

Delegated Powers and Law Reform Committee  
Tuesday, 23<sup>rd</sup> September 2025  
26<sup>th</sup> Meeting, 2025 (Session 6)

## Instrument Responses

### **The Carer's Assistance (Miscellaneous and Consequential Amendments, Revocation, Transitional and Saving Provisions) (Scotland) Regulations 2025 (SSI 2025/Draft)**

**On 11 September 2025, the Committee asked the Scottish Government:**

Regulation 17 makes transitional provision in respect of individuals who were paid Carer's Allowance before 6 November 2025. Regulation 17(1)(b) refers to situations where an individual's entitlement to Carer's Allowance ceased before 15 March, however the year is not specified. Do you consider that it is sufficiently clear to which year the date refers?

In regulation 17(3), references are made to the "the date referred to in paragraph (3)". Is the intention that the date is to be taken as 15 March 2026, as referred to in paragraph 3(a)? If so, do you consider that is sufficiently clear?

In schedule 2, paragraph 1(4)(a)(iii) refers to situations where "it appears to the Scottish Ministers from that information that the individual may be entitled to Carer Additional Person Payment on or after 15 March 2025". It appears from regulation 1(3) that the intention is that the provisions relating to Carer Additional Person Payment will come into force on 15 March 2026. Is the reference to 15 March 2025 correct?

Please confirm whether any corrective action is proposed, and if so, what action and when.

I would be grateful if you could e-mail your response to me and the copy recipients by close on Tuesday 16 September 2025.

**On 17 September 2025, the Scottish Government responded:**

This is considered to be a typographical error. The correct year to apply in regulation 17(1)(b) is 2026. This full date is referred to in the introductory words to regulation 17(1) however it is proposed to add "2026" after "15 March" within regulation 17(1)(b) to put this beyond doubt.

This question has highlighted that there is a typographical error in regulation 17(3), in both sub-paragraph (a) and (b) where reference is made to paragraph (3). These references should both be to paragraph (2) of regulation 17. In our view, this is a manifest drafting error.

This is a typographical error. The reference should be to 2026 rather than 2025 and should be corrected.

It is proposed that all of the above changes be corrected by way of correction slip before the draft regulations are approved by the Scottish Parliament – we are awaiting a response from the SI Registrars on the feasibility of this option. If the registrars are of the view that a correction slip is not suitable for any of the changes, it is proposed that the said changes be made by amending instrument at a future opportunity.

## **The Plant Health (Export Certification) (Scotland) Amendment Order 2025 (SSI 2025/241)**

**On 11 September 2025, the Committee asked the Scottish Government:**

Does the Scottish Government consider that section 46 of the United Kingdom Internal Market Act 2020 applies to this instrument, and if so, could the Scottish Government please set out the factors it took into account in its consideration of the matters to which it must have special regard under that section?

**On 17 September 2025, the Scottish Government responded as follows:**

The Scottish Government considers that section 46 of the United Kingdom Internal Market Act 2020 (the '2020 Act') would apply to this instrument in so far as the provisions relate to the movement of goods within the United Kingdom (per section 46(2)(c) of the 2020 Act), and through its connection with the requirements for control and checks under the Northern Ireland Protocol (section 46(2)(a)). The Scottish Ministers are an "appropriate authority" in terms of section 46(1) of the 2020 Act by virtue of section 46(3).

However, the changes this instrument introduces relate solely to the removal of an exemption from the payment of fees for the production and issue of phytosanitary certificates on goods moving from Scotland to Northern Ireland, rather than to the existence of those controls themselves on the movement of goods from GB as a whole into Northern Ireland, which under the terms of the Northern Ireland Protocol are required to be carried out on certain plants and plant products before they are moved to Northern Ireland from GB. The ending of the fees exemption is made in consequence of the UK Government's ending of its Movement Assistance Scheme ('MAS').

Section 46(1) of the 2020 Act requires an appropriate authority to have special regard to the matters set out in paragraphs (a) to (c) of that subsection. In proceeding with the removal of the fees exemptions in Scotland, the need to maintain Northern Ireland's integral place in the United Kingdom's internal market and customs territory of the United Kingdom (section 46(1)(a) and (b)) were considered, as well as the implications for the UK internal market and the public purse if these fees being reintroduced across the rest of GB were not also reintroduced in Scotland.

The re-introduction of fees is considered to have minimal adverse effect on the free flow of goods between Great Britain and Northern Ireland (section 46(1)(c) of the 2020 Act). MAS was a UK Government funded scheme under which, for plants and plant products, the usual fees for inspection of goods and the issue of phytosanitary certificates would be waived for those being moved from Great Britain to Northern Ireland. The UK Government has stated that it always intended MAS to be time limited,

as a transitional measure to assist traders in the initial period following EU Exit, and this scheme was originally scheduled to close in December 2023. It was extended twice with a final date of 30 June 2025.

The UK Government announced the ending of MAS well in advance to give businesses time to plan and adapt and this included informing all Scottish businesses that had previously utilised it. They were also informed that export fees for movements from GB to Northern Ireland would be reinstated. To date, no comments, concerns, or objections have been raised, including during sectoral meetings and discussions with relevant stakeholders. This engagement factored into the policy consideration of the potential impact on trade with Northern Ireland, balanced against the cost to the public purse with continuing with the exemption in Scotland in the absence of MAS.

## **The Motor Vehicles (Competitions and Trials) (Miscellaneous Amendment) (Scotland) Regulations 2025 (SSI 2025/245)**

**On 11 September 2025 the Committee asked the Scottish Government:**

1. Could you please provide a brief explanation of the difference between the types of event that are:
  - (i) a “race or [trial] of speed between motor vehicles” that can be authorised under section 12G and 12H of the parent Act, and are regulated by the Motor Sport on Public Roads (Scotland) Regulations 2019 (SSI 2019/138) (“the Motor Sport Regulations”), and
  - (ii) a “competition or trial (other than a race or trial of speed) involving the use of motor vehicles” to which the present instrument relates, that can be authorised under section 13 of the parent Act and the principal regulations (the Motor Vehicles (Competitions and Trials) (Scotland) Regulations 1976)?

We note that road traffic legislation, such as speed limits, can be disapplied for type (i) events (under the Motor Sport Regulations) but that this does not appear to be the case for type (ii) events. We also note that the Policy Note for the Motor Sport Regulations mentions rallies and the Jim Clark Rally and the Isle of Mull Rally.

Please also provide confirmation that the four rallies which the instrument designates as “specified events” are type (ii) rather than type (i) events.

2. Regulation 2(2)(c) specifies, as a specified event, “the Robert Albert Clark Rally”. Should it instead specify “the Roger Albert Clark Rally”?
3. Could the reference to “public way” be clearer in the final line of new regulation 7 of the principal regulations (inserted by regulation 2(5) of the instrument)? While this term is defined in the enabling Act for the present instrument, it is not used anywhere else in the principal regulations which instead use the term “public

highway”, reflecting the principal regulations’ parent Act. New regulation 7 also inserts two other references to “public highway”.

4. Please advise whether any corrective action is proposed, and if so, what action and when.

**On 17 September 2025, the Scottish Government responded:**

1. A race or trial of speed between motor vehicles is a competitive event where the primary object is speed. These may include, for example, car or motorbike races, rallies on closed public roads, hill climbs, or timed trials where competitors are seeking the fastest performance. A competition or trial (other than a race or trial of speed) is an event where the primary object is something other than speed. This may covers such events as reliability trials (testing the endurance of vehicles or drivers over a set course), time estimate events where a competitor must arrive as close to a set time as possible (whilst being under the speed limit at all times), navigation rallies testing map reading and route-following exercises or off-road skills testing. Given the nature of these types of events there is no need to disapply speed limits on public roads.

The four rallies designated by the instrument as “specified events” are trials of speed. It is accordingly acknowledged that they are not events capable of being authorised under the principal Regulations. Rather, they are subject to authorisation under the Motor Sport Regulations and their designation as specified events in the principal Regulations is an oversight.

2. It is agreed that the reference in regulation 2(2)(c) to the “Robert Albert Clark Rally” is incorrect. The correct name of the event is the “Roger Albert Clark Rally”.
3. It is considered that the reference to “public way” in the final line of new regulation 7 of the principal Regulations is unambiguous given the definition of the term in the enabling Act. The Scottish Government will, however, reflect on whether consistency of approach would be desirable given the references in the same regulation to “public highway”.
4. The Scottish Government acknowledges the errors identified by questions 1 and 2 and intends to make amending regulations to correct those errors at the earliest possible opportunity.