POLICY NOTE

THE ADULTS WITH INCAPACITY (PUBLIC GUARDIAN'S FEES) (SCOTLAND) REGULATIONS 2026

SSI 2026/81

The above instrument is made in exercise of the powers conferred by sections 7(2) and 86(2) of the Adults with Incapacity (Scotland) Act 2000. The instrument is subject to the negative procedure.

Summary Box

The purpose of the instrument is to increase fees for court users in the Office of the Public Guardian.

Policy Objectives

1. Court fees and fees for services offered by the High Court of Justiciary, the Court of Session, Sheriff Appeal Court, sheriff courts including the Sheriff Personal Injury Court, justice of the peace courts and the Office of the Public Guardian ("OPG") ensure that those who make use of the courts or the OPG meet or contribute towards the associated costs to the public purse where they can afford so to do.
2. The Scottish Government has long had a policy to move toward fees which more fully reflect the cost of the processes involved, with a well-targeted system of fee exemptions to protect access to justice. These Regulations put into effect that policy by raising court fees to ensure that the income raised reflects the costs incurred by the Scottish Courts and Tribunals Service ("SCTS") in providing the civil court system. It represents an interim step to protect the financial sustainability of SCTS. It introduces modest, inflation-based increases to court fees for 2026-2027 and from 2027 onward. The specific fee rises in this Order are of 3% on 1 April 2026, followed by a further 3% rise on 1 April 2027 in order to reflect inflationary pressures, and ensure the financial sustainability of SCTS.
3. These Regulations are one of a suite of 6 instruments that amend fees across the courts and the OPG.
4. The Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2024 are repealed and replaced by the Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2026. This instrument makes provision for the fees payable to the Public Guardian.
5. The Scottish Government is committed to ensuring a well-targeted system of fee exemptions exist. This means that those who require support, and in general this means those in receipt of legal aid, will not incur any court fees.

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

6. In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 ("the UNCRC Act"), the Scottish Ministers certify that, in their view, the Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the UNCRC 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 on these proposals was launched on 23 December 2025 which concluded on 30 January 2026.
9. Responses were received from the legal profession, insurers, consumer groups and government agencies. A consultation analysis and Scottish Government response paper will be published separately in response. Although the majority of those consulted opposed the increase in court fees, having fully considered the views of those who responded to the consultation, the Scottish Government has decided to implement the increases to court fees proposed in the consultation in order to reflect inflationary pressures, and ensure the financial sustainability of SCTS.
10. Preparatory work has now begun on a full review of the court fee structure, including the establishment of a Court Fee Working Group. The Group is expected to report in late 2026 or early 2027. A public consultation on its recommendations will follow.

Impact Assessments

1. An Equalities Impact Assessment was undertaken for the package of instruments giving effect to the increase in court fees.
2. A Business and Regulatory Impact Assessment has been completed and is attached. The impact of this policy on business is considered to be minimal. All litigants other than those exempted will bear the increase based on the type of action and the level of court which they use.
3. A Child Welfare Rights Impact Assessment has been carried out. The Scottish Ministers have confirmed that, in their view, the Adults with Incapacity (Public Guardian's Fees) (Scotland) Regulations 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the UNCRC Act.
4. Published impact assessments are available on http://www.gov.scot/publications

Financial Effects

11. The fee increases are expected to raise an additional £3 million in revenue per annum for the SCTS. This will support SCTS to maintain effective operations during a period of significant pressure on public finances.
12. It is expected that the fees will be introduced on 1 April 2026 and 1 April 2027. A further more comprehensive review of court fees will follow.

Scottish Government
Justice Directorate

February 2026