POLICY NOTE

THE FIRST-TIER TRIBUNAL FOR SCOTLAND LOCAL TAXATION CHAMBER AND UPPER TRIBUNAL FOR SCOTLAND (COMPOSITION AND RULES OF PROCEDURE) (MISCELLANEOUS AMENDMENT) REGULATIONS 2026

SSI 2026/161

The above instrument is made in exercise of the powers conferred by sections 10(2) and (3), 38(1) to (3), and paragraph 4((2) of schedule 9 of the Tribunals (Scotland) Act 2014 ("the 2014 Act") and section 44(2) and (3) of the United Nations Convention on the Rights of the Child (Incoproation) (Scotland) Act 2024. The instrument is subject to the affirmative procedure. The powers are exercised together by virtue of the Interpretaton and Legislative Reform (Scotland) Act 2010 and section 33(3) of that Act makes the instrument subject to the affirmative procedure.

Summary Box

These Regulations make amendments to the composition and rules of procedure of the Local Taxation Chamber of the First-tier Tribunal for Scotland and the Upper Tribunal for Scotland to support the hearing and determination of visitor levy appeals.

The purpose of the Regulations is:

- to make provision for the composition of the Local Taxation Chamber when dealing with visitor levy appeals;
- to amend the Local Taxation Chamber Rules of Procedure to include specific provision for visitor levy appeals;
- to make provision for appeals to the Upper Tribunal in relation to visitor levy appeals; and
- to ensure that the tribunal procedural framework supports the effective operation of the visitor levy appeals system.

The Regulations support the efficient administration of justice by seeking to ensure that visitor levy appeals are dealt with through clear, proportionate and specialist tribunal procedures within the Scottish Tribunals structure.

Policy Objectives

The purpose of these Regulations is to support the operation of the visitor levy appeals and reviews framework by making necessary amendments to tribunal composition and procedure.

The Visitor Levy (Scotland) Act 2024 provides for appeals to the First-tier Tribunal in relation to visitor levy matters. The Visitor Levy (Reviews and Appeals) (Scotland) Regulations 2026, read together with sections 45 and 72 of the Visitor Levy (Scotland) Act 2024, establish the circumstances in which such appeals may be brought. These Regulations make provision to ensure that the tribunals are able to determine those appeals effectively.

The Regulations amend the First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Composition) Regulations 2023 to provide flexibility in the composition of the Local Taxation Chamber when determining visitor levy appeals. In visitor levy cases, the Tribunal may be constituted by a legal member sitting alone, or by a legal member sitting with one other member. This allows cases to be allocated in a way that is proportionate to their complexity, while ensuring that each case is determined by a legal member.

The Regulations also amend the First-tier Tribunal for Scotland Local Taxation Chamber (Rules of Procedure) Regulations 2022 by inserting a new Part dealing specifically with visitor levy appeals. This new Part sets out procedural requirements, including:

- the information to be included in a notice of appeal;
- the requirement for the Tribunal to acknowledge receipt of an appeal; and
- provision for withdrawal of appeals.

Provision is also made for applications for permission to appeal from the First-tier Tribunal to the Upper Tribunal in visitor levy cases.

The Regulations also amend the Upper Tribunal for Scotland (Local Taxation Rules of Procedure) Regulations 2022 to make provision for appeals to the Upper Tribunal arising from visitor levy appeals. A new schedule sets out the procedural rules to be applied by the Upper Tribunal in such cases, including the powers of the Upper Tribunal to substitute its own decision or to remit matters back to a local authority where appropriate, as well as arrangements related to the holding of hearings and issuing notice of a decision, provision for seeking permission to appeal the decision of the Upper Tribunal and provision for raising of questions of compatibility with the United Nations Convention on the Rights of the Child..

Together, these amendments ensure that visitor levy appeals are supported by a clear, coherent and proportionate tribunal framework at both First-tier and Upper Tribunal level.

UNCRC Compatibility

The Scottish Ministers certify that, in their view, The First-tier Tribunal for Scotland Local Taxation Chamber and Upper Tribunal for Scotland (Composition and Rules of Procedure) (Miscellaneous Amendment) Regulations 2026 are compatible with the UNCRC requirements as defined in section 1(2) of the UNCRC (Incorporation) (Scotland) Act 2024.

EU Alignment Consideration

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

Consultation

Section 11 of the Tribunals (Scotland) Act 2014 and paragraph 4(2) of schedule 9 requires the Scottish Ministers to consult the President of the Scottish Tribunals before making regulations related to the composition of the First-tier Tribunal and regulations setting out rules of procedure. Such consultation has taken place.

Engagement also took place with officials from the Scottish Courts and Tribunals Service during the development of the framework for visitor levy appeals to the Scottish Tribunals.

Impact Assessments

A Child Rights and Wellbeing Impact Assessment has been carried out in relation to these Regulations.

Financial Effects

A Business and Regulatory Impact Assessment has been completed as the instrument has some financial effects on the Scottish Government, local government or on business.

Scottish Government
Local Government and Communities
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