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Social Justice and Social Security Committee

Social Security (Residence and Presence Requirements) (Miscellaneous Amendment) (Scotland) Regulations 2026 [draft]



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Social Justice and Social Security Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Social Justice, and matters related to homelessness and rough sleeping, fuel poverty, and welfare and debt advice services within the responsibility of the Cabinet Secretary for Housing.

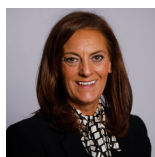


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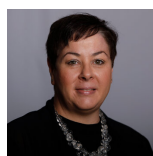
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Introduction

1. This report sets out the Social Justice and Social Security Committee's consideration of the [Social Security \(Residence and Presence Requirements\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2026 \[draft\]](#) at its meeting on 5 February 2026.
2. The [minutes](#) of the meeting have been published on the Committee's web page. The [Official Report](#) of the meeting is available on the Scottish Parliament's website.

Social Security (Residence and Presence Requirements) (Miscellaneous Amendment) (Scotland) Regulations 2026 [draft]

3. The [Social Security \(Residence and Presence Requirements\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2026 \[draft\]](#) were laid on 14 January 2026. This instrument is subject to the affirmative procedure, which means it is for the Committee to recommend to the Parliament whether the draft regulations should be approved.
4. According to the [Policy Note](#), the purpose of the instrument is to ensure people arriving in Scotland due to overseas crises, UK Government evacuation advice, or through approved humanitarian immigration routes can access social security assistance quickly and without disruption. They exempt eligible individuals from habitual residence and past presence tests across a range of disability, carer and family benefits, and extend permitted temporary absence rules to up to 26 weeks for those stranded abroad because of a crisis.
5. The Regulations also amend Best Start Grant rules to allow affected individuals to receive the higher rate of Pregnancy and Baby Payment for second or subsequent children where older children were born outside the UK. Together, the measures replace the need for repeated emergency legislation, support continuity of benefit payments in exceptional circumstances, are compatible with the UN Convention on Rights of a Child (UNCRC), and are expected to have minimal financial impact.

Consideration by the Delegated Powers and Law Reform Committee

6. The Delegated Powers and Law Reform Committee (DPLR) considered the Social Security (Residence and Presence Requirements) (Miscellaneous Amendment) (Scotland) Regulations 2026 [draft] on [20 January 2026](#) and reported on it in its [8th report, 2026](#) and raised no points in relation to the instrument.

Consideration by the Social Justice and Social Security Committee

7. At its meeting on 5 February 2026, the Social Justice and Social Security Committee heard from Shirley-Anne Somerville, Cabinet Secretary for Social Justice and supporting Scottish Government officials.
8. In her opening statement, the Cabinet Secretary stated that the regulations create a permanent framework allowing people fleeing overseas crises to access Scottish social security benefits immediately on arrival, replacing the need for repeated emergency legislation. The measures apply where the UK Government has advised British nationals to leave a country, arranged evacuations, or granted humanitarian leave, ensuring parity with UK-wide provision.
9. The regulations remove habitual residence and past presence requirements for eligible individuals, extend temporary absence rules to allow benefit payments to continue for up to 26 weeks for those stranded abroad, and amend Best Start Grant rules so families escaping crises can access the higher-rate Pregnancy and Baby Payment for subsequent children. Together, the changes strengthen Scotland's ability to respond compassionately and consistently to international crises, with commencement planned for 18 March 2026.
10. During the evidence session, Committee Members welcomed the regulations and asked whether there would be joint UK–Scottish monitoring of their impact, given similar measures have already been approved at UK level.
11. The Cabinet Secretary confirmed that the Scottish Government will continue to work closely with the UK Government at both ministerial and official level to monitor how the policy operates in practice.
12. Members also raised concerns about potential language barriers for those who might benefit from the regulations.
13. The Cabinet Secretary responded that Social Security Scotland works with stakeholder organisations to raise awareness and provide information in multiple languages and formats, with interpretation and translation services available in person, in writing and by phone to ensure accessibility.
14. Following the evidence session, the Cabinet Secretary for Social Justice moved motion S6M-20455. The motion was agreed to without division.

Recommendation

15. That the Social Justice and Social Security Committee recommends that the Social Security (Residence and Presence Requirements) (Miscellaneous Amendment) (Scotland) Regulations 2026 [draft] be approved.

