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Net Zero, Energy and Transport Committee

Net Zero, Energy and Transport Committee report on the Digital Waste Tracking (Scotland) Regulations 2026 (draft)



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Contents

Introduction	1
About the instrument	2
Consideration by the DPLR Committee	4
Consideration by the Net Zero, Energy and Transport Committee	5
Conclusion	7

Net Zero, Energy and Transport Committee

To consider and report on matters falling within the responsibility of the Cabinet Secretary for Transport and the Cabinet Secretary for Climate Action and Energy, with the exception of matters relating to just transition; and on matters relating to land reform, natural resources and peatland, Scottish Land Commission, Crown Estate Scotland and Royal Botanic Garden within the responsibility of the Cabinet Secretary for Rural Affairs, Land Reform and Islands.



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Introduction

1. The Digital Waste Tracking (Scotland) Regulations 2026 (draft) was laid before the Scottish Parliament by the Scottish Government on 12 January 2026. It is subject to the affirmative procedure, which means it cannot be made unless it has been approved by a resolution of the Parliament.
2. It is for the Net Zero, Energy and Transport Committee, as lead committee, to decide whether or not to recommend approval. On 15 January 2026, the Cabinet Secretary for Climate Action and Energy lodged Motion [S6M-20458](#) , proposing that the Committee recommend the draft regulations be approved.

About the instrument

3. The overarching purpose of the instrument is to establish a single, mandatory digital system for recording data on all types of “controlled waste”, coming into force on 1 January 2027. The digital waste tracking system is being delivered on a phased basis in all four nations of the UK. This instrument is described in the Policy Note as introducing the “first phase” in Scotland and will apply to operators receiving waste at a “permitted facility”.
4. A key policy driver for the development of digital waste tracking is to modernise and replace a multitude of fragmented approaches across different kinds of waste management i.e. different paper-based consignment notes and waste transfer notes, and multiple databases, and move towards a UK-wide single integrated system.
5. The [Scottish Government's Waste and Circular Economy Routemap](#) says that digital waste tracking will “bring a step change in transparency and accountability around the movement of Scottish waste across the UK from start to finish. The improved information this provides will allow the Scottish Environment Protection Agency (SEPA) to prioritise action to tackle waste crime and, more generally, target interventions much more effectively”.
6. The instrument requires the "designated person" (Scottish Ministers in respect of Scotland) to establish, maintain and operate a digital waste tracking system for the purpose of tracking controlled waste. The Policy Note says that in practice, the UK Government's Department of Agriculture and Rural Affairs (Defra) will operate the system on behalf of all nations via a Memorandum of Understanding. An order under the Scotland Act 1998 will be introduced to transfer relevant functions.
7. The instrument excludes application to “permitted facilities”, i.e. waste and recycling facilities run by councils. The Policy Note explains that:

” “Local authorities will not need to track household waste collections from individual houses or collection rounds, but this waste will be tracked from the point at which the waste arrives at a receiving site. Waste received at household waste and recycling centres (HWRCs) will also be excluded...”
8. The instrument sets out requirements for operators of a permitted facility to ensure entry of controlled waste information into the system and to pay an annual fee of £26.
9. It also makes provisions in relation to:
 - Digitally excluded persons: The Policy Note states that “As some individuals may be digitally excluded, for example, due to religious beliefs or lack of digital connectivity, digitally excluded persons will be exempted from the use of the Digital Waste Tracking System. They will instead be required to create written records and submit information via a non-digital route to SEPA on a quarterly basis”. The instrument provides for a system for SEPA granting that status and allowing for alternative recording arrangements for digitally excluded persons. “Digitally excluded person” is defined in the parent Act (the 1990 Act), covering both persons digitally excluded for religious reasons, and persons for whom it

is not reasonably practicable to keep electronic records for any reason, including age, disability or location.

- Enforcement and offences, penalties etc: SEPA will be the enforcing body in Scotland. Provisions are made for offences, penalties, appeals, compliance notices and enforcement cost recovery notices. The Policy Note sets out that offences created under the instrument will be added to the “relevant offences” in the Environmental Regulation (Enforcement Measures) (Scotland) Order 2015 in advance of the instrument coming into force, providing SEPA with powers to impose civil sanctions. There are provisions relating to offences by bodies corporate, Scottish partnerships, or unincorporated associations, setting out the circumstances in which individuals may also be guilty of the offence in addition to their organisation. Maximum penalties are an unlimited fine upon indictment, or on summary conviction, “by a fine not exceeding the statutory maximum”. In relation to the approach to cost recovery of compliance costs from industry, the Final Business and Regulatory Impact Assessment (BRIA) sets out that:

” “Currently, the costs of compliance monitoring of operators that handle hazardous waste is chargeable to operators through the payment of consignment fees. As part of the proposals for a Waste Tracking service for all waste types, regulators would also be able to recover the costs associated with monitoring the compliance of operators that handle non-hazardous waste. The functions that would be in-scope of cost recovery are yet to be confirmed. The Scottish Government is working closely with SEPA, the other nations and regulators to establish these functions and an associated cost estimate”.

- Data sharing: Scottish Ministers must allow SEPA access to information in the digital waste tracking system for the purpose of facilitating the discharge of its functions. In relation to further sharing of information, information may be shared with specified bodies (in general, public authorities and the scheme administrator for the packaging producer responsibility scheme) for specified purposes (in general, related to enforcement functions, enforcing or preventing waste related crime or other law enforcement or statutory functions of those bodies).

Consideration by the DPLR Committee

10. The Delegated Powers and Law Reform (DPLR) Committee is required to consider every instrument laid before the Parliament and decide whether to draw it to the attention of the Parliament on any of the “reporting grounds” set out in Rule 10.3 of the Parliament’s standing orders.
11. The DPLR Committee considered the instrument on 27 January 2026 and reported on it in its [12th report 2026](#).
12. The Committee noted that the policy note contains a citation error. It says the Scottish Government acknowledges the error and will amend the note should the Regulations be agreed to.
13. The DPLR Committee also drew the instrument to the attention of the Parliament on the general reporting ground for several reasons:
 - 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. In reply, the Scottish Government told the DLPR Comm that it agreed this is an error and the definition is not needed. The Scottish Government stated that these definitions will have no effect and do not consider that they impact on the operation of the instrument.
 - 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. 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. The Scottish Government agreed this is an error in the instrument. The correct provision to which the definition of “public authority” should refer is section 7(1) of the 2018 Act.
 - 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. The Scottish Government stated 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.
 - Paragraphs 12, 13 and 15 of schedule 2 refer to a person appointed under, or the determination of an appeal in accordance with, paragraphs 14(a) and 14(b). But these paragraphs relate to the procedure upon determination of appeals. The Scottish Government accepted that these are cross-referencing errors. The references should in fact be to paragraphs 11(a) and 11(b).
 - Paragraph 15(b) of schedule 2 refers to a report made to the Scottish Ministers in accordance with paragraph 16. But there is no paragraph 16. The Scottish Government once again stated that this is a cross-referencing error. The reference should be to paragraph 13.
14. The DPLR Committee noted that the Scottish Government intends to correct these errors at the earliest opportunity.

Consideration by the Net Zero, Energy and Transport Committee

15. At its meeting on 3 February, the Net Zero, Energy and Transport Committee took evidence on the instrument from:
 - Gillian Martin, Cabinet Secretary for Climate Action and Energy, Scottish Government
 - Haydn Thomas, Producer Responsibility Unit Head, Scottish Government
 - Ailsa Heine, Solicitor, Scottish Government
16. The evidence taken at the meeting can be read in full in the Official Report, which is available here:

[Read the Official Report - 3 February 2026](#)
17. In her opening remarks, the Cabinet Secretary set out that approximately 9.5 million tonnes of waste are produced in Scotland each year and that there is currently no single, comprehensive system to track this. The instrument will introduce the first phase of a new mandatory digital waste tracking system, to be rolled out across all four UK nations, replacing existing paper-based processes.
18. The Cabinet Secretary said that the system is intended to improve the quality and accuracy of waste data, address information gaps that hinder effective regulation, and reduce opportunities for waste crime. She indicated that greater transparency across the waste chain would support legitimate operators and ensure that resources are recycled or recovered appropriately, contributing to Scotland's circular economy ambitions.
19. She noted that the system has been in development for more than five years and has involved significant business engagement, including through a waste user panel comprising more than 450 operators in Scotland. She said the instrument will support alignment with developments in the European Union, including requirements for digital recording of hazardous waste and waste containing persistent organic pollutants.
20. The Cabinet Secretary said phase 1 will start on 1 January 2027, applying to facilities authorised by SEPA to carry out waste activities. Local authority household recycling centres will initially be excluded from the scope of the instrument. However, she explained that waste collected at those centres will enter the digital system once it is transferred to a permitted receiving site. Future phases are expected to extend digital recording to all waste, from generation to final destination.
21. The Cabinet Secretary said that the system will not in itself reduce waste at source but will provide more accurate and comprehensive data, enabling the regulator to identify trends and inform future policy, campaigns and legislation. She emphasised that the system will integrate and simplify existing recording requirements, enabling SEPA to interrogate data more effectively and take enforcement action where waste

movements are not properly recorded.

22. The Cabinet Secretary said the number of cases of “digitally excluded persons” under the regulations is expected to be very small. They will be exempt from using the digital system but will remain subject to reporting requirements through alternative, non-digital routes. SEPA will maintain records of those exemptions, and the relevant data will be incorporated into the overall system for analysis.
23. The Committee also explored compatibility with international systems. The Cabinet Secretary advised that the system is intended for domestic use and will not require direct interoperability with EU systems. However, a Scottish Government official confirmed that certain waste streams, such as hazardous waste, are subject to digital tracking requirements in the EU and that Scotland has existing commitments in that area. It was noted that having a domestic digital system will assist operators exporting waste to the EU, as it will avoid the need to comply with separate paper-based and digital regimes.
24. In relation to the use of data, the Cabinet Secretary confirmed that the information collected will support local authorities in fulfilling their statutory duties and will enable Government and regulators to analyse trends to inform public engagement and future regulatory interventions. She said no additional commercially sensitive information will be made publicly available beyond that which is currently reported, and that the transition from paper to digital recording would not introduce new data protection risks.
25. Finally, the Cabinet Secretary acknowledged drafting errors in the instrument, including references to terms that are defined but not used. She said these errors have no material effect on the operation of the Regulations and advised that the Scottish Government intends to address them in a subsequent phase of Regulations associated with the wider rollout of the system.

Conclusion

26. Following the conclusion of evidence taking, the Cabinet Secretary moved motion [S6M-20458](#) in her name -

That the Net Zero, Energy and Transport Committee recommends that the Digital Waste Tracking (Scotland) Regulations 2026 [draft] be approved.

27. There being no further contributions from Members, the motion was agreed to without division.

Recommendation

28. The Net Zero, Energy and Transport Committee recommends to the Parliament that the Digital Waste Tracking (Scotland) Regulations 2026 [draft] be approved.

