DPLR/S7/26/5/2

Delegated Powers and Law Reform Committee
Tuesday 22 September 2026
5th Meeting, 2025 (Session 7)

Instrument Responses

The Sports Grounds and Sporting Events (Designation) (Scotland) Amendment Order 2026 (SSI 2026/247)

On Thursday 10 September 2026, the Committee asked the Scottish Government:

1. We note that the SSI lists “Beechwood Park Cumnock”. Should this be “Beechwood Park Auchinleck”?

2. We understand that the ground “Recreation Ground” in Invergordon was renamed the “Ali MacGregor Park” in July. Should this have been reflected in the SSI?

On Wednesday 16 September 2026, the Scottish Government responded:

1. Beechwood Park is occupied by Auchinleck Talbot, and is located in Auchinleck, but the post town for the purposes of the postal address is Cumnock. Therefore, no corrective action is considered necessary in relation to this point.

2. The SPFL sent the Scottish Government in May an updated list of football grounds to be designated for the purposes of Part 2 of the Criminal Law (Consolidation) (Scotland) Act 1995, to allow sufficient time for an amending SSI to be drafted and come into force as soon as possible after the start of the new football season. This is in line with the practice in recent years. We note Recreation Ground was renamed in July and the Scottish Government were not notified at that time. We consider the designation of the correct ground in Invergordon will nonetheless be clear. We intend to update the name of the ground in the next amending SSI, which it is anticipated will be laid at a similar time in 2027.

The Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2026 (SSI 2026/251)

On Thursday 10 September 2026, the Committee asked the Scottish Government:

1. The Policy Note to the instrument states that the deadline for applications will be 5pm on the date of the poll, as for other emergency proxy applications. Can you please clarify which provision of the amended Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007, or

any other enactment, gives effect to the 5 p.m. polling day deadline for this category of emergency applications.

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

On Wednesday 16 September 2026, the Scottish Government responded:

1. The Representation of the People (Absent Voting at Local Government Elections) (Scotland) Amendment Regulations 2026 provide for requirements for applications for a proxy vote in respect of a particular election made by a person who cannot vote in person on the date of the election as they will be accompanying another person to receive medical care or treatment. However, these Regulations do not set a closing date for such an application.

2. We thank the Committee for bringing this to our attention. The absence of a closing date is an omission. We intend to correct this in a further instrument that will be laid on 18 September 2026. This instrument will also be subject to the negative procedure and will come into force on 13 November at the same time as these Regulations.

The Air Departure Tax (Scotland) Act 2017 (Commencement No. 1) Regulations 2026 SSI 2026/248 (C. 23)

On Monday 7 September 2026, the Committee asked the Scottish Government:

This is the first commencement instrument for the Air Departure Tax (Scotland) Act 2017. Given that 9 years have passed since the Act received Royal Assent, please advise why these provisions were not commenced sooner, and what is the Scottish Government's timeline for bringing the Act fully into force?

On Tuesday 15 September 2026, the Scottish Government responded:

The Air Departure Tax (Scotland) Act 2017 was passed by the Scottish Parliament in 2017. During the Bill process, a complex state aid interaction was identified in the design of the Highlands and Islands exemption given under the UK's Air Passenger Duty ("APD") regime. State aid as an area of EU law applied to the provision of financial assistance by public bodies, including financial assistance in the form of tax exemptions. This presented continuity issues which required consideration and would risk the potential to include an equivalent exemption in the successor Air Departure Tax ("ADT") scheme. Preservation of connectivity for Scotland's Highlands and Islands was an important consideration for the Scottish Government and Scottish Ministers stated that they would not proceed with implementation of ADT without a broadly equivalent exemption.

The Scottish Government convened the ADT Highlands and Islands Working Group in May 2018 to bring together key stakeholders from organisations with expert knowledge of the region's economy, to identify a potential solution for the Highlands and Islands exemption. However, due to the complex balance of considerations, the Group was unable to reach a solution.

The Scottish Government had deferred the introduction of ADT beyond its originally planned implementation date of 1 April 2018 on the basis that maintaining the exemption was necessary to protect connectivity for communities in the Highlands and Islands. Transition from APD to ADT therefore required a solution to be found. Since then, the Scottish Government has consistently reaffirmed its commitment to the introduction of ADT once a solution for the Highlands and Islands exemption was identified.

A number of relevant major global and national events have taken place in the intervening period, including the UK's exit from the EU, a consequence of which was the state aid regime being replaced in the UK by the Subsidy Control Act 2022, with effect from January 2023. While the economic purpose is similar to that of state aid, the legislative basis and structure is very different. Accordingly, this was a significant change in the regulatory landscape that required fresh analysis. The interactions between subsidy control and tax create a particularly complicated sub-category of the new regime. Devising a resolution, therefore, entailed specialist technical analysis and consultation with the Department of Business and Trade, the UK Government department responsible for the subsidy control regime.

Engagement with stakeholders to gauge the impact of the proposals in practice was also needed to ensure the workability of the policy. The Scottish Government's 2024 Climate Change Action: Policy Package contained a commitment to set out the high-level principles of ADT. These were subsequently published alongside the Scottish Government's 2025 medium-term financial strategy, which marked the first significant policy development since the entry into force of the Subsidy Control Act 2022.

At the 2026-27 Scottish Budget[1], the Scottish Government announced that a solution had been identified for the exemption and that ADT would be introduced from 1 April 2027. A consultation was published in January 2026 on the proposed new exemption and was accompanied by a programme of engagement with the aviation industry and the communities and businesses that the exemption is designed to serve.

A programme of secondary legislation has now begun with a view to switching on the new tax and bringing the Act fully into force on 1 April 2027. Two further SSIs are being laid in draft this month as part of this programme and further commencement SSIs are planned, with the next commencement SSI planned to be laid before the end of this year.

[1] *Scottish Budget: 2026 - 2027*, Chapter 2 (Tax Policy), pages 19 and 29 to 30