted to the competent authority. The definition of "qualification certificate" includes a certificate granted by a body recognised and regulated by the SQA. This instrument replaces the refernece to the SQA with Qualifications Scotland, in consequence of the 2025 Act."

EU Alignment Consideration

The Welfare of Animals at the Time of Killing (Scotland) Regulations 2012 are relevant to the Scottish Government's policy to maintain alignment with the EU. However, this instrument is not directly relevant to that policy, as the amendments it makes to those Regulations are purely consequential on the Education (Scotland) Act 2025 and do not make substantive changes to the law.

Consultation

While there was no specific stakeholder consultation on this instrument, consultation on the Education (Scotland) Act 2025 sought views on the creation of Qualifications Scotland to replace the SQA. The response to consultation showed support for the creation of this replacement body. The creation of Qualifications Scotland was agreed to by Scottish Parliament when they passed the Education (Scotland) Act 2025. This SSI supports the outcomes of that public consultation by updating legislation in consequence of the Education (Scotland) Act 2025.

Impact Assessments

In line with the UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, a Children's Rights and Wellbeing Impact Assessment (CRWIA) has been completed. A positive impact has been identified, as it supports the full implementation of the Education (Scotland) Act and the positive effects the Act will bring for children's rights and wellbeing as identified in the Act's CRWIA, alongside ensuring any positive effects of the Regulations and Orders continue to be realised.

No further impact assessments were developed for this SSI, however a range of other impact assessments for the 2025 Act were produced and can be found here: [1]

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 the instrument 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].

Scottish Government
Education Reform Directorate

December 2025

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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/

2 https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/education-scotland-bill/introduced/financial-memorandum.pdf

3 https://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/