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Equalities, Human Rights and Civil Justice Committee

Subordinate legislation considered by the Equalities, Human Rights and Civil Justice Committee on 3 February 2026



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Equalities, Human Rights and Civil Justice Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

- a. matters relating to equal opportunities, and upon the observance of equal opportunities within the Parliament; and
- b. matters relating to human rights.
- c. matters relating to civil justice within the responsibility of the Cabinet Secretary for Justice and Home Affairs.

2. In these Rules

(a) “equal opportunities” includes the prevention, elimination or regulation of discrimination between persons on grounds of sex or marital status, on racial grounds or on grounds of disability, age, sexual orientation, language or social origin or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions; and

(b) “human rights” includes Convention rights (within the meaning of section 1 of the Human Rights Act 1998) and other human rights as for example contained in any international convention, treaty or other international instrument ratified by the United Kingdom.

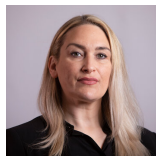


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Introduction

1. This report concerns the following three affirmative instruments:
 - Criminal Legal Aid and Assistance by Way of Representation (Miscellaneous Amendment) (Scotland) Regulations 2026 [draft].
 - Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2026 [draft].
 - First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure and Composition) (Miscellaneous Amendment) Regulations 2026 [draft].

The two legal aid instruments were laid on 15 December 2025, and the First-tier Tribunal instrument was laid on 17 December 2025. All are subject to the affirmative procedure - which means they cannot come into force unless they have been approved by a resolution of the Parliament.

2. It is for the Equalities, Human Rights and Civil Justice Committee, as lead committee, to decide whether or not to recommend approval of the instruments.

About the instruments

Criminal Legal Aid and Assistance by Way of Representation (Miscellaneous Amendment) (Scotland) Regulations 2026 [draft]

3. The Policy Note accompanying the instrument states that the aim is to improve access to justice by simplifying legal aid processes for solemn and summary criminal cases, standardising eligibility, and ensuring fair and sustainable remuneration for solicitors. These changes are intended to reduce complexity, support early resolution, and guarantee timely representation for those most in need.
4. These Regulations therefore amend several regulations made under the Legal Aid (Scotland) Act 1986. They remove assistance by way of representation (“ABWOR”) for summary criminal proceedings other than those following conviction, make summary criminal legal aid under section 24 of the 1986 Act the primary form of legal aid for such proceedings, amend some solemn procedure first instance preparation fees, and also make related provision including in respect of automatic legal aid and legal aid in matters of special urgency. The changes to solemn fees made by regulation 3(3) apply to any case where work is done (e.g. where a guilty plea is made) on or after 1 April 2026. The rest of the amendments apply to proceedings where the complaint was served on or after 14 December 2026.
5. Relevant schedules which include details of the proposed changes to fees are available via the below link:
 - [Payment Schedules](#)

Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2026 [draft]

6. The Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2026 remove means and merits tests for any child accessing assistance by Way of Representation (ABWOR) applications in relation to proceedings under the Children's Hearings (Scotland) Act 2011. This is intended to ensure that children in the hearings system can access legal representation without unnecessary barriers, while reducing administrative complexity for solicitors and the Scottish Legal Aid Board.
7. The Regulations amend five sets of legal aid regulations, bulleted below, to extend the scope and duration of ABWOR where made available, increase the initial authorised expenditure limit from £135 to £550 and provide that Care Leaver Payments are to be disregarded in the assessment of a person's disposable capital and income for the purpose of financial eligibility for civil or children's legal aid and advice and assistance.
 - [The Advice and Assistance \(Financial Limit\) \(Scotland\) Regulations 1993](#)
 - [The Advice and Assistance \(Scotland\) \(Consolidation and Amendment\) Regulations 1996](#)
 - [The Civil Legal Aid \(Scotland\) Regulations 2002](#)

- [The Advice and Assistance \(Assistance by Way of Representation\) \(Scotland\) Regulations 2003](#)
- [The Children's Legal Assistance \(Scotland\) Regulations 2013](#)

First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure and Composition) (Miscellaneous Amendment) Regulations 2026 [draft]

8. The purpose of the draft amending instrument is to make technical amendments to the Procedure Rules and Composition Rules applicable to the Local Taxation Chamber ('the LTC'). The LTC considers various appeals relating to non-domestic rates ("NDR"), water charges, civil penalties and council tax matters.
9. The Policy Note accompanying the instrument explains that it is intended that necessary consequential changes stemming from the Valuations (Proposals Procedure) (Scotland) Regulations 2025 are made and that resources of the LTC are deployed as efficiently as possible as a result of this instrument.
10. The Note also states that the amendments seek to allow for a more efficient withdrawals process.
11. Section 11(2) and paragraph 4(3) of schedule 9 of the Tribunals (Scotland) Act 2014 require the Scottish Ministers to consult the President of the Scottish Tribunals and such other persons as they consider appropriate before making regulations under those sections. The preamble and the Policy Note confirm that these statutory requirements have been complied with.

Consideration by the DPLR Committee

12. The Delegated Powers and Law Reform (DPLR) Committee is required to consider every instrument laid before the Parliament and decide whether to draw it to the attention of the Parliament on any of the “reporting grounds” set out in Rule 10.3 of the Parliament's standing orders.

Criminal Legal Aid and Assistance by Way of Representation (Miscellaneous Amendment) (Scotland) Regulations 2026 [draft]

13. The DPLR Committee considered the instrument at its meeting on 6 January 2026 and reported on it in its [2nd Report, 2026](#). The DPLR Committee agreed that it did not need to be drawn to the Parliament's attention on any of the reporting grounds.

Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2026 [draft]

14. The DPLR Committee considered the instrument on 13 January 2026 and reported on it in its [6th Report, 2026](#). The DPLR Committee agreed it did not need to be drawn to the Parliament's attention on any of the reporting grounds, however minor points were raised in relation to the following:

- In relation to this instrument, the Committee welcomes that the Scottish Government proposes to amend the Policy Note to explain that regulation 5(3)(i) and (4), which amend references to “the 2024 Regulations”, are correcting previous errors, as set out in the [Instrument Responses paper](#) for the meeting.
- Also in relation to this instrument, and as set out in the said Instrument Responses paper, the Committee welcomes that the Scottish Government intends, at the next suitable legislative opportunity:
 - to correct other erroneous references to “the 2024 Regulations” in the Civil Legal Aid (Scotland) Regulations 2002; and
 - to address a minor drafting point on regulation 6(4)(b).

15. On the basis of the Scottish Government responses to the minor points raised, the DPLR Committee agreed it did not need to be drawn to the Parliament's attention on any of the reporting grounds.

First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure and Composition) (Miscellaneous Amendment) Regulations 2026 [draft]

16. The DPLR Committee considered the instrument at its meeting on 13 January 2026 and reported on it in its [6th Report, 2026](#). The DPLR Committee agreed that it did not need to be drawn to the Parliament's attention on any of the reporting grounds.

Consideration by the Equalities, Human Rights and Civil Justice Committee

17. At its meeting on 3 February 2026, the Equalities, Human Rights and Civil Justice Committee took evidence on the instruments from the Minister for Victims and Community Safety and officials.
18. Following the oral evidence, the Minister moved the following motions—
 - [S6M-20270](#) - That the Equalities, Human Rights and Civil Justice Committee recommends that the Criminal Legal Aid and Assistance by Way of Representation (Miscellaneous Amendment) (Scotland) Regulations 2026 [draft] be approved.
 - [S6M-20216](#) - That the Equalities, Human Rights and Civil Justice Committee recommends that the Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2026 [draft] be approved.
 - [S6M-20225](#) - That the Equalities, Human Rights and Civil Justice Committee recommends that the First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure and Composition) (Miscellaneous Amendment) Regulations 2026 [draft] be approved.
19. The motions were agreed to.

Recommendation

20. Accordingly, the Committee recommends to the Parliament that the draft Criminal Legal Aid and Assistance by Way of Representation (Miscellaneous Amendment) (Scotland) Regulations 2026, the draft Legal Aid and Advice and Assistance (Miscellaneous Amendment) (Scotland) Regulations 2026 and the draft First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure and Composition) (Miscellaneous Amendment) Regulations 2026 be approved.
21. Although the Committee was content to recommend approval of all three sets of Regulations before it, members expressed concern about the lack of progress on the reform of civil legal assistance more generally as set out in the [Committee's report on Civil Legal Assistance](#).
22. In that report, amongst other things, the Committee expressed its disappointment in the absence of primary legislation this session to reform civil legal assistance.
23. The Committee recognises that primary legislation will not now be brought forward this session, however, it will have the opportunity to consider Regulations making provision about increasing fees for legal aid later this month.
24. This is, however, only one element of the necessary reform identified by the Committee. The Committee welcomes the Minister for Victims and Community

Safety's commitment to provide the Committee with a full picture of all the work the Scottish Government is undertaking on reform of civil legal assistance.

25. The Committee would welcome that update by the end of this month in order to enable it to reflect on it in the course of its consideration of its legacy report.

