POLICY NOTE

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

SI 2025/555

1. The above instrument is made by His Majesty, in exercise of the power conferred on Him by section 93(3) of the Scotland Act 1998 ("the 1998 Act") at the Court at Buckingham Palace, on 6 May 2025. The instrument is required to be made at a meeting of the Privy Council, then laid under negative procedure in both the Scottish Parliament and at the UK Parliament (under Type H procedure as set out at Schedule 7 of the 1998 Act).

Summary Box

The 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 awarding them. The functions are specified under powers at section 93 of the 1998 Act, 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.

Policy Objectives

2. On 13 May 2025, the Scottish Ministers laid the Scotland Act 1998 (Agency Arrangements) (Specification) (Recognition of Qualifications) Order 2025 ("**the Order**") at the Scottish Parliament and the UK Government laid the Order before the UK Parliament. This Order will enable the Scottish Government and the UK Government to put in place agency arrangements for a Minister of the Crown, in practice currently the Secretary of State for Education in the UK Government, to exercise relevant devolved functions in providing the UK ENIC services (see below) to customers in Scotland on behalf of the Scottish Ministers.

The UK ENIC services

3. The European Network of Information Centres (ENIC)[1] services offer a range of data and support linked to comparability of qualifications from abroad. The UK's National Information Centre ("UK ENIC") provides these services ("**the UK ENIC services**"). An external provider, Ecctis Limited, carries out the UK ENIC services through a contract with the UK Government's Department for Education ("**DfE**").

4. The UK ENIC services offer comparability statements for individuals seeking to demonstrate the comparability of their overseas qualifications with UK qualifications, or vice versa, for the purpose of work or study. The services are used, for example, by foreign nationals with overseas qualifications who wish to work or study in the UK, including in some cases refugees, and also by those with UK qualifications who

[1] https://www.enic.org.uk/what-is-recognition/lisbon-recognition-convention/enic-naric

wish to work or study abroad. The UK ENIC services also provide support for sector bodies and higher and further learning institutions considering applications from potential employees or students from outside the UK.

5. Individuals can apply for their own statement of comparability and organisations can be given access to comprehensive databases to make comparison judgements for themselves. The UK ENIC services are used heavily by a range of organisations in Scotland, particularly universities who use them to support consideration of applications from students from abroad. They are also used by services supporting refugees, as well as professional regulatory bodies such as the General Teaching Council for Scotland.

6. The UK ENIC services support obligations under two international treaties: the Global Convention on the Recognition of Qualifications concerning Higher Education, signed by the United Kingdom at Paris on 25th November 2019 and the Convention on the Recognition of Qualifications concerning Higher Education in the European Region, signed by the United Kingdom on 7th November 1997 (together "**the Conventions**").

7. 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 information and recognition functions for the United Kingdom.

8. Since 1997, the services have been delivered through a series of contracts procured and managed by the UK Government and operating UK-wide.

<u>The UK ENIC services offer</u>

9. The UK ENIC services include:

   a) '**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 including health and social care, business administration, law, ICT, construction, and engineering.

   b) '**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 overseas or in the UK.

   c) '**refugee bundle services**' and '**standard bundle services**' that provide a specified number of 'statements of comparability' for relevant organisations and companies. This is useful for those who make frequent applications for the 'statement of comparability' service. Bundles provide a cheaper and more convenient option than one-off 'statement of comparability' applications.

d) '**subscription packages**' allowing subscribers access to a range of services including, but not limited to, access to an online database(s) for five to an unlimited number of users depending upon the subscription package selected.

Scottish users

Individual applications in Scotland

10. Over the three years 2022 to 2024, there were just under 1,300 individual applications from residents in Scotland to the UK ENIC services. It is not known whether these individuals intended to use the statements of comparability in Scotland or elsewhere in the UK, and it is not possible to obtain this information, since the purpose of requesting the comparison is not recorded.

11. The figures above do not include individuals resident overseas who paid for services before coming to study or work in Scotland; such applications cannot be identified because the intended destination of an individual within the UK is not requested by the UK ENIC services at point of application. We do not know, and do not have a way of knowing, how many individuals from overseas paid for services to access employment or work in Scotland.

12. Scots residing overseas might use the UK ENIC services to obtain a qualification reference statement (in respect of a UK qualification) or use equivalent services in their intended destination country.

Use of the UK ENIC services by Scottish organisations

13. The UK ENIC services are used heavily by a range of organisations in Scotland, particularly universities who use it to support consideration of applications from students from abroad. It is also used by services supporting refugees, as well as professional regulatory bodies, such as the General Teaching Council for Scotland.

14. There are currently 29 member organisations based in Scotland. Members receive access to comprehensive databases which they can access directly at will to make comparison judgements for themselves. Members also have the option of submitting enquiries to the UK ENIC services membership team if they need additional specific help beyond what they have been able to achieve themselves.

15. There were a total of around 7,650 queries submitted by Scottish member organisations to UK ENIC services over the three years 2022 to 2024. However, this information does not reflect the usage of the actual databases through the membership scheme. Queries only arise where members need help with something which they have not been able to work out for themselves from reviewing the information in the database.

Devolution considerations

16. A new contract for provison of the UK ENIC services procured by DfE started on 28 March 2025. It was awarded to Ecctis Limited and runs for five years. At a late stage in the procurement process, the DfE, the Scottish Government, Welsh Government and Northern Ireland Executive, came to the shared view that the provision of the UK ENIC services relate to the devolved matter of education; historically, it was

considered that the provision of the UK ENIC services was reserved, as it related to both immigration (as its primary purpose) and education. This did not affect the procurement of the UK ENIC services.

17. The Recognition of Overseas Qualifications (Charges) (Scotland) Regulations 2025 (SSI 2025/67) ("**the Scottish Regulations**") came into force on 28 March 2025 at the same time as the new contract. The Scottish Regulations provide the statutory basis for Scottish customers to be charged for UK ENIC services from the start of the new contract.

The Order

18. During the preparation of the Scottish Regulations, the Scottish Ministers agreed in principle with UK Ministers from the DfE and the Scotland Office to make arrangements for the function of delivering UK ENIC services to be exercised on their behalf by a Minister of the Crown, pursuant to this Order. This enables continued provision of the services by a Minister of the Crown (via the contract with Ecctis Limited) to customers in Scotland, under an agency arrangement with the Scottish Ministers.

19. Prior to the section 93 Order coming into force on 1 July 2025, a Memorandum of Understanding has been agreed and is operating between the Scottish Government and UK Government. This Memorandum of Understanding sets out the understanding between the two Governments as regards the delivery of the UK ENIC services in Scotland by a Minister of the Crownon behalf of Scottish Ministers, until the Order and, subsequently, the agency agreement can come into force. The agency arrangements are likely to be on very similar terms to those agreed in the Memorandum of Understanding.

20. 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 Order specifies the functions in relation to which such arrangements can be made.

21. Article 1 of the Order provides that the Order extends UK-wide. The power in the 1998 Act extends UK-wide; these functions will be exercised territorially in Scotland and England, and possibly in other parts of the UK in some circumstances.

22. Article 2 of the Order defines "UK ENIC service" and the terms required within that definition.

23. Article 3 of the Order specifies the functions which are to be subject to agency arrangements. Article 3(2)(a) allows the Scottish Ministers to make arrangements with a Minister of the Crown to procure and manage any contract to deliver the UK ENIC services. Article 3(2)(b) allows the Scottish Ministers to make arrangements with a Minister of the Crown to handle all aspects of payments by, and refunds to, Scottish customers in respect of UK ENIC services. The wording encompasses the current practice whereby charges are paid by Scottish customers to the DfE, rather than directly to the contractor, but would also allow for the latter, should the practice change in future.

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

24. 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 Scotland Act 1998 (Agency Arrangements) (Specification) (Recognition of Qualifications) Order 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

25. The UK ENIC services support obligations under the Conventions.

26. The Order supports the Scottish Government's commitment to maintaining and advancing the high standards that Scotland shares with the EU. The Order indirectly supports the Scottish Government's policy to maintain alignment with the EU.

27. The UK ENIC services are important in supporting foreign students in progressing with studies at Scottish HEIs and foreign workers securing employment in Scotland. This is to the benefit of Scottish institutions, employers and the Scottish economy. It is also reciprocally important: Scots seeking to work or study abroad can use similar ENIC services in their destination country.

28. The Order is consistent with EU law and practice. The Order supports: maintaining and advancing the high standards that Scotland shares with the EU, through the mutual recognition and validation of qualifications; reciprocal access to EU markets for people and services, as explained above; and a future Scotland's re-accession by maintaining cross-border ties and supporting the movement of people across borders.

Consultation

29. No public consultation has been undertaken as there is not a substantial impact on users of the UK ENIC services or fundamental changes to the services offered. However, the Scottish Government engaged with three representative Scottish member organisations to confirm the use and value of the UK ENIC services.

30. The Scottish Government has had extensive engagement on the devolution considerations and the required legislation with DfE, the Welsh Government and the Department for the Economy, Northern Ireland. Agreement that the better view is that the services relate to the devolved matter of education was only reached shortly before implementation of the new contract, procurement for which began in April 2024. On this timeframe, and in these circumstances, there was no meaningful alternative option to present to Scottish stakeholders.

Impact Assessments

31. A Child Rights and Wellbeing Impact Assessment has been completed.

32. A Data Protection Impact Assessment has not been completed. This is because the Order and agency arrangements do not make any changes to the way personal data is gathered or processed.

33. An Equalities Impact Assessment has been completed.

34. No other impact assessments have been undertaken, as there is no realistic alternative to the Order as part of a package of measures to ensure the UK ENIC services continue to be delivered in Scotland, in support of the Conventions.

Financial Effects

35. The Order does not directly regulate or deregulate business. There is no significant impact on business, charities, or voluntary bodies because the Order does not create any new requirements for any of these sectors and do not impact an organisation carrying out its business activities wholly or in part as a private service.

36. The Order does not make any changes to the UK ENIC services or the charges for those services. The Order has been prepared quickly to facilitate the continuation of services which are used either directly by businesses and other organisations, or which support them indirectly.

37. Accordingly, the Minister for Higher and Further Education confirms that no BRIA is necessary for the Order, but any future changes to the UK ENIC services delivered in Scotland will be subject to appropriate impact assessment.

Scottish Government
Lifelong Learning and Skills Directorate

April 2025