SCOTTISH STATUTORY INSTRUMENTS

2026 No. 33

TRIBUNALS AND INQUIRIES

The Upper Tribunal for Scotland (Procedure Rules) (Miscellaneous Amendment) Regulations 2026

Made - - - -	*27th January 2026*
Laid before the Scottish Parliament	*29th January 2026*
Coming into force - -	*1st April 2026*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by paragraph 4(2) of schedule 9 of the Tribunals (Scotland) Act 2014(**a**) ("the 2014 Act"), 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.

In accordance with paragraph 4(3) of schedule 9 of the 2014 Act, the Scottish Ministers have consulted with the President of Tribunals and such other persons as the consider appropriate.

Citation and commencement

1. These Regulations may be cited as the Upper Tribunal for Scotland (Procedure Rules) (Miscellaneous Amendment) Regulations 2026 and come into force on 1 April 2026.

Amendment of the Upper Tribunal for Scotland (Rules of Procedure) Regulations 2016

2.—(1) The Upper Tribunal for Scotland (Rules of Procedure) Regulations 2016(**c**) are amended as follows.

(2) In the Upper Tribunal for Scotland Rules of Procedure 2016 as set out in the schedule—

(a) in rule 1 (interpretation)—

(i) after the definition of "the 2014 Act" insert—

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

(ii) after the definition of "appellant" insert—

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

(iii) after the definition of "proceedings" insert—

(**a**) 2014 asp 10.
(**b**) 2024 asp 1.
(**c**) S.S.I. 2016/232, to which there are amendments not relevant to these Regulations.
(**d**) 2024 asp 1.

""relevant authorities" means the Lord Advocate, the Commissioner for Children and Young People in Scotland or the Scottish Commission for Human Rights;",

(b) after rule 7 (case management) insert—

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

7A.—(1) This rule applies to—

(a) raising a compatibility question,

(b) intimation of a compatibility question to the relevant authorities 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.

(2) A compatibility question may be raised by a party at any stage in the proceedings.

(3) Where a party raises a compatibility question, they must, so far as the party is able to do so, set out in sufficient detail—

(a) the facts and circumstances, and

(b) the contentions of law,

on the basis of which it is claimed that the compatibility question arises.

(4) On receiving a compatibility question under paragraph (3), the Upper Tribunal must—

(a) if it considers that the basis on which the compatibility question is said to have arisen is not set out in sufficient detail, to meet the overriding objective, direct the party to set out the facts and circumstances and contentions of law on the basis of which it is alleged the compatibility question arises to the Upper Tribunal, within such period as it may determine,

(b) determine if considers that the compatibility question is frivolous or vexatious with reference to section 31(3) of the 2024 Act,

(c) if satisfied as to the basis of the compatibility question, intimate under section 34(1) of the 2024 Act in writing to each relevant authority the matters specified in paragraph (5).

(5) The matters to be intimated to each relevant authority are—

(a) the fact that a compatibility question has arisen in proceedings before the Upper Tribunal,

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

(c) the details of the compatibility question that has arisen 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 in the proceedings as a party the relevant authority must—

(i) give notice to the Upper Tribunal of their intention to do so within 14 days of receipt of the intimation made under this rule, or within such other period as the Upper Tribunal may specify, should it be satisfied there are exceptional circumstances which require the time period to be adjusted,

(ii) within 7 days after the date of such notice, provide written submissions to the Upper Tribunal 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 Upper Tribunal may specify.

(6) The Upper Tribunal must provide each relevant authority with all documents relevant to the consideration of the compatibility question.

(7) The Upper Tribunal must, if those submissions under paragraph (5)(d)(ii) are provided, take steps to allow a relevant authority to take part as a party to proceedings so far as the proceedings relate to the compatibility question.

(8) The Upper Tribunal may fix a hearing to consider a compatibility question as a separate hearing from any other hearing in the proceedings.

(9) The Upper Tribunal may sist the proceedings under rule 7(3)(k) (case management) if it considers it necessary to do so while the compatibility question is being determined.

(10) Where a relevant authority does not take part as a party to proceedings before the Upper Tribunal, it is not precluded from intervening in any subsequent appeal to the Court of Session, so far as those proceedings relate to a compatibility question.

(11) Where a relevant authority does not take part as a party to proceedings and that relevant authority requests to be notified of the outcome of proceedings in respect of the compatibility question, including regarding any subsequent appeal which relates to the determination of the compatibility question, the Upper Tribunal must notify the relevant authority of this as soon as practicable.",

(c) after rule 33 (Upper Tribunal's consideration of application for permission to appeal) insert—

"Reference of compatibility question to the Court of Session

33A.—(1) When the Upper Tribunal refers a 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.

(2) The intimation in writing to relevant authorities under paragraph (1) who have not previously joined proceedings as a party must include—

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

(b) the details of the compatibility question that has arisen,

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

(3) The Upper Tribunal must provide each relevant authority under paragraph (1) which has not previously joined proceedings as a party with all documents relevant to the consideration of the compatibility question.

(4) Where a relevant authority does not take part as a party to proceedings before the Upper Tribunal, that relevant authority is not precluded from taking part as a party in any subsequent reference to the Inner House of the Court of Session.".

Amendment of the Upper Tribunal for Scotland (Social Security Rules of Procedure) Regulations 2018

3.—(1) The Upper Tribunal for Scotland (Social Security Rules of Procedure) Regulations 2018(**a**) are amended as follows.

(2) In the Upper Tribunal for Scotland Social Security Rules of Procedure 2018 as set out in the schedule—

(a) in rule 1(1) (interpretation)—

(**a**) S.S.I. 2018/274, to which there are amendments not relevant to these Regulations.

(i) after the definition of "the 2018 Act" insert—

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

(ii) after the definition of "appellant" insert—

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

(iii) after the definition of "proceedings" insert—

""relevant authorities" means the Lord Advocate, the Commissioner for Children and Young People in Scotland or the Scottish Commission for Human Rights;",

(b) after rule 8 (case management) insert—

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

8A.—(1) This rule applies to—

(a) raising a compatibility question,

(b) intimation of a compatibility question to the relevant authorities 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.

(2) A compatibility question may be raised by a party at any stage in the proceedings.

(3) Where a party raises a compatibility question, they must, so far as the party is able to do so, set out in sufficient detail—

(a) the facts and circumstances, and

(b) the contentions of law

on the basis of which it is claimed that the compatibility question arises.

(4) On receiving a compatibility question under paragraph (3), the Upper Tribunal must—

(a) if it considers that the basis on which a compatibility question is said to have arisen is not set out in sufficient detail, to meet the overriding objective, direct the party to set out the facts and circumstances and contentions of law on the basis of which it is alleged the compatibility question arises to the Upper Tribunal, within such period as it may determine,

(b) determine if considers that the compatibility question is frivolous or vexatious with reference to section 31(3) of the 2024 Act,

(c) if satisfied as to the basis of the compatibility question, intimate under section 34(1) of the 2024 Act in writing to each relevant authority the matters specified in paragraph (5).

(5) The matters to be intimated to each relevant authority are—

(a) the fact that a compatibility question has arisen in proceedings before the Upper Tribunal,

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

(c) the details of the compatibility question that has arisen 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 in the proceedings as a party the relevant authority must—

(**a**) 2024 asp 1.

(i) give notice to the Upper Tribunal of their intention to do so within 14 days of receipt of the intimation made under this rule, or within such other period as the Upper Tribunal may specify, should it be satisfied there are exceptional circumstances which require the time period to be adjusted,

(ii) within 7 days after the date of such notice, provide written submissions to the Upper Tribunal 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 Upper Tribunal may specify.

(6) The Upper Tribunal must provide each relevant authority with all documents relevant to the consideration of the compatibility question.

(7) The Upper Tribunal must, if those submissions under paragraph (5)(d)(ii) are provided, take steps to allow a relevant authority to take part as a party to proceedings so far as the proceedings relate to the compatibility question.

(8) The Upper Tribunal may fix a hearing to consider a compatibility question as a separate hearing from any other hearing in the proceedings.

(9) The Upper Tribunal may sist the proceedings under rule 8(3)(k) (case management) if it considers it necessary to do so while the compatibility question is being determined.

(10) Where a relevant authority does not take part as a party to proceedings before the Upper Tribunal, it is not precluded from intervening in any subsequent appeal to the Court of Session, so far as those proceedings relate to a compatibility question.

(11) Where a relevant authority does not take part as a party to proceedings and that relevant authority requests to be notified of the outcome of proceedings in respect of the compatibility question, including regarding any subsequent appeal which relates to the determination of the compatibility question, the Upper Tribunal must notify the relevant authority of this as soon as practicable.",

(c) after rule 31 (Upper Tribunal's consideration of application for permission to appeal) insert—

"Reference of compatibility question to the Court of Session

31A.—(1) When the Upper Tribunal refers a 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.

(2) The intimation in writing to relevant authorities under paragraph (1) who have not previously joined proceedings as a party must include—

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

(b) the details of the compatibility question that has arisen,

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

(3) The Upper Tribunal must provide each relevant authority under paragraph (1) which has not previously joined proceedings as a party with all documents relevant to the consideration of the compatibility question.

(4) Where a relevant authority does not take part as a party to proceedings before the Upper Tribunal, that relevant authority is not precluded from taking part as a party in any subsequent reference to the Inner House of the Court of Session.".

Amendment of the Upper Tribunal for Scotland (Local Taxation Rules of Procedure) Regulations 2022

4.—(1) The Upper Tribunal for Scotland (Local Taxation Rules of Procedure) Regulations 2022(**a**) are amended as follows.

(2) In the Upper Tribunal for Scotland Local Taxation Rules of Procedure 2022 as set out in schedule 1—

(a) in rule 1(1) (interpretation)—

(i) after the definition of "the 2014 Act" insert—

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

(ii) after the definition of "appellant" insert—

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

(iii) after the definition of "proceedings" insert—

""relevant authorities" means the Lord Advocate, the Commissioner for Children and Young People in Scotland or the Scottish Commission for Human Rights,",

(b) after rule 8 (case management) insert—

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

8A.—(1) This rule applies to—

(a) raising a compatibility question,

(b) intimation of a compatibility question to the relevant authorities 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.

(2) A compatibility question may be raised by a party at any stage in the proceedings.

(3) Where a party raises a compatibility question, they must, so far as the party is able to do so, set out in sufficient detail—

(a) the facts and circumstances, and

(b) the contentions of law,

on the basis of which it is claimed that the compatibility question arises.

(4) On receiving a compatibility question under paragraph (3), the Upper Tribunal must—

(a) if it considers that the basis on which the compatibility question is said to have arisen is not set out in sufficient detail, to meet the overriding objective, direct the party to set out the facts and circumstances and contentions of law on the basis of which it is alleged the compatibility question arises to the Upper Tribunal, within such period as it may determine,

(b) determine if it considers that a compatibility question is frivolous or vexatious with reference to section 31(3) of the 2024 Act,

(c) if satisfied as to the basis of the compatibility question, intimate under section 34(1) of the 2024 Act in writing to each relevant authority the matters specified in paragraph (5).

(**a**) S.S.I. 2022/365, to which there are amendments not relevant to these Regulations.
(**b**) 2024 asp 1.

(5) The matters to be intimated to each relevant authority are—

(a) the fact that a compatibility question has arisen in proceedings before the Upper Tribunal,

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

(c) the details of the compatibility question that has arisen 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 in the proceedings as a party the relevant authority must—

(i) give notice to the Upper Tribunal of their intention to do so within 14 days of receipt of the intimation made under this rule, or within such other period as the Upper Tribunal may specify, should it be satisfied there are exceptional circumstances which require the time period to be adjusted,

(ii) within 7 days after the date of such notice, provide written submissions to the Upper Tribunal 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 Upper Tribunal may specify.

(6) The Upper Tribunal must provide each relevant authority with all documents relevant to the consideration of the compatibility question.

(7) The Upper Tribunal must, if those submissions under paragraph (5)(d)(ii) are provided, take steps to allow a relevant authority to take part as a party to proceedings so far as the proceedings relate to the compatibility question.

(8) The Upper Tribunal may fix a hearing to consider a compatibility question as a separate hearing from any other hearing in the proceedings.

(9) The Upper Tribunal may sist the proceedings under rule 8(3)(k) (case management) if it considers it necessary to do so while the compatibility question is being determined.

(10) Where a relevant authority does not take part as a party to proceedings before the Upper Tribunal, it is not precluded from intervening in any subsequent appeal to the Court of Session, so far as those proceedings relate to a compatibility question.

(11) Where a relevant authority does not take part as a party to proceedings and that relevant authority requests to be notified of the outcome of proceedings in respect of the compatibility question, including regarding any subsequent appeal which relates to the determination of the compatibility question, the Upper Tribunal must notify the relevant authority of this as soon as practicable.",

(c) after rule 30 (enforcement of decisions) insert—

"Reference of compatibility question to the Court of Session

30A.—(1) When the Upper Tribunal refers a 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.

(2) The intimation in writing to relevant authorities under paragraph (1) who have not previously joined proceedings as a party must include—

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

(b) the details of the compatibility question that has arisen,

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

(3) The Upper Tribunal must provide each relevant authority under paragraph (1) which has not previously joined proceedings as a party with all documents relevant to the consideration of the compatibility question.

(4) Where a relevant authority does not take part as a party to proceedings before the Upper Tribunal, that relevant authority is not precluded from taking part as a party in any subsequent reference to the Inner House of the Court of Session.".

Amendment of the Upper Tribunal for Scotland (Bus Registration Appeals Rules of Procedure) Regulations 2024

5.—(1) The Upper Tribunal for Scotland (Bus Registration Appeals Rules of Procedure) Regulations 2024(**a**) are amended as follows.

(2) In the Upper Tribunal for Scotland Bus Registration Appeals Rules of Procedure 2024 as set out in the schedule—

(a) in rule 1(1) (interpretation)—

(i) after the definition of "the 2014 Act" insert—

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

(ii) after the definition of "appellant" insert—

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

(iii) after the definition of "proceedings" insert—

""relevant authorities" means the Lord Advocate, the Commissioner for Children and Young People in Scotland or the Scottish Commission for Human Rights,",

(b) after rule 7 (case management) insert—

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

7A.—(1) This rule applies to—

(a) raising a compatibility question,

(b) intimation of a compatibility question to the relevant authorities 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.

(2) A compatibility question may be raised by a party at any stage in the proceedings.

(3) Where a party raises a compatibility question, they must, so far as the party is able to do so, set out in sufficient detail—

(a) the facts and circumstances, and

(b) the contentions of law,

on the basis of which it is claimed that the compatibility question arises.

(4) On receiving a compatibility question under paragraph (3), the Upper Tribunal must—

(a) if it considers that the basis on which a compatibility question is said to have arisen is not set out in sufficient detail, to meet the overriding objective, direct the party to set out the facts and circumstances and contentions of law on the

(**a**) S.S.I. 2024/249.
(**b**) 2024 asp 1.

basis of which it is alleged the compatibility question arises to the Upper Tribunal, within such period as it may determine,

(b) determine if it considers that a compatibility question is frivolous or vexatious with reference to section 31(3) of the 2024 Act,

(c) if satisfied as to the basis of the compatibility question, intimate under section 34(1) of the 2024 Act in writing to each relevant authority the matters specified in paragraph (5).

(5) The matters to be intimated to each relevant authority are—

(a) the fact that a compatibility question has arisen in proceedings before the Upper Tribunal,

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

(c) the details of the compatibility question that has arisen and the position of each party to proceedings in respect of the compatibility question,

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

(i) give notice to the Upper Tribunal of their intention to do so within 14 days of receipt of the intimation made under this rule, or within such other period as the Upper Tribunal may specify, should it be satisfied there are exceptional circumstances which require the time period to be adjusted,

(ii) within 7 days after the date of such notice, provide written submissions to the Upper Tribunal 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 Upper Tribunal may specify.

(6) The Upper Tribunal must provide each relevant authority with all documents relevant to the consideration of the compatibility question.

(7) The Upper Tribunal must, if those submissions under paragraph (5)(d)(ii) are provided, take steps to allow a relevant authority to take part as a party to proceedings so far as the proceedings relate to the compatibility question.

(8) The Upper Tribunal may fix a hearing to consider a compatibility question as a separate hearing from any other hearing in the proceedings.

(9) The Upper Tribunal may sist the proceedings under rule 7(3)(l) (case management) if it considers it necessary to do so while the compatibility question is being determined.

(10) Where a relevant authority does not take part as a party to proceedings before the Upper Tribunal, it is not precluded from intervening in any subsequent appeal to the Court of Session, so far as those proceedings relate to a compatibility question.

(11) Where a relevant authority does not take part as a party to proceedings and that relevant authority requests to be notified of the outcome of proceedings in respect of the compatibility question, including regarding any subsequent appeal which relates to the determination of the compatibility question, the Upper Tribunal must notify the relevant authority of this as soon as practicable.”,

(c) after rule 33 (application for permission to appeal a decision of the Upper Tribunal) insert—

"Reference of compatibility question to the Court of Session

33A.—(1) When the Upper Tribunal refers a 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.

(2) The intimation in writing to relevant authorities under paragraph (1) who have not previously joined proceedings as a party must include—

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

(b) the details of the compatibility question that has arisen,

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

(3) The Upper Tribunal must provide each relevant authority under paragraph (1) which has not previously joined proceedings as a party with all documents relevant to the consideration of the compatibility question.

(4) Where a relevant authority does not take part as a party to proceedings before the Upper Tribunal, that relevant authority is not precluded from taking part as a party in any subsequent reference to the Inner House of the Court of Session.".

SIOBHIAN BROWN
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
27th January 2026

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the rules of procedure for the Upper Tribunal for Scotland in consequence of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 ("the 2024 Act").

Regulation 2 amends the rules of procedure in the schedule of the Upper Tribunal for Scotland (Rules of Procedure) Regulations 2016.

Regulation 3 amends the rules of procedure in the schedule of the Upper Tribunal for Scotland (Social Security Rules of Procedure) Regulations 2018.

Regulation 4 amends the rules of procedure in schedule 1 of the Upper Tribunal for Scotland (Local Taxation Rules of Procedure) Regulations 2022.

Regulation 5 amends the rules of procedure in the schedule of the Upper Tribunal for Scotland (Bus Registration Appeals Rules of Procedure) Regulations 2024.

Two new rules are inserted into each of the above instruments. The first new rule sets out the procedure to be followed when a party raises a compatibility question with reference to the definition of "compatibility question" in section 31 of the 2024 Act. This includes how a compatibility question should be raised, 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 any proceedings that relate to a compatibility question in accordance with section 34(2) of the 2024 Act.

The second new rule sets out the procedure to be followed when the Upper Tribunal refers a compatibility question to the Inner House of the Court of Session for determination, in accordance with section 35(2) of the 2024 Act.

© Crown Copyright 2026

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, the King's Printer for Scotland.

ISBN 978-0-11-106531-0

£8.90

http://www.legislation.gov.uk/id/ssi/2026/33

9 780111 065310