

Delegated Powers and Law Reform Committee
Tuesday, 30th September 2025
27th Meeting, 2025 (Session 6)

Instrument Responses

The Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2025 (SSI 2025/Draft)

On 18 September 2025, the Committee asked the Scottish Government:

1. In new regulation 2H(1), inserted by regulation 2(5) of the instrument, the formulation “Zero Waste Scotland Limited is a listed authority” does not match the equivalent formulation in regulations 2B(1)-2G(1). For example, regulation 2B(1) reads “ILF Scotland is, in addition to the public authorities listed in regulations 2A(1), 2C(1), 2D(2), 2E(1), 2F(1), and 2G(1) and in the schedule, a listed authority”. Could an explanation be provided for the difference in drafting choice? Given the different formulation in regulations 2B(1)-2G(1), is new regulation 2H(1) sufficiently clear?
2. Please confirm whether any corrective action is proposed, and if so, what action and when.

On 23 September 2025, the Scottish Government responded:

The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 (“the 2012 Regulations”) have been amended on a number of prior occasions to add public authorities as listed authorities subject to the specific duties of the 2012 Regulations, to enable the better performance of the public sector equality duty imposed by section 149(1) of the Equality Act 2010.

On each occasion, as is the case with this instrument, the definition of “listed authority” in regulation 2 of the 2012 Regulations has been amended so as to include the added listed authority. In this instance, once amended by this instrument, that definition will be: “a public authority listed in regulation 2A(1), 2B(1), 2C(1), 2D(1), 2E(1), 2F(1), 2G(1) or 2H(1) of or the Schedule to these Regulations”. It is therefore clear from the definition that a listed authority is a body listed in any of the specified regulations or in the schedule.

As noted, previous formulations of the provision adding designating public authorities as listed authorities have expressly referred to the provisions for the listed authorities added by way of previous amendment. Whilst the Scottish Government agrees that maintaining consistency with prior drafting is desirable, in this case, given that the list of listed authorities is likely to grow in future, it was felt that there would be benefit to simplifying the formulation.

Given that the definition of listed authority is clear and includes all the previously added additional authorities, along with the newly added Zero Waste Scotland Limited, the Scottish Government is of the view that the new, plainer formulation in new regulation 2H(1) has equivalent legal effect to the previous formulation, is sufficiently clear and is more accessible to the reader. No corrective action is therefore proposed.