POLICY NOTE

THE NATIONAL HEALTH SERVICE (FUNCTIONS OF THE COMMON SERVICES AGENCY) (MISCELLANEOUS AMENDMENTS) (SCOTLAND) ORDER 2026

SSI 2026/20

The above Order was made in exercise of the powers conferred by sections 2(1)(b), 10(3), and 105(6) and (7), of the National Health Service (Scotland) Act 1978(a), and all other powers enabling them to do so. The instrument is subject to negative procedure.

Summary Box

This Order dissolves NHS Education for Scotland and transfers functions carried out by that body, as well as its property, rights, liabilities and obligations, to the Common Services Agency for the Scottish Health Service ("the CSA"). The Order amends primary and secondary legislation to remove references to NHS Education for Scotland and, where appropriate, replace them with references to the CSA. The Order also makes transitional provision to ensure that anything done by, or in relation to NHS Education for Scotland, prior to its dissolution on 1 April 2026 will have effect on and after that date as it were done by, or in relation to the CSA.

Policy Objectives

The Order amends The National Health Service (Functions of he Common Services Agency) (Scotland) Order 2008 (SSI 2008/312) to transfer functions of NHS Education for Scotland (NES) (a special health board) to the Common Services Agency for the Scottish Health Service (CSA). In addition, the Order transfers the property, rights, liabilities and obligations of NES to the CSA, amends primary and secondary legislation to remove references to NES and, where appropriate, replace those references with references to the CSA, and makes transitional provision in relation to the transfer of functions, property, rights etc from NES to the CSA. The Order dissolves NES and revokes The NHS Education for Scotland Order 2002 (SSI 2002/103).

This "merger" of NES and the CSA furthers the Scottish Government's commitment to promoting collaboration across NHS Scotland, enhancing decision-making on health education, workforce planning and service delivery.

It also brings remuneration arrangements for Board Members into line with the arrangements for all other Health Boards, Special Health Boards and Healthcare Improvement Scotland.

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 National Health Service (Functions of the Common Services Agency) (Miscellaneous Amendments) (Scotland) Order 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

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

Consultation

A public consultation was launched on 1 October 2025 and ran to 30 November 2025 which sought views on the proposals for the initial establishment of a merger between NES and the CSA from April 2026, as well as seeking early input on how, over time, we might build on those strong foundations to deliver transformation as committed to in the Service Renewal Framework.

In total **230** consultation responses were received of which 159 (69.1%) from individuals and 71 (30.9%) from organisations. Initial findings shows that The majority (60.5%) agree with the statement that creating a new national organisation to drive forward digital transformation and system change – beginning with the consolidation of NES and NSS into one organisation – is the right approach to deliver the ambitions set out in Scotland's Population Health Framework and Service Renewal Framework, but that there should be no detriment to existing service delivery.

As a result of that consultation, Ministers are satisfied that this Order can proceed as intended.

A full list of those consulted and who agreed to the release of this information will be attached to the consultation report when is published on the Scottish Government website.

Impact Assessments

The Scottish Government has considered a series of impact assessments related to this Order and concluded that only an Equality Impact Assessment and a Child Rights and Wellbeing Impact Assessment were required. Copies of these impact assessments are provided with this instrument.

Equality Impact Assessment – The Scottish Government is satisfied that there is no clear indication that the proposed Order is likely to have major impacts on groups with protected characteristics. No changes to the Order have therefore been required as a result of the equality impact assessment.

Child Rights and Wellbeing Impact Assessment - The Scottish Government has concluded this Order do not make specific provision with regard to children; it does not impact directly on children, nor does it have any differential impact on children, direct or indirect. It is considered therefore that the overall impact of the Order on children's rights is neutral.

Financial Effects

The Cabinet Secretary for Health and Social Care confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Health Workforce Directorate

January 2026