

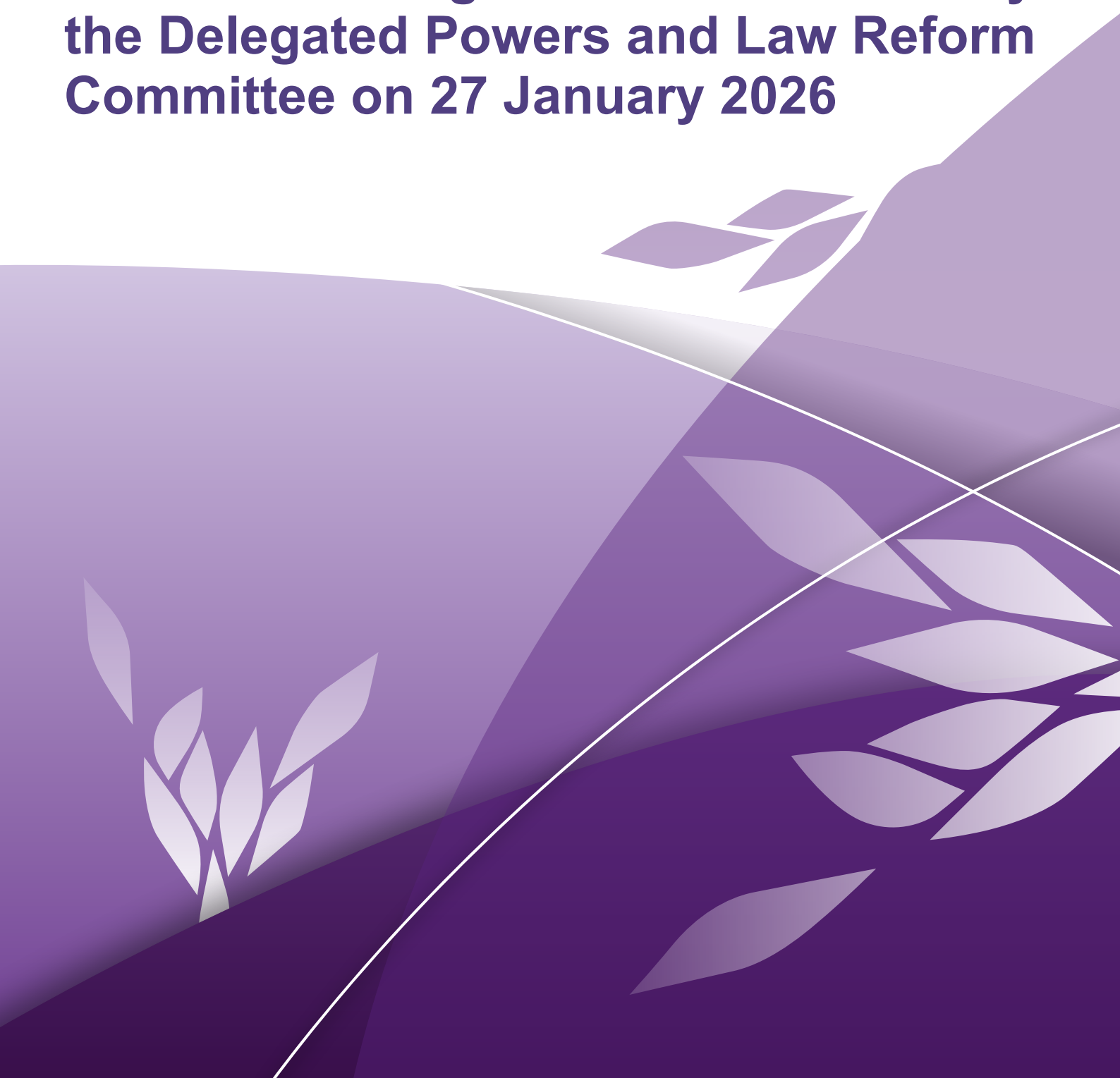


The Scottish Parliament  
Pàrlamaid na h-Alba

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## **Delegated Powers and Law Reform Committee**

# **Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 27 January 2026**



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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.

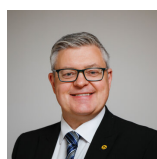


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# Committee Membership



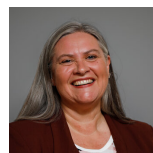
**Convener**  
**Stuart McMillan**  
Scottish National Party



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



**Katy Clark**  
Scottish Labour



**Roz McCall**  
Scottish Conservative  
and Unionist Party



**Jeremy Balfour**  
Independent

# Introduction

1. At its meeting on 27 January 2026<sup>i</sup>, the Committee considered the following instrument under its remit and agreed to draw it to the attention of the Parliament:
  - Digital Waste Tracking (Scotland) Regulations 2026 (SSI 2026/Draft)
2. The Committee's recommendations in relation to this instrument 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.

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<sup>i</sup> Stuart McMillan MSP submitted apologies for this meeting.

# Scrutiny of instruments and documents under the Committee's remit: instrument drawn to the attention of the Parliament

## Digital Waste Tracking (Scotland) Regulations 2026 (SSI 2026/Draft)

4. The instrument is subject to the affirmative procedure and, if approved by the Parliament, will come into force on 1 January 2027.
5. Its purpose is to establish a digital waste tracking system in Scotland to track household, industrial and commercial waste.
6. The lead committee for this instrument is the Net Zero, Energy and Transport Committee.
7. In [correspondence with the Scottish Government](#), the Committee asked 9 questions about this instrument.

### Question 1

8. Question 1 was about the enabling powers cited in the instrument and in the Policy Note differing, with sections 34CA(10) and 34CB(7) being cited in the Policy Note, but not in the instrument.
9. The Scottish Government confirmed that this is an error in the Policy Note which will be appropriately amended at the time the regulations are made.

10. **The Committee notes that there is an error in the Policy Note in that it refers to the instrument being made under sections 34CA(10) and 34CB(7), and that the Scottish Government will amend this at the time the regulations are made.**

### Questions 4 - 8

11. Questions 4 to 8 concerned a number of cross-referencing and definition issues identified within the instrument. The Scottish Government has confirmed in the response that these are all errors which will be corrected at the earliest opportunity.
12. **Question 4** asked:
  - ” The instrument provides a definition of “end of the quarter” and “quarter” in regulation 2, but these terms do not otherwise appear in the instrument. Is this an error?
13. The Scottish Government responded:
  - ” This is an error in the instrument, and we agree that this definition is not required to be included. These definitions will have no effect and we do not consider that they impact on the operation of the instrument.

14. **The Committee draws this instrument to the attention of the Parliament on the general reporting ground in respect that Regulation 2 provides a definition of “end of the quarter” and “quarter” which do not require to be included.**

15. **Question 5** asked:

” Regulation 23(4) of the instrument defines “public authority” as having the same meaning as in section 30(1) of the [Data Protection Act 2018] (“2018 Act”). However, that section defines “competent authority” rather than “public authority”, and a definition of “competent authority” by reference to that section is also provided within that regulation. Is this an error?

16. The Scottish Government responded:

” This is an error in the instrument. The correct provision to which the definition of “public authority” should refer is to section 7(1) of the 2018 Act.

17. **The Committee draws this instrument to the attention of the Parliament on the general reporting ground in respect that Regulation 23(4) incorrectly defines “public authority” as having the same meaning as in section 30(1) of the 2018 Act, when it should refer to section 7(1) of the 2018 Act.**

18. **Question 6** asked:

” Schedule 1, paragraph 1, provides a definition of “consignment note” with reference to the 1996 Regulations. The 1996 Regulations are not otherwise referred to or defined in the instrument or the parent Act. Is it sufficiently clear what is meant by the 1996 Regulations and should that term be defined?

19. The Scottish Government responded:

” We note that the term “1996 Regulations” is not defined in the instrument. In the definition of ‘consignment note’ it should have referred to the Special Waste Regulations 1996.

20. **The Committee draws this instrument to the attention of the Parliament on the general reporting ground in respect that Schedule 1, paragraph 1, provides a definition of “consignment note” with reference to the “1996 Regulations” which are not otherwise referred to or defined in the instrument or the parent Act. The definition should have referred to the Special Waste Regulations 1996.**

21. **Question 7** asked:

” Paragraphs 12, 13 and 15 of schedule 2 refer to a person appointed under, or determination of an appeal in accordance with, paragraphs 14(a) and 14(b), however, these paragraphs relate to the procedure upon determination of appeals. Are these errors?

22. The Scottish Government responded:

- ” These are errors in cross-referencing in the instrument. The references to paragraphs 14(a) and 14(b) should in fact be to paragraphs 11(a) and 11(b).

**23. The Committee draws this instrument to the attention of the Parliament on the general reporting ground in respect that in paragraphs 12, 13 and 14 of schedule 2, the references to paragraphs 14(a) and 14(b) should be to paragraphs 11(a) and 11(b).**

24. **Question 8** asked:

- ” Paragraph 15(b) of schedule 2 refers to a report made to the Scottish Ministers in accordance with paragraph 16, however, there is no paragraph 16. Is this an error?

25. The Scottish Government responded:

- ” This is a cross-referencing error in the instrument. The reference to paragraph 16 should correctly be to paragraph 13.

**26. The Committee draws this instrument to the attention of the Parliament on the general reporting ground in respect that in paragraph 15(b) of schedule 2, the reference to paragraph 16 should be to paragraph 13.**

**27. The Committee also notes that the Scottish Government intends to correct these errors at the earliest opportunity.**

# No points raised

28. The Committee considered the following instruments under its remit and agreed not to draw them to the attention of the Parliament.

## Criminal Justice Committee

Antisocial Behaviour (Fixed Penalty Offences) (Miscellaneous Amendment) (Scotland) Order 2026 (SSI 2026/Draft)

Early Removal of Prisoners from the United Kingdom (Amendment of Specified Time Periods) (Scotland) Order 2026 (SSI 2026/Draft)

Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Miscellaneous) 2026 (SSI 2026/11)

## Finance and Public Administration Committee

Scottish Landfill Tax (Administration) Amendment Regulations 2026 (SSI 2026/8)

## Local Government, Housing and Planning Committee

Visitor Levy (Reviews and Appeals) (Scotland) Regulations 2026 (SSI 2026/Draft)

Visitor Levy (Local Authority Assessment) (Scotland) Regulations 2026 (SSI 2026/Draft)

Building (Fees) (Scotland) Amendment Regulations 2026 (SSI 2026/7)

Visitor Levy (Interest on Unpaid Levy and Penalties) (Scotland) Regulations 2026 (SSI 2026/9)

## Net Zero, Energy and Transport Committee

National Bus Travel Concession Schemes (Miscellaneous Amendment) (Scotland) (No. 2) Order 2026 (SSI 2026/Draft)

Conservation of Habitats and Species (Offshore Wind) (Miscellaneous Amendments) (Scotland) Regulations 2026 (SSI 2026/Re-laid Draft)

Greenhouse Gas Emissions Trading Scheme (Amendment) (Extension to Maritime Activities) Order 2026 (SI 2026/Draft)

## Rural Affairs and Islands Committee

Sea Fish (Prohibition on Fishing) (Firth of Clyde) Order 2026 (SSI 2026/10)

Seed (Fees) (Scotland) Amendment Regulations 2026 (SSI 2026/13)

## Social Justice and Social Security Committee

Social Security Up-rating (Scotland) Order 2026 (SSI 2026/Draft)

