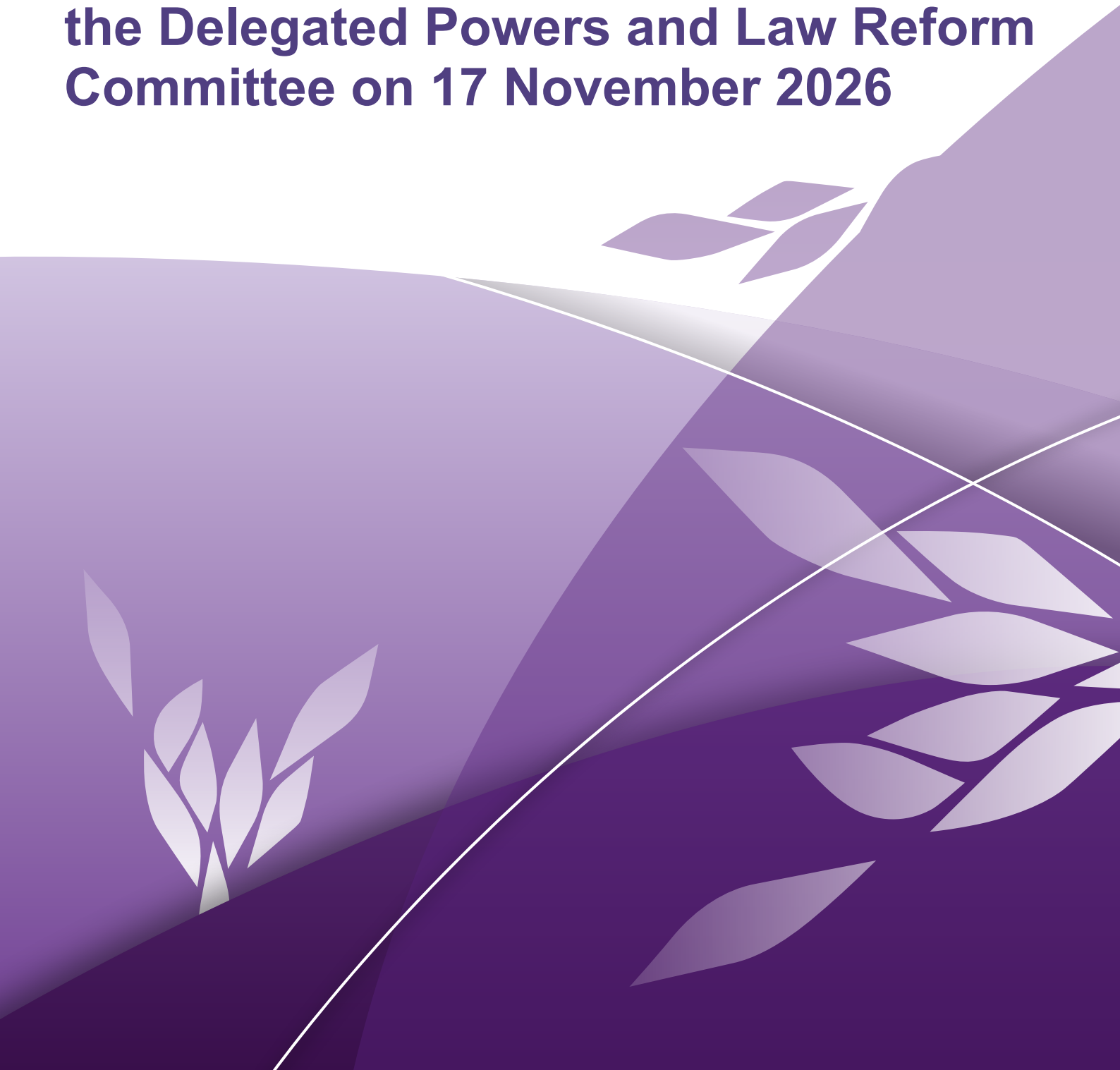
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Delegated Powers and Law Reform Committee

Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 17 November 2026



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Delegated Powers and Law Reform Committee

To consider and report on the following —
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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Introduction

1. At its meeting on 17 November 2026, the Committee considered the following instrument under its remit and agreed to draw it to the attention of the Parliament:

    - The Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 (Commencement No. 3) Regulations 2026 (SSI 2026/319 (C.35))

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 and document subject to parliamentary approval in the "No points raised" section of the report.

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

Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 (Commencement No. 3) Regulations 2026 (SSI 2026/319 (C.35))

4. These regulations appoint 9 November 2026 as the day on which section 18(3) and (4) of the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 ("2019 Act") comes into force. Section 18(3) and (4) makes consequential amendments to sections 89 and 95 of the Housing (Scotland) Act 2001 to amend the statutory definition of "fuel poverty" used by local authorities when carrying out an assessment for the purposes of preparing and submitting a Local Housing Strategy, when required to do so by Scottish Ministers.

5. The Committee noted that all but sections 18(3) and (4) of the 2019 Act had been commenced by earlier instruments in 2019 and 2021. The Committee therefore asked the Scottish Government why the provisions in this instrument are only being commenced now, 7 years after the 2019 Act received Royal Assent, and whether this was an oversight.

6. In its response, the Scottish Government stated that the provisions could not have been commenced in 2019 because the definition of "fuel poverty" in section 3 of the 2019 Act was not fully operational until further regulations had been made in 2020. However, the Scottish Government accepts that not commencing the provisions after that time was an oversight.

7. Although the timing of commencement is principally a policy matter, the Committee noted that the oversight and resultant delay in commencement means that there have been two definitions of the same term, "fuel poverty", in different pieces of legislation at the same time.

8. Given this, the Committee also asked what, if any, have been the practical implications for Local Housing Strategies of the new definition not having been commenced until now.

9. In its response, the Scottish Government stated that the 2020 update to its Local Housing Strategy guidance and other materials already reflected the 2019 Act's definition of fuel poverty and its statutory targets. As a result, local authorities have used the 2019 definition and targets in their published strategies, even though section 18(3) and (4) were not commenced.

10. The Scottish Government notes that the 2019 definition is more detailed and objective than the section 95 definition, however, considers that the underlying concept is substantially the same. The Scottish Government stated that there have been no significant practical implications as a result, with the commencement bringing the statutory framework into line with existing guidance and practice.

11. The Committee considers these provisions should have been commenced much earlier, however, the impact is minimised by the fact that various guidance and other

documents referred to when carrying out assessments for Local Housing Strategies already referenced the updated definition in the 2019 Act. The Committee has been assured that there are no practical implications of this oversight.

12. At its meeting on Tuesday 17 November 2026, Members made a number of further points about this instrument[i].

13. The lead committee for this instrument is the Economy, Tourism and Energy Committee.

14. **The Committee draws the instrument to the attention of the Parliament on the general reporting ground for the oversight in failing to commence section 18(3) and (4) of the Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 at an earlier date.**

15. **The Committee also highlights to the Economy, Tourism and Energy Committee the Scottish Government's correspondence relating to this oversight.**

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i Delegated Powers and Law Reform Committee, Official Report, 17 November 2026

No points raised

16. The Committee considered the following instruments and document subject to parliamentary approval under its remit, and agreed not to draw them to the attention of the Parliament.

Climate Action Committee

Environmental Standards Scotland engine idling laws air quality investigation: Scottish Government improvement plan (SG 2026/281)

Criminal Justice Committee

Act of Adjournal (Criminal Procedure Rules 1996 Amendment) (Miscellaneous) (No. 2) 2026 (SSI 2026/328)

Social Justice, Housing and Local Government Committee

The Planning (Scotland) Act 2019 (Ancillary Provision) Regulations 2026

Transport Committee

The Companies Act 2006 (Scottish public sector companies to be audited by the Auditor General for Scotland) Order 2027

The Transport (Scotland) Act 2019 (Commencement No. 9) Regulations 2026 (SSI 2026/326 (C.38))

