Subordinate Legislation Committee

9th Report, 2011 (Session 4)

Scottish Statutory Instruments laid in 2010
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Published by the Scottish Parliament on 6 October 2011
Subordinate Legislation Committee

Remit and membership

Remit:

The remit of the Subordinate Legislation Committee is to consider and report on—

(a) any—

(i) subordinate legislation laid before the Parliament;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1;

and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act; and

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject.

(Standing Orders of the Scottish Parliament, Rule 6.11)

Membership:

Chic Brodie
Nigel Don (Convener)
James Dornan (Deputy Convener)
Kezia Dugdale
Mike MacKenzie
John Scott
Drew Smith

Committee Clerking Team:

Clerk to the Committee
Irene Fleming

Assistant Clerk
Euan Donald

Support Manager
Lori Gray
The Scottish Parliament
Pàrlamaid na h-Alba

Subordinate Legislation Committee

9th Report, 2011 (Session 4)

Scottish Statutory Instruments laid in 2010

The Committee reports to the Parliament as follows—

INTRODUCTION

1. As a key part of its scrutiny role, the Subordinate Legislation Committee publishes a report on the statutory instruments laid in the previous calendar year (“Annual Report”). This process came about as a consequence of a recommendation the Committee made in its 14th report of 2007 “Inquiry into the Regulatory Framework in Scotland”¹ which was published in Session 2 of the Parliament. The Committee concluded in the report that producing an examination of points raised in its reports on instruments and the steps being taken to address these would help improve the scrutiny process.

2. The Annual Report itemises commitments made by the Scottish Government and the Lord President’s Private Office (LPPO) following the Subordinate Legislation Committee’s (SLC) reports, and details any action that has been taken in respect of these reports. By providing information on the grounds instruments were reported on and the commitments made by the Scottish Government and the LPPO, the report provides the opportunity to monitor the action taken on these commitments and also helps to identify the range of issues that have arisen during the course of the year. The Committee considers its role in improving the quality of legislation to be of great significance, particularly in improving the accessibility to the law for the user by ensuring that legislation is as up to date as possible and it regards this report as an important tool in carrying out this role effectively.

INSTRUMENTS LAID IN 2010

3. This report provides detailed information on instruments laid in the 2010 calendar year and, given that this is the third such report², as well as setting out

key issues in relation to 2010, the Committee has taken the opportunity to consider any trends that have arisen over the previous three years and to identify areas of concern or those that need further improvement. As a general trend there has been an overall reduction in the proportion of instruments reported on in relation to the number of instruments laid during the period 2008-2010. However, in spite of this generally positive trend, there are some areas that the Committee considers would benefit from further improvement.

4. With regard to instruments laid in 2010, the report sets out the scrutiny of subordinate legislation in relation to the following issues and offers analysis of the various points raised or key trends arising:

- the number of instruments reported on and the grounds on which these instruments were reported on;
- consolidation of instruments and minor points; and
- instruments subject to the negative procedure which came into force less than 21 days after laying in the Parliament.

5. Finally, as a matter of interest, the report provides information on the number of motions to annul lodged by members and other points of significance that have arisen in the reporting year.

**Overview**

6. In 2010, 367 SSIs were presented for consideration by the SLC, including 6 instruments which were withdrawn before being considered by the SLC and the lead committee, and one which was withdrawn after consideration by SLC and the Transport, Infrastructure and Climate Change Committee. Of these 367 instruments, 349 were presented by the Scottish Government and 18 were presented by the LPPO.

7. This total can be broken down as follows:

- 57 draft affirmatives;
- 10 made affirmatives;
- 222 under the negative procedure;
- 61 not laid;
- 3 under no procedure;
- 7 others (i.e. consultation documents or codes of practice); and
- 7 withdrawn

**Reporting grounds**

8. Under paragraph (a) of Rule 6.11 of Standing Orders, the Committee may determine that the attention of the Parliament should be drawn to an instrument on
one or more of a range of technical and legal grounds. These grounds are set out in Rule 10.3.1 of the Standing Orders.\(^3\)

9. The reporting grounds are as follows:

**Ground (a)** (charges on or payments to the Scottish Consolidated Fund, and payments to local and public authorities) - draws to the Parliament’s attention instruments imposing payments to local or public authorities in return for any licence, consent or services, or requiring payment to or a charge on the Scottish Consolidated Fund.

**Grounds (b) and (c)** (provisions excluding challenge in the courts, and having retrospective effect) - may raise questions on the validity of an instrument, but do not necessarily do so. These grounds raise serious issues which ought to be drawn to the Parliament’s attention before it takes a view on the disposal of the instrument.

**Ground (d)** (unjustifiable delay in publication or laying) - raises a significant issue of parliamentary process, that may affect public awareness of the law within the instrument, and hinder that awareness where there is an unjustifiable delay in the instrument being available in the public domain.

**Grounds (e) and (f)** (vires and devolution issues) - raises questions on the validity of an instrument, or provisions in it.

**Ground (g)** (unusual or unexpected use of powers) - raises issues on the proper exercise or use of the powers conferred that may on occasion affect the operation of the instrument, or may raise questions of propriety and transparency.

**Ground (h)** (clarity of form or meaning) - raises issues on the clarity of the instrument, which may on occasion affect the operation of the instrument, or delivery of the intended policy.

**Ground (i)** (defective drafting) - raises serious issues of defective drafting that may on occasion impede or prevent the delivery of the intended policy.

The **general** reporting ground is a residual ground for reporting any other issues not impinging on the substance or policy of the instrument, including failures to follow proper drafting practice or legislative process. This can include a wide range of issues from significant matters, such as unjustified use of the exception to the “21-day rule”, to less significant matters, such as failure to follow normal drafting practice.

10. The Committee views some reporting grounds as more significant than others. For example, reporting an instrument on ground (h) – clarity of form or meaning – may be seen as relatively minor if the defects do not affect the operation of the instrument. However, a report that there appears to be a doubt as

\(^3\) Scottish Parliament Standing Orders, Rule 10.3.1.
to vires (ground (e)) is seen as a significant reporting ground – albeit that matters of vires are for the courts to determine.

11. Minor points of drafting are outside the formal reporting grounds, and of less importance. However, they are still of interest to the Committee when assessing the quality of legislation and so examination of these remains an important part of the scrutiny function.

**Instruments reported on by lead committee**

**Overview**

12. The following section provides an analysis of instruments laid in 2010 broken down by lead committee. It also provides a comparison with equivalent figures for instruments laid in 2008 and 2009.
Instruments reported on from 2008-2010, broken down by lead committee

<table>
<thead>
<tr>
<th>Committee</th>
<th>2010</th>
<th>2009</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Total SSIs</td>
<td>Total reported</td>
<td>%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>367</td>
<td>52</td>
<td>14%</td>
</tr>
<tr>
<td>Rural Affairs and Environment</td>
<td>48</td>
<td>9</td>
<td>18%</td>
</tr>
<tr>
<td>Health and Sport</td>
<td>59</td>
<td>12</td>
<td>20%</td>
</tr>
<tr>
<td>Justice</td>
<td>43</td>
<td>5</td>
<td>11%</td>
</tr>
<tr>
<td>Local Government and Communities</td>
<td>57</td>
<td>7</td>
<td>12%</td>
</tr>
<tr>
<td>Finance</td>
<td>7</td>
<td>2</td>
<td>28%</td>
</tr>
<tr>
<td>Education, Lifelong Learning and Culture</td>
<td>53</td>
<td>8</td>
<td>15%</td>
</tr>
<tr>
<td>Transport, Infrastructure and Climate Change</td>
<td>20</td>
<td>1</td>
<td>5%</td>
</tr>
<tr>
<td>Economy, Energy and Tourism</td>
<td>6</td>
<td>1</td>
<td>17%</td>
</tr>
<tr>
<td>Not laid or not subject to parliamentary procedure</td>
<td>40</td>
<td>1</td>
<td>2.5%</td>
</tr>
<tr>
<td>Instruments presented by the Lord President's Office</td>
<td>18</td>
<td>6</td>
<td>33%</td>
</tr>
</tbody>
</table>
13. Of the 367 instruments received in 2010, the Committee reported on 52 of these, which is **14%** of all instruments received (13% of Scottish Government instruments and 33% of LPPO instruments were reported on). In 2009 the Committee considered 342 instruments and reported on 57 of these which is **17%** of all instruments received. Finally, in 2008 it considered 335 instruments and of these reported on 76 instruments which is **23%** of all instruments received.

14. Given that the proportion of instruments reported on has decreased since 2008, the Committee concludes that there has been an overall improvement in the quality of instruments presented.

**Analysis**

15. In 2010 the Health and Sport Committee considered the most statutory instruments, having considered 59 instruments in total. It also considered the largest proportion of instruments reported on by the SLC (20%).

16. The Local Government and Communities Committee considered 57 instruments and the Education, Lifelong Learning and Culture Committee considered 53 instruments.

17. In terms of comparison with the previous year, the Local Government and Communities Committee and the Finance Committee both saw a slight increase in the number of instruments laid from the previous year, and also an increase in the proportion of which the SLC had reported on.

18. Although there has been an overall reduction in the proportion of instruments reported on by the SLC, this is not the case with regard to instruments presented by the Lord President’s Private Office (LPPO). In this category of instruments, in 2009 the SLC reported on 12% of instruments presented by the LPPO which increased to 33% of these instruments in 2010.

**Reporting grounds**

*Instruments by reporting ground*

19. The table below lists the total number of instruments which the Committee has reported on by the different grounds from 2008 to 2010 (details of the instruments reported on in 2010 are provided in Annex A).
Instruments reported on broken down by ground

<table>
<thead>
<tr>
<th>Ground</th>
<th>2010</th>
<th>2009</th>
<th>2008</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>No.</td>
<td>% of all grounds reported on</td>
<td>No.</td>
</tr>
<tr>
<td>(a) charge on the Scottish Consolidated Fund</td>
<td>2</td>
<td>3%</td>
<td>1</td>
</tr>
<tr>
<td>(b) made in pursuance of any enactment containing specific provisions excluding it from challenge in the courts</td>
<td>0</td>
<td>0%</td>
<td>0</td>
</tr>
<tr>
<td>(c) retrospective effect where the parent statute confers no express authority so to provide</td>
<td>0</td>
<td>0%</td>
<td>2</td>
</tr>
<tr>
<td>(d) unjustifiable delay in the publication or the laying of it before parliament</td>
<td>0</td>
<td>0%</td>
<td>3</td>
</tr>
<tr>
<td>(e) doubt as to whether the instrument is intra vires</td>
<td>1</td>
<td>1.5%</td>
<td>5</td>
</tr>
<tr>
<td>(f) raises a devolution issue</td>
<td>2</td>
<td>3%</td>
<td>2</td>
</tr>
<tr>
<td>(g) unusual or unexpected use of the powers conferred by the parent statute</td>
<td>2</td>
<td>3%</td>
<td>1</td>
</tr>
<tr>
<td>(h) form or meaning could be clearer</td>
<td>18</td>
<td>29%</td>
<td>19</td>
</tr>
<tr>
<td>(i) drafting appears to be defective</td>
<td>13</td>
<td>21%</td>
<td>11</td>
</tr>
<tr>
<td>Other grounds (eg failures to follow proper drafting practice or legislative process)</td>
<td>24</td>
<td>39.5%</td>
<td>34</td>
</tr>
</tbody>
</table>

Analysis

20. In terms of reporting grounds, in 2008 the SLC reported on a total of 93 grounds, in 2009 the SLC reported on 78 grounds and in 2010 this had dropped to 62 grounds (it should be noted that an instrument can be reported on more than one ground). The Committee welcomes the overall decrease in the number of grounds reported on over the past three years, particularly given the increase in the total number of instruments presented.
21. For the third year running the second highest reporting ground was **ground (h)** (form or meaning could be clearer). There has also been a steady increase in the number of instruments reported on this ground from 2008 to 2010.

22. The number of instruments reported on **ground (i)** (drafting appears to be defective) has been steadily increasing since 2008. The Committee also considers ground (i) to be one of the more significant reporting grounds, although it should be noted that it is ultimately for the courts to decide whether an instrument is in fact defective. The Committee is concerned at the lack of improvement in this area and therefore calls on the Scottish Government to take action to improve on these figures.

23. Perhaps unsurprisingly the majority of points raised on instruments continue to fall into the category of **other grounds** (any other issues not impinging on the substance or policy of the instrument). Although there has been improvement in this area over the past 3 years, the proportion of instruments reported on this ground remains significant and the Committee wishes to see further improvement in this area.

24. There has been no reduction in the number of instruments reported on **ground (f)** (raises a devolution issue) or **ground (g)** (unusual or unexpected use of the powers conferred by the parent statute) since 2009. Although this represents a very small proportion of the number of instruments reported on, these are significant grounds and so the Committee would also like to see further progress being made in this area.

25. Finally, there has been a welcome reduction in the number of instruments reported on **ground (e)** (doubt as to whether the instrument is intra vires).

26. In addition to the instruments reported on, the SLC also sought further information from the Scottish Government about instruments under its consideration. These are instruments with which the Committee had raised issues with the Scottish Government and was satisfied with the response received. As a consequence the instrument was not reported to the Parliament. A list of these instruments is in Annex B.

**Conclusion**

27. The Committee welcomes the overall improvement in the quality of instruments presented and it is also encouraged that this improvement has occurred despite there being an increase in the number of instruments laid. It looks forward to seeing further progress made in this area.

28. In considering the breakdown by Committee, the figures show a varying picture. Although in general there has been some improvement, the Committee is concerned at the relatively high proportion of instruments reported on in 2010 which fell to be considered by the Rural Affairs and Environment (RAE) Committee and the Health and Sport Committee. It is also concerned at the increase in the proportion of instruments reported on which were considered by the Finance and RAE Committees and again
would like to see further progress being made in both of these areas by the relevant Government departments.

29. In addition, the Committee is concerned to see an increase in the number of instruments reported on which have been laid by the LPPO. The Committee impresses upon the LPPO the importance of well drafted instruments and expects to see an improvement in this figure in its next report.

30. In terms of reporting grounds, the Committee welcomes the reduction in the proportion of instruments reported on ground (e) but would like to see further improvement with regard to the figures relating to reports on instrument on grounds (f), (g), (h), (i) and the general reporting ground.

Commitments: Scottish Government and Lord President’s Private Office

31. Throughout the period of reporting, the Scottish Government and the LPPO has made a number of “commitments” in response to instruments identified by the Committee which have defective drafting or other errors. The Scottish Government indicated that it would correct the instruments identified at the next available opportunity. In the reporting period for instruments laid in 2010, there were 25 instruments for which such commitments were made by the Government.

32. The Scottish Government has confirmed that of the 25 instruments identified for correction/amendment, 16 of these corrections/amendments have been met by the Government (either by means of a corrective instrument or a correction slip), with a further 8 currently outstanding. The Government notified the Committee that its commitment to the remaining one statutory instrument is waiting for a suitable legislative opportunity to be amended.

33. The Lord President’s Private Office gave a commitment to amend two instruments at the next available opportunity and both of these points have since been addressed.

34. Further information on all commitments is provided in Annex C.

35. The Committee welcomes the progress made by the Scottish Government in meeting the commitments it made to correcting or amending instruments on which the Committee had reported. It urges the Government to complete this process in early course.

Consolidation

36. Over the course of the reporting period, the Committee identified 16 instruments which it recommended should be considered for consolidation as soon as possible. These are listed in Annex D.

37. In addition, there were a number of instruments laid during 2010 which are consolidating amendments and they are listed in Annex E.
38. The Committee welcomes the work on consolidation which has taken place with regard to the instruments set out in Annex E but would like to see further action being taken in this area.

39. The Committee takes the need for consolidation of instruments very seriously and recognises that this process is particularly helpful in ensuring the accessibility of instruments to users of legislation. It has agreed to explore the issues surrounding consolidation and will continue to take this work forward with the Scottish Government.

21-day rule

40. Article 10(2) of the Transitional Order provides that negative instruments should be laid before the Parliament not less than 21 days before the instrument is due to come into force (“the 21-day rule”). The main purpose of the rule is to help ensure that there is time for Parliamentary scrutiny before the provisions in an instrument are brought into force. Where an instrument is laid before the Parliament less than 21 days before it is due to come into force, the Scottish Government must, under the Transitional Order, provide an explanation in writing to the Presiding Officer.

41. Where a letter does not accompany the instrument in question, the SLC will raise the matter with the Scottish Government. The reasons set out in the letter for breach of the rule are for the lead committee to consider in the policy context of the instrument but, in its report on the instrument, the SLC provides comment on the Government's reasons for the lead committee's information.

42. In 2010, 19 instruments came into force less than 21 days after laying (listed in Annex F) and the Committee was content with the explanation given by the Government for such breaches on all of the 19 occasions.

43. The Committee will continue to monitor carefully any future breaches in laying requirements, particularly in light of the new requirements brought about by the provisions in the Interpretation and Legislative Reform (Scotland) Act 2010.

Minor Points

44. During its scrutiny of instruments in 2010, the SLC identified 92 instruments on which minor points were raised (generally typographical or referencing errors), which, while not affecting the validity of the instrument, are areas that the Scottish Government should correct at the earliest opportunity.

45. In 2009, 110 instruments were brought to the attention of the Scottish Government with minor points. There has therefore been a slight decrease in these types of errors.

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5 This rule has been replaced by the “28-day rule” set out in section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 which came into force on 6 April 2011
46. While the Committee accepts that minor points such as these do not affect the validity of the instrument, it urges the Scottish Government to take steps to ensure that the number of these types of errors continues to decrease. It will also be taking steps to monitor the implementation of errors being addressed through correction slips.

Motions to Annul

47. During 2010, eight motions to annul were lodged by MSPs, which is an increase from three such motions being brought forward in the previous reporting year. Of these eight motions, six were either not moved or not agreed to and two were agreed to.

48. The Committee recognises that the number of motions to annul does not necessarily have any bearing on the quality of instruments laid, but notes the figures for its interest.

Points to note

49. On 16 March 2010 the SLC considered the Beet Seed (Scotland) Regulations 2010 (SSI 2010/67) and agreed to report\(^6\) the instrument under grounds (f) raises a devolution issue, (g) unusual or unexpected use of powers, (h) meaning could be clearer and (i) defective drafting. Minor drafting errors were also identified. At its meeting on 24 March 2010, the Rural Affairs and Environment Committee agreed a motion to annul the instrument. The instrument was subsequently revoked and replaced by the Beet Seed (Scotland) (No. 2) Regulations 2010 (SSI 2010/148). On 12 May 2010, the RAE Committee considered the new instrument and agreed to make no recommendations in relation to it.

50. The Committee highlights this instrument in particular, given the problems associated with the quality of the drafting. The Committee would not want any instruments of the same poor quality to be brought forward in the future and therefore seeks assurances from the Scottish Government that the necessary steps have been taken to prevent this occurring again.

Conclusion

51. The Subordinate Legislation Committee notes the figures detailed in this report. The Committee welcomes the continuing downward trend in the number of instruments reported on from 2008 to 2010 but would like to see continued progress in improving the quality of instruments presented, in particular in relation to the detailed points raised throughout this report.

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\(^6\) Subordinate Legislation Committee, 18th Report 2010 (SP Paper 406)
Annex A – Reporting Grounds

(a) **Charge on the Scottish Consolidated Fund**

Local Government and Communities
- The Firefighters’ Pension Scheme Amendment (SSI 2010/332)
- The Firefighters’ Pension Scheme (Scotland) Order 2007 Amendment (No. 2) Order (SSI 2010/333)

(b) **Made in pursuance of any enactment containing specific provisions excluding it from challenge in the courts**

None

(c) **retrospective effect where the parent statute confers no express authority so to provide**

None

(d) **unjustifiable delay in the publication or the laying of it before Parliament**

None

(e) **doubt as to whether it is intra vires:**

Justice
- The Knives etc. (Disposal of Forfeited Property) (Scotland) Order 2010 (SSI 2010/214)

(f) **raises a devolution issue**

Local Government and Communities
- The Town and Country Planning (Hazardous Substances) (Scotland) Amendment Regulations 2010 (SSI 2010/171)

Rural Affairs and Environment
- The Beet Seed (Scotland) Regulations 2010 (SSI 2010/67)

(g) **unusual or unexpected use of the powers conferred by the parent statute**

Rural Affairs and Environment
- The Beet Seed (Scotland) Regulations 2010 (SSI 2010/67)

Not laid
- The Jurors’ Allowances (Scotland) Regulations 2010 (SSI 2010/424)
(h) meaning could be clearer

Economy, Energy and Tourism
- The Census (Scotland) Regulations 2010 (SSI 2010/211)

Education, Lifelong Learning and Culture
- The Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Services) (Protected Adults) Regulations 2010 (SSI 2010/161)
- The Protection of Vulnerable Groups (Scotland) Act 2007 (Power to Refer) (Information Relevant to Listing Decisions) Order 2010 (SSI 2010/178)
- The Protection of Vulnerable Groups (Scotland) Act 2007 (Referrals by Organisations and Other Bodies) (Prescribed Information) Regulations 2010 (SSI 2010/181)
- The Protection of Vulnerable Groups (Scotland) Act 2007 (Referrals by Courts) (Prescribed Information) Regulations 2010 (SSI 2010/182)
- The Equality Act 2010 (Qualifications Body Regulator and Relevant Qualifications) (Scotland) Regulations 2010 (SSI 2010/315)

Health and Sport
- The National Health Service (Superannuation Scheme, Pension Scheme, Injury Benefits and Additional Voluntary Contributions) (Scotland) Amendment Regulations 2010 (SSI 2010/22)
- The National Health Service (Pharmaceutical Services) (Scotland) Amendment Regulations 2010 (SSI 2010/128)
- The Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2010 (SSI 2010/draft)
- The Health Board Elections (Scotland) Amendment Regulations 2010 (SSI 2010/draft)

Justice
- The Parental Responsibility and Measures for the Protection of Children (International Obligations) (Scotland) Regulations 2010 (SSI 20110/213)
- The Knife Dealer’s Licence (Miscellaneous) (Scotland) Order 2010 (SSI 2010/311)

Rural Affairs and Environment
- The Snares (Scotland) Order 2010 (SSI 2010/8)
- The Beet Seed (Scotland) Regulations 2010 (SSI 2010/67)
- The Less Favoured Area Support Scheme (Scotland) Regulations 2010 (SSI 2010/273)
- The Waste Information (Scotland) Regulations 2010 (SSI 2010/draft)
- The Beef and Veal Labelling (Scotland) Regulations 2010 (SSI 2010/402)
(i) **drafting appears to be defective**

**Education, Lifelong Learning and Culture**
- The Protection of Vulnerable Groups (Scotland) Act 2007 (Power to Refer) (Information Relevant to Listing Decisions) Order 2010 (SSI 2010/178)

**Health and Sport**
- The National Health Service (Superannuation Scheme, Pension Scheme, Injury Benefits and Additional Voluntary Contributions) (Scotland) Amendment Regulations 2010 (SSI 2010/22)
- The National Assistance (Sums for Personal Requirements) (Scotland) Regulations 2010 (SSI 2010/74)
- The National Health Service (General Ophthalmic Services) (Scotland) Amendment Regulations 2010 (SSI 2010/86)
- The Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) Amendment Regulations 2010 (SSI 2010/89)

**Justice**
- The Criminal Legal Aid (Fixed Payments) (Scotland) Amendment Regulations 2010 (SSI 2010/237)

**Local Government and Communities**
- The Non-Domestic Rating (Valuation of Utilities) (Scotland) Amendment Order 2010 (SSI 2010/38)
- The Local Government (Allowances and Expenses) (Scotland) Amendment Regulations 2010 (SSI 2010/45)
- The Town and Country Planning (Hazardous Substances) (Scotland) Amendment Regulations 2010 (SSI 2010/171)

**Rural Affairs and Environment**
- The Beet Seed (Scotland) Regulations 2010 (SSI 2010/67)
- The Smoke Control Areas (Authorised Fuels) (Scotland) Regulations 2010 (SSI 2010/271)

**Not laid**
- Act of Sederunt (Rules of the Court of Session Amendment No. 3) (Miscellaneous) 2010 (SSI 2010/136)
- Act of Sederunt (Child Care and Maintenance Rules) Amendment (Human Fertilisation and Embryology Act 2008) 2010 (SSI 2010/137)

**General reporting ground**

**Education, Lifelong Learning and Culture**
- The Protection of Vulnerable Groups (Scotland) Act 2007 (Prescribed Services) (Protected Adults) Regulations (SSI 2010/161)
- The Protection of Vulnerable Groups (Scotland) Act 2007 (Fees for Scheme Membership and Disclosure Requests) Regulations 2010 (SSI 2010/167)
• The Police Act 1997 (Criminal Records) (Scotland) Regulations 2010 (SSI 2010/168)
• The Additional Support for Learning (Co-ordinated Support Plan) (Scotland) Amendment Regulations 2010 (SSI 2010/149)

Finance
• The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2010 (SSI 2010/222)
• The Public Services Reform (Scotland) Act 2010 (Ancillary Provisions) Order 2010 (SSI 2010/322)

Health and Sport
• The Pharmacy Order 2010 (Commencement No. 2) Order of Council 2010 (SI 2010/1621 (C.85))
• The National Health Service (Vocational Training for General Dental Practice) (Scotland) Amendment Regulations 2010 (SSI 2010/23)
• The National Health Service (Tribunal) (Scotland) Amendment Regulations 2010 (SSI 2010/227)
• The National Health Service (Reimbursement of the Cost of EEA Treatment) Regulations 2010 (SSI 2010/draft)
• The Sale of Tobacco (Registration of Moveable Structures and Fixed Penalty Notices) (Scotland) Regulations 2010 (SSI 2010/draft)

Justice
• The Regulation of Investigatory Powers (Prescription of Offices, etc. and Specification of Public Authorities) (Scotland) Order 2010 (SSI 2010/350)

Local Government and Communities
• The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 (SSI 2010/432)
• The Town and Country Planning (Modification and Discharge of Good Neighbour Agreement) (Scotland) Regulations 2010 (SSI 2010/433)

Rural Affairs and Environment
• The Animals and Animal Products (Import and Export) (Scotland) Amendment Regulations 2010 (SSI 2010/343)
• The Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010 (SSI 2010/354)
• The Water Quality (Scotland) Regulations 2010 (SSI 2010/95)
• The Smoke Control Areas (Authorised Fuels) (Scotland) Regulations 2010 (SSI 2010/271)

Transport, Infrastructure and Climate Change
• The National Bus Travel Concession Scheme for Older and Disabled Persons (Scotland) Amendment Order 2010 (SSI 2010/draft)
Laid, no procedure

- The Criminal Justice and Licensing (Scotland) Act 2010 (Commencement No. 6, Transitional and Savings Provisions) Order 2010 (SSI 2010/413 (C. 28))

Not laid

- Act of Sederunt (Rules of the Court of Session Amendment No. 4) (Miscellaneous) 2010 (SSI 2010/205)
- Act of Sederunt (Sheriff Court Rules) (Enforcement of Securities over Heritable Property) 2010 (SSI 2010/324)
- Act of Adjournal (Criminal Procedure Rules Amendment No. 3) (Scottish Criminal Cases Review Commission) 2010 (SSI 2010/386)
Annex B - Instruments not reported on, but information sought and provided:

**Education, Lifelong Learning and Culture**
- The Additional Support for Learning Dispute Resolution (Scotland) Amendment Regulations 2010 (SSI 2010/144)
- The Protection of Vulnerable Groups (Scotland) Act 2007 (Applications for Removal from List and Late Representations) Regulations 2010 (SSI 2010/179)

**Justice**
- The Criminal Justice and Licensing (Scotland) Act 2010 (Consequential and Supplementary Provisions) Order 2011 (SSI 2010/draft)
- The International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2010 (SSI 2010/draft)
- The Bankruptcy Fees (Scotland) Amendment Regulations 2010 (SSI 2010/76)
- The Sexual Offences Act 2003 (Remedial) (Scotland) Order 2010 (SSI 2010/370)

**Local Government and Communities**
- The Local Government Investments (Scotland) Regulations 2010 (SSI 2010/draft)
- The Building (Scotland) Amendment Regulations 2010 (SSI 2010/32)
- The Local Government (Allowances and Expenses) (Scotland) Amendment (No. 2) Regulations 2010 (SSI 2010/111)
- The Charities Accounts (Scotland) Amendment Regulations 2010 (SSI 2010/287)

**No lead committee**
- The Criminal Justice and Licensing (Scotland) Act 2010 (Commencement No. 1) Order 2010 (SSI 2010/297)
- Act of Sederunt (Rules of the Court of Session Amendment No. 2) (Causes in the Inner House) 2010 (SSI 2010/30)
- Supporting Children’s Learning Code of Practice (Revised Edition) 2010 (SG 2010/63)

**Health and Sport**
- The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 2010 (SSI 2010/1)
- The Food Hygiene (Scotland) Amendment Regulations 2010 (SSI 2010/69)
- The Materials and Articles in Contact with Food (Scotland) Regulations 2010 (SSI 2010/327)
- The General Pharmaceutical Council (Transfer of Property, Rights and Liabilities, Fees and Grants) Order of Council 2010 (SI 2010/1618)
- The Pharmacy Order 2010 (Approved European Pharmacy Qualifications) Order 2010 (SI 2010/1620)
• The Tobacco and Primary Medical Services (Scotland) Act 2010 (Ancillary Provisions) Order 2010 (SSI 2010/77)
• The Materials and Articles in Contact with Food (Scotland) Regulations 2010 (SSI 2010/327)
• The Food Irradiation (Scotland) Amendment Regulations 2010 (SSI 2010/328)

Economy, Enterprise and Tourism
• The Census (Scotland) Amendment Regulations 2010 (SSI 2010/215)

Rural Affairs and Environment
• The Beet Seed (Scotland) (No. 2) Regulations 2010 (SSI 2010/148)

Transport, Infrastructure and Climate Change
• The Road Traffic (Permitted Parking Area and Special Parking Area) (Renfrewshire Council) Designation Order 2010 (SSI 2010/96)
• The Climate Change (International Aviation and Shipping) (Scotland) Order 2010 (SSI 2010/draft)
Annex C – Commitments

Economy, Energy and Tourism
The Census (Scotland) Regulations 2010 (SSI 2010/211)

Education, Lifelong Learning and Culture
The Equality Act 2010 (Qualifications Body Regulator and Relevant Qualifications) (Scotland) Regulations 2010 (SSI 2010/315)

The Protection of Vulnerable Groups (Scotland) Act 2007 (Power to Refer) (Information Relevant to Listing Decisions) Order 2010 (SSI 2010/178)

The Additional Support for Learning (Co-ordinated support Plan) (Scotland) Amendment Regulations 2010 (SSI 2010/149)

Finance
The Public Services Reform (Scotland) Act 2010 (Consequential Modifications) Order 2010 (SSI 2010/222)

Health and Sport
The Materials and Articles in Contact with Food (Scotland) Regulations 2010 (SSI 2010/327)

The General Pharmaceutical Council (Transfer of Property, Rights and Liabilities, Fees and Grants) Order of Council 2010 (SI 2010/1618)

The Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) Amendment Regulations 2010 (SSI 2010/89)

The National Health Service (Tribunal) (Scotland) Amendment Regulations 2010 (SSI 2010/227)

The National Health Service (General Ophthalmic Services) (Scotland) Amendment Regulations 2010 (SSI 2010/86)

The Food Hygiene (Scotland) Amendment Regulations 2010 (SSI 2010/69)


The Pharmacy Order 2010 (Approved European Pharmacy Qualifications) Order 2010 (SI 2010/1620)

Justice
The International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2010 (SSI 2010/draft)

The Regulation of Investigatory Powers (Prescription of Offices, etc. and Specification of Public Authorities) (Scotland) Order 2010 (SSI 2010/350)
The Knives etc. (Disposal of Forfeited Property) (Scotland) Order 2010 (SSI 2010/214)

The Criminal Legal Aid (Fixed Payments) (Scotland) Amendment Regulations 2010 (SSI 2010/237)

**Local Government and Communities**

The Non-Domestic Rating (Valuation of Utilities) (Scotland) Amendment Order 2010 (SSI 2010/38)

The Town and Country Planning (Modification and Discharge of Planning Obligations) (Scotland) Regulations 2010 (SSI 2010/432)

**Rural Affairs and Environment**

The National Scenic Areas (Consequential Modifications) (Scotland) Order 2010 (SSI 2010/draft)

The Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010 (SSI 2010/354)

The Beet Seed (Scotland) Regulations 2010 (SSI 2010/67)

The Snares (Scotland) Order 2010 (SSI 2010/8)

The Smoke Control Areas (Authorised Fuels) (Scotland) Regulations 2010 (SSI 2010/271)

**Transport, Infrastructure and Climate Change**

The Climate Change (International Aviation and Shipping) (Scotland) Order 2010 (SSI 2010/draft)

**No lead committee (instruments laid by The Lord President’s Private Office)**

Act of Sederunt (Rules of the Court of Session Amendment No. 4) (Miscellaneous) 2010 (SSI 2010/205)

Act of Adjournal (Criminal Procedure Rules Amendment No. 3) (Scottish Criminal Cases Review Commission) 2010 (SSI 2010/386)
Annex D – Instruments which the Committee has identified as being suitable for Consolidation

**Education, Lifelong Learning and Culture**
- The Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Amendment Order 2010 (SSI 2010/draft)

**Finance**
- The National Health Service (Superannuation Scheme, Pension Scheme, Injury Benefits and Additional Voluntary Contributions) (Scotland) Amendment (No. 2) Regulations 2010 (SSI 2010/369)

**Health and Sport**
- The National Health Service (Superannuation Scheme, Pension Scheme, Injury Benefits and Additional Voluntary Contributions) (Scotland) Amendment Regulations 2010 (SSI 2010/22)
- The National Health Service (General Dental Services) (Scotland) Amendment Regulations 2010 (SSI 2010/33)
- The National Assistance (Assessment of Resources) Amendment (Scotland) Regulations 2010 (SSI 2010/73)
- The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 2010 (SSI 2010/94)
- The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment (No. 2) Regulations 2010 (SSI 2010/319)

**Justice**
- The Criminal Legal Aid (Scotland) (Fees) Amendment Regulations 2010 (SSI 2010/63)
- The Police Pensions Amendment (Scotland) Regulations 2010 (SSI 2010/85)
- The Criminal Legal Aid (Scotland) (Fees) Amendment (No. 2) Regulations 2010 (SSI 2010/212)
- The Police Pension Account (Scotland) Regulations 2010 (SSI 2010/232)
- The Civil Legal Aid (Scotland) Amendment Regulations 2010 (SSI 2010/461)
- The Advice and Assistance (Scotland) Amendment Regulations 2010 (SSI 2010/462)

**Rural Affairs and Environment**
- The Rural Development Contracts (Rural Priorities) (Scotland) Amendment Regulations 2010 (SSI 2010/87)
- The Plant Health (Scotland) Amendment Order 2010 (SSI 2010/206)

**No lead committee**
- The Fees in the Registers of Scotland Amendment Order 2010 (SSI 2010/404)
Annex E – Consolidating instruments laid in the reporting period

Health and Sport
- The Sports Grounds and Sporting Events (Designation) (Scotland) Order 2010 (SSI 2010/199)
- The National Health Service (General Dental Services) (Scotland) Regulations 2010 (SSI 2010/208)

Justice
- The Regulation of Investigatory Powers (Prescription of Offices, etc. and Specification of Public Authorities) (Scotland) Order 2010 (SSI 2010/350)

Local Government and Communities
- The Local Government Pension Scheme (Management and Investment of Funds) (Scotland) Regulation 2010 (SSI 2010/233)

Rural Affairs and Environment
- The Prohibited Procedures on Protected Animals (Exemptions) (Scotland) Regulations 2010 (SSI 2010/draft)
- The Welfare of Farmed Animals (Scotland) Regulations 2010 (SSI 2010/draft)
- The Beet Seed (Scotland) Regulations 2010 (SSI 2010/67)
- The Transmissible Spongiform Encephalopathies (Scotland) Regulations 2010 (SSI 2010/177)
- The Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010 (SSI 2010/354)
Annex F – 21-day breaches

**Education, Lifelong Learning and Culture**
- The Additional Support for Learning (Co-ordinated Support Plan and Dispute Resolution) (Scotland) Amendment Regulations 2010 (SSI 2010/275)
- The Additional Support for Learning (Appropriate Agencies and Sources of Information) (Scotland) Amendment of Commencement Dates Order 2010 (SSI 2010/276)
- The Special Restrictions on Adoptions from Haiti (Scotland) Order 2010 (SSI 2010/341)

**Health and Sport**
- The Official Feed and Food Controls (Scotland) Amendment Regulations 2010 (SSI 2010/5)
- The Food Enzymes (Scotland) Amendment Regulations 2010 (SSI 2010/26)
- The Tobacco and Primary Medical Services (Scotland) Act 2010 (Ancillary Provisions) Order 2010 (SSI 2010/77)
- The Natural Mineral Water, Spring Water and Bottled Drinking Water (Scotland) Amendment (No. 2) Regulations 2010 (SSI 2010/127)
- The Guar Gum (Restriction on First Placing on the Market) (Scotland) Revocation Regulations 2010 (SSI 2010/153)
- The Rice Products from the United States of America (Restriction on First Placing on the Market) (Scotland) Revocation Regulations 2010 (SSI 2010/248)
- The National Health Service (Tribunal) (Scotland) Amendment (No. 2) Regulations 2010 (SSI 2010/266)

**Justice**
- The Criminal Legal Aid (Fixed Payments) (Scotland) Amendment (No. 2) Regulations 2010 (SSI 2010/267)
- The Criminal Legal Assistance (Fees) (Scotland) Regulations 2010 (SSI 2010/270)
- The Knife Dealer’s Licence (Miscellaneous) (Scotland) Order 2010 (SSI 2010/311)

**Local Government and Communities**
- The Local Government (Allowances and Expenses) (Scotland) Amendment (No. 2) Regulations 2010 (SSI 2010/111)

**Rural Affairs and Environment**
- The Beet Seed (Scotland) (No. 2) Regulations 2010 (SSI 2010/148)
- The Less Favoured Area Support Scheme (Scotland) Regulations 2010 (SSI 201/273)
- The Scallops (Luce Bay) (Prohibition of Fishing) Order 2010 (SSI 2010/375)
- The Scallops (Luce Bay) (Prohibition of Fishing) Variation Order 2010 (SSI 2010/429)
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