POLICY NOTE

THE QUALIFICATIONS SCOTLAND (APPOINTMENT OF INITIAL MEMBERS) REGULATIONS 2025

SSI 2025/278

The above instrument was made in exercise of the powers conferred by paragraph 5(2) of schedule 3 of the Education (Scotland) Act 2025 ("the 2025 Act").

The instrument is subject to negative procedure.

Summary Box

The purpose of this instrument is to appoint members of the Scottish Qualifications Authority (SQA) as initial Board members of Qualifications Scotland, under the power in schedule 3, paragraph 5(2) of the 2025 Act. The instrument lists the seven members of SQA who will become members of Qualifications Scotland. Under the 2025 Act, the SQA will be dissolved and replaced by the new qualifications body; Qualifications Scotland.

Policy Objectives

The primary purpose of this SSI and the underpinning policy is to support a smooth and robust transition from the Scottish Qualifications Authority (SQA) to Qualifications Scotland by establishing an initial Board ahead of the new body becoming operational. This objective is partially delivered by this instrument which sets out that individuals named in the instrument who are, immediately before the member appointment date SQA Board members, are to be taken to have been appointed as members of the Qualifications Scotland Board. Seven individuals are named. This is done under regulation making powers in schedule 3, paragraph 5(2) of the 2025 Act. Paragraph 5(5) gives these members the designation of "initial members" of Qualifications Scotland. Under paragraph 5(1) of schedule 3, the "member appointment date" is the date on which paragraph 5(1) fully comes into force. Under separate commencement regulations, this will be 1 December 2025.

This arrangement is designed to maintain continuity of expertise from the SQA Board and support strategic readiness for Qualifications Scotland. This approach ensures that there is no loss of momentum from the move from SQA to Qualifications Scotland and the work to deliver qualifications, alongside the wider transformational work to reform the qualifications system to better meet the needs of learners, teacher and practitioners, and the wider education system.

All of the individuals appointed as initial members under this instrument were originally appointed to the SQA through the regulated ministerial public appointments process. Five of these appointments were made in 2024 with the understanding that they would transition to the Qualifications Scotland, with the other two members' appointments ensuring a continuation of corporate and institutional memory, and that valuable qualifications system experience is available to the Qualifications Scotland Board. This SSI is a mechanism that allows their appointment to the new body without the need to undertake another full

recruitment round, whilst recognising these members have previously been appointed in a regulated way, on merit and via a fair and transparent process.

The following individuals are named in the instrument:

- Ronnie Erskine
- Seán Hagney
- Simon Hewitt
- Caroline McFarlane
- John Morton
- Ken Thomson
- Michelle Wailes

The schedule of this instrument also sets out that these members are to be taken as being appointed as members of Qualifications Scotland under provisions of schedule 1 of the 2025 Act. Six of these members will be taken to be appointed under schedule 1 paragraph 2 (1) (d) of the Act, known as ordinary members; and one member, Ken Thomson, will be taken to be appointed under schedule 1 paragraph 2 (1) (b), known as the convener of the Accreditation Committee.

A public appointment round is underway to recruit additional members to the Qualifications Scotland Board, running in parallel with this legislative instrument to ensure all members are in place when the body is established. Initial and prospective members have been mapped against the Board Skills Matrix and statutory requirements to ensure the skills and experience needed of the Board will be met.

This instrument is made under a power which is not yet in force. Under section 4 of the Interpretation and Legislative Reform (Scotland) Act 2010, a power to make a SSI may be exercised during the pre-commencement period if it is necessary or expedient to do so for the purpose of bringing the Act into force or giving full effect to the Act at or after the time when the provision conferring the power comes into force. The provisions establishing Qualifications Scotland and making provision about its membership will be commenced on 1 December, along with the power in paragraph 5(2) of schedule 3. It is considered expedient to rely on anticipatory exercise of that power for the purposes of bringing the Act into force and giving full effect to it, to ensure that Qualifications Scotland has a functioning Board, in line with the requirements of the 2025 Act, from the day it is established.

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

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 Qualifications Scotland (Appointment of Initial Members) Regulations 2025 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

While there was no specific consultation on this instrument, specific consultation on the 2025 Act sought views on the proposed Board model for Qualifications Scotland. The consultation showed that respondents broadly agreed that the Board should reflect a balance of corporate governance expertise and practitioner experience from schools and colleges to effectively oversee qualifications delivery. This SSI supports the outcomes of that public consultation by enabling the appointment of members in line with the model agreed by Scottish Parliament.

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. This instrument is expected to have a positive impact on children's rights and wellbeing. This instrument represents an important step towards the establishment of Qualifications Scotland. This new body places children and young people at the centre of the qualifications system. The body's remit, designing, assessing, awarding, and accrediting qualifications, supports Article 28 (right to education), Article 29 (development of talents and abilities), and Article 30 (respect for cultural identity). In addition, new mechanisms to strengthen learner and stakeholder involvement directly support Article 12, ensuring children and young people have meaningful opportunities to express their views and influence decisions that affect them.

An Equality Impact Assessment (EQIA) was also conducted. The inquiry considered all protected characteristics under the Equality Act 2010 with consideration of the three aims of eliminating discrimination, advancing equality of opportunity and fostering good relations. No positive or negative impacts were identified for any of the surveyed groups. The EQIA recommends that the Scottish Government continues to work with the necessary groups to ensure current and future appointments to the Board of Qualifications Scotland continue to be made in line with public sector equality duties.

As initial members are named in this Order, a Data Protection Impact Assessment (DPIA) has been completed in line with data protection obligations. In accordance with Article 36(4) of the UK General Data Protection Regulation (UK GDPR), the proposed processing was submitted to the Information Commissioner's Office (ICO) for prior consultation. The ICO has confirmed they are content with the approach taken.

No other impact assessments were conducted for this instrument as these were not considered necessary. The impact assessments, or screenings, that were completed for the Education (Scotland) Act 2025 are available here**1**.

Financial Effects

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1 Child Rights and Wellbeing Impact Assessment (CRWIA)
https://www.gov.scot/publications/education-scotland-bill-child-rights-wellbeing-impact-assessment-crwia/
Data Protection Impact Assessment (DPIA)
https://www.gov.scot/publications/education-scotland-bill-data-protection-impact-assessment/
Equality Impact Assessment (EQIA)
https://www.gov.scot/publications/education-bill-equality-impact-assessment/
Fairer Scotland Duty Summary
https://www.gov.scot/publications/education-scotland-bill-fairer-scotland-duty-summary/
Island Communities Impact Assessment (ICIA)
https://www.gov.scot/publications/education-bill-island-communities-impact-assessment/
Strategic Environment Assessment – Pre-Screening Notification
https://www.gov.scot/publications/education-scotland-bill-strategic-environment-assessment-sea-pre-screening-notification/

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) Bill and is available here**2**:

This instrument is not expected to incur any new or routine costs.

Scottish Government
Education Reform Directorate

October 2025

2 Business and Regulatory Impact Assessment (BRIA)
https://www.gov.scot/publications/education-bill-business-regulatory-impact-assessment/