POLICY NOTE

THE CHILDREN'S HEARINGS (SCOTLAND) ACT 2011 (RULES OF PROCEDURE IN CHILDREN'S HEARINGS) AMENDMENT RULES 2026

SSI 2026/30

The above instrument was made in exercise of the powers conferred by section 177 of the Children's Hearings (Scotland) Act 2011, section 44(2) and (3) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 and all other powers enabling them to do so. It is subject to negative procedure.

Summary Box

The UNCRC (Incorporation) (Scotland) Act 2024 introduced an obligation on all tribunals to refer a compatibility question to the relevant authorities, namely the Children and Young Persons Commissioner, the Scottish Human Rights Commission and the Lord Advocate. These amendments to the rules outline explicitly how this works within the Children's Hearings rules of procedure and sets the expectations in dealing with such a question.

Policy Objectives

The policy intention is ensure that the rules of procedure are clear regarding the existing obligations on children's hearings when a compatibility question under the UNCRC (Incorporation) (Scotland) Act 2024 arises. The rules outline who can raise a compatibility question, in what form and at what stage. The rules clarify the information that should be included in a compatibility question, and specify the process to be followed by a hearing in considering the terms of the compatibility question and intimating the compatibility question to the relevant authorities. The rules set time limits and expectations around the information that should be shared with the relevant authorities which will ensure consistency across tribunals.

The Rules specify the timescales for relevant authorities giving notice that they intend to intervene in proceedings, and that in doing so relevant authorities are only parties insofar as proceedings relate to the compatibility question. They require the children's hearing to facilitate the relevant authority's participation in proceedings as necessary.

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 Scottish Ministers certify that, in their view, the Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Amendment Rules 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

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

Consultation

The Scottish Government has consulted with relevant statutory bodies who are impacted by the relevant sections of the UNCRC (Incorporation) (Scotland) Act 2024 and the implementation of the Amendment Rules. 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.

The published CRWIA can be found on legislation.gov.uk alongside the SSI.

Financial Effects

The Minister for Children, Young People and The Promise confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Children and Families Directorate
January 2026