

Economy and Fair Work Committee
Wednesday 4 February 2026
5th Meeting, 2026 (Session 6)

Note by the Clerk on the Public Procurement (India Trade Agreement) (Miscellaneous Amendment) (Scotland) Regulations 2026 [draft]

Overview

1. At this meeting, the Committee will take evidence from the Minister for Public Finance and officials on the Public Procurement (India Trade Agreement) (Miscellaneous Amendment) (Scotland) 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: [Public Procurement \(India Trade Agreement\) \(Miscellaneous Amendment\) \(Scotland\) Regulations 2026 \[draft\]](#)

Laid under: [The Procurement Act 2023](#)

Laid on: 7 January 2026

Procedure: Affirmative

Lead committee to report by: 15 February 2026

Commencement: If approved, the instrument comes into force on 24 March 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 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.
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 to recommend approval 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 13 January 2026 and reported on it in its [6th Report, 2026](#). The DPLR Committee made no recommendations in relation to the instrument.

Purpose of the instrument

9. This instrument amends the Scottish public procurement regulations to fulfil international obligations and reflect the [Comprehensive Economic and Trade Agreement](#) (CETA) between the United Kingdom and India. It does this by inserting that agreement into the list of relevant international trade agreements in the schedules to the [Public Contracts \(Scotland\) Regulations 2015](#), the [Concession Contracts \(Scotland\) Regulations 2016](#) and the [Utilities Contracts \(Scotland\) Regulations 2016](#).
10. Suppliers from India will be given the same rights as UK suppliers for relevant contracts, for procurements that start on or after the date the agreement enters into force. Similar provisions are expected to be made by the UK and Welsh governments.
11. The Scottish Government's Policy Note accompanying the instrument is included in the annex.

Report

12. Following today's proceedings, a draft report will be prepared by the clerks. The Committee is invited to delegate responsibility for agreeing the draft report to the Convener.

Clerks to the Committee
January 2026

Annexe: Accompanying material

Scottish Government Policy Note

THE PUBLIC PROCUREMENT (INDIA TRADE AGREEMENT) (MISCELLANEOUS AMENDMENT) (SCOTLAND) REGULATIONS 2026

SSI 2026/XXX

The above instrument was made in exercise of the powers conferred by section 91(1) of the Procurement Act 2023. The instrument is subject to affirmative procedure.

Summary Box

This instrument makes amendments to Scottish public procurement regulations for the purpose of fulfilling international obligations and reflecting the Comprehensive Economic and Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and India.

Policy Objectives

This instrument gives effect in Scotland to international obligations.

The Republic of India and the UK signed a Comprehensive Economic and Trade Agreement (“CETA”) on 24 July 2025. This instrument inserts that agreement into the list of relevant International Trade Agreements contained in Schedules to the Public Contracts (Scotland) Regulations 2015, the Concession Contracts (Scotland) Regulations 2016 and the Utilities Contracts (Scotland) Regulations 2016.

Suppliers from the Republic of India will be afforded the same rights as suppliers from the United Kingdom for relevant contracts. This will apply to procurements that start on or after the date on which the agreement enters into force.

The UK Government is expected to make similar changes to procurement legislation in England and Northern Ireland, while the Welsh Government is expected to make similar changes to procurement legislation in Wales.

This instrument relies on an enabling power in section 91 of the UK Government’s Procurement Act 2023. Section 122 of the Act, which sets out the parliamentary procedures to which regulations made using powers in the Act are subject, erroneously refers at paragraph (14)(a) to an enabling power in section 90, rather than in section 91. There is no enabling power in section 90; this is an error which occurred during renumbering of the Bill’s clauses during its passage. A correction slip¹ clarifies that this should read section 91.

¹ https://www.legislation.gov.uk/ukpga/2023/54/pdfs/ukpgacs_20230054_en_001.pdf

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 Act), the Scottish Ministers certify that, in their view, the Public Procurement (India Trade Agreement) (Miscellaneous Amendment) (Scotland) Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

This SSI is not directly relevant to the Scottish Government's policy to maintain alignment with the EU, since the EU does not currently have a Free Trade Agreement with the Republic of India. This SSI is purely consequential on the CETA between the UK and India and means Scotland can fulfil international obligations.

Consultation

There has been no consultation on this SSI as the CETA is an international obligation which must be implemented. The Scottish Government does not have any substantive discretion in the matter.

Impact Assessments

Impact assessments have not been carried out in relation to this instrument as any impacts are brought about by the agreement concluded by the UK Government, rather than this instrument, which merely implements the technical provisions of that agreement.

Financial Effects

The Minister for Public Finance confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Scottish Procurement and Property Directorate
January 2026