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Pàrlamaid na h-Alba

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Delegated Powers and Law Reform Committee

Instruments considered by the Delegated Powers and Law Reform Committee during the first quarter of the Parliamentary Year 2025-26



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Contents

Summary	1
Introduction	2
Overview and analysis	3
Instruments referred to lead committees	7
Commitments	8
Other legislation	10
Annex A – Reporting grounds: 13 May to 8 September 2025.	12
Annex B – Historic Commitments	14

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.

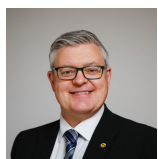


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Summary

1. This reporting period covers 13 May 2025 to 8 September 2025.
2. The Committee considered a total of **46** instruments (43 instruments laid by the Scottish Government, 3 laid by the Lord President's Private Office)
3. There were **14** instruments reported by the Committee during this period. However, two of those were reported under reporting ground (j) where the Committee was content with the reason provided for the breach of the 28-day rule.
4. Furthermore, during this period, the Committee considered the delegated powers in **nine** Bills at Stage 1 and **four** after Stage 2.
5. The Committee considered **six** Legislative Consent Memorandums and **five** Supplementary/second 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 first quarter of the parliamentary year in 2025-26, covering the period 13 May to 8 September 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 13 May to 8 September 2025, a total of **46** instruments (including **three** laid by the LPPO) were considered by the Committee.
10. The 43 SSIs laid by the Scottish Government are broken down as follows—
 - 13 affirmative instruments;
 - 23 negative instruments; and
 - 7 laid only instruments.
11. The LPPO laid three instruments, none of which were subject to any parliamentary procedure.
12. 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

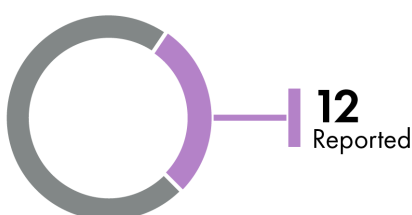


LPPO

Total SSIs



Total drawn to the Parliament’s attention.



Excluding **2 instruments** reported where the Committee was content with the reason provided for the breach of the 28-day rule.

13. There were **14** 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 both of these. Therefore, excluding these instruments from the overall figure, **12** were reported, which equates to **28%** of the instruments laid by the Scottish Government.
14. This is a significantly higher percentage of instruments being reported than in recent years, with 8% of instruments being reported in 2022-23 and 6% of instruments being reported in 2023-24 (full year figures, with the highest previous Q1 figure being 14% in Q1 2024-25).
15. Furthermore, six of the reported instruments were reported for multiple issues

(totalling **30** individual reports across just these six instruments). These are detailed below:

Firefighters' Pensions (Remediable Service) (Scotland) Amendment Regulations 2025 (SSI 2025/113) – 13 May

This instrument had **two** issues reported on ground (i), that the drafting appears to be defective, and **six** issues reported on the general reporting ground.

Police Pensions (Remediable Service) (Scotland) Amendment Regulations 2025 (SSI 2025/114) – 13 May

This instrument had **four** issues reported on the general reporting ground.

Teachers' Pensions (Remediable Service) (Scotland) Amendment Regulations 2025 (SSI 2025/121) – 13 May

This instrument had **three** issues reported on the general reporting ground.

Deposit and Return Scheme for Scotland Amendment Regulations 2025 (SSI 2025/ Draft) – 20 May

This instrument had **one** issue on ground (i), that the drafting appears to be defective, and **eight** on the general reporting ground.

Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025 (SSI 2025/Draft) – 20 May

This instrument had **one** issue reported on ground (i), that the drafting appears to be defective, **one** on ground (h), that the form or meaning could be clearer, and **two** on the general reporting ground.

Teachers' Pension Scheme (Scotland) (Amendment) Regulations 2025 (SSI 2025/ 152) – 3 June

This instrument had **two** issues reported on the general reporting ground.

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.

Significant reporting grounds

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. **Three** instruments this quarter were reported under the significant reporting ground (i), 'drafting appears to be defective' by the Committee:
- Firefighters’ Pensions (Remediable Service) (Scotland) Amendment Regulations 2025 on 13/05/2025
 - Deposit and Return Scheme for Scotland Amendment Regulations 2025 on 20/05/2025
 - Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025 on 20/05/2025
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 Annex A —



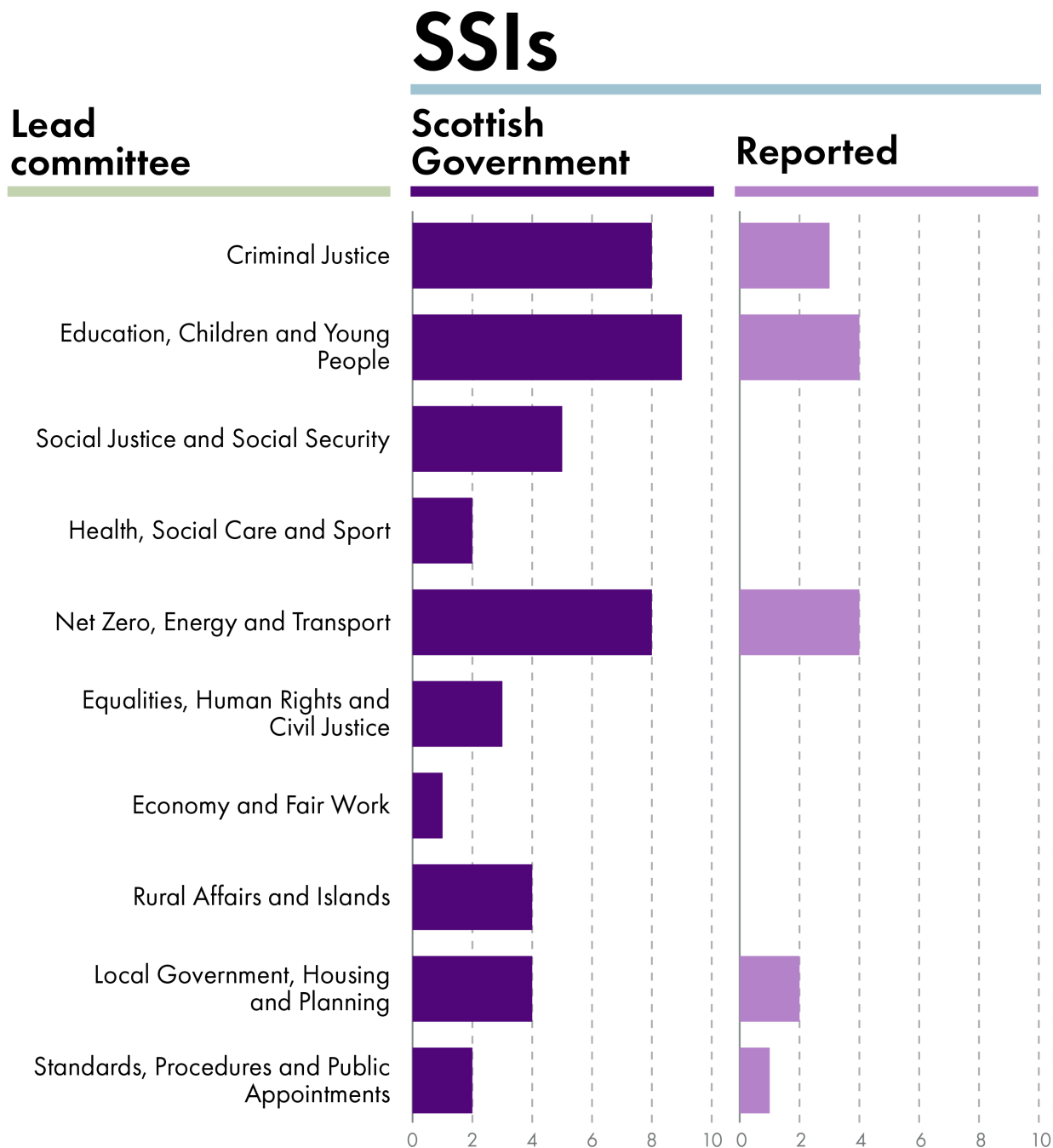
Withdrawal of instruments

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. **Three** instruments were withdrawn and re-laid during this period:
- Scottish Parliament (Disqualification) Order 2025 (withdrawn on 3 June 2025, re-laid on 6 June 2025)

- Winter Heating Assistance (Pension Age) (Scotland) Amendment Regulations 2025 (withdrawn on 19 June 2025, re-laid on 25 August 2025)
- Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2025 (withdrawn on 26 August 2025, re-laid on 28 August 2025)

Instruments referred to lead committees

23. The infographic below shows how many instruments each lead committee received, and of those, how many were reported by the DPLR Committee :



Commitments

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

- the Firefighters' Pensions (Remediable Service) (Scotland) Amendment Regulations 2025 (SSI 2025/113); in relation to this instrument, the Scottish Government undertook to lay an amending instrument before the summer recess, and to arrange for a correction slip to be dealt with before the amending instrument was laid.

The amending instrument was laid on 20 June 2025 (SSI 2025/187), and it also fulfilled an outstanding commitment to correct an error in SSI 2023/242. The outstanding correction slip for SSI 2023/242 was published on 4 July 2025 and the correction slip for SSI 2025/113 on 30 July 2025.

- Police Pensions (Remediable Service) (Scotland) Amendment Regulations 2025 (SSI 2025/114); in relation to this instrument, the Scottish Government undertook to correct two points reported by correction slip before summer recess. The outstanding correction slip for SSI 2023/239 was published on 20 June 2023 and correction slips for SSI 2025/114 were published on 25 April 2025 and 3 July 2025.
- the Teachers' Pensions (Remediable Service) (Scotland) Amendment Regulations 2025 (SSI 2025/121); in relation to this instrument, the Scottish Government committed to laying an amending instrument.

This amending instrument was laid on 25 June 2025 (SSI 2025/197), which also fulfilled an outstanding commitment to correct an error in SSI 2023/241.

- the Deposit and Return Scheme for Scotland Amendment Regulations 2025 (SSI 2025/Draft); the Scottish Government undertook to take corrective action in due course in response to points raised by the Committee. This has not yet been done.
- the Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025 (SSI 2025/Draft); the Scottish Government undertook to take corrective action in due course in response to points raised by the Committee. This has not yet been done.
- the Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2025 (SSI 2025/Draft); in relation to this instrument, the Scottish Government stated its intention to correct a misplaced footnote and a typographical error in the signing copy of the instrument, and this has now been done. The Committee did not express a view on the proposed method of correction.
- the Scotland Act 1998 (Agency Arrangements) (Specification) (Recognition of Qualifications) Order 2025 (SI 2025/555); in relation to this instrument, the Scottish Government undertook to revise the Policy Note for this instrument and for SI 2025/67, to address an issue raised by the Committee. This has not yet been done.

- the Teachers' Pension Scheme (Scotland) (Amendment) Regulations 2025 (SSI 2025/152); in relation to this, the Scottish Government undertook to clarify issues arising in this instrument in an amending instrument. This has not yet been done.
 - the Scottish Parliament (Constituencies and Regions) Order 2025 (SSI 2025/Draft); in relation to this instrument, the Scottish Government proposed to correct an error in the signing copy of the instrument. The Committee did not express a view on the proposed method of correction. The instrument has not yet been made.
25. Separately, the Scottish Government also laid the following instrument, meeting a commitment previously made:
- the Valuation (Proposals Procedure) (Scotland) Regulations 2025 (SSI 2025/146); this instrument fulfilled a commitment by the Scottish Government to correct a drafting error in the Valuation (Proposals Procedure) (Scotland) Amendment Regulations 2024 (SSI 2024/186).
26. A list of all outstanding commitments can be found at Annexe B.

Minor Points

27. The Committee identified a total of **16** 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).

Other legislation

Bills

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

- [Natural Environment \(Scotland\) Bill](#)
- [UEFA European Championship \(Scotland\) Bill](#)
- [Scottish Parliament \(Recall and Removal of Members\) Bill](#)
- [Community Wealth Building \(Scotland\) Bill](#)
- [Wellbeing and Sustainable Development \(Scotland\) Bill](#)
- [Restraint and Seclusion in Schools \(Scotland\) Bill](#)
- [Greyhound Racing \(Offences\) \(Scotland\) Bill](#)
- [Prevention of Domestic Abuse \(Scotland\) Bill](#)
- [Children \(Withdrawal from Religious Education and Amendment of UNCRC Compatibility Duty\) \(Scotland\) Bill](#)

29. The Committee considered the delegated powers in **four** bills after Stage 2—

- [Victims, Witnesses and Justice Reform \(Scotland\) Bill](#)
- [Care Reform \(Scotland\) Bill](#)
- [Education \(Scotland\) Bill](#)
- Housing (Scotland) Bill (still to be published)

Legislative Consent Memorandums (LCMs)

30. The Committee considered powers to make subordinate legislation within devolved competence in **six** LCMs—

- [Planning and Infrastructure Bill](#)
- **Public Authorities (Fraud, Error and Recovery) Bill** (the Committee did not report on this LCM due to lack of time before consideration at lead committee, [instead it wrote to the Scottish Government](#).)
- **Animal Welfare (Import of Dogs, Cats and Ferrets) Bill** (the Committee did not report on this LCM due to lack of time before consideration at lead committee, [instead it wrote to the Scottish Government](#).)
- **Children's Wellbeing and Schools Bill** (the Committee did not report on this LCM due to lack of time between lodging of the LCM and consideration in the Chamber, [instead it wrote to the Scottish Government](#).)

- **Absent Voting (Elections in Scotland and Wales) Bill** (the Committee did not report on this LCM due to lack of time between lodging of the LCM and consideration in the Chamber, [instead it wrote to the Scottish Government](#)).
 - **Crime and Policing Bill** (LCM, supplementary and second supplementary considered together, still to be published)
31. The Committee also considered powers to make subordinate legislation within devolved competence in **five** supplementary LCMs—
- [Employment Rights Bill \(supplementary LCM\)](#)
 - [Product Regulation and Metrology Bill \(second supplementary LCM\)](#)
 - Crime and Policing Bill (LCM, supplementary and second supplementary considered together, still to be published)
 - [Employment Rights Bill \(second supplementary LCM\)](#)

Lead Committee

32. As the lead committee, the Committee scrutinised the [Leases \(Automatic Continuation etc.\) \(Scotland\) Bill](#) at Stage 1.

Annex A – Reporting grounds: 13 May to 8 September 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:

(h) - clarity of form or meaning

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

(i) - Drafting appears to be defective

- Firefighters' Pensions (Remediable Service) (Scotland) Amendment Regulations 2025
- Deposit and Return Scheme for Scotland Amendment Regulations 2025
- Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025

(j) - Failure to comply with laying requirements

- Town and Country Planning (Fees for Appeals) (Scotland) Amendment Regulations 2025 (Committee content with the reason for the 28-day breach)
- Council Tax Reduction (Miscellaneous Amendment) (Scotland) (No. 4) Regulations 2025 (Committee content with the reason for the 28-day breach)

General - includes minor drafting errors and failures to follow proper drafting practice

- Firefighters' Pensions (Remediable Service) (Scotland) Amendment Regulations 2025
- Police Pensions (Remediable Service) (Scotland) Amendment Regulations 2025
- Teachers' Pensions (Remediable Service) (Scotland) Amendment Regulations 2025
- Deposit and Return Scheme for Scotland Amendment Regulations 2025
- Deposit and Return Scheme for Scotland (Designation of Scheme Administrator) Order 2025
- Environmental Regulation (Enforcement Measures) (Scotland) Amendment Order 2025
- Public Service Vehicles (Registration of Local Services) (Local Services Franchises Transitional Provisions) (Scotland) Regulations 2025
- Education (Appeal Committee Procedures) (Scotland) Amendment Regulations 2025
- Firefighters' Pension Scheme (Amendment) (Scotland) Regulations 2025

Delegated Powers and Law Reform Committee

Instruments considered by the Delegated Powers and Law Reform Committee during the first quarter of the Parliamentary Year 2025-26, 65th Report, 2025 (Session 6)

- Teachers' Pension Scheme (Scotland) (Amendment) Regulations 2025
- Scottish Parliament (Constituencies and Regions) Order 2025
- Teachers' Pensions (Remediable Service) (Scotland) Amendment (No. 2) 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 \(SSI 2019/183\)](#) [11th Report, 2019. Published 06/03/2019] *commitment to bring forward an amendment at the earliest opportunity*ⁱ

Commitment from 2023

- [National Health Service Pension Schemes \(Remediable Service\) \(Scotland\) Regulations 2023 \(SSI 2023/246\)](#)[53rd Report, 2023. Published on 21 September 2023] *commitment to address these matters in the next amending instrument.*

Commitment from 2024

- [Burial \(Applications and Register\) \(Scotland\) Regulations 2024 \(SSI 2024/334\)](#) (73rd Report 2025, Published 4 December 2024) *commitment to amend the instrument to improve the drafting of the provision at the next available opportunity.*

Commitment made by the LPPO

Commitment from 2024

- [Act of Adjournal \(Criminal Procedure Rules 1996 Amendment\) \(United Nations Convention on the Rights of the Child \(Incorporation\) \(Scotland\) Act 2024\) 2024 \(SSI 2024/174\)](#) (47th Report 2024, Published 26 June 2024.) *The LPPO has advised that the definition will be removed at the next available opportunity.*

ⁱ 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.](#)

