

Delegated Powers and Law Reform Committee  
Tuesday, 24<sup>th</sup> February 2026  
8<sup>th</sup> Meeting, 2026 (Session 6)

## Instrument Responses

### Environmental Authorisations (Scotland) Amendment Regulations 2026 (SSI 2026/55)

**On 12 February 2026 the Scottish Government was asked:**

1. At regulation 15, the instrument makes a consequential amendment to paragraph 1(4)(b) of schedule 1 Packaging (Essential Requirements) Regulations 2015, which the explanatory note explains is intended to correct an error made by the Environmental Authorisations (Scotland) Amendment Regulations 2025. Should a correction also have been made in respect of the reference in 1(4)(a) [as currently numbered], to paragraphs 4(2) and (3) of schedule 11 of the 2018 Regulations, in the same way that regulation 13 of these regulations makes a correction to the Special Waste Regulations 1996?
2. Should the reference in regulation 15 to paragraph 1(4)(b) be paragraph 1(4) only?
3. Please advise whether any corrective action is proposed, and if so, what action and when.”

**On 17 February 2026, the Scottish Government responded:**

Thank you for drawing our attention to these points in relation to regulation 15.

1. The reference in paragraph 1(4)(b) [as renumbered] of schedule 1 of the Packaging (Essential Requirements) Regulations 2015 (“the 2015 Regulations”) to paragraphs 4(2) and (3) of schedule 11 of the 2018 Regulations should be to paragraphs 3(2) and (3) of schedule 11 of the 2018 Regulations. This is a cross-referencing error made by the Environmental Authorisations (Scotland) Amendment Regulations 2025 in consequentially amending the 2015 Regulations.
2. The reference in regulations 15 of this instrument to paragraph 1(4)(b) should be to paragraph 1(4) only.
3. The Scottish Government notes that these are minor typographical errors and do not have a substantive impact on the operation of the 2015 Regulations, which both the Environmental Authorisations (Scotland) Amendment Regulations 2025 and this instrument consequentially amend. The Scottish Government will liaise with the Registrar as to whether these errors may be addressed by correction slip, failing which in relation to point 1, we will take corrective action at the next suitable opportunity, and in relation to point 2, given the nature of this error, we would not propose any further action.”

## **Human Trafficking and Exploitation (Duty to Notify) (Scotland) Regulations 2026 (SSI 2026/60)**

### **On 12 February 2026 the Scottish Government was asked:**

Could an explanation please be provided for the length of time that has passed between the power to make these regulations coming into force, in May 2016, and the regulations being made in February 2026? It would also be useful to know what the Scottish Government's plans are for bringing into force the duty in section 38 to which these regulations relate.

### **On 17 February 2026 the Scottish Government responded:**

We hope you find the following explanation helpful.

Section 38, which introduces a duty on specified Scottish public authorities to notify Police Scotland where they encounter a potential victim of human trafficking or exploitation, has not yet been substantively commenced. Extensive development work was undertaken in 2019, including 18 months of stakeholder engagement, a pilot exercise, and a public consultation.

Work was paused due to the COVID-19 pandemic and competing priorities. Further targeted consultation was carried out in 2025 to update stakeholder views. Responses emphasised the need for a clear purpose, proportionate data collection, and alignment with existing safeguarding frameworks.

The National Referral Mechanism is a central hub to which adult victims of human trafficking who consent to referral and all child victims are referred. Adults who do not consent to referral are therefore not included in the numbers collated and shared by the National Referral Mechanism. The regulations commencing section 38 (which are planned to be laid on 5 March 2026) will commence the section only in relation to notifications concerning to adults who have not consented to be referred to the National Referral Mechanism. This will fill the current gap in the statistical information which is available about victims in Scotland.

The Scottish Government intends to undertake further engagement with stakeholders to support training and the development of guidance to accompany commencement of the duty. A mechanism is already in place to allow Duty to Notify forms to be submitted electronically to Police Scotland.

## **Council Tax (Dwellings and Part Residential Subjects) (Scotland) Amendment Regulations 2026 (SSI 2026/72)**

**On 16 February 2026 the Scottish Government was asked:**

1. In regulation 2(2), in substituted regulation 5A(5)(b), should the reference to paragraphs (4) or (5) be a reference to paragraphs (3) or (4)?
2. Please advise whether any corrective action is proposed, and if so, what action and when.

**On 18 February 2026, the Scottish Government responded:**

The Scottish Government accepts that the reference in substituted regulation 5A(5)(b) should be to paragraphs (3) or (4). The Scottish Government intends to address the issue as soon as possible, and in any event by 1 April 2026. This will be done either by correction slip, or, should this not be permissible, by an amending provision in a forthcoming SSI.

## **Victims, Witnesses, and Justice Reform (Scotland) Act 2025 (Commencement No. 1 and Transitional Provision) Amendment Regulations 2026 (SSI 2026/66 (C. 3))**

**On 13 February 2026 the Scottish Government was asked:**

This instrument brings forward the commencement date of sections 55 and 56 of the Victims, Witnesses, and Justice Reform (Scotland) Act 2025 from 23 March 2026 to 11 February 2026. The instrument was laid on 10 February. Could an explanation please be provided as to why this is not in line with the convention that commencement regulations should be laid at least 10, but preferably 14 days, before the appointed day, to allow those affected to prepare and to allow for adequate Parliamentary scrutiny. While we appreciate that time for those affected to prepare is not an issue here (since the sections in question make amendments to a delegated power), the effect on time for Parliamentary scrutiny before the commencement date is relevant.

**On 17 February 2026 the Scottish Government responded:**

The Victims, Witnesses, and Justice Reform (Scotland) Act 2025 (Commencement No. 1 and Transitional Provision) Amendment Regulations 2026, (“the amending regulations”) were made at 11.40 a.m. on 10 February 2026 and laid at 2.00 p.m. on the same day.

They came into force on 11 February and amended the Victims, Witnesses, and Justice Reform (Scotland) Act 2025 (Commencement No. 1 and Transitional Provision) Regulations 2025 (“the principal regulations”). The effect of the amending regulations is that the commencement date for sections 55 and 56 of the Victims, Witnesses, and Justice Reform (Scotland) Act 2025, (“the 2025 Act”), which had been appointed to be 23 March 2026 by the principal regulations, was brought forward to 11 February 2026.

The bringing forward of the appointed day for the commencement of these sections, to the day after the day when the amending regulations were laid, is acknowledged by the Scottish Government to be a breach of the convention that commencement regulations should be laid at least 10, but preferably 14 days, before the appointed day. The Scottish Government further acknowledges that this has not provided the usual time for Parliamentary scrutiny of the amending regulations prior to their coming into force, and apologises for that.

Sections 55 and 56 of the 2025 Act amend section 20 of the Prisoners and Criminal Proceedings (Scotland) Act 1993, modifying the power of the Scottish Ministers to make rules with respect to the proceedings of the Parole Board for Scotland, and requiring the Scottish Ministers to make particular provision within those rules.

The Committee will note that the Scottish Government exercised the modified power in section 20 of the 1993 Act and made rules with respect to the proceedings of the Parole Board on 12 February and laid them before the Parliament on 13 February. Those rules are due to come into force on 25 March 2026. These rules make the particular provisions now required as a result of the amendments made to section 20 of the 1993 Act by sections 55 and 56 of the 2025 Act.

The Scottish Government had originally intended that the amended power to make the rules could be anticipatorily exercised by Ministers in the pre-commencement period. This would have ensured the rules were in place almost immediately after the original commencement date for sections 55 and 56. After detailed consideration, however, the Scottish Government took the view that it

provided a clearer basis to rely on the power as amended by bringing forward the commencement of the amendments in advance of relying on them.

The decision to do so, without providing 10-14 days for Parliamentary scrutiny was carefully considered.

In coming to its decision, the Government weighed its desire to give effect to the amendments in section 55 and 56 with respect to victim safety and the disclosure of a victim's remains as soon as possible and (given the forthcoming end of the current session of Parliament) before the Summer.

It is noted that only the Scottish Government is affected by the commencement of the provisions and thus no other person is affected by the lack of the usual period of notice. Further, the Government is bringing the commencement date forward by a relatively short period.

The Government further notes that commencing by 12 February means the substantive rules made in reliance on the amended power will be subject to full scrutiny by the Parliament prior to their commencement, and that those rules are due to commence after the date that had originally been provided in the principal regulations.

The Government ensured that the amendments made by the amending regulations were as minimal as possible by amending only the date of commencement.

The Government recognises the importance of allowing adequate time for scrutiny of commencement instruments, and it remains committed to enabling 10-14 days for scrutiny of such instruments. In the particular circumstances of this instrument, however, and having specific consideration to the need to ensure the principal rules could be put in place for the benefit of victims and their families as soon as possible, the Government reached the view that it was preferable for the amending regulations to come into force as soon as possible for the reasons given above.