POLICY NOTE

HIS MAJESTY'S CHIEF INSPECTOR OF EDUCATION IN SCOTLAND (APPOINTMENT) ORDER 2026

SSI 2026/138

The above instrument was made in exercise of the powers conferred by the Education (Scotland) Act 2025 ("the 2025 Act") Schedule 2, paragraph 3(1). The instrument has been laid in the Scottish Parliament but is subject to no procedure.

Summary Box

This Order in Council appoints His Majesty's Chief Inspector of Education in Scotland (HMCIES).

Policy Objectives

Under schedule 2, paragraph 3(1), of the 2025 Act , the office of HMCIES is to be held by an individual appointed by His Majesty by Order in Council on the recommendation of the Scottish Ministers. Paragraph 3(2) provides that the Scottish Ministers may recommend the appointment of an individual as HMCIES only where they consider that the individual has (a) suitable teaching experience, and (b) relevant experience of acting in a leadership role in an educational establishment. The Scottish Ministers' recommendation under paragraph 3(1) was made by submitting a draft of this Order to His Majesty and they are satisfied that the criteria under paragraph 3(2) are met in relation to this recommendation.

This SSI supports the Programme for Government commitment to establish a new independent Education Inspectorate, following passage of the 2025 Act.

This SSI also links to the Education (Scotland) Act 2025 (Consequential Provisions and Modifications) Order 2025[1] which, among other things, provides that HMCIES is part of the Scottish Administration and is to be treated for all purposes as an officeholder in the Scottish Administration.

The Office of HMCIES is established under section 33 of the 2025 Act, which together with related functions, came into force on 1 March 2026[2]. In the period from that date until this Order comes into force , the function of deputising for HMCIES is assigned to an Inspector, as enabled by schedule 2, paragraph 7 of the 2025 Act.

EU Alignment Consideration

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

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1 https://www.legislation.gov.uk/uksi/2025/1350/contents/made
2 See The Education (Scotland) Act 2025 (Commencement No. 2, Transitional and Transitory Provisions) Regulations 2026, https://www.legislation.gov.uk/ssi/2026/2/made regulation 2(4).

Consultation

While there was no specific public consultation on this instrument, consultation on the 2025 Act sought views on different ways to improve the operation and impact of inspection in the Scottish education system. The options included doing so through new legislation in order to create the role of 'HM Chief Inspector of Education' as an independent officeholder or through alternative options within current legislation.

Responses to this question were very mixed with no clear themes emerging and a number of respondents commenting on what they perceived to be the strengths and weaknesses of both options (as well as positing alternative options) rather than expressing a clear preference for either approach.

Among those who supported the appointment of an independent officeholder, many commented that it would make accountability and independence clearer and more stringent which, in turn, could maximise public and professional confidence in the inspection process.

Among those who disagreed with this option, concerns were mainly linked to how an independent officeholder might be regulated or held to account. There were also concerns that any legislative changes may add another level of complexity to the existing system and act as a barrier to progress.

The response to the consultation showed support for the creation of this new officeholder. The creation of this new officeholder was agreed to by the Scottish Parliament when the 2025 Act was passed.

Impact Assessments

The impact assessments, or screenings, that were completed for the 2025 Act are available[3].

As the Order names an individual in legislation consultation with the ICO has been taken forward in accordance with Article 36(4) of the UK General Data Protection Regulation and the ICO has confirmed no further engagement is required. A Data Protection Impact Assessment has also been completed.

The 2025 Act sets out specific requirements for the appointment of HMCIES (Schedule 2, paragraph 3) to ensure robust checks and balances. These provisions safeguard that the appointee possesses the necessary competence and experience.

An Equality Impact Assessment was completed in respect of the 2025 Act. An Equality Impact Assessment was not considered necessary specifically for this SSI, however the

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3 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/

recommendation for appointment of HMCIES follows civil service recruitment processes designed to ensure compliance with employment equality and ethical standards obligations.

No further impact assessments were considered necessary for this SSI.

Financial Effects

A Financial Memorandum for the 2025 Act was completed and is available[4]. A supplementary Financial Memorandum was provided after Stage 2 and is available[5].

The Cabinet Secretary confirms that no Business and Regulatory Impact Assessment (BRIA) is necessary for this instrument. This instrument of itself has no financial effects on the Scottish Government, local government or on business. A full BRIA was completed for the 2025 Act and is available[6]. This instrument is not expected to incur any new or routine costs.

Scottish Government
Education Reform Directorate

March 2026

4 https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/education-scotland-bill/introduced/financial-memorandum.pdf
5 https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/education-scotland-bill/stage-2/spbill49afms062025accessible.pdf
6 https://www.gov.scot/publications/education-bill-business-regulatory-impact-assessment/