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Scottish Government
Riaghaltas na h-Alba

Calum Kerr MSP
Convener
Delegated Powers and Law Reform Committee
Scottish Parliament

By email: DPLR.Committee@parliament.scot

26 October 2026

Dear Calum,

The Scotland Act 1998 (Specification of Functions and Transfer of Property etc.) Order 2019 and The Scotland Act 1998 (Specification of Functions and Transfer of Property etc.) (Amendment) Order 2026

I am writing to confirm that the following Order made under The Scotland Act 1998 was laid in both the UK and Scottish Parliaments on 16 October 2026 – The Scotland Act 1998 (Specification of Functions and Transfer of Property etc.) (Amendment) Order 2026 ("the 2026 Order").

This Order fulfils a long-standing commitment that the Scottish Government made in relation to a previous Order – The Scotland Act 1998 (Specification of Functions and Transfer of Property etc.) Order 2019 ("the 2019 Order"), following the identification of a drafting error by the DPLRC in March 2019.

The error related to article 3(2)(c) of the 2019 Order in so far as it refers to section 44 of the Climate Change (Scotland) Act 2009. Most of the subsections of section 44 do not contain functions which are capable of being exercised by agency arrangements under section 93 of the Scotland Act 1998, either because they are not functions or because they are functions of making subordinate legislation (so are excluded by section 93(3)). Article 2(3)(b)(i) of the 2026 Order addresses the issue by omitting article 3(2)(c) of the 2019 Order.

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I am grateful to the members of the Committee and their predecessors for their interest in this matter and am pleased that this commitment has now been fulfilled. Subject to Parliamentary scrutiny, the 2026 Order will come into force on 5 December 2026.

Yours sincerely,



JAMIE HEPBURN

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