DPLR/S7/26/6/2

Delegated Powers and Law Reform Committee
Tuesday 29 September 2026
6th Meeting, 2025 (Session 7)

Instrument Responses

The Council Tax Reduction (Miscellaneous Amendment) (No. 2) (Scotland) Regulations 2026 (SSI 2026/259)

On Thursday 17 September 2026, the Committee asked the Scottish Government:

1. "Should the title of this instrument have been "…(Scotland) (No. 2)..." rather than "… (No. 2) (Scotland)…", in line with standard practice?

2. Regulation 3(3)(c) amends the Council Tax Reduction (Scotland) Regulations 2021 so that the following payments are disregarded when calculating an applicant's finances:

   > "any payment made under the Mother and Baby Institutions Payment Scheme established by the Mother and Baby Institutions Payment Scheme Act 2023."

   There will be nothing in the 2021 Regulations, as amended by this provision, to indicate that this reference is to an Act of the Oireachtas of the Republic of Ireland. The equivalent text inserted into the 2012 Regulations gives this information in a footnote (footnote (a) on page 2 of the instrument). Should the same footnote appear in the text inserted by regulation 3(3)(c)?

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

On Wednesday 23 September 2026, the Scottish Government responded:

"On point 1, the Scottish Government accepts that standard practice is for the instrument's title to have been "…(Scotland) (No. 2)..." rather than "… (No. 2) (Scotland)…". However, it is not considered that this affects the legal effect of the instrument. As a result, no corrective action is proposed.

On point 2, it is the Scottish Government's view that footnotes are part of the amending instrument only. That is, they are not added in to an amended instrument. The reader is assisted when reading the amending instrument. Usual practice is to include a footnote for the first reference to a piece of legislation and not to repeat the footnote for other references to that piece of legislation on the same page. However, the Scottish Government acknowledges that it is unusual for an SSI to refer to Acts of the Oireachtas of the Republic of Ireland and so in these circumstances will insert the footnote in the text inserted by regulation 3(3)(c) by correction slip."

The Children (Care, Care Experience and Services Planning) (Scotland) Act 2026 (Commencement No. 1) Regulations 2026 (SSI 2026/258 (C.25))

On Thursday 17 September 2026, the Committee asked the Scottish Government:

1. "In relation to the commencement of section 16(2) (for the purposes of enabling consultation on guidance on family group decision-making services), should the following also be commenced:

   - section 15(3) for the purpose of commencing the definitions of “family group decision-making services” and “family group decision-making” in section 70 of the 2014 Act, and, connected to that,
   - section 14(2) for the purpose of commencing the definition of “family group decision-making services” in new section 69A(4) of the 2014 Act?

2. Is commencement of these definitions also required in relation to the commencement by this instrument of section 64, given subsection (6)?

3. In relation to the commencement of section 18(2), in column 3 of the Schedule should the reference to section 73A(3) of the 2014 Act be to section 73A(2).

4. Please confirm whether any corrective action is proposed, and if so, what action and when.”

On Tuesday 22 September 2026, the Scottish Government responded:

“We thank the Committee for bringing these matters to our attention.

We do not consider it was legally necessary to commence the definition provisions (namely sections 8(10), 10(6) and 60(2)(a) of the Children (Care, Care Experience and Services Planning) (Scotland) Act 2026 (“the 2026 Act)) in order to enable Ministers to comply with the consultation requirements brought into force by this SSI. Our view is that the definitions are sufficiently clear on the face of the 2026 Act and together with any other matters to be addressed in the guidance, they can be appropriately and clearly reflected in the consultation materials. However, we acknowledge that not commencing the “family group decision-making services” definition for the purposes of section 16(2) of the 2026 Act has resulted in an inconsistency in our drafting approach in this SSI.

We also consider that the definition of “family group decision-making services” should be commenced for the purposes of section 64 the 2026 Act. We therefore intend to commence the definition in the next commencement SSI for the 2026 Act which will be laid at the next opportunity. This will ensure that the definition applies for all purposes, including the consultation requirement.

We also accept that the reference in column 3 of the schedule, in relation to the entry for section 18(2) of the 2026 Act, should be to section 73A(2) of the Children and Young People (Scotland) Act 2014. We intend to amend this by correction slip, which has already been approved by the Registrars."