EXPLANATORY MEMORANDUM TO

THE SCOTLAND ACT 1998 (AGENCY ARRANGEMENTS) (SPECIFICATION) (RECOGNITION OF QUALIFICATIONS) ORDER 2025

2025 No. 555

1. Introduction

1.1 This explanatory memorandum has been prepared by the Scotland Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Ian Murray, Secretary of State at the Scotland Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Louise Nicholls, Deputy Director for Constitutional Policy at the Scotland Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Cat Carrigan at the Scotland Office at email: cat.carrigan1@ukgovscotland.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument specifies certain functions of the Scottish Ministers, which relate to the comparability and recognition of UK and overseas qualifications and the provision of information or advice about such qualifications or the systems for awarding them. The functions are specified under the power in section 93 of the Scotland Act 1998, with a view to enabling the Scottish Government and the UK Government to enter into arrangements making provision for those functions to be exercised on behalf of the Scottish Ministers by a Minister of the Crown.

4.2 The detailed arrangements for the exercise of the specified functions will be set out in an agency agreement between the UK Government and the Scottish Government. The present instrument specifies the functions in relation to which such arrangements can be made.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 This instrument specifies certain functions of the Scottish Ministers. These functions relate to the provision of services, concerning (i) the comparability and recognition of UK and overseas qualifications and (ii) the provision of information or advice about such qualifications or the systems for awarding them, which are provided in pursuance of the international obligations set out below. The UK's National Information Centre ("UK ENIC", part of the European Network of National Information Centres) provides these services ("the UK ENIC services"). An external provider, currently Ecctis Limited, carries out the UK ENIC services through a contract with the Department for Education ("DfE").

5.2 The UK is a signatory to two international treaties regarding the recognition of academic qualifications: the Convention on the Recognition of Qualifications concerning Higher Education in the European Region, signed by the United Kingdom on 7th November 1997; and the Global Convention on the Recognition of Qualifications concerning Higher Education, signed by the United Kingdom on 25th November 2019 (together "the Conventions").

5.3 The Conventions aim to facilitate academic and professional mobility between states and enhance international cooperation and trust in higher education. The Conventions oblige signatory states to implement the recognition of qualifications from other signatory states and set out how recognition decisions shall be made. The Conventions also require signatory states each to establish and maintain a national information centre that facilitates access to information about higher education and qualifications. The UK ENIC services fulfil these information and recognition functions for the United Kingdom.

5.4 The UK ENIC services include:

- The issuing of 'statements of comparability' that evidence the comparability of overseas qualifications with UK qualifications. This is useful for access to higher education and to employment in the UK in various fields, including health and social care, business administration, law, ICT, construction, and engineering.
- The issuing of 'UK qualification reference statements' that provide information about an individual's UK qualification, such as qualification entry requirements, the level of the qualification, progression routes or information about the relevant issuing body. This can be useful to demonstrate the scope of a qualification outside or within the UK.
- The provision of a 'refugee bundle service' and a 'standard bundle service' that provide a specified number of 'statements of comparability' for relevant organisations, charities, and companies. Bundles provide a cheaper and more convenient option for those who make frequent applications for the 'statement of comparability' service.
- The provision of 'subscription packages', allowing subscribers access to a range of services including, but not limited to, access to an online database (or multiple online databases) for 5 to an unlimited number of users depending upon the subscription package selected.

5.5 Historically, it was considered that provision of UK ENIC services was reserved as it related to both immigration (as its primary purpose) and education. However, as a result of recent detailed discussions between the DfE, the Scottish Government, Welsh Government and the Department for the Economy, Northern Ireland, it has been concluded that the better view is that the UK ENIC services relate to the devolved matter of education.

5.6 Those discussions concluded that it was preferred that the status quo be maintained in relation to the management of the UK ENIC services. It was therefore agreed that the DfE will continue to manage the UK ENIC services on behalf of the devolved governments. Agency arrangements are to be agreed between the UK Government and the Scottish Government to record the position. This will document that the DfE continues to provide a UK-wide service. The Order, after it comes into force, will enable the UK Government and the Scottish Government to finalise and enter into the negotiated agency agreement to formalise this arrangement.

What was the previous policy, how is this different?

5.7 The UK ENIC services have been regarded as reserved historically and delivered on a UK-wide basis by the DfE. However, following discussions with the devolved Governments in relation to matters of competence, it has now been concluded that the better view is that it is a devolved matter.

5.8 This instrument specifies the functions of the Scottish Ministers in relation to the UK ENIC services that will continue to be exercised by a Minister of the Crown on their behalf.

5.9 There will be no impact on users of the UK ENIC services.

6. Legislative and Legal Context

How has the law changed?

6.1 Functions in relation to UK ENIC services had not previously been specified for the purpose of agency agreements.

6.2 This Order specifies those functions so that Scottish Ministers can enter into agency arrangements with a Minister of the Crown to provide for the exercise of these specified functions on their behalf.

Why was this approach taken to change the law?

6.3 Section 93(1) of the Scotland Act 1998 enables the Scottish Ministers to make arrangements for certain functions to be exercised on their behalf by a Minister of the Crown. Under section 93(3), functions which are to be subject to such arrangements must be specified in an Order in Council.

6.4 Following discussions with the Scottish Government it was agreed that that the DfE will continue managing the UK ENIC services on behalf of the Scottish Ministers, as has been the case, and that agency arrangements would be put in place to record the DfE continuing to provide a UK-wide service. This Order is a necessary step in putting in place the agreed agency arrangements.

7. Consultation

Summary of consultation outcome and methodology

7.1 No public consultation has been undertaken as there is no impact on users of the UK ENIC services or changes to the services offered.

7.2 The Devolved Governments have been consulted about this instrument. The instrument has been agreed with the Scottish Government.

8. Applicable Guidance

8.1 No guidance is required for this Instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this Instrument because it was determined that it is out of scope of the Better Regulatory Framework, as this Instrument does not directly regulate or deregulate business.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities, or voluntary bodies because this Instrument is not creating any new requirements for any of these sectors and does not impact an organisation carrying out its business activities wholly or in part as a private service.

9.3 The legislation does not impact small or micro businesses carrying out their business activities.

9.4 There is no, or no significant, impact on the public sector because this Instrument does not affect how public sector bodies operate.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 This instrument does not include a statutory review clause. The instrument will be reviewed and updated as required.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Secretary of State for Scotland has made the following statement regarding Human Rights:

"In my view the provisions of the Scotland Act 1998 (Agency Arrangements) (Specification) (Recognition of Qualifications) Order 2025 is compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").