

Equalities, Human Rights and Civil Justice Committee
Tuesday 24 February 2026
6th Meeting, 2026 (Session 6)

Note by the Clerk: negative instruments

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instruments (SSIs), which are subject to the negative procedure. The Committee is invited to consider the instruments and decide what, if any, recommendations to make.
2. Further information about each instrument is provided in the annexes to this paper:
 - Annexe A: 2026/33: The Upper Tribunal for Scotland (Procedure Rules) (Miscellaneous Amendment) Regulations 2026
 - Annexe B: 2026/34: The First-tier Tribunal for Scotland (Procedure Rules) (Miscellaneous Amendment) Regulations 2026
 - Annexe C: 2026/35: The Mental Health Tribunal for Scotland (Practice and Procedure) (No. 2) Amendment Rules 2026

Procedure

3. Under the negative procedure, an instrument is laid after it is made, and is subject to annulment by resolution of the Parliament for a period of 40 days beginning on the day it is laid.
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. Any MSP may propose, by motion, that the lead committee recommend annulment of the instrument. If such a motion is lodged, it must be debated at a meeting of the Committee, and the Committee must then report to the Parliament (by the advisory deadline referred to above).
6. If there is no motion recommending annulment, the lead committee is not required to report on the instrument.

Delegated Powers and Law Reform Committee consideration

7. The DPLR Committee considered all three instruments on 10 February 2026 and reported on them in its [17th report of 2026](#). The DPLR Committee made no recommendations in relation to any of the three instruments.

Committee consideration

8. So far, no motion recommending annulment of any instrument has been lodged.
9. Members are invited to consider each instrument and decide whether there are any points they wish to raise. If there are points to raise on an instrument, options include:
 - seeking further information from the Scottish Government (and/or other stakeholders) through correspondence, and/or
 - inviting the Minister (and/or other stakeholders) to attend the next meeting to give evidence on the instrument.
10. It would then be for the Committee, at its next meeting, to consider any additional information gathered and decide whether to make recommendations in relation to the instrument.
11. If members have no points to raise, the Committee should note the instrument (that is, agree that it has no recommendations to make).
12. However, should a motion recommending annulment of one of the instruments be lodged later in the 40-day period, it may be necessary for the Committee to consider the instrument again.

Clerks to the Committee
February 2026

Annexe A: 2026/33: The Upper Tribunal for Scotland (Procedure Rules) (Miscellaneous Amendment) Regulations 2026

Laid under: schedule 9 of the [Tribunals \(Scotland\) Act 2014](#) and sections 44(2) and (3) of the [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#)

Laid on: 29 January 2026

Procedure: Negative

Deadline for committee consideration: 2 March 2026

Deadline for Chamber consideration: 9 March 2026

Commencement: 1 April 2026

Purpose of the instrument

The Policy Note describes the purpose of the instrument as follows:

“The purpose of the amending instrument is to make rules relating to the raising and intimation of a United Nations Convention on the Right of the Child (‘UNCRC’) compatibility question arising in proceedings. Section 31(1) of the 2024 Act provides a definition of a compatibility question.¹ Section 34(1) of the 2024 Act provides that where a compatibility question arises in any proceedings before a court or tribunal, intimation must be given to the Lord Advocate, the Commissioner for Children and Young People in Scotland, and the Scottish Commission for Human Rights (“relevant authorities”).”

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 \(CRWIA\)](#)
- [Islands Community Impact Assessment \(ICIA\)](#) (please note that the ICIA had yet to be published online at the time of writing but will be accessible via this link before the meeting)

¹ Within a Scottish Tribunal context this is likely to be a question whether a public authority has acted (or proposed to act) in a way which is made unlawful by section 6(1) of the 2024 Act. Section 7(1), the provision which allows a person to either bring proceedings or rely upon the UNCRC requirements in the course of proceedings, refers directly to section 6(1) when it sets out those options. Reading section 31(1)(b) alongside section 6(1) and section 7(1) means that someone can raise a compatibility question (where there is no intervener) unless the court or tribunal considers it to be frivolous or vexatious under section 31(3).

Scottish Government Policy Note

2026/33: The Upper Tribunal for Scotland (Procedure Rules) (Miscellaneous Amendment) Regulations 2026

The amending instrument is titled the Upper Tribunal for Scotland (Procedure Rules) (Miscellaneous Amendment) Regulations 2026 (“the amending instrument”). The amending instrument seeks to make amendments to the Upper Tribunal for Scotland (Rules of Procedure) Regulations 2016, the Upper Tribunal for Scotland (Social Security Rules of Procedure) Regulations 2018, the Upper Tribunal for Scotland (Local Taxation Rules of Procedure) Regulations 2022, and the Upper Tribunal for Scotland (Bus Registration Appeals Rules of Procedure) Regulations 2024. The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraph 4(2) of schedule 9 of the Tribunals (Scotland) Act 2014 (“the 2014 Act”), section 44(2) and (3) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (“the 2024 Act”) and all other powers enabling them to do so. In accordance with paragraph 4(3) of schedule 9 of the 2014 Act, they have consulted the President of the Scottish Tribunals and such other persons as they considered appropriate prior to making the amending instrument. The amending instrument is subject to the negative procedure.

Summary

The purpose of the amending instrument is to make rules relating to the raising and intimation of a United Nations Convention on the Right of the Child (‘UNCRC’) compatibility question arising in proceedings. Section 31(1) of the 2024 Act provides a definition of a compatibility question. Section 34(1) of the 2024 Act provides that where a compatibility question arises in any proceedings before a court or tribunal, intimation must be given to the Lord Advocate, the Commissioner for Children and Young People in Scotland, and the Scottish Commission for Human Rights (“relevant authorities”).

Policy objectives

The policy intention is to make specific provision for the raising of compatibility questions by a party to proceedings, as well as intimation of that to the relevant authorities. In practice, the Upper Tribunal for Scotland is already able to provide for the raising and intimation of compatibility questions within their existing rules of procedure. However, Scottish Ministers believe that the amending instrument could have a positive impact by helping to give practical effect to the rights of children and young people.

Provision is also made for how the Upper Tribunal may refer a compatibility question to the Inner House of the Court of Session for determination, in accordance with section 35(2) of the 2024 Act.

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 Upper Tribunal for Scotland (Procedure Rules) (Miscellaneous Amendment) Regulations 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU alignment consideration

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

Consultation

In accordance with paragraph 4(3) of schedule 9 of the 2014 Act, Scottish Ministers have consulted the President of the Scottish Tribunals and such other persons as they considered appropriate prior to making these Regulations, including the relevant authorities. This consultation comprised of two phases, a consultation on indicative draft rules along with questions, followed by a consultation on the rules.

Impact assessments

An impact assessment regarding Child Rights and Wellbeing (CRWIA) and the Scottish Government has concluded that the proposal will have a positive impact on children's rights.

Additionally, an impact assessment regarding Islands Community (ICIA) has been completed.

The Scottish Government believes the amending instrument is not likely to have an effect on an island community which would be significantly different from its effect on other communities (both mainland and other island communities).

Officials have carried out a DPIA in relation to the onward sharing of personal data with the relevant authorities and no significant risks have been identified. The amending instrument does not introduce any new data sharing provisions.

The published CRWIA can be found on legislation.gov.uk and ICIA can be found on the Scottish Government website.

Financial effects

A Business and Regulatory Impact Assessment ("BRIA") has been completed for this instrument which highlighted no impact on businesses. The published BRIA can be found on legislation.gov.uk alongside the SSI.

Annexe B: 2026/34: The First-tier Tribunal for Scotland (Procedure Rules) (Miscellaneous Amendment) Regulations 2026

Laid under: schedule 9 of the [Tribunals \(Scotland\) Act 2014](#) and sections 44(2) and (3) of the [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#)

Laid on: 29 January 2026

Procedure: Negative

Deadline for committee consideration: 2 March 2026

Deadline for Chamber consideration: 9 March 2026

Commencement: 1 April 2026

Purpose of the instrument

The Policy Note describes the purpose of the instrument as follows:

“The purpose of the amending instrument is to make rules relating to the raising and intimation of a United Nations Convention on the Right of the Child (‘UNCRC’) compatibility question arising in proceedings. Section 31(1) of the 2024 Act provides a definition of a compatibility question.² Section 34(1) of the 2024 Act provides that where a compatibility question arises in any proceedings before a court or tribunal, intimation must be given to the Lord Advocate, the Commissioner for Children and Young People in Scotland, and the Scottish Commission for Human Rights (“relevant authorities”).”

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 \(CRWIA\)](#)
- [Islands Community Impact Assessment \(ICIA\)](#) (please note that the ICIA had yet to be published online at the time of writing but will be accessible via this link before the meeting)

²Within a Scottish Tribunal context this is likely to be a question whether a public authority has acted (or proposed to act) in a way which is made unlawful by section 6(1) of the 2024 Act. Section 7(1), the provision which allows a person to either bring proceedings or rely upon the UNCRC requirements in the course of proceedings, refers directly to section 6(1) when it sets out those options. Reading section 31(1)(b) alongside section 6(1) and section 7(1) means that someone can raise a compatibility question (where there is no intervener) unless the court or tribunal considers it to be frivolous or vexatious under section 31(3).

Scottish Government Policy Note

2026/34: The First-tier Tribunal for Scotland (Procedure Rules) (Miscellaneous Amendment) Regulations 2026

The amending instrument is titled The First-tier Tribunal for Scotland (Procedure Rules) (Miscellaneous Amendment) Regulations 2026 (“the amending instrument”).

The amending instrument seeks to make amendments to the First-tier Tribunal for Scotland Health and Education Chamber (Procedure) Regulations 2017, the First-tier Tribunal for Scotland General Regulatory Chamber Charity Appeals (Procedure) Regulations 2017, the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, the First-tier Tribunal for Scotland Tax Chamber (Procedure) Regulations 2017, the First-tier Tribunal for Scotland Social Security Chamber (Procedure) Regulations 2018, the First-tier Tribunal for Scotland General Regulatory Chamber Parking and Bus Lane Appeals (Rules of Procedure) Regulations 2020, the First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022, the First-tier Tribunal for Scotland General Regulatory Chamber (Police Appeals) (Procedure) Regulations 2025.

Summary

The purpose of the amending instrument is to make rules relating to the raising and intimation of a United Nations Convention on the Right of the Child (‘UNCRC’) compatibility question arising in proceedings. Section 31(1) of the 2024 Act provides a definition of a compatibility question. Section 34(1) of the 2024 Act provides that where a compatibility question arises in any proceedings before a court or tribunal, intimation must be given to the Lord Advocate, the Commissioner for Children and Young People in Scotland, and the Scottish Commission for Human Rights (“relevant authorities”).

Policy objectives

The policy intention is to make specific provision for the raising of compatibility questions by a party to proceedings, as well as intimation of that to the relevant authorities. In practice, the First-tier Tribunal for Scotland is already able to provide for the raising and intimation of compatibility questions within their existing rules of procedure. However, Scottish Ministers believe that the more specific arrangements set out by the amending instrument could have a positive impact by helping to give practical effect to the rights of children and young people.

Provision is also made for the procedure to be followed when the First-tier Tribunal refers a compatibility question to the Inner House of the Court of Session for determination, in accordance with section 35(2) of the 2024 Act.

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 First-tier Tribunal for Scotland (Procedure Rules) (Miscellaneous Amendment) Regulations 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU alignment consideration

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

Consultation

In accordance with paragraph 4(3) of schedule 9 of the 2014 Act, Scottish Ministers have consulted the President of the Scottish Tribunals and such other persons as they considered appropriate prior to making these Regulations, including the relevant authorities. This consultation comprised of two phases, a consultation on indicative draft rules along with questions, followed by a consultation on the rules.

The amending instrument has been adjusted further to this engagement.

Impact assessments

An impact assessment regarding Child Rights and Wellbeing (CRWIA) and the Scottish Government has concluded that the proposal will have a positive impact on children's rights.

Additionally, an impact assessment regarding Islands Community (ICIA) has been completed.

The Scottish Government believes the amending instrument is not likely to have an effect on an island community which would be significantly different from its effect on other communities (both mainland and other island communities).

Officials have carried out a DPIA in relation to the onward sharing of personal data with the relevant authorities and no significant risks have been identified. The amending instrument does not introduce any new data sharing provisions.

The published CRWIA can be found on legislation.gov.uk alongside the SSI and the ICIA can be found on the Scottish Government website.

Financial effects

A Business and Regulatory Impact Assessment ("BRIA") has been completed for the amending instrument which highlighted no impact on businesses. The published BRIA can be found on legislation.gov.uk alongside the SSI.

Annexe C: 2026/35: The Mental Health Tribunal for Scotland (Practice and Procedure) (No. 2) Amendment Rules 2026

Laid under: schedule 2 of the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) and sections 44(2) and (3) of the [United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#)

Laid on: 29 January 2026

Procedure: Negative

Deadline for committee consideration: 2 March 2026

Deadline for Chamber consideration: 9 March 2026

Commencement: 1 April 2026

Purpose of the instrument

The Policy Note describes the purpose of the instrument as follows:

“The purpose of the amending instrument is to make rules relating to the raising and intimation of a United Nations Convention on the Right of the Child (‘UNCRC’) compatibility question arising in proceedings. Section 31(1) of the 2024 Act provides a definition of a compatibility question.³ Section 34(1) of the 2024 Act provides that where a compatibility question arises in any proceedings before a court or tribunal, intimation must be given to the Lord Advocate, the Commissioner for Children and Young People in Scotland, and the Scottish Commission for Human Rights (“relevant authorities”).

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 \(CRWIA\)](#)
- [Islands Community Impact Assessment \(ICIA\)](#) (please note that the ICIA had yet to be published online at the time of writing but will be accessible via this link before the meeting)

³ Within a Scottish Tribunal context this is likely to be a question whether a public authority has acted (or proposed to act) in a way which is made unlawful by section 6(1) of the 2024 Act. Section 7(1), the provision which allows a person to either bring proceedings or rely upon the UNCRC requirements in the course of proceedings, refers directly to section 6(1) when it sets out those options. Reading section 31(1)(b) alongside section 6(1) and section 7(1) means that someone can raise a compatibility question (where there is no intervener) unless the court or tribunal considers it to be frivolous or vexatious under section 31(3).

Scottish Government Policy Note

2026/35: The Mental Health Tribunal for Scotland (Practice and Procedure) (No. 2) Amendment Rules 2026

The Mental Health Tribunal for Scotland (Practice and Procedure) (No. 2) Amendment Rules 2026 (“the amending instrument”) seeks to make amendments to the Mental Health Tribunal for Scotland (Practice and Procedure) (No. 2) Rules 2005.

The Scottish Ministers make the amending instrument in exercise of the powers conferred by paragraph 10 of schedule 2 of the Mental Health (Care and Treatment) (Scotland) Act 2003 and section 44(2) and (3) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (“the 2024 Act”).

Summary

The purpose of the amending instrument is to make rules relating to the raising and intimation of a United Nations Convention on the Right of the Child (‘UNCRC’) compatibility question arising in proceedings. Section 31(1) of the 2024 Act provides a definition of a compatibility question. Section 34(1) of the 2024 Act provides that where a compatibility question arises in any proceedings before a court or tribunal, intimation must be given to the Lord Advocate, the Commissioner for Children and Young People in Scotland, and the Scottish Commission for Human Rights (“relevant authorities”).

Policy objectives

The policy intention is to make specific provision for the raising of compatibility questions by a party to proceedings, as well as intimation of that to the relevant authorities. In practice, the Mental Health Tribunal for Scotland is already able to provide for the raising and intimation of compatibility questions within their existing rules of procedure. However, Scottish Ministers believe that the more specific arrangement set out by the amending instrument could have a positive impact by helping to give practical effect to the rights of children and young people.

Provision is also made for the procedure to be followed when the Mental Health Tribunal for Scotland refers a compatibility question to the Inner House of the Court of Session for determination, in accordance with section 35(2) of the 2024 Act.

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 Mental Health Tribunal for Scotland (Practice and Procedure) (No. 2) Amendment Rules 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU alignment consideration

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

Consultation

Scottish Ministers have consulted the President of the Mental Health Tribunal for Scotland and such other persons as they considered appropriate prior to making these Rules, including the relevant authorities. This consultation comprised of two phases, a consultation on indicative draft rules along with questions, followed by a consultation on the rules.

The amending instrument has been adjusted further to this engagement.

Impact assessments

An impact assessment regarding Child Rights and Wellbeing (CRWIA) and the Scottish Government has concluded that the proposal will have a positive impact on children's rights.

Additionally, an impact assessment regarding Islands Community (ICIA) has been completed.

The Scottish Government believes the amending instrument is not likely to have an effect on an island community which would be significantly different from its effect on other communities (both mainland and other island communities).

Officials have carried out a DPIA in relation to the onward sharing of personal data with the relevant authorities and no significant risks have been identified. The amending instrument does not introduce any new data sharing provisions.

The published CRWIA can be found on legislation.gov.uk alongside the SSI and the ICIA can be found on the Scottish Government website

Financial effects

A Business and Regulatory Impact Assessment ("BRIA") has been completed for this instrument which highlighted no impact on businesses. The published BRIA can be found on legislation.gov.uk alongside the SSI.