

Net Zero, Energy and Transport Committee
Tuesday 17 March 2026
13th Meeting, 2026 (Session 6)

Note by the Clerk on UK subordinate legislation: consideration of consent notification

Introduction

1. This paper supports the Committee's consideration of a 'type 1' consent notification sent by the Scottish Government relating to the following proposed UK statutory instrument (SI): The Mandatory Water Efficiency Labelling Regulations 2026
2. The process for the Scottish Parliament's consideration of consent notifications is set out in the [SI Protocol](#). Further details of this process are set out in Annex A.

The Mandatory Water Efficiency Labelling Regulations 2026

3. On 25 February 2026, the Cabinet Secretary for Climate Action and Energy wrote to the Committee to give notice of the Scottish Government's proposal to consent to the UK SI. The Scottish Government has also provided an SI notification and a summary notification. These documents are set out in Annex B. The UK Government intends to lay the UK SI on 6 May 2026.
4. The Scottish Government has asked the Committee to respond to the consent notification by 25 March 2026.
5. The proposed Regulations would introduce a mandatory water efficiency labelling scheme for certain domestic water-using products such as taps, showers, toilets, washing machines and dishwashers.
6. Under the scheme, suppliers will be required to test products and apply a water efficiency label indicating the water consumption of the product. The label will use a colour-coded scale from A to G, based on the international standard ISO 31600, similar to the existing energy efficiency labelling scheme. Retailers will also be required to display the label so that consumers can access the information when purchasing products.
7. The scheme is intended to enable consumers to make informed decisions about water use and contribute to efforts to reduce demand for drinking water. The Scottish Government notes that pressures on water resources are expected to increase due to factors such as population growth and climate change.
8. The proposed SI contains a mixture of devolved and reserved provisions. Environmental protection and water efficiency are devolved matters, however product labelling is reserved under reservation C8 of the Scotland Act 1998.

9. Under section 52 and Schedule 6 of the Environment Act 2021, UK Ministers must obtain the consent of Scottish Ministers before making regulations containing devolved provision applying in Scotland.

Next steps

10. If the Committee wishes to approve the proposal to consent to the SI, it may, in doing so, set out in its letter to the Scottish Government any observations or concerns that it thinks are relevant.
11. If the Committee is not content with the proposal, it should include in its letter to the Scottish Government one of the following recommendations:
 - That the Scottish Government should not consent to the provision being made in a UK SI and that the Scottish Government should instead take forward an alternative Scottish legislative solution.
 - That the provision should not be made at all (that is, that the Scottish Government should not consent to the provision being included in a UK SI, nor should the Scottish Government take forward an alternative Scottish legislative solution).

Clerks to the Committee
March 2026

Annexe A: Process for parliamentary scrutiny of consent notifications in relation to UK statutory instruments

1. The Protocol provides for the Scottish Parliament to scrutinise the Scottish Government's decisions to consent to certain subordinate legislation made by the UK Government: specifically, UK Government subordinate legislation on matters within devolved competence in areas formerly governed by EU law. It sets out a proportionate scrutiny approach and categorises SI notifications as 'type 1' or 'type 2'.
2. Type 2 applies where all aspects of the proposed instrument are clearly technical (e.g., they merely update references in legislation that are no longer appropriate following EU exit) or do not involve a policy decision. These are notified retrospectively, after the Scottish Government has given its consent.
3. All other proposals are type 1. In this case, the Scottish Parliament's agreement is sought before the Scottish Government gives consent to the UK Government making subordinate legislation in this way. Each type 1 notification must be considered by the relevant Committee.
4. **The Committee's role in relation to type 1 notifications is to decide whether it agrees with the Scottish Government's proposal to consent to the UK Government making Regulations within devolved competence, in the manner that the UK Government has indicated to the Scottish Government.**
5. If Members are content for consent to be given, the Committee will write to the Scottish Government accordingly. The Committee may also wish to note any issues in its response or request that it be kept up to date on any relevant developments.
6. If the Committee is not content with the proposal, however, it may recommend that the Scottish Government should not give its consent. In that event, the Scottish Ministers have 14 days under the Protocol to respond to the Committee's recommendation. They could—
 - Agree. If so, the Scottish Ministers would then withhold their consent.
 - Not agree. If so, the Parliament will debate the issue.
7. If the Parliament agrees to the Committee's recommendation that the Scottish Ministers should not consent, the Protocol provides that the Scottish Ministers should "normally not consent" to the UK SI. However, the Protocol also provides that if the Scottish Ministers consider that the Committee's proposed alternative cannot be achieved, they may consent to the UK SI. If so, they must explain why they are doing so to the Scottish Parliament.

Annexe B: Information from Scottish Government

Letter from the Cabinet Secretary for Climate Action and Energy

Dear Edward,

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit.

That protocol, as agreed between the Scottish Government and the Parliament, accompanied the letter from the then Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I attach a Type 1 notification which sets out the details of the SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. Please note, we are yet to have sight of the final SI and it is not available in the public domain at this stage. We will, in accordance with the protocol, advise parliament when the final SI is laid and advise as to whether the final SI is in keeping with the terms of this notification.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee. I look forward to hearing from you by 25 March.

Yours sincerely,

GILLIAN MARTIN

SI notification

NOTIFICATION TO THE SCOTTISH PARLIAMENT

The Mandatory Water Efficiency Labelling Regulations 2026

Type 1 Notification

A brief overview of the SI (including reserved provision).

The Mandatory Water Efficiency Labelling Regulations 2026 (MWELS) introduces a new scheme designed to ensure consumers can make informed decisions about water use when buying new goods. This will contribute towards efforts to lower rates of water consumption which are necessary to address growing deficits in the public water supply. Deficits are occurring due to population growth, migration within Scotland and the impacts of climate change, in particular drought. By 2050, Scottish Water predicts that there will be a 240 ML deficit¹.

MWELS introduces a new requirement for suppliers of certain domestic water-using goods (taps, showers, toilets, washing machines, dishwashers etc) to test goods for water efficiency and produce a label in relation to the good's water efficiency. The label is banded according to a scale set in the international standard ISO 31600, on a scale of A to F akin to the existing label required for energy efficiency, and is aligned to the voluntary, industry-led scheme used elsewhere in the EU. Furthermore, the MWELS scheme will require retailers to affix/display the label, to enable consumers to access that information.

There is no pre-existing legal labelling requirement in the EU, with only a voluntary, industry led water efficiency labelling scheme. Therefore, there is no consideration for alignment with the EU. The SI will be made using the powers in section 52 (resource efficiency information) and schedule 6 of the Environment Act 2021. These are concurrent powers which may be exercised by each of the devolved governments within devolved competency, and by the Secretary of State in relation to England, or in relation to any part of the UK with the consent of the relevant devolved government(s). In this instance, the intention is for the SI to apply to the whole of the UK.

Environmental protection, including the regulation of water efficiency is a devolved matter, but there are provisions within the instrument which fall under reserved competence, specifically, product labelling (regulations 5(1)(a) and (b), 11 and 12)).

Scottish Ministers propose to consent to a UK-wide scheme being introduced by the Secretary of State via a UK SI. Officials from all four administrations have contributed towards the development of the scheme, and its design reflects Scotland's policy needs. A UK-wide scheme is appropriate given there is a single market for these goods across the UK which is protected by the Internal Market Act. The UK market is familiar with comparable requirements brought in for energy efficiency labelling in 2011 by SI 1524 (albeit the legal competence and legislative

¹ [our-sustainable-future-together_scottish-water-long-term-strategy.pdf](#)

powers used are different). Suppliers are familiar with obligations to test and provide information on resource use, and retailers to display it, and customers use it to inform their choices. The energy efficiency regulations are enforced by the same organisations as are proposed to enforce the MWELS obligations.

Scottish Ministers propose consenting to the UK-wide scheme being introduced via a UK SI because it is cost-effective, the scheme requires elements of mixed competence, and devolved competence is respected given the statutory consent requirement, and this will be on the face of the Regulations. In particular, Scottish Ministers are agreeable to the UK Secretary of State to be designated as the market enforcement authority in the SI, to carry out the enforcement of suppliers on their behalf, as a cost effective and pragmatic approach to a UK-wide market. In practise this will be carried out by the Office of Product Safety and Standards (OPSS).

As MWELS imposes labelling requirements on suppliers of goods sold in the UK which may affect international trade, it is a technical regulation as defined by the World Trade Organisation (WTO) Technical Barriers to Trade Agreement (TBT agreement)². Therefore, the UK Government has been required to notify the World Trade Organisation (WTO). Furthermore, as MWELS covers Northern Ireland, under the terms of the Northern Ireland Protocol, the UK has also notified the EU³. The SI cannot be laid until the conclusion of these notification periods (expected in April).

Therefore, the UK Government plans to lay the affirmative SI before the UK parliament on 6 May 2026, with the intention of it coming into force by the end of 2026.

However, if the UK Government receives objections to their notifications to the WTO and EU that require re-drafting of the SI, this will delay the laying of the SI. This could require the UK Government to notify the WTO and EU again after 6 months - delaying the laying of the SI until late 2026, and the scheme coming into force until summer 2027. There is the potential that significant changes to the SI would also require that the consent from Scottish Ministers be resought.

Details of the provisions that Scottish Ministers are being asked to consent to.

Scottish Ministers are being asked for consent to the making of the UK SI including provisions within devolved competence as it relates to the use of water, which is a devolved matter. In particular Ministers are being asked to consent to the Secretary of State being designated as the market enforcement authority for suppliers in Scotland, on behalf of Scottish Ministers. The reserved provisions are regulations 5(1)(a) and (b), 11 and 12 which introduce requirements on suppliers to provide a label with the water efficiency information and for dealers to display it. All other provisions are devolved including: setting out which products the SI applies to (regulations 3 & 4), the obligations on suppliers relating to the information that must be included in the label (regulations 5-10), retention periods for the information regulation 14-17), enforcement (regulations 19-23) and offences (regulations 24-28).

² WTO Notification made on 14/01/2026 – closes on 15/03/2026 [G/TBT/N/GBR/112](#)

³ TRIS Notification made on 12/01/2026 – closes on 13/04/2026 [Notification Detail | TRIS](#)

Summary of the proposals

The purpose of the proposed SI is to ensure consumers are provided with information to inform their decisions on purchasing new water using goods, with a view to this encouraging water efficiency that contributes towards tackling the increasing water deficits predicted by 2050.

The effect of regulation is that suppliers of water using goods, such as taps, toilets, washing machines and showers will have to test and produce a label showing the water consumption of the item according to a scale from A – G. In turn retailers will be required to display the label. This approach is comparable to the existing energy efficiency labelling scheme, and to the voluntary, industry led scheme in the EU.

Does the SI relate to a common framework or other scheme?

No, the SI does not relate to a common framework or any other existing EU or UK-wide legislation or scheme in this policy area.

Summary of stakeholder engagement/consultation

A four-nation joint consultation, with the agreement of Scottish Ministers, was conducted by the UK Government on these proposals in the autumn of 2022. There was general agreement from stakeholders on the benefits of a scheme, with 74% agreeing with the introduction of the labelling scheme. A joint response to the consultation, agreed by Scottish Ministers, was published in September 2023.

A note of other impact assessments, (if available)

The UK Government has undertaken an impact assessment which will be published alongside the SI when it is laid in the Westminster Parliament. This has shown that it will not introduce any significant new burden on businesses, and it is comparable to the existing energy efficiency labelling scheme introduced in 2011, and the voluntary, industry-led water efficiency labelling scheme in the EU. The UK Government has also undertaken a Justice Impact Assessment for the new enforcement and offences created by the scheme – and has concluded that the scheme does not introduce a significant new burden on the judiciary given that the comparable energy efficiency labelling scheme in existence since 2011 has only resulted in a handful of cases.

Summary of reasons for Scottish Ministers' proposing to consent to UK

Ministers legislation

Scottish Ministers are proposing to consent to the UK-wide approach to MWELS because it is practical given that the goods are available throughout the UK-wide market. Officials from all four administrations have worked together on the policy behind MWELS, and it delivers a shared policy of managing water resources.

Furthermore, Scottish Ministers are proposing to consent to this UK-wide scheme being introduced by UK Ministers' through an UK SI containing provisions within devolved competence because is more cost-effective to introduce through one instrument, particularly given there are provisions of reserved competence (e.g.

labelling), and Scottish Ministers' consent has been sought, as required by the enabling powers used in the Environment Act 2021 section 52.

Intended laying date of instruments

The UK Government is intending to lay the affirmative instrument in the Westminster Parliament on 6 May 2026.

If the Scottish Parliament does not have 28 days to scrutinise Scottish Minister's proposal to consent, why not?

n/a – assuming the Cabinet Secretary consents to the UK SI and issue the notification to the Scottish Parliament by the 25 February, the Scottish Parliament will have the 28 days allowed for scrutinise the decision as required in the Statutory Instrument Protocol 2.

Information about any time dependency associated with the proposal

There is no time dependency, but to note that the scheme's introduction has been delayed from the original intended commencement date in 2025. The UK Government's January 2026 White Paper reiterates the contribution of MWELS to responding to projected water sufficiency issues by 2050. Therefore, there is renewed vigour in the UK Government to introduce this scheme.

Are there any broader governance issues in relation to this proposal, and how will these be regulated and monitored post-withdrawal?

n/a – any future changes to the scheme would require legislating, likely using the same powers thus ensuring Scottish Ministers' involvement and therefore respecting devolved competence.

Any significant financial implications?

There are no significant financial implications to the Scottish Government from the introduction of MWELS. The costs of meeting the requirement to produce labels will be borne by the suppliers and there is already a voluntary, industry-led scheme in the EU, and therefore additional impact to suppliers is considered to be minimal. The costs of enforcement, on a UK-wide basis will be borne by the UK Government.

Enforcement of suppliers will be by the Office of Product Safety and Standards (OPSS) which is a UK government agency. The UK Government has indicated that it intends to fund the cost of enforcement of dealers by Local Authority Trading Standards on a UK-wide basis (mechanism still under discussion).

Summary notification

SI NOTIFICATION: SUMMARY

Title of Instrument

The Mandatory Water Efficiency Labelling Regulations 2026

Proposed laying date at Westminster

6 May 2026

Date by which Committee has been asked to respond

25 March 2026

Power(s) under which SI is to be made

The Environment Act 2021, section 52 and schedule 6

Categorisation under SI Protocol

Type 1

Purpose

To introduce the mandatory water efficiency labelling scheme which will contribute towards encouraging the end user to manage their demand for drinking water by being informed on the water efficiency when purchasing water-using goods, thus contributing towards tackling the growing water deficits predicted across the UK by 2050.

The scheme will require suppliers (UK manufacturers, representatives of non-UK manufacturers, importers and online marketplace operators) of certain water using goods for domestic purposes (e.g. showers, toilets, taps, washing machines etc) to test for water efficiency, and apply a label showing the water efficiency of the good. It also requires the provision of an information sheet and imposes related requirements in relation to testing and record-keeping. It does not extend to industrial goods. The retailer of these goods will be required to display the label so as to enable the buyer to make an informed decision about its water consumption.

The scheme will be UK wide on the basis that there is a UK wide market for these goods. Furthermore, Scottish Ministers propose to consent to this scheme being introduced in Scotland via a UK SI made by the Secretary of State because it is cost effective to introduce via one instrument, some of the provisions are reserved, the UK Government has appropriately sought Scottish Ministers' consent to this legislative approach and to the instrument's content, and officials have worked closely across the government to ensure the MWELS scheme is designed appropriately for each government. This scheme is similar to the existing UK-wide scheme for energy efficiency labelling put in place by the Energy Information Regulations 2011, with a colour scale from A-G indicating efficiency.

The categories for water efficiency are based on the international standards ISO 31600. As with the Energy Information Regulations 2011, whilst UK-wide, the obligations will apply with some minor differences in Scotland, Wales and England

as compared with Northern Ireland.

The SI also provides for market enforcement authorities: the Secretary of State in relation to the obligations placed on suppliers (which in practice this will be carried out by the Office for Product Safety and Standards, OPSS), and the relevant local authority (in practise their Trading Standards service) in relation to the obligations on dealers (retailers). This is in keeping with the enforcement of the Energy Information Regulations 2011 which, whilst unlike this instrument is fully reserved, places similar obligations on suppliers and dealers in relation to energy efficiency. Under the MWELS SI the Secretary of State is also responsible for maintaining the product database on which suppliers are required to register products first placed on the market after 1 April 2027.

The market enforcement authorities have enforcement powers including powers of entry, a test purchase power and a power to seize products and records. The market enforcement authorities also have powers to issue information notices, and also to issue civil sanctions for failures to comply with the regulations. These include variable monetary fines, stop notices and enforcement undertakings.

The SI also provides that a failure to comply with a civil sanction and obstruction of persons authorised by the market enforcement authorities to act for it are criminal offences punishable on summary conviction by a fine not to exceed the statutory maximum.

Other information

n/a