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## Delegated Powers and Law Reform Committee

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



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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 24 February to 12 May 2025.
2. The Committee considered a total of **47** instruments and **one** document subject to Parliamentary control (44 instruments laid by the Scottish Government, three laid by the Lord President's Private Office, and the document was laid by the Scottish Public Services Ombudsman ("SPSO")).
3. There were **three** instruments reported by the Committee during this period. However, one of those was reported under reporting ground (j) where the Committee was content with the reason provided for the breach of the 28-day rule.
4. During this period, the Committee considered the delegated powers in **four** Bills at Stage 1 and **three** after Stage 2.
5. The Committee considered **four** Legislative Consent Memorandums and **two** Supplementary Legislative Consent Memorandums.

# Introduction

6. 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 fourth quarter of the parliamentary year in 2024-25, covering the period 24 February to 12 May 2025.
7. 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.
8. 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

9. During the reporting period 24 February to 12 May 2025, a total of **47** instruments (including **three** laid by the LPPO) and **one** document subject to Parliamentary control (laid by the SPSO), were considered by the Committee.
10. The 44 SSIs laid by the Scottish Government are broken down as follows—
  - one made affirmative instrument;
  - six affirmative instruments;
  - 28 negative instruments; and
  - nine laid only instruments.
11. The LPPO laid three instruments, which were not subject to any parliamentary procedure.
12. The SPSO laid one document subject to Parliamentary control.
13. The infographic below provides a breakdown of instruments laid by the Scottish Government, the LPPO, and the SPSO, as well as the total instruments drawn to the Parliament’s attention—

## Scottish Government

Total SSIs

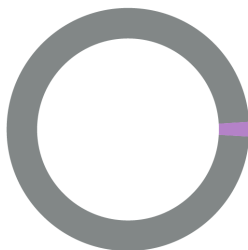


**LPPO**

Total SSIs



Total drawn to the Parliament’s attention

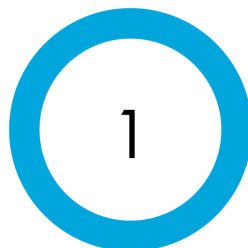


**2**  
Reported

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

**SPSO**

Total Documents



14. There were **three** instruments reported by the Committee. Two of the instruments were reported under reporting ground (j) for breaching the 28-day rule; the Committee was content with the explanation of the breach on one of these. Therefore, excluding this instrument from the overall figure, 2 were reported, which equates to **5%** of the instruments laid by the Scottish Government considered.

## Reporting grounds

15. 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*

16. 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.
17. 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.
18. **One** instrument was reported under the significant reporting ground (i), 'drafting appears to be defective' by the Committee on 1 April 2025:
- Disclosure (Scotland) Act 2020 (Commencement No. 5, Savings and Transitional Provision) Amendment Regulations 2025.
19. 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

20. 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.
21. **One** instrument was re-laid during this period (having been withdrawn in the previous quarter, on 9 December 2024). While this re-laid instrument did address issues raised on it by the Committee, unusually, it was withdrawn at the request of

**Delegated Powers and Law Reform Committee**

Instruments considered by the Delegated Powers and Law Reform Committee during the fourth quarter of the Parliamentary Year 2024-25, 41st Report, 2025 (Session 6)

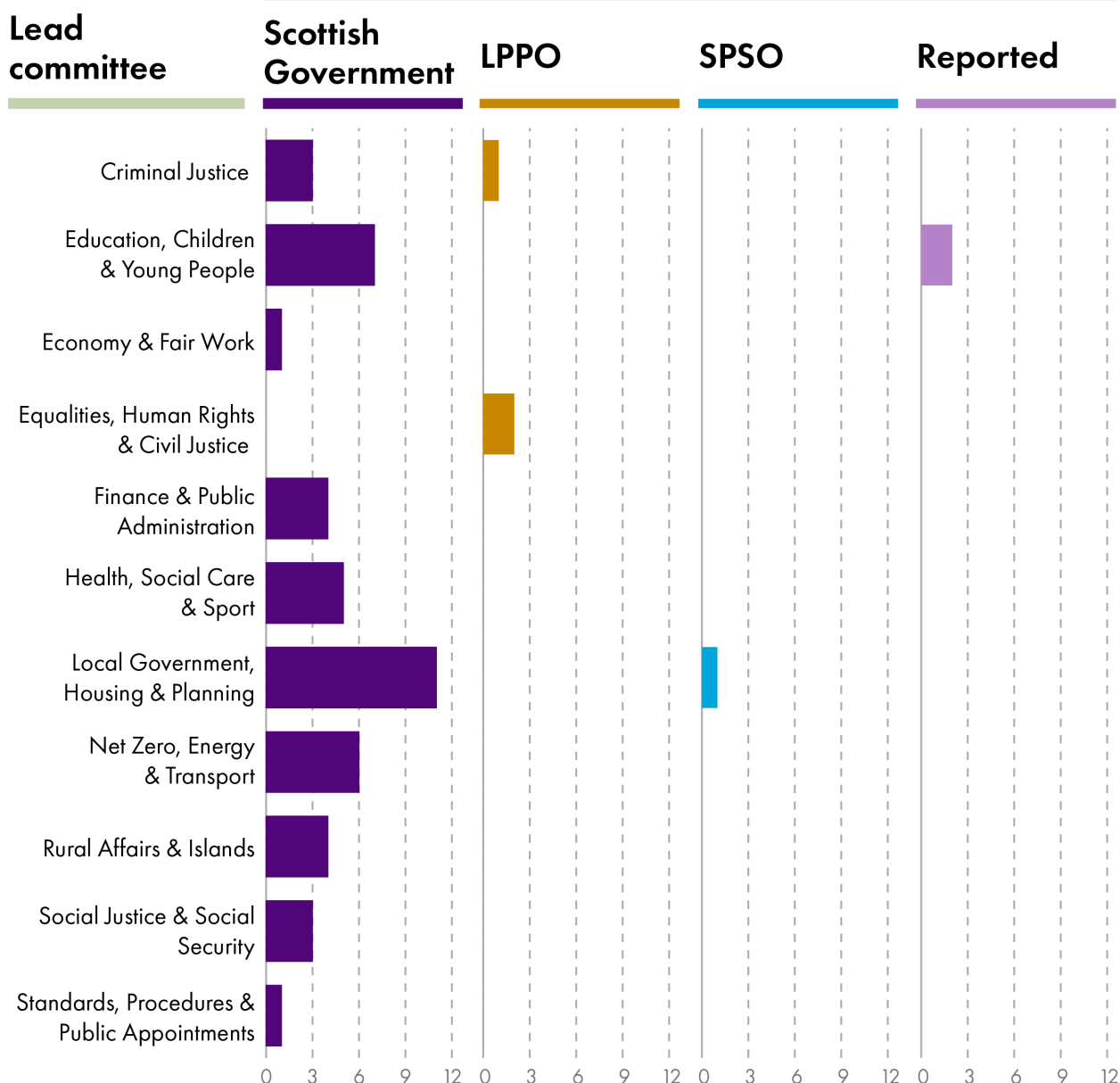
the lead committee, to allow for additional time for that committee's consideration.  
That instrument was the:

- Environmental Authorisations (Scotland) Amendment Regulations 2025.

# Instruments referred to lead committees

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

## SSIs and Document



# Commitments

23. The Scottish Government made the following commitments to the Committee during the period:

- the Cost of Living (Tenant Protection) (Saving Provision) (Scotland) Regulations 2025 (SSI 2025/29); ; in relation to this instrument, the Scottish Government undertook to revise the Policy Note. This was done on 27 March 2025; and
- the Scottish Public Services Ombudsman Act 2002 Amendment Order 2025 (SSI 2025/Draft); the Scottish Government indicated that it will consider lodging an amendment to the Education (Scotland) Bill to avoid overlap between the provision in this instrument and the provision of the Bill which both seek to add a new paragraph 32AAA into schedule 2 of the Scottish Public Services Ombudsman Act 2002.
  - It appears this has not been done. **Given the progress of the Bill (having completed Stage 2 on 7 May 2025), the Committee may wish to write to the Scottish Government to ask for an update..**

24. A list of all outstanding commitments can be found at Annexe B.

## Minor Points

25. The Committee identified a total of **17** 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

26. During the reporting period, the Committee considered the delegated powers in **four** bills at Stage 1—

- Tertiary Education and Training (Funding and Governance) (Scotland) Bill (still to be published)
- Scottish Parliament (Recall and Removal of Members) Bill (still to be published)
- [Dog Theft \(Scotland\) Bill](#)
- Natural Environment (Scotland) Bill (still to be published)

27. As the lead committee, the Committee is also currently scutinising the [Leases \(Automatic Continuation etc.\) \(Scotland\) Bill](#) at Stage 1.

28. The Committee considered the delegated powers in **three** bills after Stage 2—

- [Regulation of Legal Services \(Scotland\) Bill](#); and
- [Scottish Languages Bill](#)
- Care Reform (Scotland) Bill (still to be published)

## Legislative Consent Memorandums (LCMs)

29. The Committee considered powers to make subordinate legislation within devolved competence in **four** LCMs—
- [The Tobacco and Vapes Bill](#)
  - [Employment Rights Bill](#)
  - [Border Security, Asylum and Immigration Bill](#)
  - Planning and Infrastructure Bill (UK Parliament legislation) (still to be published)
30. The Committee also considered powers to make subordinate legislation within devolved competence in **two** supplementary LCMs—
- Product Regulation and Metrology Bill (the Committee did not report on this supplementary LCM)
  - [Tobacco and Vapes Bill](#)

# **Annex A – Reporting grounds: 24 February to 12 May 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:

## **(i) Drafting appears to be defective**

- Disclosure (Scotland) Act 2020 (Commencement No. 5, Savings and Transitional Provision) Amendment Regulations 2025

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

- Environmental Protection (Disposal of Polychlorinated Biphenyls and other Dangerous Substances) (Scotland) Amendment (No. 2) Regulations 2025 (Committee content with the reason for the 28-day breach)
- Recognition of Overseas Qualifications (Charges) (Scotland) Regulations 2025

# 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>i</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>i</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.](#)

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[Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024](#) [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.*

