

# Net Zero, Energy and Transport Committee

28<sup>th</sup> Meeting, 2023 (Session 6)

Tuesday, 3 October 2023

## Cover note: The Transport (Scotland) Act 2019 Amendment Regulations 2023 [draft]

**Title of Instrument:** [The Transport \(Scotland\) Act 2019 Amendment Regulations 2023](#) [draft]

**Type of Instrument:** Affirmative

**Laid Date:** 14 September 2023

**Circulated to Members:** 14 September 2023

**Meeting Date:** 3 October 2023

**Minister to attend meeting:** Yes

**Motion to approve:** [S6M-10469](#)

**Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee?** No

**Reporting deadline:** 8 November 2023

1. An electronic copy of the Regulations is available at:  
<https://www.legislation.gov.uk/sdsi/2023/9780111058077/contents>  
([legislation.gov.uk](https://www.legislation.gov.uk)).

2. Copies of the explanatory and policy notes are included in the **Annexe**.

### Purpose

3. The purpose of the instrument is to fix missed and incorrect cross-references in the Transport (Scotland) Act 2019, which came about because of stage 2 and stage 3 amendments made when the Bill was passing through Parliament. These corrections are needed so all provisions of the Act which refer to other provisions do this properly so the Act can be given full effect.

## **Delegated Powers and Law Reform Committee consideration**

4. At its meeting on 26 September 2023, the Committee considered the instrument and determined that it did not need to draw the attention of the Parliament to the instrument on any grounds within its remit. [Read the Official Report – 26 September 2023 \(Scottish Parliament\)](#)

## **Procedure for Affirmative instruments**

5. The draft Regulations were laid on 14 September and referred to the Net Zero, Energy and Transport Committee. The instrument is subject to affirmative procedure (Rule 10.6). It is for the Net Zero, Energy and Transport Committee to recommend to the Parliament whether the Regulations should be approved. The Minister for Transport has, by Motion S6M-10469 (set out in the agenda), proposed that the Committee recommends the approval of the Regulations. The Committee will take evidence on the Regulations from the Minister and officials before the motion is debated.

## **Recommendation**

6. The Committee must decide whether or not to agree to the Motion, and then report to Parliament accordingly, by 8 November 2023.

Clerks  
Net Zero, Energy and Transport Committee

## Annexe – Accompanying documents

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Transport (Scotland) Act 2019 (“the 2019 Act”).

The Transport (Scotland) Bill (“the Bill”) became the 2019 Act on 15 November 2019. During the Bill’s parliamentary passage, amendments were made to certain provisions of the Transport (Scotland) Act 2001 (“the 2001 Act”). To ensure the amendments were properly reflected throughout the Bill cross-references to the amendments required to be updated and in certain instances those updates were not made. These Regulations make provision for omitted and erroneous cross-references so the 2019 Act can be given full effect.

Regulation 2(2) makes provision to correct an erroneous cross-reference in inserted section 3D(3) of the 2001 Act.

Section 40(4), section 41(5) and paragraph 3(8) of the schedule of the 2019 Act amend section 81 (regulation and orders) of the 2001 Act. Regulation 2(7)(b) amends paragraph 3(8)(b) of the schedule of the 2019 Act to make provision for omitted cross-references in section 81(4)(b) of the 2001 Act to ensure that the intention as regards the Parliamentary procedure attaching to regulations under new inserted sections 27A(5) and 35A(1) of the 2001 Act (i.e. affirmative procedure) is realised. Consequently, regulation 2(3) and (4) omits sections 40(4) and 41(5) of the 2019 Act as these provisions are redundant. Regulation 2(7)(c) makes provision to correct an erroneous cross-reference in inserted paragraph (c) of section 81(4) of the 2001 Act.

Regulation 2(5) makes provision to correct an error in section 55 of the 2019 Act (exceptions to pavement parking prohibition and double parking prohibition).

Regulation 2(6) makes provision to correct an erroneous cross-reference in section 65(4)(b)(v) (power to share information) of the 2019 Act.

Paragraph 3(4)(b) in the schedule of the 2019 Act amends section 39(1) (penalties) of the 2001 Act by inserting new paragraph (ba). Section 39(2) of the 2019 Act also inserts a new paragraph (ba) into section 39(1) of the 2001 Act and so regulation 2(7)(a) amends paragraph 3(4)(b) in the schedule of the 2019 Act to renumber the inserted paragraph and to correct erroneous cross-references in that paragraph.

No business and regulatory impact assessment has been prepared for these Regulations as no impact upon business, charities or voluntary bodies is foreseen.

## POLICY NOTE

### THE TRANSPORT (SCOTLAND) ACT 2019 AMENDMENT REGULATIONS 2023 SSI 2023/XXX

The above instrument was made in exercise of the powers conferred by section 129 of the Transport (Scotland) Act 2019 (the Act). The instrument is subject to affirmative procedure.

**Purpose of the instrument.** The purpose of the instrument is to fix missed and incorrect cross-references in the Transport (Scotland) Act 2019, which came about because of stage 2 and stage 3 amendments made when the Bill was passing through Parliament. These corrections are needed so all provisions of the Act which refer to other provisions do this properly so the Act can be given full effect.

#### **Policy Objectives**

This instrument makes ancillary provision to correct technical errors in the Act, which arose due to amendments made to the Transport (Scotland) Bill (the Bill) during its Parliamentary passage.

The Act contains various cross-references, with one provision referring to another. During the Parliamentary passage of the Bill, numerous stage 2 and 3 amendments were made. As a result, it was necessary when the Act was passed to re-number many of the amended provisions and to amend cross-references to those provisions and in certain instances those updates were not completed. The corrections made by the instrument are therefore necessary to ensure that amendments that were made to the Bill by Parliament are properly integrated into the Act ensuring that the Act can be given full effect and the intention of the Scottish Parliament delivered.

#### **EU Alignment Consideration**

This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

#### **Consultation**

The instrument makes technical amendments to the Act to ensure that it can be given full effect and the intention of the Scottish Parliament delivered. Consultation on the policy to be achieved by the Act is not needed.

#### **Impact Assessments**

The Regulations correct drafting errors in the Act to ensure that the policy aims of the Act, reflecting the intention of Parliament, can be delivered. Impact assessments were conducted in relation to the Bill. Given the technical nature of the Regulations, no further impact assessments have been undertaken.

#### **Financial Effects**

The Minister for Transport confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government  
Transport Scotland  
September 2023