RA/S7/26/11/1

Rural Affairs Committee
Wednesday 18 November, 2026
11th Meeting, 2026 (Session 7)

Note by the Clerk on Scottish Land Commission (Number of Land Commissioners) Regulations 2026 (SSI 2026/284)

Overview

1. At this meeting, the Committee will consider the following Scottish Statutory Instrument (SSI), which is subject to the negative procedure. The Committee is invited to consider the instrument and decide what, if any, recommendations to make.

2. Donald MacKinnon MSP has lodged motion S7M- 01834 seeking to annul the instrument, which will be debated at the meeting.

3. As a motion to annul has been lodged, Gillian Martin MSP, Cabinet Secretary for Climate Action and Rural Affairs, will attend to give evidence on the instrument and also to respond to the debate.

4. More information about the instrument is summarised below:

   Title of instrument: Scottish Land Commission (Number of Land Commissioners) Regulations 2026 (SSI 2026/284)

   Laid under: Land Reform (Scotland) Act 2016

   Laid on: 8 October 2026

   Procedure: Negative

   Deadline for committee consideration: 30 November 2026 (Advisory deadline for any committee report to be published)

   Deadline for Chamber consideration: 2 December 2026 (Statutory 40-day deadline for any decision whether to annul the instrument)

   Commencement: 3 December 2026

Procedure

5. 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.

6. 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.

7. 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).

8. 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

9. The DPLR Committee considered the instrument on 27 October and reported on it in its 12th Report, 2026. The DPLR Committee made no recommendations in relation to the instrument.

Purpose of the instrument

10. The purpose of this instrument is to amend section 4(4)(a) of the Land Reform (Scotland) Act 2016 ("the 2016 Act") to reduce the number of Land Commissioners appointed to the Scottish Land Commission ("the Commission") from five to four.

11. 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. A Child Rights and Wellbeing Impact Assessment (CRWIA) has been prepared. The policy note states that "Human rights considerations have been taken into account through the impact assessment process" but concludes that no specific human rights impacts have been identified.

12. The policy note sets out that the instrument is "administrative in nature and relates solely to the membership of the Commission. It does not alter the Commission's functions, powers or duties. As a result, no other impact assessments were considered necessary." It also notes that the Cabinet Secretary for Climate Action and Rural Affairs has confirmed that no Business Regulatory Impact Assessment is required as the instrument has no financial effects beyond the budget impact for the Commission.

Evidence received

13. The Cabinet Secretary wrote to the Committee on 3 September 2026 to provide formal notice of the intention to lay the amending regulations. In the letter, the Cabinet Secretary sets out that following the resignation of one of the Commissioners earlier this year:

"Scottish Ministers considered the Commission's current and future functions, including those introduced through the Land Reform (Scotland) Act 2025, alongside the Scottish Government's wider programme of public service reform."

14. The Cabinet Secretary goes on to explain that the:

"approach has been discussed with the Commission, which is understanding of the proposal and taking appropriate steps to manage any impact this may have on the Commission. Scottish Ministers are satisfied that the Commission will continue to be able to discharge its statutory functions effectively with four Land Commissioners, alongside the Tenant Farming Commissioner and the new Land and Communities Commissioner role established by the 2025 Act. The decision is not expected to impact the effective governance, operation or delivery of the Commission's functions."

15. Papers for the Scottish Land Commissioner's Board meeting on 6 August 2026 note:

"The Cabinet Secretary has taken the decision not to recruit to the Land Commissioner vacancy created by Calum MacLeod stepping down, in the context of public service reform. This means the number of Land Commissioners will reduce from five to four."

16. Minutes of the Board meeting record that:

"Commissioners discussed the decision made by the Cabinet Secretary to reduce the number of Land Commissioners from five to four, noting the impact it has on board capacity."

17. The question of the impact of the decision to reduce the number of Commissioners was commented on in a written submission by Community Land Scotland to inform the Committee's recent introductory evidence session on land reform. In it, they raise concerns about the impact on the Commission's capacity and question the amount of money that would be saved.

18. The Committee also asked Hamish Trench, the Scottish Land Commission's Chief Executive, about the statutory requirement for Ministers to take every reasonable step to have at least one Gaelic speaking Commissioner during its 28 October meeting. He confirmed that, the decision not to replace Calum MacLeod proposed by this SSI means this will be a gap for the Commission. He recognised the link between land and language in Scotland and said that in future recruitment they would look to have a Gaelic speaker on the board. He also added that the Commission is currently consulting on their Gaelic language plan.

19. The Committee also received correspondence from Andy Wightman, on 4 November 2026 who argued that the proposed reduction in the number of Commissioners should be scrutinised not only for its impact on the Commission's capacity but also to determine whether it reflects a wider policy of reducing memberships across public bodies, and suggests the Committee should support annulment if it is an isolated decision.

Committee consideration

20. At its meeting on 4 November 2026, the Rural Affairs Committee considered the Scottish Land Commission (Number of Land Commissioners) Regulations 2026 (SSI 2026/284). The Committee heard Donald MacKinnon MSPs' reasoning for lodging the motion recommending annulment, agreed to write to the Cabinet Secretary and the Scottish Land Commission seeking further information, and agreed to consider the motion recommending annulment at its meeting 18 November.

21. On 5 November 2026, the Committee wrote to the Cabinet Secretary for Climate Action and Rural Affairs asking her to explain and justify the decision to reduce the number of Land Commissioners from five to four, including the effects on the Commission's capacity, any cost savings, the implications of losing a Gaelic-speaking Commissioner, and why the change was not addressed during scrutiny of the Land Reform (Scotland) Act 2025.

22. On 5 November 2026, the Committee wrote to the Scottish Land Commission asking it to explain the implications of reducing the number of Land Commissioners from five to four, including the effects on the Commission's work, governance, statutory functions, finances, and the loss of a Gaelic-speaking Commissioner.

23. On 10 November 2026, the Committee received a response from SLC,. It stated that that reducing the number of Land Commissioners from five to four will have only a limited impact on the Commission's effectiveness and governance, with a saving of around £10,000 per year. The letter acknowledged current gaps including Gaelic-language but confirmed that, in their view, the Commission remains able to fulfil its statutory functions and deliver most of its work.

24. On 13 November 2026, the Committee received a response from the Cabinet Secretary for Climate Action and Rural Affairs. The letter stated that reducing the number of Land Commissioners from five to four will not materially affect the Scottish Land Commission's effectiveness. She said this was due to the new Land and Communities Commissioner's appointment maintaining overall board size and expertise. She also argued that the change will deliver modest savings and maintain a proportionate governance structure. Whilst the Cabinet Secretary acknowledged the loss of Gaelic-speaking expertise she said this can be managed through future recruitment and existing commitments to Gaelic, such as the development of a Gaelic Language Plan, within the Commission.

25. At this meeting, under agenda item 2, Committee members can ask questions of the Cabinet Secretary and officials. Donald MacKinnon MSP will also have an opportunity to ask questions.

26. Under agenda item 3 Donald MacKinnon MSP will be invited to speak to and move the motion. Other members and the Cabinet Secretary will also have an opportunity to speak in the debate (which may not last for more than 90 minutes), before the convener puts the question on the motion. If there is a division, only members of the committee may vote.

27. If the motion is agreed to, there must be a Chamber debate, before the end of the 40-day period, on a motion to annul the instrument.

Report:

28. Following today's proceedings, the Committee will be invited to agree a report on the instrument.

Clerks to the Committee
November 2026

Annexe A: Scottish Government Policy Note

The Scottish Land Commission (Number of Land Commissioners) Regulations 2026 (SSI 2026/284)

The above instrument was made in exercise of the power conferred by section 4(5) of the Land Reform (Scotland) Act 2016. The instrument is subject to negative procedure.

Summary Box

The purpose of this instrument is to amend section 4(4)(a) of the Land Reform (Scotland) Act 2016 ("the 2016 Act") to reduce the number of Land Commissioners appointed to the Scottish Land Commission ("the Commission") from five to four.

Policy Objectives

Section 4(4) of the 2016 Act provides that the Commission is to consist of five Land Commissioners and the Tenant Farming Commissioner. The Land Reform (Scotland) Act 2025 ("the 2025 Act") establishes the role of Land and Communities Commissioner who will also be a member of the Commission.

Following the resignation of one of the Land Commissioners, the opportunity was taken to consider the membership of the Commission. Consideration was given to the Commission's current and future functions, including those introduced through the 2025 Act, alongside the Scottish Government's wider programme of public service reform and the need to ensure public bodies operate efficiently and effectively and make best use of public resources. This assessment concluded that the Commission would continue to be able to discharge its statutory functions effectively with four, rather than five, Land Commissioners.

In light of that assessment, the Cabinet Secretary for Climate Action and Rural Affairs decided to lay regulations which, subject to parliament's consideration, will amend the number of Land Commissioners, delivering a modest reduction in costs while maintaining the Commission's ability to carry out its statutory functions.

As the 2016 Act currently provides for five Land Commissioners, this instrument uses the power conferred by section 4(5) of the 2016 Act to reduce the number of Land Commissioners by one, from five to four. The instrument does not alter the functions, powers or duties of the Commission.

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 2024 Act"), the Scottish Ministers certify that, in their view, the Scottish Land Commission (Number of Land Commissioners) Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the 2024 Act.

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

Consultation
There was no statutory requirement to consult on the instrument. Scottish Government officials informed the Chair and Chief Executive of the Commission of the decision to lay regulations to amend the number of Land Commissioners. The Chair replied and acknowledged the rationale for the decision in the context of public service reform and efficiency measures, while noting the importance of maintaining expertise in relevant areas. No changes to the instrument were made as a result of these discussions.

Impact Assessments
A Child Rights and Wellbeing Impact Assessment has been prepared as required by the 2024 Act.

The instrument is administrative in nature and relates solely to the membership of the Commission. It does not alter the Commission's functions, powers or duties. As a result, no other impact assessments were considered necessary.

Human rights considerations have been taken into account through the impact assessment process. The initial analysis and, where relevant, pre-screening undertaken for the Equality Impact Assessment, Fairer Scotland Duty Assessment, Island Communities Impact Assessment and Consumer Duty Assessment, as well as the Children's Rights and Wellbeing Impact Assessment, did not identify any impacts on the rights, wellbeing or interests of individuals or communities. The instrument makes a technical amendment to reduce the number of Land Commissioners and does not affect individuals' rights, access to services or legal protections. No specific human rights impacts have therefore been identified.

Financial Effects
The Cabinet Secretary for Climate Action and Rural Affairs confirms that no BRIA is required as screening indicates that the instrument has no financial effects on the Scottish Government, local government or on business beyond the budget impact for the Commission.

Scottish Government
Local Government and Communities Directorate
1 October 2026