

**Criminal Justice Committee**  
**Wednesday 29 October 2025**  
**28th Meeting, 2025 (Session 6)**

## **Note by the Clerk on affirmative instruments**

### **Overview**

1. At this meeting, the Committee will take evidence from the Cabinet Secretary for Justice and Home Affairs and officials on the following draft Scottish Statutory Instruments (SSIs), before debating motions in the name of the Cabinet Secretary inviting the Committee to recommend approval of the instruments.
2. The instruments are part of a package of regulations to facilitate the transfer of the Police Appeals Tribunal into the Scottish Tribunals structure.
3. More information about each instrument is summarised in the Annexes to this paper:
  - Annexe A: The First-tier Tribunal for Scotland (Transfer of Functions and Members of the Police Appeals Tribunal) Regulations 2025 [draft]
  - Annexe B: The First-tier Tribunal for Scotland General Regulatory Chamber (Police Appeals) (Procedure) Regulations 2025 [draft]
  - Annexe C: The First-tier Tribunal for Scotland General Regulatory Chamber Police Appeals and Upper Tribunal for Scotland (Composition) Regulations 2025 [draft]

### **Procedure**

4. 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.
5. 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.
6. 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.
7. The normal practice is to have two agenda items when an affirmative instrument is considered by the lead committee:
  - an evidence session with the Minister and officials, followed by

- a formal debate on a motion, lodged by the Minister, inviting the lead committee to recommend approval of the instrument.
8. Where a single debate is held on two or more instruments, they are moved at the beginning of the debate, debated together, and separate questions are then put at the end of the debate.
  9. Only MSPs may participate in the debate, which may not last for more than 90 minutes. If there is a division on one of the motions, only committee members may vote. If the motions are agreed to, it is for the Chamber to decide, at a later date, whether to approve the instruments.

## **Report**

10. Following today's meeting, a draft report will be prepared by the clerks.
11. **The Committee is invited to delegate to the Convener and clerks responsibility for drafting a report and finalising it for publication.**

**Clerks to the Committee  
October 2025**

## **Annexe A: The First-tier Tribunal for Scotland (Transfer of Functions and Members of the Police Appeals Tribunal) Regulations 2025 [draft]**

**Laid under:** sections 20(2)(b), 28(2) and 79(1)(b) and paragraph 1(1) of schedule 2 of the [Tribunals \(Scotland\) Act 2014](#)

**Laid on:** 17 September 2025

**Procedure:** Affirmative

**Lead committee to report by:** 11 November 2025

**Commencement:** If approved, the instrument comes into force on 29 December 2025

### **Delegated Powers and Law Reform Committee consideration**

The DPLR Committee considered the instrument on 30 September 2025 and reported on it in its [68<sup>th</sup> Report, 2025](#). The DPLR Committee made no recommendations in relation to the instrument.

### **Purpose of the instrument**

The purpose of the instrument is to make provision for the transfer of the functions and members of the Police Appeals Tribunal to the General Regulatory Chamber of the First-tier Tribunal for Scotland.

The First-tier Tribunal was established by section 1 of the 2014 Act. It is organised into chambers according to the different subject-matters falling within the Tribunal's jurisdiction. The First-tier Tribunal General Regulatory Chamber will hear cases previously dealt with by the Police Appeals Tribunal.

The instrument sets out transitional provisions to manage the transfer of ongoing casework. The instrument also makes consequential amendments to relevant policing legislation.

The Policy Note accompanying the instrument is included below. It includes a summary of consultation undertaken on the instrument and the anticipated financial effects. The following impact assessments have been carried out:

- [business and regulatory impact assessment \(BRIA\)](#)
- [child rights and wellbeing impact assessment \(CRWIA\)](#)

## Scottish Government Policy Note

1. The above instrument was made in exercise of the powers conferred by sections 20(2)(b), 28(2) and 79(1)(b) and paragraph 1(1) of schedule 2 of the Tribunals (Scotland) Act 2014 (“the 2014 Act”). The instrument is subject to affirmative procedure.

2. In accordance with section 11(1)(a) and (b) of the 2014 Act, the Scottish Ministers have obtained the Lord President’s approval and have consulted such other persons as they considered appropriate.

### Summary Box

The purpose of the instrument is to make provision for the transfer of the functions and members of the Police Appeals Tribunal to the General Regulatory Chamber of the First-tier Tribunal for Scotland.

The First-tier Tribunal was established by section 1 of the 2014 Act. It is organised into chambers according to the different subject-matters falling within the Tribunal’s jurisdiction. The First-tier Tribunal General Regulatory Chamber will hear cases previously dealt with by the Police Appeals Tribunal.

The instrument sets out transitional provisions to manage the transfer of ongoing casework. The instrument also makes consequential amendments to relevant policing legislation.

### Policy Objectives

3. The 2014 Act allows Scottish Ministers to transfer the functions and members of tribunals listed in schedule 1 of that Act into the Scottish Tribunals. The Police Appeals Tribunal is listed at schedule 1 of the 2014 Act.

4. These regulations make provision for the transfer of the functions and members of the Police Appeals Tribunal. The functions of the Police Appeals Tribunal are to be transferred to the First-tier Tribunal for Scotland General Regulatory Chamber. Appeals on a point of law can be made from the First-tier Tribunal to the Upper Tribunal. There has been an awareness during the development of the regulations of the impact of the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025.

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

5. The Scottish Ministers have made the following statement regarding children’s rights.

6. 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 First-tier Tribunal for Scotland (Transfer of Functions

and Members of the Police Appeals Tribunal) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

### **EU Alignment Consideration**

7. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

### **Consultation**

8. A public consultation regarding these regulations took place from 30 October 2024 to 22 January 2025. There were seven responses to the consultation and five respondents gave permission to publish their responses. These are available on the Scottish Government website:

[https://consult.gov.scot/tribunals-and-administrative-justice/draft-regulations-police-first-tiertribunals/consultation/published\\_select\\_respondent](https://consult.gov.scot/tribunals-and-administrative-justice/draft-regulations-police-first-tiertribunals/consultation/published_select_respondent)

9. There was broad support in the responses for transferring current members of the Police Appeals Tribunal unto the Scottish Tribunals structure, with some respondents feeling that there would be benefit in maintaining the experience of existing members. Responses were also supportive of the proposals for an onward right of appeal to the Upper Tribunal in certain circumstances.

### **Impact Assessments**

10. An Equality Impact Assessments ("EQIA") has been completed for the suite of instruments regarding the transfer of the Police Appeals Tribunal. The EQIA found that transfer of the Police Appeals Tribunal will have a neutral impact on all service users of the tribunal. The impact is not expected to differ for different equality groups or for those with protected characteristics.

12. An impact assessment regarding Child Rights and Wellbeing has been completed.

### **Financial Effects**

12. A Business and Regulatory Impact Assessment ("BRIA") has been completed for the suite of instruments regarding the transfer of the Police Appeals Tribunal. This highlighted no impact on businesses. The published BRIA can be found on the Scottish Government website.

Scottish Government  
Justice Directorate  
September 2025

## **Annexe B: The First-tier Tribunal for Scotland General Regulatory Chamber (Police Appeals) (Procedure) Regulations 2025 [draft]**

**Laid under:** section 41(1) and paragraph 4(2) of schedule 9 of the [Tribunals \(Scotland\) Act 2014](#)

**Laid on:** 17 September 2025

**Procedure:** Affirmative

**Lead committee to report by:** 11 November 2025

**Commencement:** If approved, the instrument comes into force on 29 December 2025

### **Delegated Powers and Law Reform Committee consideration**

The DPLR Committee considered the instrument on 30 September 2025 and reported on it in its [68<sup>th</sup> Report, 2025](#). The DPLR Committee made no recommendations in relation to the instrument.

### **Purpose of the instrument**

The purpose of the instrument is to make provision for rules regarding the practice and procedure to be followed in the First-tier Tribunal for Scotland General Regulatory Chamber when hearing Police Appeals Cases.

The rules of procedure are set out in the schedule of the regulations.

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

- [business and regulatory impact assessment \(BRIA\)](#)
- [child rights and wellbeing impact assessment \(CRWIA\)](#)

### **Scottish Government Policy Note**

1. The above instrument was made in exercise of the powers conferred by section 41(1) and paragraph 4(2) of schedule 9 of the Tribunals (Scotland) Act 2014 (“the 2014 Act”). The instrument is subject to affirmative procedure.

2. In accordance with paragraph 4(3) of schedule 9 of the 2014 Act, the President of the Scottish Tribunals and other persons considered appropriate have been consulted.

## Summary Box

The purpose of the instrument is to make provision for rules regarding the practice and procedure to be followed in the First-tier Tribunal for Scotland General Regulatory Chamber when hearing Police Appeals Cases.

The rules of procedure are set out in the schedule of the regulations.

## Policy Objectives

3. The First-tier Tribunal for Scotland (“the First-tier Tribunal”) and the Upper Tribunal for Scotland (“the Upper Tribunal”) were established by the 2014 Act. The First-tier Tribunal is divided into chambers according to the subject matter of the case. Police Appeals Cases are to be transferred from the existing Police Appeals Tribunal and heard at first instance in the General Regulatory Chamber of the First-tier Tribunal.

4. The 2014 Act authorises rules to be made to regulate the practice and procedure of both the First-tier and Upper Tribunals. Paragraph 4(2) of Schedule 9 to the 2014 Act requires rules to be made by the Scottish Ministers until such time as responsibility for rulemaking passes to the Scottish Civil Justice Council and the Court of Session.

5. These regulations make provision for rules of procedure which are to apply in the General Regulatory Chamber when hearing Police Appeals Cases. The functions of the Police Appeals Tribunal have been transferred in the First-Tier Tribunal for Scotland (Transfer of Functions and Members of The Police Appeals Tribunal) Regulations 2025.

6. The rules of procedure for the First-tier Tribunal General Regulatory Chamber, insofar as possible, have been drawn from the existing rules of procedure heard by the Police Appeals Tribunal. For example, provision around notice of appeals, statements of case and a reply to the notice of appeal by the respondent is maintained. There has been an awareness during the development of the regulations of the impact of the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025.

7. There are a number of areas in which the new rules of procedure differ from the existing Police Appeals Tribunal rules. For example, rule 2 describes the overriding objective of the First-tier Tribunal. Provision is also made at rules 13 and 14 for electronic signature of documents and electronic sending of documents. Provision is made for the publication of decisions at draft rule 26. The policy intent behind these additional rules is to aid consistency within procedure rules in the Scottish Tribunals.

8. In addition, provision is made for an onward right of appeal to the Upper Tribunal. The policy intent of this is that upon transfer, the provisions of the 2014 Act will apply and an appeal to the Upper Tribunal will be available to appellants.

9. The Upper Tribunal has an existing set of generic procedure rules, and these are to be used for any Police Appeals Cases heard in the Upper Tribunal.

10. Further details of the policy objectives relating to the 2014 Act are set out in the Policy Memorandum which accompanied the Tribunals Bill. The link below shows the passage of the Bill through Parliament and includes the Policy Memorandum:

<https://www.parliament.scot/bills-and-laws/bills/s4/tribunals-scotland-bill>

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

11. The Scottish Ministers have made the following statement regarding children's rights.

12. 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 First-tier Tribunal for Scotland General Regulatory Chamber (Police Appeals) (Procedure) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

### **EU Alignment Consideration**

13. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

### **Consultation**

14. A public consultation regarding these regulations took place from 30 October 2024 to 22 January 2025. There were seven responses to the consultation and five respondents gave permission to publish their responses. These are available on the Scottish Government website:

[https://consult.gov.scot/tribunals-and-administrative-justice/draft-regulations-police-first-tier-tribunals/consultation/published\\_select\\_respondent](https://consult.gov.scot/tribunals-and-administrative-justice/draft-regulations-police-first-tier-tribunals/consultation/published_select_respondent)

15. There was strong support in the responses for allowing publication of decisions, so long as suitable safeguards and exceptions to full publication were provided for. There was also strong support for retaining the steps for a notice of appeal to be followed by a reply or statement of case from the respondent. Responses were also supportive of the proposals for an onward right of appeal to the Upper Tribunal in certain circumstances. The full consultation response and analysis is available on the Scottish Government website:

<https://www.gov.scot/publications/consultation-analysis-response-draft-regulations-transfer-police-appeals-tribunal-first-tier-tribunal-scotland/>

### **Impact Assessments**

16. An Equality Impact Assessments ("EQIA") has been completed for the suite of instruments regarding the transfer of the Police Appeals Tribunal. The EQIA found that transfer of the Police Appeals Tribunal will have a neutral impact on all service users of the tribunal. The impact is not expected to differ for different equality groups or for those with protected characteristics.

17. An impact assessment regarding Child Rights and Wellbeing has been completed.



**Financial Effects**

18. A Business and Regulatory Impact Assessment (“BRIA”) has been completed for the suite of instruments regarding the transfer of the Police Appeals Tribunal. This highlighted no impact on businesses. The published BRIA can be found on the Scottish Government website.

Scottish Government  
Justice Directorate  
September 2025

## **Annexe C: The First-tier Tribunal for Scotland General Regulatory Chamber Police Appeals and Upper Tribunal for Scotland (Composition) Regulations 2025 [draft]**

**Laid under:** sections 10(2), 38(1) and 40(1) of the [Tribunals \(Scotland\) Act 2014](#)

**Laid on:** 17 September 2025

**Procedure:** Affirmative

**Lead committee to report by:** 11 November 2025

**Commencement:** If approved, the instrument comes into force on 29 December 2025

### **Delegated Powers and Law Reform Committee consideration**

The DPLR Committee considered the instrument on 30 September 2025 and reported on it in its [68<sup>th</sup> Report, 2025](#). The DPLR Committee made no recommendations in relation to the instrument.

### **Purpose of the instrument**

These Regulations make provision as to the composition of the First-tier Tribunal for Scotland when dealing with police appeals in the General Regulatory Chamber. They also make provision as to the composition of the Upper Tribunal for Scotland when hearing police appeals.

These two tribunals were established by the Tribunals (Scotland) Act 2014. The First-tier Tribunal is divided into chambers according to the subject matter of the case, with the General Regulatory Chamber hearing a range of diverse matters which will include police appeals. Members of the tribunals can be legal members or judicial members in accordance with criteria set out in the Tribunals (Scotland) Act 2014 and regulations made under that Act. This instrument sets out which member or members may hear police appeals in the two tribunals.

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

- [business and regulatory impact assessment \(BRIA\)](#)
- [child rights and wellbeing impact assessment \(CRWIA\)](#)

## Scottish Government Policy Note

1. The above instrument was made in exercise of the powers conferred by sections 10(2), 38(1) and 40(1) of the Tribunals (Scotland) Act 2014 (“the 2014 Act”). The instrument is subject to affirmative procedure.
2. In accordance with paragraph 11(2) of the 2014 Act, the President of the Scottish Tribunals and other persons considered appropriate have been consulted.

### Summary Box

The purpose of the instrument is to make provision for the composition of the First-tier Tribunal for Scotland General Regulatory Chamber and the Upper Tribunal for Scotland when hearing Police Appeals Cases.

### Policy Objectives

3. The First-tier Tribunal for Scotland (“the First-tier Tribunal”) and the Upper Tribunal for Scotland (“the Upper Tribunal”) were established by the 2014 Act. The First-tier Tribunal is divided into chambers according to the subject matter of the case.
4. The functions of the Police Appeals Tribunal have been transferred by the First-Tier Tribunal for Scotland (Transfer of Functions and Members of The Police Appeals Tribunal) Regulations 2025. Police Appeals Cases are to be transferred and heard at first instance in the General Regulatory Chamber of the First-tier Tribunal. It is proposed that there be an onward right of appeal on a point of law to the Upper Tribunal.
5. These regulations make provision for the composition of the First-tier Tribunal and the composition of the Upper Tribunal when hearing Police Appeals Cases.
6. Regulation 2 provides that when deciding a Police Appeals Case, the First-tier Tribunal must consist of three legal members.
7. Regulation 3 provides that when deciding a Police Appeals Case, the Upper Tribunal must consist of:
  - (a) a member of the Upper Tribunal acting alone;
  - (b) two or three members of the Upper Tribunal;
  - (c) the Chamber President (except a temporary Chamber President), acting either alone or with no more than two members of the Upper Tribunal;
  - (d) the President of Tribunals, acting alone or with the Chamber President or with no more than two members of the Upper Tribunal; or
  - (e) the Lord President, acting alone or with the Chamber President or with no more than two members of the Upper Tribunal.
8. For the purposes of regulation 3, members of the Upper Tribunal may be legal members or judicial members of the Upper Tribunal. A judicial member means a judge of the Court of Session or a sheriff. The authority to determine the composition of the Upper Tribunal is delegated to the President of the Scottish Tribunals.

9. Further details of the policy objectives relating to the 2014 Act are set out in the Policy Memorandum which accompanied the Tribunals Bill. The link below shows the passage of the Bill through Parliament and includes the Policy Memorandum:

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10. The Scottish Ministers have made the following statement regarding children's rights.

11. 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 First-Tier Tribunal For Scotland General Regulatory Chamber Police Appeals And Upper Tribunal For Scotland (Composition) Regulations 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

### **EU Alignment Consideration**

12. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

### **Consultation**

13. A public consultation regarding these regulations took place from 30 October 2024 to 22 January 2025. There were seven responses to the consultation and five respondents gave permission to publish their responses. These responses are available on the Scottish Government website:

[https://consult.gov.scot/tribunals-and-administrative-justice/draft-regulations-police-first-tiertribunals/consultation/published\\_select\\_respondent](https://consult.gov.scot/tribunals-and-administrative-justice/draft-regulations-police-first-tiertribunals/consultation/published_select_respondent)

14. There was support for maintaining the pre-existing composition arrangements of the Police Appeals Tribunal of three legally qualified members. Those responses in favour of the current arrangements commented that the current composition is seen to work well. On the other hand, there was also support for the view that the First-tier Tribunal would benefit from a member with policing experience or expertise when deciding a Police Appeals Case. One response felt a lay member could add value to the First-tier Tribunal. The policy intent in having a composition of three legally qualified members is to maintain the composition arrangements of the Police Appeals Tribunal. This is perceived to be working well and allows proceedings to be determined by an appropriately qualified body.

15. Of the responses that offered a view, there was general support for the proposed Upper Tribunal composition arrangements.

### **Impact Assessments**

16. An Equality Impact Assessments ("EQIA") has been completed for the suite of instruments regarding the transfer of the Police Appeals Tribunal. The EQIA found that

transfer of the Police Appeals Tribunal will have a neutral impact on all service users of the tribunal. The impact is not expected to differ for different equality groups or for those with protected characteristics.

17. An impact assessment regarding Child Rights and Wellbeing has been completed.

**Financial Effects**

18. A Business and Regulatory Impact Assessment (“BRIA”) has been completed for the suite of instruments regarding the transfer of the Police Appeals Tribunal. This highlighted no impact on businesses. The published BRIA can be found on the Scottish Government website.

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