POLICY NOTE

THE NHS EDUCATION FOR SCOTLAND AND THE COMMON SERVICES AGENCY (TRANSFER OF STAFF) REGULATIONS 2026

SSI 2026/23

The above Regulations were made in exercise of the powers conferred by sections 2(10), 10(2), 105(7), paragraph 7A of schedule 1, and paragraph 3A of schedule 5 of the National Health Service (Scotland) Act 1978(**1**), and all other powers enabling them to do so. The instrument is subject to negative procedure.

Summary Box

This instrument provides for the transfer of the staff of NHS Education for Scotland from that body to the Common Services Agency ("the CSA") on 1 April 2026, and for all members of the management committee of the CSA to be entitled to remuneration for their role as members of that committee, other than executive members who are also employees of the CSA.

Policy Objectives

These Regulations makes provision in consequence of the dissolution of NHS Education for Scotland ("NES") and the transfer of its functions to the CSA. These Regulations provide for the transfer of the staff of NHS Education for Scotland to the CSA on 1 April 2026. The current contracts of employment of NES' staff are transferred to the CSA to ensure that NES' staff terms and conditions of employment remain the same after their transfer to the CSA.

In addition, the Regulations amend The Common Services Agency (Membership and Procedure) Regulations 1991 to provide that all members of the management committee of the CSA will be entitled to remuneration for their role as members of that committee, other than executive members who are also CSA employees.

This aligns with the Scottish Government's commitment to promoting collaboration across NHS Scotland, enhancing decision-making on health education, workforce planning and service delivery.

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.

(**1**) 1978 c. 29. Section 2(1)(b) inserted by the National Health Service and Community Care Act 1990 ("the 1990 Act") (c. 19), section 28(a)(ii), and amended by the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) schedule 2 paragraph 2(2); section 10(3) amended by the Smoking, Health and Social Care (Scotland) Act 2005, schedule 2, paragraph 2(4); section 105(7) relevantly amended by the Health Services Act 1980 (c. 53), schedule 6 paragraph 5(1)(a), the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 29(1), schedule Part I, paragraph 24, and the Health Act 1999 (c. 8), schedule 4, paragraph 60; schedule 1, paragraph 7A, inserted by the 1990 Act, section 27(3), schedule 5, paragraph 5. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

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 NHS Education for Scotland and the Common Services Agency (Transfer of Staff) Regulations 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 merger of NES with 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.

The transfer of staff is being supported by consultation with staff representatives by the respective current employers. The consultation is due to conclude in early February, with no material concerns having been raised to date.

Impact Assessments

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

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

Child Rights and Wellbeing Impact Assessment - the Scottish Government has concluded the Regulations do not make specific provision with regard to children; they do not impact directly on children, nor do they have any differential impact on children, direct or indirect. It is considered therefore that the overall impact of the Regulations 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