

Net Zero, Energy and Transport Committee  
Tuesday 9 December 2025  
37<sup>th</sup> Meeting, 2025 (Session 6)

## **Note by the Clerk on the Companies Act 2006 (Scottish public sector companies to be audited by the Auditor General for Scotland) Order 2026 (draft)**

### **Overview**

1. At this meeting, the Committee will take evidence from the Cabinet Secretary for Transport and Scottish Government officials on the Companies Act 2006 (Scottish public sector companies to be audited by the Auditor General for Scotland) Order 2026, before debating a motion in the name of the Cabinet Secretary inviting the Committee to recommend approval of the instrument.
2. This is a draft Scottish Statutory Instrument (SSI), which requires approval by resolution of the Parliament before it can become law. More information about the instrument is summarised below:

**Title of instrument:** [The Companies Act 2006 \(Scottish public sector companies to be audited by the Auditor General for Scotland\) Order 2026 \(draft\)](#)

**Laid under:** Section 483(1) and (4) of the Companies Act 2006

**Laid on:** 14 November 2025

**Procedure:** Affirmative

**Lead committee to report by:** 4 January 2026

**Commencement:** comes into force on the day after the day on which it is made.

### **Procedure**

3. Under the affirmative procedure, an instrument must be laid in draft and cannot be made (or come into force) unless it is approved by resolution of the Parliament.
4. Once laid, the instrument is referred to:
  - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and
  - a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
5. The lead committee, taking account of any recommendations made by the DPLR Committee (or any other committee), must report within 40 days of the instrument being laid.

6. The normal practice is to have two agenda items when an affirmative instrument is considered by the lead committee:
  - an evidence session with the Acting Cabinet Secretary and officials, followed by
  - a formal debate on a motion, lodged by the Acting Cabinet Secretary, inviting the lead committee to recommend approval of the instrument.
7. Only MSPs may participate in the debate, which may not last for more than 90 minutes. If there is a division on the motion, only committee members may vote. If the motion is agreed to, it is for the Chamber to decide, at a later date, whether to approve the instrument

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

8. The DPLR Committee considered the instrument on 25 November 2025 and reported on it in its [86th Report, 2025](#). The DPLR Committee made no recommendations in relation to the instrument.

## **Purpose of the instrument**

9. Article 2 of the Order designates Caledonian Sleeper Limited and ScotRail Trains Limited (“the companies”), both of which have registered offices in Scotland, as bodies whose accounts are to be audited by the Auditor General for Scotland. Article 3 provides that, as a consequence, the companies will be exempt from the company accounts auditing requirements set out in Part 16 of the Companies Act 2006.
10. The Companies Act 2006 requires a company’s annual accounts to be audited (section 475). Section 483 of that Act allows the Scottish Ministers to provide, by order, that a company’s accounts should be audited by the Auditor General for Scotland if that company’s functions are public functions that relate to devolved matters only, or if the company receives all or most of its funding from a public body already audited by the Auditor General for Scotland. The introductory text of the Order states that it is the second of these that apply in this case – that Caledonian Sleeper Limited and ScotRail Trains Limited are entirely or substantially funded by a body already audited by the Auditor General for Scotland.
11. The policy note states that:

“The audits of Caledonian Sleeper Ltd and ScotRail Trains Ltd assess the efficient and effective operation of Scotland’s Railway to support Scotland’s economy through connecting communities and businesses and contributing to tackle climate change. The recommended change should improve the scope and assurance of this assessment. It is anticipated that it will cost less for the audits of Caledonian Sleeper Ltd and ScotRail Trains Ltd to be undertaken by the Auditor General for Scotland than the current arrangement.”

12. The Policy Note accompanying the instrument is included in the annexe.

## **Report**

13. The Convener may invite the Committee to delegate to him authority for considering and approving a draft report prepared by the clerks after the meeting. In relation to any report finalised in this way, Committee Members may ask to see the draft and comment on it before the Convener authorises it for publication.

**Clerks to the Committee  
December 2025**

## **Annexe: Scottish Government Policy Note**

### **THE COMPANIES ACT 2006 (SCOTTISH PUBLIC SECTOR COMPANIES TO BE AUDITED BY THE AUDITOR GENERAL FOR SCOTLAND) ORDER 2026**

#### **SSI 2026/XXX**

The above instrument was made in exercise of the powers conferred by section 483(1) and (4) of the Companies Act 2006. The instrument is subject to affirmative procedure.

#### **Summary Box**

The accounts of Caledonian Sleeper Ltd and ScotRail Trains Ltd are to be audited by the Auditor General for Scotland.

#### **Policy Objectives**

The audits of Caledonian Sleeper Ltd and ScotRail Trains Ltd assess the efficient and effective operation of Scotland's Railway to support Scotland's economy through connecting communities and businesses and contributing to tackle climate change. The recommended change should improve the scope and assurance of this assessment. It is anticipated that it will cost less for the audits of Caledonian Sleeper Ltd and ScotRail Trains Ltd to be undertaken by the Auditor General for Scotland than the current arrangement.

#### **UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility**

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Companies Act 2006 (Scottish public sector companies to be audited by the Auditor General for Scotland) Order 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

#### **EU Alignment Consideration**

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

#### **Consultation**

Audit Scotland and Scottish Rail Holdings Limited Group were consulted during the preparation of the instrument. Responses confirmed that the AGS is willing to assume the auditing role.

#### **Impact Assessments**

A Child Rights and Wellbeing Impact Assessment has been prepared, as required by the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, and published online at [www.legislation.gov.uk](http://www.legislation.gov.uk).

**Financial Effects**

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

As a result of the current auditor's contract expiry there are no financial or legal penalties arising for Caledonian Ltd or ScotRail Trains Ltd.

Scottish Government Transport Scotland Rail Directorate

11 November 2025