POLICY NOTE

THE CROFTING AND SCOTTISH LAND COURT ACT 2026 (COMMENCEMENT NO. 1) REGULATIONS 2026

SSI 2026/283 (C. 32)

The above instrument was made in exercise of the powers conferred by section 66(2) and (3) of the Crofting and Scottish Land Court Act 2026. The instrument is subject to negative procedure.

Summary Box

This instrument seeks to commence certain provisions of the Crofting and Scottish Land Court Act 2026 ("the 2026 Act").

The provisions to be commenced include:

Section 59 – this gives Sottish Ministers the power the make further regulations for and in connection with the merger of the Scottish Land Court and the Lands Tribunal for Scotland.

Section 60 and sub-paragraphs (1) to (3) of paragraph 9 of schedule 2 – allows suitably qualified members of the Lands Tribunal for Scotland to act in the Upper Tribunal for Scotland in the period before the merger.

Paragraph 27 of schedule 1 – enables the Court of Session to make rules to govern the practice and procedure to be followed in the merged court.

Policy Objectives

The instrument will enable Scottish Ministers to make further regulations for and in connection with the planned merger of the Scottish Land Court and the Lands Tribunal for Scotland. This will enable preparatory work for the merger to begin. As will the power given to the Court of Session to make court rules for the procedure to apply in the new expanded Scottish Land Court that is to be established. This instrument does not bring the merger into effect.

At present, the Chair of the Scottish Land Court, judges of the Court of Session and sheriffs are eligible to act as judicial members of the Upper Tribunal for Scotland by virtue of holding those offices. Members of the Lands Tribunal for Scotland are not currently eligible to act as members of the Upper Tribunal for Scotland. The instrument will allow suitably qualified members of the Lands Tribunal for Scotland to act in the Upper Tribunal for Scotland. The policy intent is to allow the Upper Tribunal for Scotland to benefit from the expertise of members of the Lands Tribunal for Scotland, allowing for more flexible deployment of judicial resource and increasing the resilience of the Upper Tribunal for Scotland. Following the planned merger at a later date of the Scottish Land Court and Lands Tribunal for Scotland into a new expanded Scottish Land Court, it is intended that suitably qualified members of the new court will be able to act in the Upper Tribunal for Scotland.

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

Not required. A Children's Rights and Wellbeing Impact Assessment was completed to support the introduction of the Crofting and Scottish Land Court Bill in June 2025. It is not required for commencement SSIs.

EU Alignment Consideration

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

Consultation

There was no consultation on these commencement regulations.

Impact Assessments

As this instrument implements provisions of the 2026 Act, no impact assessments were completed. A Children's Rights and Wellbeing Impact Assessment, an Equalities Impact Assessment, a Fairer Scotland Duty Assessment and an Islands Communities Impact Assessment were all completed for the introduction of the Crofting and Scottish Land Court Bill in June 2025 and are published on the Scottish Government website

Financial Effects

As these are commencement regulations to implement provisions within the 2026 Act, there is no legislative requirement to complete impact assessments for this instrument. A full Business and regulatory Impact Assessment was carried out during the development of the Crofting and Scottish Land Court Bill.

Scottish Government
Justice Directorate

October 2026