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Delegated Powers and Law Reform Committee Comataidh Cumhachdan Tiomnaichte is Ath-leasachadh Lagh

Subordinate Legislation Considered by the Delegated Powers and Law Reform Committee on 20 May 2025



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Delegated Powers and Law Reform Committee

The remit of the Delegated Powers and Law Reform Committee is 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; and

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

(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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Introduction

1. At its meeting on 20 May 2025, the Committee considered the following instruments under its remit and agreed to draw them to the attention of the Parliament:
 - [The Deposit and Return Scheme for Scotland Amendment Regulations 2025](#) (SSI 2025/Draft)
 - [The Deposit and Return Scheme for Scotland \(Designation of Scheme Administrator\) Order 2025](#) (SSI 2025/Draft)
 - [The Environmental Regulation \(Enforcement Measures\) \(Scotland\) Amendment Order 2025](#) (SSI 2025/Draft)
 - [The Public Service Vehicles \(Registration of Local Services\) \(Local Services Franchises Transitional Provisions\) \(Scotland\) Regulations 2025](#) (SSI 2025/137)
2. The Committee's recommendations in relation to these instruments are set out in the next section of this report.
3. The Committee also determined that, in terms of its remit, it did not need to draw the Parliament's attention to the instruments at the end of the report.

Scrutiny of instruments under the Committee's remit: instruments drawn to the attention of the Parliament

4. The Committee asked the Scottish Government questions on a number of today's instruments, and the full correspondence is set out in [this paper, published alongside papers for this week's Committee meeting](#).

Deposit and Return Scheme for Scotland Amendment Regulations 2025 (SSI 2025/Draft)

Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025 (SSI 2025/Draft)

5. The Committee considered these draft instruments at its meeting on 20 May 2025. The lead committee for both is the Net Zero, Energy and Transport Committee. These two instruments need to be read alongside one another, and each features in this report. In this report they are referred to as “the Amendment Regulations” and “the Designation Order” respectively.

The draft Deposit and Return Scheme for Scotland Amendment Regulations 2025

6. This instrument, if approved by the Parliament, will amend the Deposit and Return Scheme which is contained in the Deposit and Return Scheme for Scotland Regulations 2020 (SSI 2020/154) “the 2020 Regulations”.
7. The amendments are principally being made in order to align the Scottish scheme with equivalent schemes which are being established in England and Northern Ireland. This involves changing the main commencement date of the Scottish scheme from 1 October 2025 to 1 October 2027, and changing various other aspects of the scheme and of how it is administered. This includes removing glass containers from the scheme, in the absence of an exclusion from the UK Government under the United Kingdom Internal Market Act 2020.
8. This is a substantial instrument and details of the policy changes and rationale for these are set out in the [draft Policy Note](#).
9. The instrument is subject to the affirmative procedure and, if approved by the Parliament, will come into force on the day after it is made.
10. The Committee asked the Scottish Government several questions about this instrument.

Question 1

11. Question 1 relates also to the Designation Order and is discussed later in this report.

Question 2

12. The Committee asked whether the following definitions (inserted by regulation 4(1)

of this instrument into the interpretation provision in regulation 2(1) of the 2020 Regulations) should be inserted in alphabetical order:

- “returnable packaging”
- “sum equal to the deposit”.

13. The Scottish Government confirmed that this was the case.

14. The Committee reports this point on the general reporting ground.

Question 3

15. The Committee asked whether, in new regulation 16A(3) (inserted by regulation 15 of the instrument) there is an error in the wording that provides that the scheme administrator must pay hospitality retailers from whom it collects scheme packaging “the total amount of sums equal to the deposits” which have been paid by hospitality retailers in respect of the collected scheme packaging. This contrasts with the equivalent wording in paragraphs 2(a) and (4).

16. The Scottish Government considers that there is no error in the wording. It has provided an explanation of the policy intention and has confirmed that the provision is in line with the policy intention.

17. The Committee is content with the explanation provided.

Question 4

18. Regulation 17 of the instrument amends regulation 20 (return points) of the 2020 Regulations. Regulation 17(1)(f) omits paragraph (5) of regulation 20, which was inserted by SSI 2023/210, but the instrument does not remove the reference to paragraph (5) which SSI 2023/210 inserts into the opening words of regulation 20(2).

19. The Scottish Government confirmed that this is an oversight, but does not consider this substantively affects the operation of regulation 20 (as amended).

20. The Committee report this point on the general reporting ground.

Question 5

21. Regulations 20ZB and 20ZC of the 2020 Regulations (inserted by regulation 18 of the instrument) provide that they apply where a person applies for an exemption under new regulation 20ZA, but regulation 20ZA provides for applications for registration rather than exemption.

22. First, the Committee asked whether the references to regulation 20ZA are incorrect. The Scottish Government agreed, and advised that they should in fact be references to regulation 22(a) or (b).

23. Second, the Committee asked whether, in that case, new regulations 20ZB and

20ZC should have been inserted after regulation 24 (application for exemption of a return point) rather than after regulation 20 (return points), since they concern what happens after an application for an exemption has been made. The Scottish Government agreed.

24. The Committee reports these points on the general reporting ground.

Question 6

25. New schedules 1A, 1B and 1C provide:

“Where the [body] is a company, the company registration number as kept by Companies House, if applicable.”

26. The Committee asked whether it would be more in line with standard drafting practice to stop the sentence after “number”.

27. “If applicable” is redundant if the body is a company, and the company’s registered number is not normally described in legislation as being “kept by” Companies House. The Committee appreciates that “kept by” appears in schedule 1 paragraph 3 of the 2020 Regulations, but this appears to be an outlier.

28. The Scottish Government considered that the drafting is acceptable, and noted (as acknowledged in the question) that it is consistent with the existing wording in the 2020 Regulations, schedule 1, paragraph 3.

29. The Committee notes that this wording appears in the list of information which is to be provided in applications filled in by groceries retailers who are applying to be registered as a return point operator, or are applying for an exemption from having to operate a return point, and by businesses who are applying for registration as a takeback service provider.

30. These forms are not yet in use, and there is time to change them before they come into use. The Committee considers that the wording, while not likely to cause confusion, is not in line with standard drafting practice. In relation to the use of “kept by” (which does appear in one other place in the 2020 Regulations, but nowhere else on the statute book in this context), the Committee considers that creating new instances of a term which is not quite right should be avoided.

31. The Committee reports this point on the general reporting ground.

Question 7

32. Regulation 31(7A) (inserted by regulation 28(f) of the instrument) creates an offence of failure by the scheme administrator to comply with a request for payment by SEPA of SEPA’s costs under new regulation 30A.

33. The offence is punishable by a fine. The maximum penalty is: on summary conviction, a fine not exceeding the statutory maximum ; and on conviction on indictment, an unlimited fine.ⁱ If it is proved that the offence was committed with

the consent or connivance of, or due to neglect by, a director or manager of the scheme administrator, that individual as well as the scheme administrator can be convicted of the offence and fined.ⁱⁱ

34. New regulation 30A provides that the payment is to be made in a way that is to be agreed between SEPA and the scheme administrator:

“SEPA must request payment from the scheme administrator to recover the reasonable costs incurred by SEPA in exercising their enforcement functions conferred by, or under, these Regulations or their functions conferred by, or under, the Designation Order 2025, by such means or in such manner and at such intervals as are agreed with the scheme administrator.” (emphasis added)

35. The Committee pays particular attention to the creation of new offences. Where behaviour is being criminalised, the conduct (or in this case failure to act) that constitutes an offence should normally be spelt out in very clear terms in legislation. It is relatively unusual that the person whose failure to comply would constitute an offence is given power to agree the terms with which it must comply. The Committee asked the Scottish Government how the reaching of agreement on the terms is to be governed. The Committee asked whether, for example, is it anticipated that the means/manner/intervals will be set out in the operational plan (for which there are deadlines and controls in the Order), and if so, whether the Scottish Government considered that the instrument (or the Order) should stipulate this.
36. The Scottish Government accepted that the wording of the provision may be unusual, but explained that it is the policy intention for the deposit and return scheme to be run by industry through the body that industry has set up as the scheme administrator. Given that this body will control the finances of the scheme it also has to pay the enforcement costs, how it does that is not a matter which the Scottish Government would want to stipulate in the regulations since that will be part of the operational matters. Under the draft Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025, the scheme administrator is able to choose between several funding mechanisms to meet SEPA’s costs (such as unredeemed deposits or producer registration fees). The Scottish Government expects that the method of payment will be a matter to be included in the operational plan which is to be approved by SEPA, although that will ultimately be a matter for SEPA to determine.
37. The Committee notes the unusual nature of this aspect of the new offence. As this is bound up with policy decisions this is something that the lead Committee may wish to pursue.

- 38. The Committee draws this matter to the attention of the Parliament on the general reporting ground.**

Question 8

i regulation 31 of the 2020 Regulations.

ii Regulation 31(16) and (17) of the 2020 Regulations

39. Regulation 28(e) of the instrument omits the offences in paragraphs (5) and (6) of regulation 31 of the 2020 Regulations. The Committee asked whether it should it also omit the offence in paragraph (5A) (inserted by SSI 2023/210) (paragraph (5A) relates to obligations in schedule 5, which this instrument omits).
40. The Scottish Government agreed, but added that it does not consider that this error substantively affects the operation of the offences provisions as there is no obligation to enforce.

41. The Committee reports this point on the general reporting ground.

Question 9

42. The Committee noted that the instrument does not appear to amend regulation 31(13) of the 2020 Regulations to remove reference to the offence under regulation 15. Regulation 15 of the 2020 Regulations is omitted by regulation 14 of the instrument.
43. The Scottish Government agreed that regulation 31(13) should have been omitted, but does not consider that this error substantively affects the operation of the offences provisions as there is no obligation to enforce.

44. The Committee reports this point on the general reporting ground.

Question 10

45. This question links to question 5 on the Designation Order.
46. A groceries retailer may apply for an exemption from operating a return point on the basis that its premises are unsuitable. The grounds on which such an application can be made (under regulation 22(b) of the 2020 Regulationsⁱⁱⁱ) are that the:
- “location, layout, size, design or construction” (emphasis added)
- of the premises does not permit, or cannot reasonably be altered to permit, the operation of a return point on the premises.
47. Schedule 1C contains the list of information that a groceries retailer who wishes to apply for an exemption must provide in their application. This includes (at paragraph 8) information to demonstrate that the premises are unsuitable on the basis of their:
- “ location, layout, design, or construction”.
48. The Committee asked whether this should include “size” (in between “layout” and “design”) in line with the grounds for making an application under new regulation 22(b).
49. The Scottish Government agreed.

iii as substituted by regulation 21 of the Amendment Regulations

50. The Committee considers that the omission of “size” as one of the relevant grounds for a return point exemption in the list of information to be contained in the application is capable of impeding the operation of exemption applications.

51. The Committee reports this error on ground (i), that its drafting appears to be defective.

Question 11: corrective action

52. The Committee notes that the Scottish Government has advised that it will take action to address the points raised in questions 2, 4, 5, 8, 9 and 10.

The draft Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025

53. The purpose of the Designation Order is to designate a body as “scheme administrator” to operate the Deposit and Return Scheme in Scotland, and to confer functions on it for this purpose. The body being designated is the UK Deposit Management Organisation Limited.

54. This instrument also requires the scheme administrator, among other things, to:

- have an operational plan, setting out how the scheme administrator intends to exercise its functions and to submit the plan to SEPA by 31 March 2026 for approval. There is provision requiring the scheme administrator to review its plan annually and agree any revisions with SEPA.
- issue a scheme logo.
- set the amount of the deposit.
- set the handling payment, to be paid by the scheme administrator to those operating a return point for empty containers.
- decide on applications by producers to register with the scheme, and maintain a register of producers.
- grant or refuse applications to operate a return point (or applications for exemption from having to do so).
- provide for a right for affected persons to request an internal review of the scheme administrator’s decisions.
- make payments to SEPA.

55. The Order also enables the scheme administrator to charge a fee to registered producers.

56. The instrument is subject to the affirmative procedure and, if approved by the Parliament, it will come into force on the day after it is made.

57. The Committee asked the following questions.

Questions 1 and 2

58. Questions 1 and 2 on the Designation Order concern the enabling powers of the Amendment Regulations and the Designation Order. The questions explore the appropriateness of their use and how Parliament may have expected that they would be used when agreeing to delegate them.

59. For the Amendment Regulations, the key enabling power is:

- [section 84](#) - power for Scottish Ministers to make regulations which establish a deposit and return scheme. This section contains a significant level of detail on the provision that regulations under section 84 may contain.

60. The Designation Order cites, as its enabling powers:

- [section 85](#) – power for Scottish Ministers to make an Order which:
 - designates a body as the scheme administrator (s. 85(1)),
 - confers functions on an existing body (s. 85(2)(a)),
 - includes provision about the charging by that body of such reasonable amounts as the Scottish Ministers consider appropriate, and
- [section 96\(2\)](#) - an ancillary provision that enables Scottish Ministers to include in the Order such consequential, incidental, supplementary etc. provision as they consider appropriate.

61. Question 1 concerns the Designation Order only. Question 2 concerns both instruments.

Question 1

62. The Committee asked whether the Designation Order (which cites section 85) relies also on the power in section 84(1), given that the Order contains types of provision expressly mentioned in the Act as being capable of being made under section 84. Examples are providing for a scheme administrator to carry out the functions listed in section 84(5), and provision about deposits (section 84(7)(c)).

63. The Committee was interested to understand the reasons why such detailed provision, of a type specified in section 84, is being made in the Designation Order rather than under section 84. Where more than one enabling power is available, normal drafting practice is to make subordinate legislation under the most specific relevant power.

64. The Scottish Government has provided a helpful response in the answers to questions 1 and 2.

65. The Committee notes that the level of parliamentary scrutiny is now the same whether the instrument is made under section 84 or 85: the first SSI made under section 84 was subject to additional parliamentary scrutiny under a “super-affirmative” procedure, but subsequent SSIs are not; whereas SSIs made under section 85 are subject to the (standard) affirmative procedure.^{iv}

66. The Scottish Government's response also reflects, and the Committee agrees, that it is not normally acceptable to combine, in one instrument, provisions made under a power to make "regulations" and provisions made under a power to make an "order".^v
67. The Committee is content that no reporting grounds are engaged in relation to question 1.

Question 2

68. One of the matters specified in section 84(1) as a type of provision that can be made under that power, but which is now being legislated for in the Designation Order, is the amount of the deposit that it to be charged and refunded. The 2020 Regulations fixed this at 20 pence^{vi}. This was part of the original scheme that was subject to extensive consultation: as noted above, the 2020 Regulations were subject to a super-affirmative procedure. Under this procedure, before the draft regulations could themselves be laid, an initial copy had to lie before Parliament for a minimum 90 day "representation period", the Scottish Ministers had to have regard to any representations and to any resolution of the Parliament or Committee report made during that period, and had to lay a statement detailing any views received and any changes they had made in response.
69. Under the present draft instruments, the amount of the deposit is instead to be determined by the scheme administrator. It will therefore be set by a private company rather than in legislation subject to parliamentary procedure.
70. As the Committee noted in its question, while the Act provides that "regulations may in particular include provision about... (c) the deposits to be included in the price", this is optional. The Act does not explicitly require the amount of the deposit to be set in regulations. However, the Committee considered it appropriate to ask for further information about the Scottish Government's decision to delegate a matter that had previously been the subject of extensive parliamentary scrutiny (and approval). The Committee asked for further information on two points.
71. First, the Committee asked why the Scottish Government had decided that the amount should not now be set out in legislation and that the power to set the amount should instead be delegated to the scheme administrator.
72. The Scottish Government has provided a detailed response, including that the Scottish Government's preferred policy was to fix the amount of the deposit in the 2020 Regulations but that, following the passing of the United Kingdom Internal Market Act 2020, it has had to accept a change in policy (that the deposit level is now to be aligned with other parts of the UK by the scheme administrators working together).

iv The first SSI made under the power in section 84(1) was the 2020 Regulations. The requirements of the "super-affirmative" pre-laying procedure for the first use of this power are set out in [section 97](#) of the Act.

v The last example of an instrument considered by the Committee in which types of instrument were combined was the Traffic Signs Amendment (Scotland) Regulations and General Directions 2022 ([SSI 2022/111](#)). The Committee's correspondence with the Scottish Government in relation to this instrument is in the [Instrument Responses](#) for the Committee meeting on 26 April 2022.

vi [regulation 5\(1\)](#) of the 2020 Regulations

73. In light of the response, the Committee is content that an explanation has been given, and that further exploration in this regard would be a policy matter.
74. Second, the Committee asked whether the Scottish Government considers that delegating the amount of the deposit to the scheme administrator, against the background of the amount having been approved by Parliament under a super-affirmative procedure, is consistent with how Parliament expected that this would be done at the time that the delegated power was conferred.
75. The Scottish Government's response points out that it seems unrealistic that there would have been expectations, at the time the powers were conferred, about the detail of how the deposit was to be set. Reference is made to the supplementary Delegated Powers Memorandum which stated that "the section would permit a range of schemes to be developed, within that basic structure. At its simplest a scheme could merely require Scottish producers to establish their own deposit and return schemes."
76. The Committee accepts the force of the Scottish Government's point that this was one known possibility at the time the power was conferred, in which eventuality none of the detailed matters in section 84 would have appeared in legislation. While the present instrument represents a significant change in approach since the 2020 Regulations, this does not itself reflect on what Parliament's expectations were at the time before the first set of regulations had been produced.
77. The Committee is content with the explanations provided in relation to the matters within its remit, but, wishes to highlight its correspondence to the lead committee, for its information. There are various matters which the lead committee could, if it wished, explore as part of its policy scrutiny, regarding oversight of matters that were formerly in legislation but would be delegated or removed if these instruments are approved.
78. One example is the extent of the duty to review: [regulation 32](#) of the 2020 Regulations requires the Scottish Ministers to carry out a review of the operation of the 2020 Regulations, produce a report and lay it before Parliament. As originally approved, this regulation specified three matters which the review must consider in particular. One of these was the deposit.^{vii} The Amendment Regulations delete the requirement to consider the deposit^{viii}. Consideration could potentially be given, for example, to whether removing the requirement for the Scottish Ministers to report to Parliament in particular on how the deposit is operating is a necessary change as a result of the need to align with the rest of the UK, and if not, whether it would nonetheless still be desirable as a matter of policy in the interests of maintaining the Scottish Parliament's previously approved scrutiny role.

- 79. The Committee is content that no reporting grounds are engaged but highlights its correspondence with the Scottish Government to the lead committee.**

vii The other two are the materials included in the scheme and the collection targets.

viii Regulation 29(b)

Question 3

80. The Committee asked whether the reference to “scheme producer” should be:

(1) to the defined term “registered producer” in:

- article 24(5)(b)
- article 2[54](7), opening words
- article 24(7)(a)
- article 25(3).

(2) to “producer” in article 24(2)(a).

81. The Scottish Government agreed, except that the first of these references should be to “producer”.

82. The Committee reports this point on the general reporting ground.

Question 4

83. The Committee asked whether articles 24(4) and 30(5) should specify to whom the written notice of cancellation must be given, as is done in the opening words of article 28(2) (among others).

84. The Scottish Government considers that it is clear from the context of the provisions that the notice of cancellation would require to be given to the registered producer under article 24(4) and that the revocation of an exemption would require to be given to the groceries retailer under article 30(5).

85. The Committee accepts that this is unlikely to cause confusion and is content with the response.

Question 5

86. This question is connected to question 10 on the Amendment Regulations.

87. A groceries retailer may apply for an exemption from operating a return point on the basis that its premises are unsuitable. The grounds on which such an application can be made (under regulation 22(b) of the 2020 Regulations^{ix}) are that the “location, layout, size, design, or construction”^x of the premises does not remit, or cannot reasonably be altered to permit, the operation of a return point on the premises.

88. Under the Designation Order, this application falls to be considered by the scheme administrator. Article 29(1)(b) sets out the grounds on which the scheme administrator may grant or refuse application. However, it specifies as the relevant

ix as substituted by regulation 21 of the Amendment Regulations.

x emphasis added

grounds only “location, layout, design, or construction”. We asked whether “size” should be included as a ground for an exemption, to match regulation 22(b), or whether “size” should be omitted from regulation 22(b).

89. The Scottish Government advised that “size” has been omitted in error from article 29(1)(b).
90. The Committee considers that the omission of “size” as one of the relevant grounds for granting an exemption is a significant error which could impede the operation of the provision.

91. The Committee reports this error on ground (i), that its drafting appears to be defective.

Question 6

92. The Committee suggested that the formulation in articles 31(1) and 34(1) of “whether” and then “otherwise” appears unusual:

“(1) The scheme administrator must...

(a) decide whether to grant the application, or

(b) otherwise, refuse it”

93. The Committee asked whether this provision could be expressed more clearly.
94. The Scottish Government agreed that this provision could have been formulated differently, but considered that it is clear that the scheme administrator can either grant an application or refuse it.
95. The Committee is satisfied that while the wording may be clunky, the provision is unlikely to cause confusion and the wording is within the margin normally allowed for the drafter’s discretion.

Question 7

96. It appears that article 31(9)(b) is intended to provide that the scheme administrator may cancel a registration if it appears that the information provided in the application, on the basis of which the registration was granted, is no longer correct in a material respect. We asked whether this was indeed the intention and, if so, whether this provision could be clearer.
97. For background, article 31(9)(b) refers to the information provided in accordance [with] regulation 25(8)(b) of the 2020 Regulations, but this is the obligation to notify changes rather than the obligation to provide the initial information (the latter being in regulations 25(2)(b) and (c) of the 2020 Regulations, with reference to schedule 4). It is noted that failure to comply with the obligation to notify material changes (regulation 25(8)(b)) would in any event be grounds for cancellation under article 31(9)(a).
98. Part (2) of the question noted that the same issue arises in the reference in article 34(10)(b) to regulation 21(6).

99. The Scottish Government agreed, in response, that both references could be clearer, and considered that it is misleading to refer to the requirement in the 2020 Regulations to notify material changes to the scheme administrator. The intention of the provision is to ensure that the scheme administrator can cancel the registration if there has been a material change in the registration information which the scheme administrator considers is sufficiently significant to lead to cancellation of the registration.

100. The Committee reports this point on ground (h): that its form or meaning could be clearer.

Question 8

101. We asked whether, in article 31(13)(c), the words “a right” (or similar) are missing in the phrase “the person has under article 20 to ask”. The Scottish Government agreed.

102. The Committee reports this point on the general reporting ground.

Question 9

103. This question noted that some terms that are defined in the Amendment Regulations are used in the Order but not defined there, and asked whether it could be helpful to the reader to define these in the Order or to include a general adoption of / signposting to the definitions in the Amendment Regulations.

104. The Scottish Government has provided a detailed response to this point, with which the Committee is content.

105. The Committee notes that the Scottish Government intends to include a definition of “producer” in the Order.

Question 10: corrective action

106. The Committee notes that the Scottish Government has advised that it will take corrective action in relation to the matters raised in questions 3, 5, 7, 8 and 9.

Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2025 (SSI 2025/Draft)

107. This instrument amends the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 (“the Principal Order”) to include offences under the Producer Responsibility Obligations (Packaging and Packaging Waste) Regulations 2024 (“the 2024 Regulations”) as relevant offences. This enables SEPA to use civil sanctions in respect of these offences.

108. The 2024 Regulations impose requirements on producers of packaging. The 2015 Order provides SEPA with powers to impose civil enforcement measures on

persons in relation to the offences specified in Schedule 4 to the Order (“relevant offences”). The enforcement measures are fixed monetary penalties, variable monetary penalties and enforcement undertakings. This instrument adds offences created under the 2024 Regulations to the list of “relevant offences”.

109. The Committee contacted the Scottish Government to raise an issue. It wrote:

“We note that the footnote referencing the SSI number for the principal regulations has been included in the citation provision. In the body of regulation 2, there is a typo in the title of principal regulations which refers to the “Environment” Regulation (Enforcement Measures) (Scotland) Order 2015, and there is no corresponding footnote.

Whilst we appreciate that the Scottish Government’s view is likely to be that this does not invalidate the provision, it would be helpful to know whether it is something the Scottish Government considers should be corrected.”

110. In response, the Scottish Government stated:

“Thank you for pointing out the misplaced footnote and typographical error in the Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2025.

As referred to in the question, the Scottish Government is of the view that neither of these errors has the effect of invalidating the provision given that footnotes are not operative and have no legal force, and that the typing error is minor and obvious given that the correct title to the SSI is provided in the heading to regulation 2 of the instrument.

It is therefore is our intention to correct these errors in the signing version of this instrument, assuming that it is approved of by the Scottish Parliament, by repositioning the footnote to its correct location in regulation 2(1) and substituting “Environmental” for “Environment” in the reference to the instrument to be amended by this instrument.”

111. The Scottish Government has failed to correctly cite and footnote the legislation that is amended by this instrument; however, the Committee considers it to be an obvious error that is unlikely to lead to any misunderstanding.

112. The Committee draws the instrument to the attention of the Parliament on the general reporting ground in light of the misplaced footnote and the typographical error in the reference to the title of the Principal Order.

113. The Committee highlights its correspondence to the lead committee, noting that the Scottish Government intends to correct the errors in the signing copy of the instrument. The Committee is not expressing a view on the proposed method of correction.

114. The lead committee is the Net Zero, Energy and Transport Committee.

Public Service Vehicles (Registration of Local Services) (Local Services Franchises

Transitional Provisions) (Scotland) Regulations 2025 (SSI 2025/137)

115. This instrument makes provision about the registration and the variation or cancellation of registrations of services during the transition of a local bus market into, and out of, a franchising framework made by a local transport authority under the Transport (Scotland) Act 2001.
116. The purpose of this instrument is to minimise the potential disruption of services and ensure that passengers have a continuity of service should operators seek to vary or cancel local services before a franchising framework can come into operation.
117. The Committee queried what appeared to be a drafting error in this instrument. In response, the Scottish Government has confirmed that there is a minor drafting error in regulation 7(1), which it proposes to correct by correction slip.

118. The Committee draws the instrument to the attention of the Parliament on the general reporting ground for a minor drafting error. In regulation 7(1), the reference to “paragraphs (2) to (4)” should be a reference to “paragraphs (2) and (3)”.

119. The lead committee is the Net Zero, Energy and Transport Committee.

No points raised

120. At its meeting on 20 May 2025, the Committee considered the following instruments under its remit and agreed not to draw them to the attention of the Parliament.

Criminal Justice Committee

The Restitution Fund (Scotland) Order 2025 (SSI 2025/Draft)

- The Committee agreed to highlight its [correspondence on this instrument](#) with the Scottish Government to the lead committee.

Equalities, Human Rights and Civil Justice Committee

The Act of Sederunt (Lands Valuation Appeal Court) 2025 (SSI 2025/140)

The Act of Sederunt (Registration Appeal Court) 2025 (SSI 2025/141)

