

Delegated Powers and Law Reform Committee
Tuesday 3 November 2026
9th Meeting, 2025 (Session 7)

Instrument Responses

The draft Bankruptcy and Attachment (Miscellaneous Amendment) (Scotland) Regulations 2026

On Tuesday 13 October 2026, the Committee asked the Scottish Government:

Can you please explain whether regulation 4(1)(a) and (b) are intended to make textual amendments to section 11(1)(a) and (b) of the Debt Arrangement and Attachment (Scotland) Act 2002 ("2002 Act"), as might be suggested by the use of inverted commas around "£2,000" and "£7,000", or whether those provisions are intended to prescribe amounts for the purposes of section 11(1)(a) and (b). Please explain how the current drafting achieves the intended legal effect.

In regulation 4(1)(b), is there a typographical error in the phrase "the amount for the value of a vehicle in "£7,000"?

In regulation 5, as above, is the intention to textually amend section 52(2) so as to substitute "£2,000" for "£150", or to prescribe an amount for the purposes of that section? Please explain how the current drafting achieves the intended legal effect.

In regulation 6(a), as above, is the intention to textually amend paragraph 3(b) of schedule 2 to the 2002 Act so as to substitute "£2,000" for "£1,000", or to prescribe an amount of £2,000 for the purposes of that provision? Please explain how the current drafting achieves the intended legal effect.

Please advise whether any corrective action is proposed and, if so, what action is proposed and when it is intended to be taken.

On Tuesday 27 October 2026, the Scottish Government responded:

Regulation 4(1)(a) and (b) are intended to prescribe amounts for the purposes of the enabling power in section 11(1)(a) and (b) of the Debt Arrangement and Attachment (Scotland) Act 2002 ("the 2002 Act").

The Scottish Government considers that the drafting achieves the intended effect by explicitly referencing the purposes for which the new amounts apply (i.e. "for the purposes of" section 11(1)(a)). The drafting approach to regulation 4(1)(a) and (b) can be distinguished from the approach taken in regulation 2, which makes textual amendments to section 2 of the Bankruptcy (Scotland) Act 2016 by substituting different values. In addition, footnote (c) highlights to the reader that the current value for vehicles exempt from attachment was prescribed in regulations, not by textual amendment.

The Scottish Government therefore considers regulation 4(1)(a) and (b) achieves the intended effect of prescribing amounts for the purposes of sections 11(1)(a) and (b) of the 2002 Act. That said, the Government acknowledges the inverted commas were unnecessary.

In regulation 4(1)(b), the Scottish Government agrees there is a typographical error in the phrase “the amount for the value of a vehicle *in* “£7,000”. This error is considered to be minor and self evident, particularly in view of surrounding regulations 4(1)(a), 5 and 6 which are all prescription provisions that include “is” before the new amount prescribed. We are grateful to the Committee for drawing this to our attention.

Regulation 5 is intended to prescribe an amount for the purposes of the enabling power in section 52(2) of the 2002 Act, and regulation 6 to prescribe an amount for the purpose of the power in paragraph 3(b) of schedule 2 of the 2002 Act. For similar reasons as noted for regulation 4(1)(a) and (b), the Scottish Government considers that the drafting achieves the intended legal effect.

A correction slip will be issued to remove the inverted commas and correct the typographical error in regulation 4(1). No amendment is considered necessary in relation to regulations 5 or 6, as the Scottish Government considers that those provisions already achieve their intended legal effect.

The Police Service of Scotland (Conduct) Amendment Regulations 2026 (SSI 2026/276) and The Police Service of Scotland (Senior Officers) (Conduct) Amendment Regulations 2026 (SSI 2026/277)

On Thursday 22 October 2026, the Committee asked the Scottish Government:

1. The same issue arises in both instruments at regulation 8 (suspension). The substitution of “at least one of” for “following” appears to leave a misplaced “the” in the sentence. Does the Scottish Government consider that the provisions are sufficiently clear?
2. Please confirm whether any corrective action is proposed, and if so, what action and when.

On Tuesday 27 October 2026, the Scottish Government responded:

Thank you for your email regarding the Police Service of Scotland (Conduct) Amendment Regulations 2026 and the Police Service of Scotland (Senior Officers) (Conduct) Amendment Regulations 2026.

1. Clarity of the provisions

The Scottish Government accepts that the provisions contain a drafting error. The phrase:

“unless at least one of following the conditions mentioned in paragraph (3)”

should read:

“unless at least one of the following conditions mentioned in paragraph (3)”.

The incorrect placement of the “the” was not intentional and arose as a consequence of amendments made during the drafting process. Notwithstanding that error, the Scottish Government considers that the meaning and effect of the provisions remain sufficiently clear. The provisions plainly require that at least one of the conditions listed in paragraph (3) must be satisfied before a suspension may be imposed.

2. Corrective action

The Scottish Government acknowledges the drafting error and is grateful to the Parliament lawyer for drawing it to our attention. The error is minor and does not affect the operation or legal effect of the provisions. Nevertheless, the Scottish Government proposes to correct the wording at the next suitable legislative opportunity. The timing of such a correction will depend on the availability of an appropriate amending instrument in which the amendment can be included. We expect such an instrument to be available so that the correction can be made next year.