Education and Gaelic Committee
Tuesday 10 November 2026
8th Meeting, 2026 (Session 6)

Note by the Clerk on the Qualifications Scotland and His Majesty's Chief Inspector of Education in Scotland (Miscellaneous Listings) Regulations 2026 [draft]

Overview

1. At this meeting, the Committee will take evidence from Alyn Smith, Minister for Innovation, Technology and Tertiary Education and officials on the Qualifications Scotland and His Majesty's Chief Inspector of Education in Scotland (Miscellaneous Listings) Regulations 2026 [draft] before debating a motion in the name of the Minister inviting the Committee to recommend approval of the instrument.

2. This is a draft Scottish Statutory Instrument (SSI), which requires approval by resolution of the Parliament before it can become law. More information about the instrument is summarised below:

   Title of instrument: Qualifications Scotland and His Majesty's Chief Inspector of Education in Scotland (Miscellaneous Listings) Regulations 2026 [draft]

   Laid under: Equality Act 2010, Consumer (Scotland) Act 2020 and United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024

   Laid on: 5 October 2026

   Procedure: Affirmative

   Lead committee to report by: 29 November 2026

Procedure

3. Under the affirmative procedure, an instrument must be laid in draft and cannot be made (or come into force) unless it is approved by resolution of the Parliament.

4. Once laid, the instrument is referred to:

   - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and

   - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.

5. The lead committee, taking account of any recommendations made by the DPLR Committee (or any other committee), must report within 40 days of the instrument being laid.

6. The normal practice is to have two agenda items when an affirmative instrument is considered by the lead committee:

   - an evidence session with the Cabinet Secretary or Minister and officials, followed by

   - a formal debate on a motion, lodged by the Cabinet Secretary or Minister, inviting the lead committee to recommend approval of the instrument.

7. Only MSPs may participate in the debate, which may not last for more than 90 minutes. If there is a division on the motion, only committee members may vote. If the motion is agreed to, it is for the Chamber to decide, at a later date, whether to approve the instrument

Delegated Powers and Law Reform Committee consideration

8. The DPLR Committee considered the instrument on 27 October 2026 and reported on it the same day. The DPLR Committee made no recommendations in relation to the instrument.

Purpose of the instrument

9. The instrument updates the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 and the Consumer (Scotland) Act 2020 (Relevant Public Authorities) Regulations 2024 following the establishment of Qualifications Scotland and His Majesty's Chief Inspector of Education in Scotland and the dissolution of the Scottish Qualifications Authority (“SQA”) by the Education (Scotland) Act 2025. The instrument removes references to the SQA and, where appropriate, adds Qualifications Scotland and His Majesty's Chief Inspector of Education in Scotland to the relevant enactments, ensuring statutory duties apply to the new bodies.

10. The Policy Note accompanying the instrument is included in the annexe. It includes a summary of consultation undertaken on the instrument, impact assessments carried out, and the anticipated financial effects.

Report

11. Following today’s meeting, a draft report will be prepared by the clerks. The Committee is invited to delegate to the Convener responsibility for approving the draft report for publication.

Clerks to the Committee
October 2026

Annexe: Scottish Government Policy Note

POLICY NOTE

THE QUALIFICATIONS SCOTLAND AND HIS MAJESTY'S CHIEF INSPECTOR OF EDUCATION IN SCOTLAND (MISCELLANEOUS LISTINGS) REGULATIONS 2026

2026 No.

The above instrument is made in exercise of the powers conferred by sections 153(3), 155(1)(c) and (2) and 207(4) of the Equality Act 2010, section 21(2) of the Consumer (Scotland) Act 2020 and section 19(2)(a) and (b) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024. The instrument is subject to the affirmative procedure.

Summary Box

The instrument updates the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 and the Consumer (Scotland) Act 2020 (Relevant Public Authorities) Regulations 2024 following the establishment of Qualifications Scotland and His Majesty's Chief Inspector of Education in Scotland and the dissolution of the Scottish Qualifications Authority ("SQA") by the Education (Scotland) Act 2025. The instrument removes references to the SQA and, where appropriate, adds Qualifications Scotland and His Majesty's Chief Inspector of Education in Scotland to the relevant enactments, ensuring statutory duties apply to the new bodies.

Policy Objectives

The Education (Scotland) Act 2025 ("the Act") established Qualifications Scotland as Scotland's public body responsible for delivering, awarding and accrediting qualifications, replacing the SQA. Additionally, the Act established the office of His Majesty's Chief Inspector of Education in Scotland as the body responsible for inspection and reporting on education provision in Scotland and conferred functions on His Majesty's Chief Inspector of Education in Scotland (the Chief Inspector), who is an office-holder within the Scottish Administration. This replaces the previous arrangement whereby HM inspectors of schools, appointed under the Education (Scotland) Act 1980, carried out inspection functions from within Education Scotland (an Executive Agency of Scottish Ministers). The instrument makes the following amendments to existing legislation in consequence of establishment of the new bodies, to ensure that reporting, accountability and governance arrangements operate as intended following implementation of the Act.

The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024

Section 19(1) of the United Nations Convention on the Rights of the Child (Incorporation)(Scotland) Act 2024 sets out the listed authorities subject to the reporting duty in section 18(1) of that Act.

The policy objective is to ensure that the reporting arrangements established under the 2024 Act apply to Qualifications Scotland and the Chief Inspector. The instrument therefore replaces references to the SQA with Qualifications Scotland and adds the Chief Inspector as a listed authority.

The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012

This instrument amends the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 to add the Chief Inspector as a listed authority for the purposes of the Scottish specific equality duties. The specific duties are designed to support listed authorities in meeting the public sector equality duty under section 149 of the 2010 Act. These duties include:

- To report progress on integrating the equality duty;
- To publish equality outcomes and report on progress made to achieve those outcomes;
- To assess and review policies and practices against the needs which form the equality duty;
- To gather and use employee information;
- To publish gender pay gap information;
- To publish statements on equal pay and occupational segregation;
- To consider whether award criteria and conditions in relation to public procurement should include consideration of whether a bid will help better performance of the equality duty;
- To publish these statements and reports in an accessible manner;
- To consider other matters which the Scottish Ministers may further specify.

The policy objective is to ensure that the Chief Inspector is subject to the same equality reporting framework as other relevant public authorities. The instrument therefore adds His Majesty's Chief Inspector of Education in Scotland as a listed authority and makes provision for modified reporting and publication dates to reflect the timing of its establishment.

The instrument also removes the SQA from the list of authorities following its dissolution. The policy objective is that Qualifications Scotland will also be subject to the Scottish specific equality duties however that is outwith the scope of the current instrument. Provision is currently made for this within the Framework Agreement between Qualifications Scotland and the Scottish Ministers.

The Consumer (Scotland) Act 2020 (Relevant Public Authorities) Regulations 2024

The Consumer (Scotland) Act 2020 (Relevant Public Authorities) Regulations 2024 specify the public authorities which are subject to the consumer duty under section 21 of the Consumer Scotland Act 2020.

As Qualifications Scotland has assumed the functions previously exercised by the SQA, the policy objective is to ensure that it remains subject to the same requirement to have regard to consumer interests when making strategic decisions about the exercise of its functions. The instrument therefore removes the SQA from the list of relevant public authorities and replaces it with Qualifications 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 Scottish Ministers certify that, in their view, the Qualifications Scotland and His Majesty's Chief Inspector of Education in Scotland (Miscellaneous Listings) 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

Officials undertook consultation as per the requirements within the enabling powers for this instrument. This included consultation with Qualifications Scotland and the Chief Inspector It also included the Children and Young People's Commissioner Scotland and Together Scotland regarding the UNCRC (Incorporation) (Scotland) Act 2024, the Equality and Human Rights Commissioner regarding the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, and Consumer Scotland regarding the Consumer (Scotland) Act 2020 (Relevant Public Authorities) Regulations 2024. All consultees were supportive of the proposed changes.

In addition, while there was no specific public consultation on this instrument, public consultation undertaken during development of the Education (Scotland) Act 2025 sought views on the creation of Qualifications Scotland and reform of education inspection arrangements. This instrument supports implementation of the policy decisions approved by the Scottish Parliament through the Education (Scotland) Act 2025.

Impact Assessments

In line with the requirements of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, a Children's Rights and Wellbeing Impact Assessment (CRWIA) has been completed. The assessment consluded that this instrument is considered to have has a positive impact on children's rights or wellbeing. The positive impacts identified in the CRWIA for the Education (Scotland) Act 2025 remain unchanged.

No further impact assessments were undertaken for this instrument specifically. However a range of impact assessments, including an equality impact assessment and BRIA, were completed for the Education (Scotland) Act 2025 concerning the estabishment of Qualifications Scotland and the Chief Inspector. These remain relevant and are available here: https://www.gov.scot/publications/education-bill-business-regulatory-impact-assessment/

Financial Effects

The instrument is not expected to incur any additional costs. A Financial Memorandum for the Education (Scotland) Act 2025 was completed and is available here: https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/education-scotland-bill/introduced/financial-memorandum.pdf

A supplementary Financial Memorandum was provided after Stage 2 and is available here: https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/education-scotland-bill/stage-2/spbill49afms062025accessible.pdf.

The Cabinet Secretary for Education, Culture and Gaelic confirm that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Education Directorate
28 September 2026