



The Scottish Parliament
Pàrlamaid na h-Alba

Constitution, Europe, External Affairs and Culture Committee

Finlay Carson MSP
Convener
Rural Affairs and Islands Committee

7 October 2025

Dear Convener

Fifth EU Law Tracker Report

At our meeting on 18 September, my Committee considered the [fifth report](#) from Dr Lisa Whitten of the [EU Law Tracker](#), the Executive Summary of which I have attached with this correspondence.

As previously communicated, there is an expectation that subject committees will consider the case studies or new EU laws relevant to their respective remits that are set out in the series of reports as part of their role in scrutinising the Scottish Ministers' policy commitment to align with EU law.

In view of new EU laws adopted during the research period covered by this EU Law Tracker, your Committee may therefore wish to seek a view / update from the Scottish Government in relation to—

- its potential pursuit of alignment with the EU on organics products and labelling of organic products in view of the coming into force of the Organic Production Regulation (EU) 2018/848 in January 2022 and the approximately 82 implementing and delegated EU acts adopted by the EU under the OP Regulation since the end of the UK Transition Period. The Committee may also want to seek SG views on the effect of relevant provisions of the TCA on equivalence of standards regarding organics between the EU and UK and the implications for any SG alignment decision; and
- the new EU act in respect to Regulation (EU) 2024/3115 on multiannual survey programmes, notifications concerning the presence of regulated non-quarantine pests, temporary derogations from import prohibitions and special import requirements for high-risk plants, plant products and other objects, the establishment of procedures for the listing of high-risk plants, the content of phytosanitary certificates and the use of plant passports, and as regards certain reporting requirements for demarcated areas and surveys of pests.

Contact: Constitution, Europe, External Affairs and Culture Committee, The Scottish Parliament, Edinburgh, EH99 1SP.

Email CEEAC.committee@parliament.scot. We welcome calls through Relay UK and in BSL through Contact Scotland BSL.

Yours sincerely

A handwritten signature in dark ink, reading "Clare Adamson". The script is cursive and fluid, with the first name "Clare" and last name "Adamson" clearly legible.

Clare Adamson MSP
Convener

EXECUTIVE SUMMARY

EU Law Tracker Research Purpose

This is the fifth in a [series of reports](#) commissioned by the Scottish Parliament Constitution, Europe, External Affairs and Culture Committee to support scrutiny by parliamentary committees into the commitment on the part of the Scottish Government (or SG) to align with European Union (EU) law, as appropriate, following and notwithstanding the withdrawal of the United Kingdom (UK) from the EU.

These EU Law Tracker reports – and the detailed EU Law Tracker set out in Annex 1 – are designed to serve as a reference tool for parliamentarians, officials, stakeholders, and the wider public, seeking to better understand the SG alignment commitment as well as its effects on law and policy development in Scotland. In this respect, the information and analysis contained in this issue of the EU Law Tracker compliments the Constitution *et al* Committees' previous inquiry into the UK-EU Trade and Cooperation Agreement which [found](#) that: "While the Scottish Government has a policy commitment to align with EU law where appropriate, the impact this has had on businesses, including the extent to which it has facilitated improved trade with the EU, without such agreements with the EU in place, is unclear". This report is also intended to be read in the context of [responses](#) to evidence recently (December 2024) gathered by the Constitution *et al* Committee into the effects of the Scottish Government's Policy to Align with EU Law on stakeholders as well as the SG Annual Report on the use of the European Union (Continuity) (Scotland) Act 2021 'keeping pace' powers which is the first to fully implement a revised approach [intended](#) to "better record and share information regarding the implementation of alignment decisions".

Research Period: This EU Law Tracker documents changes and developments that have taken place between the beginning of January 2025 and the end of June 2025.

Account of Legislative Changes in this EU Law Tracker

EU Law Changes

- Of the roughly 250 EU acts that, pre-Brexit, were fully or partially in SG competence, 40 have been repealed, but not all of these have been directly replaced.
- According to this analysis at least 234 secondary EU acts (such as regulations, directives, decisions) are in scope of the SG alignment commitment.
- As part of the normal processes of EU law-making, tertiary (implementing or delegated) acts are frequently adopted which make detailed provisions for the implementation of secondary EU acts.

- Between January 2021 and January 2025 approximately 1525 acts of tertiary EU law have been adopted in relation to EU acts that are in scope of the SG alignment commitment. By definition these tertiary laws make technical or operational provisions for the implementation of the relevant 'parent' act so changes on this level do not tend to alter policy trajectories. On occasion, however, EU tertiary law changes may make changes that result in divergence of technical standards or operational processes that are relevant for Scotland and the SG alignment commitment.

- In the period covered by this EU Law Tracker Report, the EU adopted at least 2 new EU acts that are or may be in scope of the SG alignment commitment.

- At least 10 new EU acts adopted in 2024 were identified as either 'under consideration' for alignment 'for future consideration' for alignment or for alignment by the Scottish Government but for which no specific legislative provision has yet been made in Scotland.

Scots Law / UK Law Changes

- None of the 8 acts of primary law passed in Scotland during the reporting period are considered to be directly relevant to the SG alignment commitment.

- Of the 199 statutory instruments passed for Scotland during the research period, at least 16 were identified by this research to be (directly or indirectly) relevant to the SG alignment commitment; most of these implement provisions that align with relevant EU law changes.

- A small number of examples of new or proposed new acts of UK-wide (or GB-wide) primary law as well as statutory instruments featured in this report, implement changes that diverge from EU laws; none of the primary acts are considered by the SG to be detrimental to its alignment commitment.

Key Messages from this EU Law Tracker

- **The potential for divergence between Scots law and EU law increases over time as the two legal orders and regulatory regimes continue to develop separately after Brexit.**

- **This report contains more examples of actual and new potential instances of divergence between the two parties as a result of legislative changes in both the EU and UK than earlier issues of the EU Law Tracker; this is to be expected.**

- **While the period covered by this EU Law Tracker Report has seen relatively few new EU acts adopted (as it is still relatively early in the new European Parliament and Commission mandate), a series of new EU acts adopted during 2024 and so far in 2025 are in scope of the SG alignment commitment. Some of these have been identified by the SG for alignment or to be considered for alignment but no specific legislative provisions have been made in Scotland.**

- **Assessing the exact degree of divergence vis-à-vis alignment depends on how this is defined and understood.**

o This edition of the EU Law Tracker identifies examples of legislative divergence between EU law and Scots law; these result from both EU initiated and UK/Scottish initiated changes.

EU Initiated:

- The adoption of new EU laws that are or may be in scope of the SG alignment commitment.
- The evolution of secondary EU laws (i.e., regulations, directives, decisions) via tertiary EU law (i.e., implementing and delegated acts) that are in scope of the SG alignment commitment.

UK/Scottish Initiated:

- The making of statutory instruments and Scottish statutory instruments that make changes in assimilated laws and which diverge from EU rules.
- The adoption or proposal of new acts of primary UK law that make provisions that diverge from those that apply in the EU.

o This edition of the EU Law Tracker also identifies examples of policy alignment between EU law and Scots

- The adoption of new acts in the Scottish Parliament that provide for 'broad alignment' with the objectives and/or direction of similar or equivalent EU policies.
- The making of Scottish statutory instruments that give effect to standards and/or approaches that are 'shared' with the EU.

• **In response to concerns of the CEEAC Committee regarding transparency of decision-making on the EU alignment policy, the SG committed to increase the volume and detail of the information it was providing to the Scottish Parliament on the matter. This issue of the EU Law Tracker report reiterates the value of the significantly extended levels of reporting on the policy to align on the part of the SG. It also identifies improvements in the consistency and quality of SG reporting on Scottish legislative initiatives in line with the SG [agreement](#) with the Scottish Parliament on information sharing related to the EU alignment policy.¹**

• **The latest SG Annual Report on the Continuity Act (covering Sept 2023 to Aug 2024) is the first to fully implement the revised more detailed approach to reporting on SG use of the Continuity Act powers, and on the policy to align with EU law more broadly. This SG Report represents the most comprehensive and official account of alignment/divergence with EU law produced by any UK**

¹ 'Statement of Policy by the Scottish Ministers in Exercise of the Power in Section 1 of the UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021' (2022, May 10) *parliament.scot* Available: <https://www.parliament.scot/-/media/files/committees/constitution-europe-external-affairs-and-culture-committee/correspondence/2022/eu-alignment.pdf> (Accessed 12 February 2025)

based government or department to date. In this respect the SG revised approach to reporting continues to support transparency, aid legal clarity and assist legislative scrutiny.

- **This issue of the EU Law Tracker nonetheless also highlights some areas for potential further improvement in SG reporting practices. For example:**

- o Lists provided in Annex C regarding ‘EU Proposals Relevant to Devolved Competence or Having a Devolved Impact’ could usefully be updated to include relevant EU document references (for policy documents, communications etc.) and/or relevant references to entries in the Official Journal (for new EU acts or finalised proposals) – this would help parliamentarians and interested stakeholders to cross-read the content of SG Annual Reports with relevant ongoing developments in the EU.

- o Information provided by the SG appears to prioritise new EU proposals and initiatives over updates and revisions of established EU acts. While understandable, this approach also creates the possibility of changes to established EU acts which are or may be relevant to the SG alignment commitment being missed.

- o The difference between policy alignment and legislative alignment could be made more clear in the information provided by the SG in Policy Notes accompanying SSIs.

- **A UK-EU Summit in May 2025 resulted in an agreement for new and closer relations between the two parties. While much of the detail of this new UK-EU ‘Common Understanding’ are yet to be finalised, the commitments to agree an SPS Agreement and to link Emissions Trading Schemes (ETS) is set to involve dynamic regulatory alignment for the whole of the UK with a specified selection of EU laws. This will make the SG alignment commitment easier to uphold in relevant areas.**

- **Although the legal texts (expected by 2027)² are still to be finalised, the scope of EU law to which the UK is likely to dynamically align with under the UK-EU SPS Agreement and UK-EU ETS Agreement will be more narrow than the scope of EU law currently covered by the SG alignment commitment. The coming UK-EU Agreements can therefore be expected to establish dynamic regulatory alignment in some areas of policy currently covered by the SG alignment commitment but not all. This raises a question for the Scottish Government regarding its approach to alignment after (and presuming) the conclusion of the new UK-EU agreements, in particular in policy areas not covered by the any new UK-wide dynamic regulatory alignment obligations.**

- **The domestic implementation of any new UK-wide agreement(s) with the EU also raises questions regarding arrangements for scrutiny. Implementing any**

² Nick Thomas-Symonds (2025, August 27) ‘Speech on the UK’s Future Relationship with the European Union’ Available: <https://www.gov.uk/government/speeches/speech-on-the-uks-future-relationship-with-the-european-union> (Accessed 31 August 2025)

commitment to UK-wide dynamic regulatory alignment with aspects of EU law may result in centralisation of relevant policy areas, even if these are devolved. On this, there are two main areas for the Scottish Parliament to consider:

- o Arrangements for the scrutiny of domestic legislation to give effect to the anticipated UK-EU Agreements and the role (or lack thereof) of devolved legislatures.
 - o Arrangements for the scrutiny of subsequent legislation required to comply with the new obligations for dynamic regulatory alignment of the UK with the EU in areas of policy covered by the UK-EU Agreements and the role (or lack thereof) of devolved legislatures.
- **Unless existing scrutiny processes are reviewed and/or new scrutiny processes are developed, opportunities for the Scottish Parliament to scrutinise the implementation of the anticipated UK-EU SPS Agreement and UK-EU ETS Agreement (or the development of related legislation) are likely to be diminished once these UK-EU Agreements come into effect. Because of the overlap between policy areas currently in scope of the SG alignment commitment with those expected to be in scope of the coming UK-EU Agreements, the ability of the Scottish Parliament to scrutinise the implementation of the SG alignment commitment will likely also be impacted, unless new arrangements for scrutiny are made.**
- **Once the legal texts of the new UK-EU Agreements are finalised and published, it will be possible to more accurately map the interaction, in EU law terms, between the SG alignment commitment and the any UK-wide dynamic regulatory alignment obligations.**
- **Although it is not yet clear what role devolved legislatures generally and the Scottish Parliament in particular will have in the scrutiny of domestic legislation to give effect to or comply with the new UK-EU Agreements, the CEEAC Committee may wish to seek the initial view of the Scottish Government on the implementation of the new UK-EU Agreements once finalised including scrutiny arrangements.**

Recommendations for the Constitution et al and Subject Committees

- Where case studies included in this EU Law Tracker report highlight specific examples of actual or potential divergence, Subject Committees may wish to seek an update from the Scottish Government, or seek a further update in cases that were identified in previous reports but for which the Scottish Government have not (yet) made legislative provision or further related statements. Such initiatives may include:
 - o The Rural Affairs and Islands Committee may wish to seek further information from the SG on its potential pursuit of alignment with the EU on organics products and labelling of organic products in view of the coming into force of the Organic Production Regulation (EU) 2018/848 in January 2022 and the approximately 82 implementing and delegated EU acts adopted by the EU under the OP Regulation since the end of the UK Transition Period.

The Committee may also want to seek SG views on the effect of relevant provisions of the TCA on equivalence of standards regarding organics between the EU and UK and the implications for any SG alignment decision.

- o The Net Zero, Energy and Transport Committee may wish to seek more information or request updates from the SG on its consideration of alignment with Regulation (EU) 2024/216 which amends Regulation (EU) 2019/1009 in respect to the digital labelling of EU fertilising products which has been identified as 'for future consideration' in the most recent draft SG Annual Report.

- o The Net Zero, Energy and Transport Committee may wish to seek further information from the SG regarding its consideration of alignment with Regulation (EU) 2024/1781 establishing a framework for the setting of ecodesign and sustainable products; the most recent draft SG Annual Report identified the ecodesign and sustainable products regulation (ESPR) as one of those EU acts 'for future consideration' regarding alignment.

- o The Net Zero, Energy and Transport Committee may wish to seek an update from the SG regarding its consideration of alignment in respect to Regulation (EU) 2024/3110 on construction products which it identified as 'under consideration'.

- o The Net Zero, Energy and Transport Committee may wish to seek an update from the SG regarding progress on securing alignment with Regulation (EU) 2024/1991 on Nature Restoration which has been identified as one of those EU acts with which Scotland will align.

- o The Net Zero, Energy and Transport Committee may wish to seek an update from the SG regarding its consideration of aligning with the new Directive (EU) 2024/1785 on industrial emissions and landfill waste which the SG has identified as being 'under consideration' for alignment.

- In view of new EU laws adopted during the research period covered by this EU Law Tracker, Subject Committees may wish to seek an update from the Scottish Government in relation to specific new acts. Such initiatives may include:

- o The Health, Social Care and Sport Committee may wish to seek an update from the SG regarding its consideration of alignment with the European Health Data Space Regulation ((EU) 2025/327).

- o The Net Zero, Energy and Transport Committee may wish to seek a view from the SG on Directive (EU) 2025/1237 which amends the Habitats Directive (Council Directive 92/43/EEC) as regards the protection status of the wolf.

- In view of EU laws adopted in 2024 and identified by the Scottish Government as being considered for or for alignment, Subject Committees may wish to seek an update from the Scottish Government in relation to plans for or deliberations regarding alignment with the following:

- o Net Zero, Energy and Transport Committee may wish to seek an update from the SG regarding its consideration of Directive (EU) 2024/884 of the European Parliament and of the Council of 13 March 2024 amending Directive 2012/19/EU on waste electrical and electronic equipment (WEEE) – identified as ‘under consideration’ for alignment by the SG.
- o The Equalities, Human Rights and Civil Justice Committee may wish to seek an update from the SG regarding the Directive (EU) 2024/2841 of the European Parliament and of the Council of 23 October 2024 establishing the European Disability Card and the European Parking Card for persons with disabilities – identified as ‘for future consideration’ for alignment by the SG.
- o The Net Zero, Energy and Transport Committee may wish to seek an update from the SG regarding its consideration of Regulation (EU) 2024/1991 of the European Parliament and of the Council of 24 June 2024 on nature restoration and amending Regulation (EU) 2022/869 – identified as ‘yes’ for alignment by the SG.
- o The Economy and Fair Work Committee may wish to seek an update from the SG regarding its consideration of Regulation (EU) 2024/3110 of the European Parliament and of the Council of 27 November 2024 laying down harmonised rules for the marketing of construction products and repealing Regulation (EU) No 305/2011 – identified as ‘under consideration’ for alignment by the SG.
- o The Net Zero, Energy and Transport Committee may wish to seek an update from the SG regarding its consideration of Regulation (EU) 2024/3024 of the European Parliament and of the Council of 27 November 2024 amending Regulation (EU) No 691/2011 as regards introducing new environmental economic account modules – identified as ‘under consideration’ for alignment by the SG.
- o The Net Zero, Energy and Transport Committee may wish to seek an update from the SG regarding its consideration of Directive (EU) 2024/1275 of the European Parliament and of the Council of 24 April 2024 on the energy performance of buildings – identified as ‘under consideration’ for alignment by the SG.
- o The Net Zero, Energy and Transport Committee may wish to seek an update from the SG regarding its consideration of Regulation (EU) 2024/1735 of the European Parliament and of the Council of 13 June 2024 on establishing a framework of measures for strengthening Europe’s net-zero technology manufacturing ecosystem and amending Regulation (EU) 2018/1724 – identified as ‘for future consideration’ for alignment by the SG.
- o The Justice Committee may wish to seek an update from the SG regarding its consideration of Directive (EU) 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims – identified as ‘under consideration’ for alignment by the SG.

- o The Health, Social Care and Sport Committee may wish to seek an update from the SG regarding the Regulation (EU) 2024/1938 of the European Parliament and of the Council of 13 June 2024 on standards of quality and safety for substances of human origin intended for human application and repealing Directives 2002/98/EC and 2004/23/EC – identified as ‘yes’ for alignment by the SG.
 - o The Net Zero, Energy and Transport Committee may wish to seek an update from the SG regarding its consideration of alignment in respect to Directive (EU) 2024/3019 concerning urban wastewater treatment (recast).
 - o The Economy and Fair Work Committee may wish to seek the SG view on the new EU act in respect to Directive (EU) 2024/2847 on horizontal cybersecurity requirements for products with digital elements (the ‘Cyber Resilience Act’).
 - o The Rural Affairs and Islands Committee may wish to seek the SG view on the new EU act in respect to Regulation (EU) 2024/3115 on multiannual survey programmes, notifications concerning the presence of regulated non-quarantine pests, temporary derogations from import prohibitions and special import requirements for high-risk plants, plant products and other objects, the establishment of procedures for the listing of high-risk plants, the content of phytosanitary certificates and the use of plant passports, and as regards certain reporting requirements for demarcated areas and surveys of pests.
 - o The Net Zero, Energy and Transport Committee may wish to seek the SG view on the new EU act in respect to Regulation (EU) 2024/2881 on ambient air quality and cleaner air for Europe (recast).
- In some instances it may be that the Scottish Government are waiting for clarification on the scope, in EU law terms, of the anticipated new UK-wide dynamic regulatory alignment obligation prior to making specific legislative provisions for alignment in Scotland. Notably, however, several of the examples noted above are unlikely to be in scope of a UK-EU SPS or ETS Agreement.