SCOTTISH STATUTORY INSTRUMENTS

2026 No. 30

CHILDREN AND YOUNG PERSONS

The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2026

Made - - - -	*23rd January 2026*
Laid before the Scottish Parliament	*27th January 2026*
Coming into force - -	*1st April 2026*

The Scottish Ministers make the following Rules in exercise of the power conferred by section 177 of the Children's Hearings (Scotland) Act 2011(**a**), section 44(2) and (3) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024(**b**) and all other powers enabling them to do so.

Citation and commencement

1. These Rules may be cited as the Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2026 and come into force on 1 April 2026.

Amendment of the Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013

2.—(1) The Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013(**c**) are amended as follows.

(2) After rule 100 (service of notification and documents) insert—

"Compatibility questions under the 2024 Act - raising, intimation and notice

101.—(1) In this rule—

"the 2024 Act" means the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024,

"compatibility question" has the meaning given by section 31(1) of the 2024 Act,

"person" means—

(a) the child,

(b) a relevant person,

(c) a safeguarder,

(**a**) 2011 asp 1.
(**b**) 2024 asp 1.
(**c**) S.S.I. 2013/194, to which there are amendments not relevant to these Regulations.

(d) an individual afforded the opportunity to participate under rule 2A.

"relevant authority" means—

(a) the Lord Advocate,

(b) the Commissioner for Children and Young People in Scotland,

(c) the Scottish Commission for Human Rights.

(2) This rule applies to—

(a) raising a compatibility question,

(b) intimation of a compatibility question to a relevant authority under section 34(1) of the 2024 Act,

(c) notice by a relevant authority of their intention to intervene in proceedings under section 34(2) of that Act.

(3) A compatibility question may be raised orally or in writing by a person at any stage in proceedings.

(4) A person raising a compatibility question must, so far as they are able to do so, set out the facts and circumstances and contentions of law on the basis of which it is alleged the compatibility question arises.

(5) On receiving a compatibility question under paragraph (3), the children's hearing must—

(a) if it considers that the claim does not set out in sufficient detail the basis on which a compatibility question arises, direct the person to set out the facts and circumstances and contentions of law on the basis of which it is alleged the compatibility question arises within such period as the children's hearing may determine,

(b) determine whether it considers that the claim is frivolous or vexatious in accordance with section 31(3) of the 2024 Act,

(c) if satisfied as to the basis of the compatibility question, direct the Reporter to intimate under section 34(1) of the 2024 Act, as soon as reasonably practicable in writing to the relevant authority the matters specified in paragraph (6).

(6) The matters to be intimated to the relevant authority are—

(a) the fact that a compatibility question has arisen in proceedings before the children's hearing,

(b) the details of the matters raised in proceedings and all documents relevant to the consideration of the compatibility question,

(c) the details of the compatibility question, and, if known at the time of intimation, the position of each party to proceedings in respect of the compatibility question,

(d) that to take part as a party to the proceedings the relevant authority must—

(i) give notice to the Reporter of their intention to do so within 14 days of receipt of the intimation or within such other period as the children's hearing may specify, where the children's hearing considers it appropriate,

(ii) within 7 days after the date of giving such notice, provide written submissions to the Reporter in respect of the compatibility question in such form and in accordance with such intimation requirements on other parties to proceedings (including any other relevant authorities) as the children's hearing may specify.

(7) The children's hearing must, if those submissions under paragraph (6)(d)(ii) are provided, in addition to intimation of the matters specified in paragraph (6), take any other appropriate steps to facilitate the relevant authority's participation as a party to proceedings so far as the proceedings relate to a compatibility question.".

(3) After rule 93 (Notifying decision of section 158 (compulsory supervision order: suspension pending appeal) hearing) insert—

"Reference of a compatibility question to the Court of Session

93A.—(1) In this rule—

"the 2024 Act" means the United Nations Convention on the Rights of the Child (Incorporate) (Scotland) Act 2024,

"compatibility question" has the meaning given by section 31(1) of the 2024 Act,

"relevant authority" means—

(a) the Lord Advocate,

(b) the Commissioner for Children and Young People in Scotland,

(c) the Scottish Commission for Human Rights.

(2) If the children's hearing refers any compatibility question which arises in proceedings before it to the Inner House of the Court of Session for determination, it must intimate this in writing to all parties and the relevant authorities.

(3) The intimation in writing to a relevant authority referred to in paragraph (2) who has not previously taken part as a party to proceedings must include—

(a) the details of the matters raised in the proceedings,

(b) the details of the compatibility question that has arisen and all documents relevant to the consideration of the compatibility question,

(c) if known at the time of intimation, the position of each party to the proceedings in respect of the compatibility question.".

NATALIE DON-INNES
Authorised to sign by the Scottish Ministers

St Andrews House,
Edinburgh
23rd January 2026

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013 ("the 2013 Rules") in consequence of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 ("the 2024 Act"). Section 34 of the 2024 Act requires that a compatibility question raised in any proceedings before a court or tribunal be intimated to the Lord Advocate, the Commissioner for Children and Young People in Scotland and the Scottish Commission for Human Rights.

Rule 2(2) of these Rules inserts a new rule 101, which sets out the procedure to be followed when a person raises a compatibility question with reference to sections 6 and 31 of the 2024 Act. This includes how a compatibility question should be raised, how this should be intimated to the Lord Advocate, the Commissioner for Children and Young People in Scotland and the Scottish Commission for Human Rights ("the relevant authorities") (in accordance with section 34(1) of the 2024 Act) and how the relevant authorities may subsequently intervene in proceedings that relate to a compatibility question, in accordance with section 34(2) of the 2024 Act.

Rule 2(3) of these Rules inserts a new Rule 93A, which sets out the obligation on the children's hearing to notify all parties to proceedings and relevant authorities if it refers a compatibility question to the Inner House of the Court of Session for determination.

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