

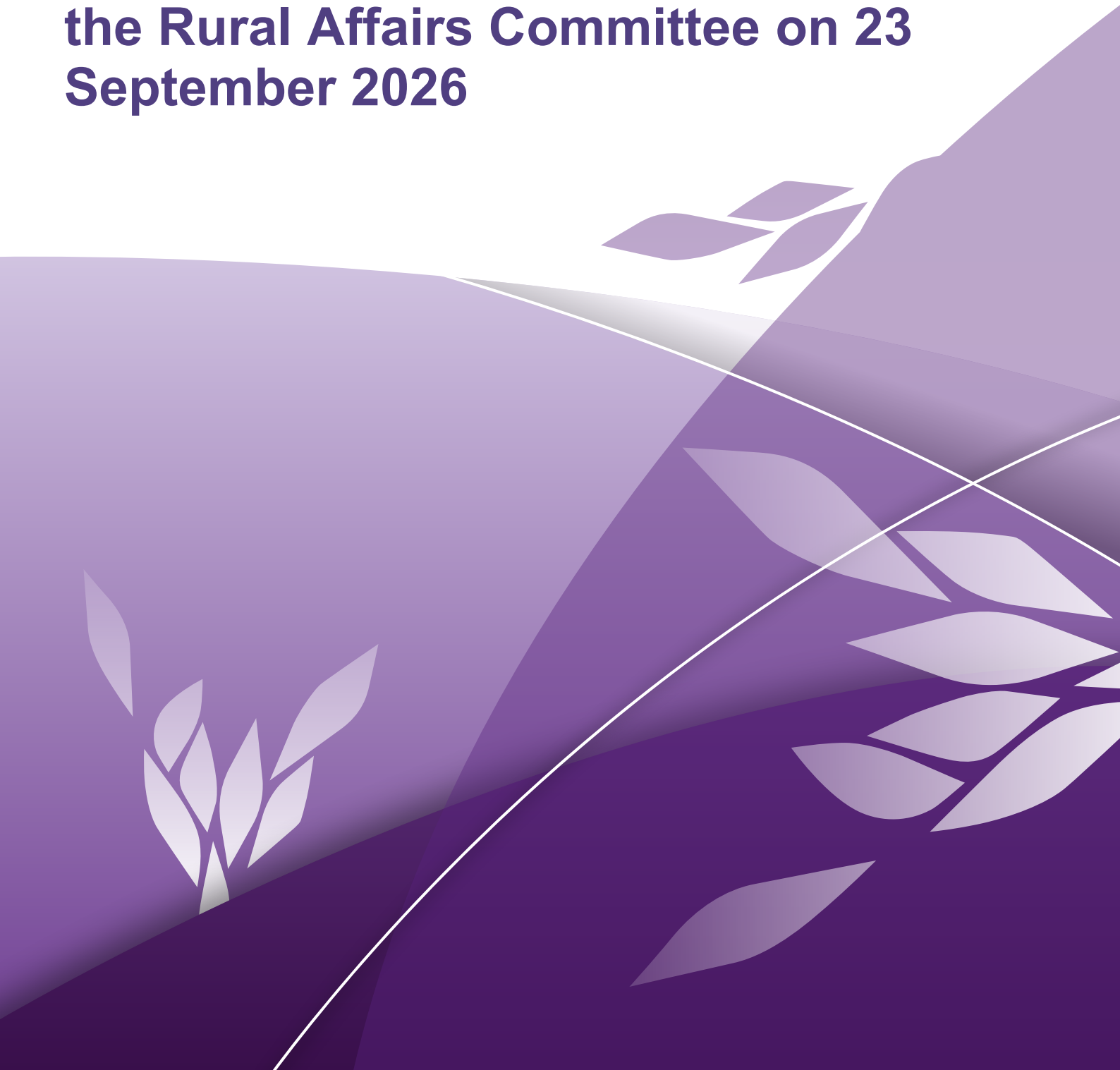


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Rural Affairs Committee

Subordinate legislation considered by the Rural Affairs Committee on 23 September 2026



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Rural Affairs Committee

To consider and report on matters within the responsibility of the Cabinet Secretary for Climate Action and Rural Affairs, with the exception of climate action



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Committee Membership



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Scottish Green Party



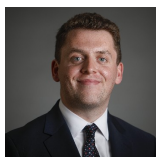
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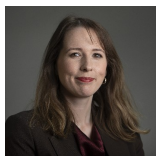
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Introduction

1. This report details the Rural Affairs Committee's consideration of the Welfare of Equidae Code of Practice (Revocation) (Scotland) Notice 2026 (SG/2026/193).
2. The Welfare of Equidae Code of Practice (Revocation) (Scotland) Notice 2026 is a document subject to parliamentary control. The laying power for the Notice is section 37(7)(a) of the Animal Health and Welfare (Scotland) Act 2006, which states that “a Notice revoking an animal welfare code— (a) requires to be laid before, and approved by resolution of, the Parliament”.
3. Under the Scottish Parliament’s Standing Orders (Rules 10.6.1 (a) and 10.10), the document is subject to affirmative resolution before it can be made. It is for the Rural Affairs Committee to recommend to the Parliament whether the Notice should be approved.

About the instrument

4. The purpose of the Notice is to revoke the Code of Practice for the Welfare of Equidae, which was made by the Scottish Ministers under section 37 of the [Animal Health and Welfare \(Scotland\) Act 2006](#) on 19 February 2009. The code is being replaced by the [Welfare of Equids: Guidance](#), which the Scottish Government published on 25 August 2026.
5. The Notice includes a saving provision. In relation to any proceedings for an offence under Part 2 of the 2006 Act, or under regulations made under section 26 or 27 of that Act, in relation to conduct which took place before the Notice comes into effect, the code continues to have effect for the purposes of sections 19(4)(b) and 37(9) of that Act.
6. On 3 September 2026, the Minister for Agriculture, Marine and the Islands [wrote to the Convener](#) to inform the Committee of the publication of the guidance and the laying of the Notice. The Minister apologised that, due to an administrative oversight, the Committee had not been notified of the Scottish Government's intentions in advance.

Consideration by the Delegated Powers and Law Reform Committee

7. 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.
8. The DPLR Committee considered the Notice at its meeting on 15 September 2026 and reported on it in its [4th Report, 2026](#) . The DPLR Committee made no recommendations in relation to the Notice but noted that the Notice was laid without any accompanying documents or other information. It considered that it would have been helpful if the Scottish Government had provided the [information given in response to its request for context](#) when laying the Notice.
9. The DPLR Committee also highlighted that there is a difference between the parliamentary scrutiny procedures for codes and guidance issued under the Animal Health and Welfare (Scotland) Act 2006. A code is subject to approval by resolution of the Parliament, whereas guidance is not subject to any parliamentary procedure. It further noted that, while the Act sets out the effect of compliance or non-compliance with a code in proceedings for a relevant offence, it does not address the consequences of failing to comply with guidance.

Consideration by the Rural Affairs Committee

10. [At its meeting on 23 September 2026](#), the Rural Affairs Committee took evidence on the Notice from the Minister for Agriculture, Marine and the Islands and Scottish Government officials.
11. In his opening remarks, the Minister explained that the Scottish Government published new guidance on the welfare of equids on 25 August 2026. He said that revoking the 2009 code would avoid confusion and ensure that owners follow the most up-to-date advice, as animal welfare knowledge, management practices and science had moved on considerably since 2009.
12. The Minister said that the guidance had been developed in collaboration with the Scottish equid sector. He added that the guidance had been chosen instead of a replacement code because it can be adapted more quickly as evidence and good practice change. He noted that the same approach had been taken for meat chickens in 2019, laying hens and pullets in 2020, and pigs in 2023.
13. The Minister also clarified that, whether presented as a code or as guidance, the content is advisory and contains no legal requirements. However, the guidance may be used by the courts in the same way as a code, particularly in establishing liability under section 19 (unnecessary suffering) or section 24 (ensure welfare of animals) of the 2006 Act.
14. The Committee asked why the Scottish Government had chosen guidance rather than a code subject to parliamentary scrutiny, noting that no information had been provided on consultation responses. The Minister said that neither a code nor guidance has legal effect, and that guidance provides the flexibility to put welfare protections in place more quickly. He added that the guidance had been developed together with the sector.
15. A Scottish Government official explained that section 37(9) of the 2006 Act allows compliance or non-compliance with a code to be relied upon in proceedings for an offence, and that there is no equivalent express provision for guidance made under section 38. However, a court would be entitled to refer to the guidance, which itself states that it may be relevant in prosecutions under sections 19 and 24 of the Act.
16. The Committee asked for more detail on engagement with the sector. A Scottish Government official explained that the guidance had been drawn up over almost a year by a large committee, including the British Horse Society, welfare organisations and nutritionists as well as veterinary and academic experts. All members had agreed the final version, and feedback from the sector had been positive. The official added that, at the suggestion of the group that drafted it, the guidance sets out both the good practice needed to meet the requirements of the 2006 Act and higher, aspirational welfare standards. These signal where good practice is likely to head, and the guidance is expected to be updated regularly as new research emerges.
17. The Committee highlighted that it would have been helpful for this information on stakeholder engagement to have been included in the policy note. The Minister said

he would endeavour to keep the Committee informed of such work in future.

18. The Committee also asked for an update on proposals to introduce licensing of livery services and updated licensing of riding establishments, which were consulted on in 2023. A Scottish Government official said that the work had started but had been delayed by EU alignment work, and that the intention was to progress it as soon as possible. The Convener asked that the Committee be kept updated.
19. Finally, the Convener referred to the Minister's apology for the late notification of the Notice, and asked him to reflect on the administrative challenges involved to ensure that the Committee can work effectively with the Scottish Government in line with appropriate timescales. The Minister said that he had asked that the error does not happen again.

The Committee notes that the Notice was laid without accompanying documents or other information explaining why the Code of Practice for the Welfare of Equidae is being revoked, or how the replacement guidance was developed. The Committee shares the view of the Delegated Powers and Law Reform Committee that it would have been helpful to have this information at the time of laying.

The Committee appreciates the information provided by the Minister and his officials at the meeting on 23 September 2026, notably on stakeholder engagement. However, having this information in advance would have better supported the Committee's scrutiny of the Notice. This is especially important where a code subject to parliamentary approval is replaced by guidance that is not subject to any parliamentary procedure.

The Committee welcomes the Minister's apology for the administrative oversight that meant it was not told in advance about the new guidance and the revocation of the code, and his undertaking to endeavour to keep the Committee informed of such work in future. It also notes his assurance that he has asked for the error not to be repeated.

More generally, the Committee would expect documents laid before the Parliament to be accompanied by enough information to support effective scrutiny. The Committee would welcome the Scottish Government providing a policy note with any future Notice revoking an animal welfare code, setting out the reasons for the revocation and the engagement that informed any replacement guidance.

20. Following the evidence session, the Minister moved motion [S7M-01087](#) —

That the Rural Affairs Committee recommends that the Welfare of Equidae Code of Practice (Revocation) (Scotland) Notice 2026 (SG/2026/193) be approved.

21. The motion was agreed to.

The Rural Affairs Committee recommends that the Welfare of Equidae Code of Practice (Revocation) (Scotland) Notice 2026 (SG/2026/193) be approved.

