

Net Zero, Energy and Transport Committee
Tuesday 28 October 2025
31st Meeting, 2025 (Session 6)

Note by the Clerk on the Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2025 (draft) and the Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2025

Overview

1. At this meeting, the Committee will take evidence from the Cabinet Secretary for Climate Action and Energy and Scottish Government officials on two Scottish Statutory Instruments (SSIs) relating to Zero Waste Scotland, before debating motions in the name of the Cabinet Secretary, inviting the Committee to recommend approval of the instruments.
2. These are draft SSIs, which require approval by resolution of the Parliament before they can become law. More information about the instruments is summarised below:

Title of instrument: [Equality Act 2010 \(Specification of Public Authorities\) \(Scotland\) Order 2025](#) (draft)

Laid under: section 151(3) of the Equality Act 2010

Laid on: 16 September 2025

Procedure: Affirmative

Lead committee to report by: 10 November 2025

Commencement: 1 December 2025

Title of instrument: [Equality Act 2010 \(Specific Duties\) \(Scotland\) Amendment Regulations 2025](#) (draft)

Laid under: sections 153(3), 155(1)(c) and (2), and 207(4) of the Equality Act 2010

Laid on: 16 September 2025

Procedure: Affirmative

Lead committee to report by: 10 November 2025

Commencement: 1 December 2025

3. The policy notes accompanying each instrument are included in **Annexe A** (for the Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2025) and **Annexe B** (for the Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2025). These include a summary of the consultation undertaken on each instrument, impact assessments carried out, and the anticipated financial effects.

Procedure

4. Under the affirmative procedure, an instrument must be laid in draft and cannot be made (or come into force) unless it is approved by resolution of the Parliament.
5. Once laid, the instrument is referred to:
 - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
 - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
6. The lead committee, taking account of any recommendations made by the DPLR Committee (or any other committee), must report within 40 days of the instrument being laid.
7. The normal practice is to have two agenda items when an affirmative instrument is considered by the lead committee:
 - an evidence session with the Cabinet Secretary and officials, followed by
 - a formal debate on a motion, lodged by the Cabinet Secretary, inviting the lead committee to recommend approval of the instrument.
8. Only MSPs may participate in the debate, which may not last for more than 90 minutes. If there is a division on the motion, only committee members may vote. If the motion is agreed to, it is for the Chamber to decide, at a later date, whether to approve the instrument.
9. In respect of these instruments, because they are related, there will be one evidence session with the Cabinet Secretary and officials on both instruments. There will then be a separate debate on each motion.

Purpose of the instruments

The Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2025

10. The purpose of this instrument is to formally designate Zero Waste Scotland Limited (ZWS) as a Scottish public authority for the purposes of the Equality Act 2010 (the 2010 Act) by adding ZWS to the list of Scottish public authorities in Part 3 of schedule 19.
11. The Order follows ZWS's reclassification as a non-departmental public body (NDPB) in October 2024 to align its legal responsibilities with that status.
12. The designation will ensure ZWS is bound by the public sector equality duty under section 149 of the 2010 Act. This duty requires public authorities to consider how their policies and practices affect people with protected characteristics, to help eliminate discrimination and promote equality.
13. The public sector equality duty requires listed authorities to have due regard to:
 - eliminating discrimination, harassment, and victimisation and any other conduct that is prohibited by or under the 2010 Act;
 - advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not;
 - fostering good relations between people who share a protected characteristic and those who do not.

Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2025

14. This instrument amends the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 to include ZWS as a listed authority subject to the specific duties under those Regulations.
15. The specific duties are designed to support listed authorities in meeting the public sector equality duty under section 149 of the 2010 Act. These duties include:
 - to report on progress towards integrating the equality duty into ZWS' other work;
 - to publish equality outcomes which ZWS has decided to work on in particular and report on progress made to achieve those outcomes;
 - to assess and review policies and practices against the needs which form the Equality Duty;
 - to gather and use employee information to better perform the equality duty;
 - to publish gender pay gap information;
 - to publish statements on equal pay and occupational segregation;
 - to consider whether award criteria and conditions in relation to public procurement should include consideration of whether a bid will help ZWS better perform the equality duty.

16. Like the other instrument, this follows ZWS's reclassification as a NDPB. The policy note states that this will ensure ZWS is held to the same standards and obligations as other public bodies, reinforcing its commitment to equality and transparency in delivering Scotland's Circular Economy strategy.

Delegated Powers and Law Reform Committee consideration

17. The DPLR Committee considered the instruments on 30 September 2025 and reported on them in its [68th Report, 2025](#). The DPLR Committee raised no points in relation to either instrument.

Report

18. The Committee will be invited to agree to preparing a single report, covering the evidence-taking and debates on both instruments. The Convener may invite the Committee to delegate to him authority for considering and approving a draft report, prepared by the clerks after the meeting. In relation to any report finalised in this way, Committee Members may ask to see the draft and comment on it before the Convener authorises it for publication.

Clerks to the Committee October 2025

Annexe A: Scottish Government policy note for The Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2025

This instrument is made in exercise of the powers conferred by section 151(3) of the Equality Act 2010 (“the 2010 Act”). The instrument is subject to **affirmative procedure**.

Summary box

The purpose of this instrument is to formally designate Zero Waste Scotland Limited (ZWS) as a Scottish public authority for the purposes of the 2010 Act by adding ZWS to the list of Scottish public authorities in Part 3 of schedule 19 of that Act.

The designation will ensure ZWS is covered by the public sector equality duty under section 149 of the 2010 Act. This duty requires public authorities to consider how their policies and practices affect people with protected characteristics, helping to eliminate discrimination and promote equality. The order is a technical but important step in aligning ZWS’s legal responsibilities with its status as non- departmental public body (NDPB).

Policy Objectives

The public sector equality duty requires listed authorities to have due regard to:

- Eliminating discrimination, harassment, and victimisation and any other conduct that is prohibited by or under the 2010 Act;
- Advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not;
- Fostering good relations between people who share a protected characteristic and those who do not.

The amendment follows ZWS’s transition to a **non-departmental public body (NDPB)** in October 2024 and ensures it is subject to the same statutory equality obligations as other public bodies in Scotland

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children’s rights:

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish

Ministers certify that, in their view, The Equality Act 2010 (Specification of Public Authorities) (Scotland) Order 2025 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

- This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU, as it does not relate to areas formerly within EU competence.

Consultation

- No public consultation was undertaken due to the administrative nature of the amendment. Internal engagement was carried out with relevant stakeholders, including legal and policy colleagues.

Impact Assessments

- A Child Rights and Wellbeing Impact Assessment has been prepared as required by the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024. No other impact assessments were considered necessary due to the nature of the proposal.

Financial Effects

- The Cabinet Secretary for Climate Action and Energy confirms that no Business and Regulatory Impact Assessment (BRIA) is required, as the instrument has no financial effects on the Scottish Government, local government, or business.

Scottish Government
Environment & Forestry
Directorate
8 September 2025

Annexe B: Scottish Government policy note for The Equality Act 2010 (Specific Duties) (Scotland) Amendment Regulations 2025

The above instrument is made in exercise of the powers conferred by sections 153(3), 155(1)(c) and (2), and 207(4) of the Equality Act 2010. The instrument is subject to **affirmative procedure**.

Summary Box

The purpose of this instrument is to make Zero Waste Scotland Limited (ZWS) listed authorities for the purpose of the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012.

Listed authorities have specific duties which are designed to help them better perform the public sector equality duty under section 149 of the Equality Act 2010 ("the 2010 Act").

Policy Objectives

This instrument amends the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 to include Zero Waste Scotland Limited (ZWS) as a listed authority subject to the specific duties under those Regulations.

The specific duties are designed to support listed authorities in meeting the public sector equality duty under section 149 of the 2010 Act. These duties include:

- To report progress on integrating the equality duty into ZWS' other work;
- To publish equality outcomes which ZWS has decided to work on in particular and report on progress made to achieve those outcomes;
- To assess and review policies and practices against the needs which form the equality Duty;
- To gather and use employee information;
- To publish gender pay gap information;
- To publish statements on equal pay and occupational segregation;
- To consider whether award criteria and conditions in relation to public procurement should include consideration of whether a bid will help ZWS better perform the equality duty;
- To publish these statements and reports in an accessible manner;
- To consider other matters which the Scottish Ministers may further specify.

This follows ZWS's reclassification as a non-departmental public body (NDPB) in October 2024 and ensures ZWS is held to the same standards and obligations as other public bodies, reinforcing its commitment to equality and transparency in delivering Scotland's Circular Economy strategy.

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Scottish Government
Environment & Forestry
Directorate 8 September 2025