



The Scottish Parliament  
Pàrlamaid na h-Alba

Published 19 March 2025  
SP Paper 759  
20th Report, 2025 (Session 6)

## Delegated Powers and Law Reform Committee

# Instruments considered by the Delegated Powers and Law Reform Committee during the third quarter of the Parliamentary Year 2024-25



**Published in Scotland by the Scottish Parliamentary Corporate Body.**

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# Delegated Powers and Law Reform Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any—

(i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;

(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;

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

(g) any Scottish Law Commission Bill as defined in Rule 9.17A.1;

(h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule; and

(i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



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# Committee Membership



**Convener**  
**Stuart McMillan**  
Scottish National Party



**Deputy Convener**  
**Bill Kidd**  
Scottish National Party



**Jeremy Balfour**  
Scottish Conservative  
and Unionist Party



**Katy Clark**  
Scottish Labour



**Roz McCall**  
Scottish Conservative  
and Unionist Party

# Summary

1. This reporting period covers 2 December 2024 to 23 February 2025.
2. The Committee considered a total of 52 instruments (51 laid by the Scottish Government and 1 instrument laid by the Lord President's Private Office (LPPO)).
3. There were 2 instruments reported by the Committee, however, one was reported where the Committee was content with the reason provided for the breach of the 28-day rule.
4. In addition to its work considering subordinate legislation, the Committee was also designated as the lead committee on the Leases (Automatic Continuation etc.) (Scotland) Bill, launching its consultation on the Bill on 10 January. The Committee also undertook significant work on its inquiry into framework legislation and Henry VIII powers during the period covered by the report.
5. During this period, the Committee considered the delegated powers in 3 Bills at Stage 1 and 4 Bills after Stage 2.
6. The Committee considered 3 Legislative Consent Memorandums (LCMs).

# Introduction

7. The purpose of this report is to provide a record of the Committee's scrutiny of instruments e.g., Scottish Statutory Instruments (SSIs) and UK Statutory Instruments (SIs) subject to joint procedure in the Scottish Parliament during the third quarter of the parliamentary year in 2024-25, covering the period 2 December 2024 to 23 February 2025.
8. This report—
  - sets out details of instruments considered by the Committee which were drawn to the attention of the Parliament during the reporting period on one or more of the reporting grounds set out in Standing Orders;
  - touches briefly on the commitments made by the Scottish Government and the Lord President's Private Office (LPPO) in response to the Committee's comments and details any action that has been taken; and
  - outlines the Committee's activity in respect of other matters within its remit.
9. As with previous quarterly reports, this report is intended to be more statistical than analytical to help inform the Committee's annual report which goes into more detail on the work carried out by the Committee during the parliamentary year. However, the statistics can still be used to highlight emerging themes in advance of the annual report.

# Overview and analysis

- 10. During the reporting period 2 December 2024 to 23 February 2025, a total of 52 instruments (including 1 laid by the LPPO) were considered by the Committee.
- 11. The 51 SSIs laid by the Scottish Government are broken down as follows—
  - 1 made affirmative instrument.
  - 19 affirmative instruments.
  - 22 negative instruments.
  - 9 laid only instruments.
- 12. The LPPO laid 1 instrument, which was not subject to any parliamentary procedure.
- 13. The infographic below provides a breakdown of instruments laid by the Scottish Government and the LPPO as well as the total instruments drawn to the Parliament’s attention—

## Scottish Government

Total SSIs

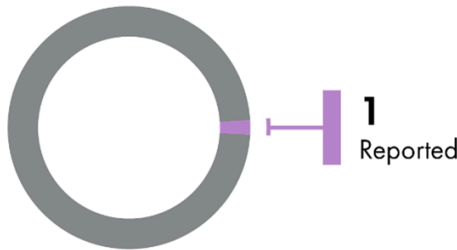


## LPPO

Total SSIs



Total drawn to the Parliament’s attention



Excluding an instrument reported where the Committee was content with the reason provided for the breach of the 28-day rule

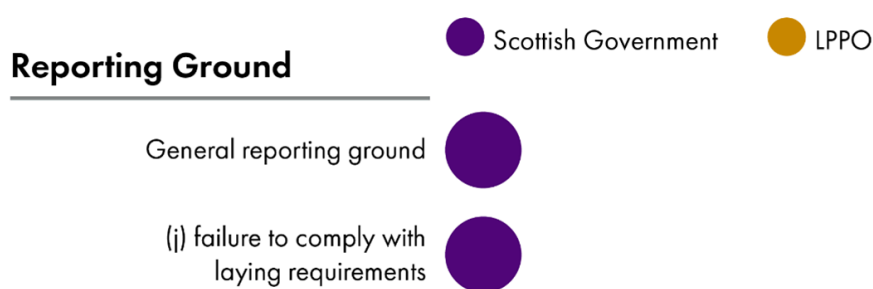
- 14. There were 2 instruments reported by the Committee. One of the instruments was reported under reporting ground (j) for breaching the 28-day rule but the Committee was content with the explanation of the breach. Therefore, excluding this instrument from the overall figure, 1 was reported, which equates to 2% of the instruments considered.
- 15. For comparison, in quarter 3 of 2023/24, there was 66 instruments, including 2 documents subject to parliamentary control, considered by the Committee. The Parliament’s attention was drawn to 4 (6%) of them.

## Reporting grounds

16. 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 SSI 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.

### *Reporting grounds: significant*

17. The Committee considers some reporting grounds to be of more significance than others. The Committee has therefore determined that it has concerns where an instrument is drawn to the attention of the Parliament on one of the following grounds:
- **ground (e)** – there appears to be a doubt whether it is *intra vires*;
  - **ground (f)** – raises a devolution issue; and
  - **ground (i)** – drafting appears to be defective.
18. These reporting grounds are referred to as *the significant reporting grounds*. The Committee considers every report under one of these grounds to be a serious matter as these raise fundamental legal questions and so there is the potential for the validity of the instrument to be questioned.
19. No instruments in this quarter were reported under the significant reporting grounds.
20. The infographic below provides a breakdown of the number of instruments reported on by the relevant reporting ground. A detailed list of the instruments reported on can be found at Annexe A —



## Withdrawal of instruments

21. Instruments can be withdrawn and re-laid after questions about an instrument are raised by the Committee with the Scottish Government, to, for example, correct an identified drafting error.
22. Four instruments were withdrawn in order to address points identified by the Committee and were re-laid during this reporting period:
- Rural Support (Improvement) (Miscellaneous Amendment) (Scotland) Regulations 2025 (SSI 2025/Draft) (withdrawn and re-laid 9 January 2025)
  - Disclosure (Scotland) Act 2020 (Incidental, Supplementary and Consequential

Provision) Regulations 2025 (SSI 2025/Draft) (withdrawn and re-laid on 21 January 2025)

- Tied Pubs (Miscellaneous Amendment) (Scotland) Regulations 2025 (SSI 2025/Draft); (withdrawn and re-laid on 10 February 2025); and
- Social Security (Up-rating) (Miscellaneous Amendments) (Scotland) Regulations 2025 (SSI 2025/Draft) (withdrawn and re-laid on 10 February 2025).

23. A further instrument was withdrawn on 9 December 2024, though it was not re-laid until 27 February 2025, which falls outwith the reporting period. Unusually, this instrument was withdrawn at the request of the lead committee, to allow for additional time for the lead committee's consideration. Before the instrument was withdrawn, the Committee had sent questions to the Scottish Government on the original draft instrument. The drafting of the instrument that was re-laid on 27 February 2025 took account of many of those questions.

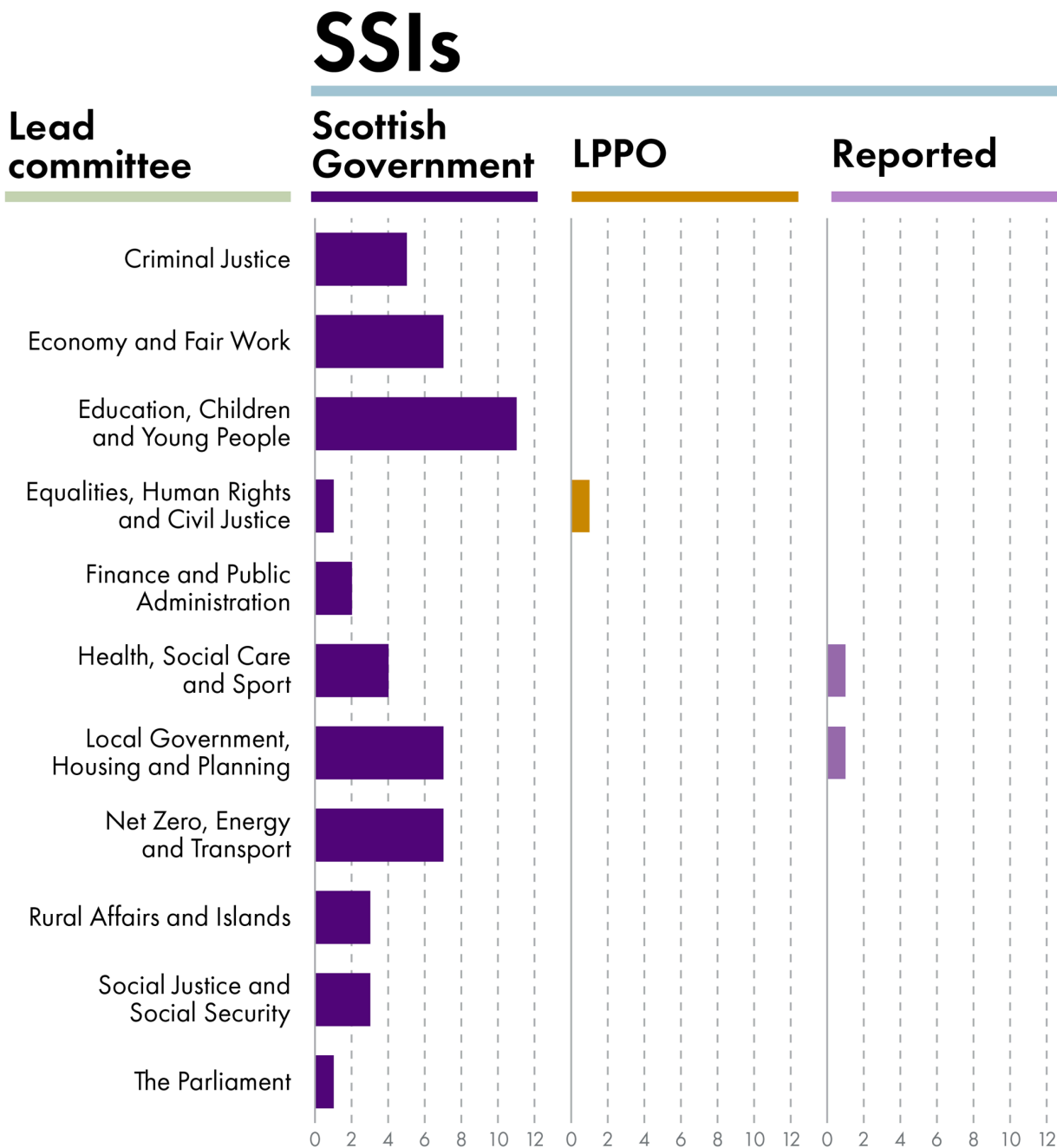
- Environmental Authorisations (Scotland) Amendment Regulations 2025 (SSI 2025/Draft) (withdrawn on 9 December 2024)<sup>i</sup>

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<sup>i</sup> This instrument was withdrawn on 9 December 2024 and not re-laid until after the reporting period (27 February 2025). It was considered by the Committee on 11 March 2025.

# Instruments referred to Lead Committees

24. The infographic below provides a breakdown of instruments referred to, and reported on, by lead committees



# Commitments

## Scottish Government

25. The Scottish Government laid the draft International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2025, which corrected an error in the International Organisations (Immunities and Privileges) (Scotland) Order 2009 which arose from an error in the International Organisations (Immunities and Privileges) (Scotland) Amendment Order 2024 (SSI 2025/158).
26. An error was corrected in the Property Factors (Registration) (Scotland) Regulations 2024 (SSI 2024/274) by way of a correction slip.
27. A list of all outstanding commitments can be found at Annexe B.

## Minor Points

28. The Committee identified a total of 13 instruments, all laid by the Scottish Government, on which minor points were raised (generally relating to minor typographical matters, and which do not affect the operation of the instrument).

## Bills

29. During the reporting period, the Committee considered the delegated powers in 3 [bills](#) at Stage 1—
  - Budget (Scotland) (No.4) Bill
  - Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Bill
  - Land Reform Bill<sup>ii</sup>
30. As the lead committee, the Committee is considering the [Leases \(Automatic Continuation etc.\) \(Scotland\) Bill](#).
31. The Committee considered the delegated powers in 4 [bills](#) after Stage 2—
  - Judicial Factors (Scotland) Bill
  - Welfare of Dogs (Scotland) Bill
  - Scottish Elections (Representation and Reform) Bill
  - Scottish Languages Bill<sup>iii</sup>

## Legislative Consent Memorandums (LCMs)

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<sup>ii</sup> Land Reform Bill was also considered in previous reporting periods and published in this reporting period.

<sup>iii</sup> Scottish Languages Bill was considered within the reporting period and the report published on 26 February 2025.

32. The Committee considered powers to make subordinate legislation within devolved competence in 3 LCMs—
- Product Regulation and Metrology Bill (UK Parliament legislation)
  - Data (Use and Access) Bill
  - Tobacco and Vapes Bill (the LCM was considered on 28 January and 25 February)<sup>iv</sup>

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<sup>iv</sup> Its final consideration of the Tobacco and Vapes Bill was considered outside the reporting period and the report published on 28 February 2025.

# **Annex A – Reporting grounds: 2**

## **December 2024 to 23 February 2025.**

As set out in the [Committee's remit](#), the Committee may determine that the attention of the Parliament should be drawn to an instrument. It may do so on a number of reporting grounds (and one instrument may engage one or more of those grounds). The reporting grounds engaged in this quarter are set out below:

### **General**

- [Burial \(Applications and Register\) \(Scotland\) Regulations 2024 \(SSI 2024/334\)](#) Health, Social Care and Sport Committee.

### **(j) - failure to comply with laying requirements**

- [Town and Country Planning \(Fees for Applications\) \(Scotland\) Amendment \(Amendment\) Regulations 2024 \(SSI 2024/369\)](#) Local Government, Housing and Planning Committee.

# Annex B – Historic Commitments

## Commitments made by the Scottish Government

### Commitment from 2019

- [Scotland Act 1998 \(Specification of Functions and Transfer of Property etc.\) Order 2019 \(SSI 2019/183\)](#) [11<sup>th</sup> Report, 2019. Published 06/03/2019] *commitment to bring forward an amendment at the earliest opportunity<sup>v</sup>*

### Commitments from 2023

- [Police Pensions \(Remediable Service\) \(Scotland\) Regulations 2023 \(SSI 2023/239\)](#) [53<sup>rd</sup> Report, 2023. Published on 21 September 2023] *commitments to correct the error in the preamble by correction slip, and to address the other points raised by way of an amending instrument.*
- [Teachers' Pensions \(Remediable Service\) \(Scotland\) Regulations 2023 \(SSI 2023/241\)](#) [53<sup>rd</sup> Report, 2023. Published on 21 September 2023] *commitment to correct these matters in the next amending instrument.*
- [Firefighters' Pensions \(Remediable Service\) \(Scotland\) Regulations 2023 \(SSI 2023/242\)](#) [53<sup>rd</sup> Report, 2023. Published on 21 September 2023] *commitment to correct the error in the preamble by correction slip, and to address these other matters by way of an amending instrument.*
- [National Health Service Pension Schemes \(Remediable Service\) \(Scotland\) Regulations 2023 \(SSI 2023/246\)](#)[53<sup>rd</sup> Report, 2023. Published on 21 September 2023] *commitment to address these matters in the next amending instrument.*

### Commitments from 2024

- [Valuation \(Proposals Procedure\) \(Scotland\) Amendment Regulations 2024 \(SSI 2024/186\)](#) ( [49<sup>th</sup> Report 2024, Published 4 September 2024](#) ) *commitment to address error by bringing forward amending regulations at the next suitable opportunity.*
- [Burial \(Applications and Register\) \(Scotland\) Regulations 2024 \(SSI 2024/334\)](#) (73<sup>rd</sup> Report 2025, Published 4 December 2024) *commitment to amend the instrument to improve the drafting of the provision at the next available opportunity.*

## Commitments made by the LPPO

### Commitment from 2024

- [Act of Adjournal \(Criminal Procedure Rules 1996 Amendment\) \(United Nations](#)

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<sup>v</sup> This will require a further Scotland Act Order to be brought forward at Westminster. The Scottish Government does not consider that the problems identified are particularly problematic nor that they will impede proper functioning of the devolution arrangements for forestry. [See letters from the Minister of Parliamentary Business, 2 March 2023 and 25 October 2023, and the UK Government, 30 October 2023.](#)

**Delegated Powers and Law Reform Committee**

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[Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024 \(SSI 2024/174\) \( 47<sup>th</sup> Report 2024, Published 26 June 2024.\)](#) *The LPPO has advised that the definition will be removed at the next available opportunity.*

