

Finance and Public Administration Committee
8th Meeting 2026 (Session 7)
Wednesday, 7 October 2026

Scottish Statutory Instruments relating to Air Departure Tax

Overview

1. This paper invites the Committee to take evidence from the Cabinet Secretary for Finance and Local Government in relation to the following two draft affirmative instruments, which were laid under the Air Departure Tax (Scotland) Act 2017 (the 2017 Act)—
 - Air Departure Tax (Scotland) Amendment Regulations 2026 [draft]; and
 - Air Departure Tax (Administration) (Scotland) Amendment Regulations 2026 [draft].
2. The policy objectives of each instrument are provided below.
3. The [Air Departure Tax \(Scotland\) Act 2017 \(Commencement No. 1\) Regulations 2026 \(SSI 2026/248\(c.23\)\)](#) were laid on 3 September 2026. The regulations bring key provisions of the 2017 Act into force on 15 September and 1 December 2026, enabling further implementation of the Air Departure Tax (ADT) framework. As the instrument is subject to the laid-only procedure, it does not require parliamentary approval, annulment or consideration by the lead committee. It is included here for context only given its relevance to implementation of the 2017 Act and the wider ADT framework.
4. The Annexe sets out details of how the Scottish Parliament scrutinises subordinate legislation, including the main parliamentary procedures that apply to instruments.

Air Departure Tax (Scotland) Amendment Regulations 2026 [draft]

Overview

Title of draft affirmative instrument: [Air Departure Tax \(Scotland\) Amendment Regulations 2026](#)

Laid under: [The Air Departure Tax \(Scotland\) Act 2017](#)

Laid on: 18 September 2026

Lead committee to report by: 12 November 2026

5. This instrument amends the 2017 Act to provide that certain passengers on flights beginning or ending at airports in designated areas of Scotland are not liable for ADT, make related consequential amendments, and amend provisions relating to aircraft used under a public service obligation.

Policy objectives

6. The [Policy Note](#) states that the instrument introduces an ADT exemption for passengers travelling in standard class on eligible domestic flights to or from the Highlands and Islands, with the aim of supporting connectivity in remote areas.
7. The instrument also amends the existing public service obligation exemption to ensure consistent treatment of connecting flights where a passenger's final destination is outside the UK.

Air Departure Tax (Administration) (Scotland) Amendment Regulations 2026 [draft]

Overview

Title of draft affirmative instrument: [Air Departure Tax \(Administration\) \(Scotland\) Amendment Regulations 2026](#)

Laid under: [The Air Departure Tax \(Scotland\) Act 2017](#)

Laid on: 18 September 2026

Lead committee to report by: 12 November 2026

8. This instrument amends the provisions concerning the administration of ADT in Part 4 (Payment, collection and management of tax) of the 2017 Act and make consequential amendments to section 44 and schedules 2 and 3 of the 2017 Act.

Policy objectives

9. The [Policy Note](#) states that the instrument makes a range of administrative changes to support the effective operation of ADT, including enabling Revenue Scotland to register taxpayers before the tax comes into force on 1 April 2027.
10. The instrument also makes provision for tax returns, including group returns, payment arrangements, accounting periods, tax representatives, and the transfer of taxable businesses as going concerns.

Public consultation on the instruments

11. A public consultation on the instruments and delivering ADT from 1 April 2027 was held between 29 January and 26 March 2026. This was followed by a programme of stakeholder engagement.
12. The Scottish Government states that the purpose of this consultation was to seek views on its proposals for a Highlands and Islands exemption from ADT and to invite views on the broader role of ADT. The Scottish Government received 64

responses, including from the aviation industry, tourism sector, environmental non-governmental organisations and local government.¹

13. A [consultation analysis](#) was published by the Scottish Government in July 2026. The document states that “the evidence, analysis and insight provided by respondents has helped shape the Scottish Government’s understanding of the aviation market and the potential impacts of the revised Highlands and Islands exemption”.

Business and Regulatory Impact Assessments

14. Impact assessments carried out in relation to both instruments include a Business and Regulatory Impact Assessment (BRIA) which explored two options, respectively:

- [BRIA: Highlands and Islands exemption](#): (1) not to introduce secondary legislation that amends the 2017 Act to make provision for an ADT Highlands and Islands exemption, and (2) to introduce secondary legislation that amends the 2017 Act to make provision for an ADT Highlands and Islands exemption.

The BRIA highlights the Scottish Government’s intention to introduce an ADT exemption for standard-class passengers travelling on eligible flights to or from the Highlands and Islands from 1 April 2027, when ADT comes into effect. It notes that the exemption is intended to support regional connectivity and provide certainty for airlines, other operators and passengers, helping to ensure a smooth transition from Air Passenger Duty to ADT.

The BRIA also notes that this option reflects feedback received from the Scottish Government’s consultation, as well as broader stakeholder engagement. Additionally, the Scottish Government considers this option will resolve the subsidy control issues which have previously prevented implementation of ADT.

- [BRIA: Administration Regulations](#): (1) not to introduce secondary legislation in advance of ADT’s introduction date, and (2) to introduce secondary legislation to enable Revenue Scotland to administer ADT effectively.

The BRIA states that the Scottish Government recommends introducing secondary legislation to enable the effective administration of ADT, with the aim of reducing uncertainty for airlines, aircraft operators and passengers, and supporting a smooth transition from Air Passenger Duty to ADT.

The BRIA also notes that this option reflects feedback received through the Scottish Government’s consultation, as well as broader stakeholder engagement.

¹ 24 from individuals and 40 from organisations.

Parliamentary scrutiny of the SSIs

The Delegated Powers and Law Reform Committee

15. The Delegated Powers and Law Reform (DPLR) Committee considered the two draft instruments at its meeting on 29 September 2026. The [Report on Subordinate Legislation considered by the DPLR Committee on 29 September 2026](#) states that it made no recommendations in relation to the instruments.

The Finance and Public Administration Committee

16. As the lead committee for consideration of these instruments, the Finance and Public Administration Committee has an opportunity to inform its consideration of the two motions by taking evidence on the instruments from the Cabinet Secretary for Finance and Local Government and her officials under Agenda item 3, before moving to formal consideration of the motions under Agenda item 4.
17. During formal consideration of the motions, Standing Orders provide that only the Cabinet Secretary and Members may participate in the debate.
18. The Committee is then invited to consider and agree the following two motions lodged in the name of the Cabinet Secretary for Finance and Local Government and supported by the Minister for Public Finance—
 - [S7M-01280](#) – that the Finance and Public Administration Committee recommends that the Air Departure Tax (Scotland) Amendment Regulations 2026 [draft] be approved.
 - [S7M-01281](#) – that the Finance and Public Administration Committee recommends that the Air Departure Tax (Administration) (Scotland) Amendment Regulations 2026 [draft] be approved.
19. Following its decision on the two instruments, the Committee will publish a report to the Parliament setting out details of its consideration.

Committee Clerking Team
October 2026

Scottish Parliament's scrutiny of subordinate legislation

Background

Subordinate legislation (also known as secondary or delegated legislation) is made under powers granted by an Act. It provides the detailed provisions needed to implement or give effect to the framework established in primary legislation.

Parliament's scrutiny of subordinate legislation

Subordinate legislation is normally made in the form of a Scottish Statutory Instrument (SSI). Unlike Bills, SSIs cannot be amended by the Parliament. The Parliament can only approve, annul or note an instrument, depending on the procedure that applies.

The Delegated Powers and Law Reform (DPLR) Committee considers the legal and technical aspects of an SSI. The relevant subject committee then considers its policy merits, taking account of any DPLR Committee recommendations.

Main SSI procedures

There are a number of different procedures for scrutinising SSIs which stem from the original Act. The most common types are:

- Affirmative
- Negative
- No procedure (laid only)

The choice of procedure is specified in the Act which delegates to the Scottish Ministers the power to make the subordinate legislation.

A summary of each of the procedures is set out below.

Affirmative procedure

An affirmative SSI cannot come into force unless approved by the Parliament.

The DPLR Committee and the lead committee consider the instrument. The lead committee may take evidence, including from the responsible minister, before recommending whether the Parliament should approve the SSI. The Parliament then votes on the motion to approve it.

Negative procedure

A negative SSI can be made and come into force unless the Parliament annuls it within the scrutiny period.

The DPLR Committee and the lead committee consider the instrument. If concerns are identified, the lead committee may recommend annulment, which is then decided by the Parliament.

No procedure (laid-only) procedure

A no procedure, or laid-only, SSI is laid before the Parliament but is not subject to parliamentary approval or annulment.