The Scottish Parliament
Pàrlamaid na h-Alba

SUMMARIES OF BILLS
INTRODUCED IN THE FOURTH
SESSION OF THE SCOTTISH
PARLIAMENT

(2011-2016)
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SUMMARIES OF BILLS INTRODUCED IN THE FOURTH SESSION OF THE SCOTTISH PARLIAMENT (2011-16)

Introduction

This paper provides individual summaries of all bills introduced in the Scottish Parliament in its fourth Session - May 2011 to March 2016. The bills are presented in the order in which they were introduced in the Parliament (SP Bill order). For most bills, the summary includes the following information:

- key dates in the passage of the bill
- purpose and objectives of the bill
- main provisions of the bill
- parliamentary consideration of the bill

Public Bills

A bill is a draft Act of Parliament that will, if passed and enacted, become part of the statute law.

Most bills are public bills, that is, they deal with matters of public policy and the general law. Public bills are introduced in the Parliament by Members of the Scottish Parliament (MSPs). The majority of public bills are introduced by MSPs who are members of the Scottish Government. These are called ‘Government bills’.

Individual MSPs, who are not members of the Scottish Government, can also introduce public bills, known as ‘Members’ Bills’. An MSP can introduce a maximum of 2 Members’ Bills in a session (Standing Orders (SO) rule 9.14.2). An MSP introducing a Members’ Bill must first lodge a draft proposal with the Clerk of the Parliament giving the short title of the proposed bill and a brief explanation of its purposes, along with a consultation document1 or a written statement of why such a consultation is not necessary (SO rule 9.14.3).

To progress from a proposal to a bill, a Members’ Bill must receive support from at least 18 MSPs representing at least half of the political parties (or groups) with 5 or more members in the Parliament. A Members’ Bill cannot be introduced if the Scottish Government has given an indication in writing, under SO rule 9.14.13, and within the timescales set out in SO rule 9.14.11, that the Scottish Government intends to initiate legislation in the same session to give effect to the final proposal. Similarly, a Members’ Bill cannot be introduced if the Scottish Government has given an indication in writing that

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1 This is a document prepared as the basis for a public consultation on the policy objectives in the draft proposal.
the UK Government has or intends to initiate legislation in the current or next session of the UK Parliament to give effect to the proposal.

Public bills can also be introduced by committees of the Scottish Parliament. These are known as ‘Committee Bills’.

Bills in the Scottish Parliament are very similar, in terms of layout, structure and the conventions of legislative drafting, to Westminster bills. This is primarily because Acts of the Scottish Parliament, to which they are intended to give rise, form part of the UK ‘statute book’ alongside existing statute law in the relevant area, much of which consists of Acts passed by the UK Parliament before devolution.

Public bill procedure

Public bills undergo three parliamentary stages:

Stage 1 involves consideration of the general principles of the bill by the Scottish Parliament committee designated as “the lead committee” by the Parliamentary Bureau. The lead committee submits a Stage 1 report to the Parliament\(^2\) which decides, on a motion of the member in charge of the bill, whether or not to agree to the general principles (SO rule 9.6.4).

The procedure for committee bills is slightly different in that a committee report on the bill’s general principals is not required. However, the Finance Committee and Delegated Powers and Law Reform Committee\(^3\), respectively, may be required to report to the Parliament on the bill’s Financial Memorandum and on any provisions conferring powers to make subordinate legislation (SO rule 9.15.8).

If the Parliament does not agree to the general principles of a public bill at Stage 1, the bill falls (SO rule 9.6.7). A bill will also fall if the Parliament has not decided on it at the point when the Parliament is dissolved prior to a Scottish Parliament general election. A public bill may be withdrawn at any time by the member in charge, but will not be withdrawn after completion of Stage 1, except with the agreement of Parliament (SO rule 9.13).

Stage 2, sometimes known as the “Detailed Consideration Stage”, follows agreement by the Parliament of the general principles of the bill. Stage 2 involves in-depth examination of the bill by the lead committee (and possibly by other committees such as the Finance Committee and the Delegated Powers and Law Reform Committee). In certain circumstances the bill, or part of it, may be considered at Stage 2 by a Committee of the Whole Parliament (SO rule 9.7.1(b)).

\(^2\) The lead committee, in preparing its Stage 1 report, should take account of the views submitted to it by any other committee.

\(^3\) Until 5 June 2013, the Delegated Powers and Law Reform Committee was known as the Subordinate Legislation Committee.
Stage 3 is the final consideration stage. This stage is taken in the Chamber and is the last opportunity to amend the bill. Following the Stage 3 plenary debate, the Parliament decides, on a motion lodged by the member in charge, to pass or reject the bill (SO rule 9.8.2).

In certain circumstances a bill may be referred back to the lead committee for further Stage 2 consideration (SO rule 9.8.8), but this can happen only once. A public bill may be withdrawn at any time by the member in charge, but this requires the agreement of Parliament after completion of Stage 1 (SO rule 9.13.1).

One specific category of Government bill is a budget bill. Budget bills are subject to slightly different parliamentary procedure from other public bills (SO rule 9.16). For example, they can only be introduced by a member of the Scottish Government; they do not require a Financial Memorandum, Explanatory Notes or Policy Memorandum; and there is no requirement for a parliamentary committee to report on the bill’s general principles.

Private bills

Private bills are bills introduced by an individual person, body corporate or unincorporated association of persons (known as the ‘promoter’) to obtain powers or benefits not currently allowed by the general law. Private bills are subject to a set of distinct rules and a different parliamentary process.

Private bill procedure

Following introduction, a Private Bill Committee is established by the Parliament (SO rule 9A.5.1). Like public bills, private bills undergo three stages but these are different to the stages of public bills (SO rules 9A.7 to 9A.10). The three stages are:

Preliminary Stage. This stage involves consideration of the general principles of the bill and preliminary consideration of any objections to the bill. As for public bills, the Private Bill Committee reports to the Parliament on the general principles of the bill and whether it should proceed as a private bill (SO rule 9A.8.2).

If the Parliament does not agree to the general principles of a private bill after debate at the Preliminary Stage, or does not consider that the bill should proceed as a private bill, the bill falls (SO rule 9A.8.10).

Consideration Stage involves consideration of the details of the bill by the Private Bill Committee (SO rule 9A.9). The Committee must take evidence from the bill’s promoter and objectors, and from others as it thinks fit (SO rule 9A.9.3). Preliminary consideration may also be given to late objections in certain circumstances (SO rule 9A.6.7A). Where an assessor has been appointed by the SPCB, the assessor will take evidence and report to the Private Bill Committee.
Final Stage proceedings take place at a meeting of the Parliament (SO rule 9A.10). The bill can be amended at this stage. A decision as to whether the bill should be passed is made on a motion of the Convener of the Private Bill Committee.

Any part of a private bill may be referred back to the Private Bill Committee on a motion by the Convener of that Committee for further Consideration Stage proceedings (SO rule 9A.10.6).

A private bill may be withdrawn at any time by the promoter. Where such a bill is withdrawn, another private bill in the same or similar terms may not be introduced by the same promoter within a period of 6 months from the date on which the private bill was withdrawn (rule 9A.15).

Hybrid Bills

A Hybrid Bill is a Public Bill which makes provision about the public and general law; however its provisions can also directly affect the interests of particular individuals or bodies. These individuals or bodies are entitled to participate in the proceedings. Hybrid Bills can only be introduced by a member of the Scottish Government. The procedures in place for Hybrid Bills are largely similar to those for Public Bills. However, they also incorporate certain procedural safeguards where the Hybrid Bill process may affect the private interests of particular individuals or bodies.

Referral to the Supreme Court

After a bill is passed by the Scottish Parliament a period of 4 weeks must elapse before the Presiding Officer can submit it for Royal Assent. During this period the bill, or any of its provisions, may be referred to the Supreme Court by the Advocate General for Scotland, the Lord Advocate or the Attorney General on the grounds of legislative competence (Scotland Act 1998 s33, as amended). Prior to October 2009, the Judicial Committee of the Privy Council had jurisdiction to decide devolution issues.

Where the Supreme Court decides that a bill, or any provision of it, is not within the Parliament’s legislative competence, or where the Secretary of State makes an order under s35 of the Scotland Act 1998 prohibiting the Presiding Officer from submitting the bill for Royal Assent, the member in charge of the bill may, by motion, propose that the Parliament resolve to reconsider the bill (SO rule 9.9).

Royal Assent

The final stage in the legislative process is Royal Assent. This is when the approval of the Sovereign turns a bill, passed by the Parliament, into an Act of

**Bills introduced in Session 4**

Eighty six bills were introduced in the Scottish Parliament in Session 4. This is the largest number of bills introduced in a parliamentary session. It should be noted, however, that Session 4 was both the longest parliamentary session to date (5 years compared to 4 for previous sessions), and the first session in which there was a majority government.

Table 1, below, shows the number and type of bills introduced, by final outcome.

**Table 1: Bills introduced in the Parliament in Session 4, by type and outcome**

<table>
<thead>
<tr>
<th>Type of bill</th>
<th>Introduced</th>
<th>Passed</th>
<th>Withdrawn</th>
<th>Fell</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government</td>
<td>67</td>
<td>67</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Hybrid</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Committee</td>
<td>1</td>
<td>1</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Members’</td>
<td>13</td>
<td>6</td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>Private</td>
<td>5</td>
<td>5</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>86</strong></td>
<td><strong>79</strong></td>
<td><strong>1</strong></td>
<td><strong>6</strong></td>
</tr>
</tbody>
</table>

Of the 86 bills introduced in Session 4, 79 were passed by the Parliament and received Royal Assent. This is, to date, the largest number of bills passed in a parliamentary session. All 67 Government bills were passed as were the 5 Private bills and the sole Committee bill. One bill was withdrawn and 6 fell; those which fell or were withdrawn were all Members’ bills. The remaining 6 Members’ bills were passed.

Table 2, below, shows the number of bills introduced in each parliamentary session by outcome, while Table 3 shows bills introduced by type of bill.

**Table 2: Bills introduced in the Parliament in Sessions 1 to 4, by outcome**

<table>
<thead>
<tr>
<th>Session</th>
<th>Introduced</th>
<th>Passed</th>
<th>Withdrawn</th>
<th>Fell</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 (2011-16)</td>
<td>86</td>
<td>79</td>
<td>1</td>
<td>6</td>
</tr>
<tr>
<td>3 (2007-11)</td>
<td>62</td>
<td>53</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>2 (2003-07)</td>
<td>81</td>
<td>66</td>
<td>5</td>
<td>10</td>
</tr>
<tr>
<td>1 (1999-03)</td>
<td>73</td>
<td>62</td>
<td>3</td>
<td>8</td>
</tr>
</tbody>
</table>
Table 3: Bills introduced in the Parliament in Sessions 1 to 4, by type of bill

<table>
<thead>
<tr>
<th>Session</th>
<th>Executive/Government</th>
<th>Committee</th>
<th>Members'</th>
<th>Private</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 (2011-16)</td>
<td>67</td>
<td>1</td>
<td>13</td>
<td>5</td>
</tr>
<tr>
<td>3 (2007-11)</td>
<td>45&lt;sup&gt;b&lt;/sup&gt;</td>
<td>2</td>
<td>13</td>
<td>2</td>
</tr>
<tr>
<td>2 (2003-07)</td>
<td>53</td>
<td>1</td>
<td>18</td>
<td>9</td>
</tr>
<tr>
<td>1 (1999-03)</td>
<td>51</td>
<td>3</td>
<td>16</td>
<td>3</td>
</tr>
</tbody>
</table>

Session 4, therefore, saw a record number of bills introduced and passed and fewer bills falling or withdrawn than in previous sessions.

**Bill summaries – format**

Most bill summaries presented in this paper follow a standard format and contain four sections as follows:

**Passage of the Bill**
This section contains a standard statement which covers the dates of the main stages of the bill’s progress through Parliament.

**Purpose and objectives of the Bill**
This section contains a succinct statement of why the bill is necessary and what objectives it seeks to achieve.

**Provisions of the Bill**
This section summarises the provisions made in the bill and how these change existing law.

**Parliamentary consideration**
This section provides brief information on the main issues raised by the bill through, for example, committee consultation and evidence sessions and indicates the main changes to the bill in its passage through Parliament.

**Bill summaries – presentation**

For ease of reference, this section of the paper presents information on Session 4 bills in two tables, one in bill number order, showing all bills introduced in Session 4, with key dates (Table 4) and one with the same information presented in bill alphabetical order (Table 5). A further table is provided in the Annexe to this paper listing all the Acts of the Scottish Parliament from Session 4, in year and asp number order.

<sup>4</sup> The Scottish Executive was renamed “the Scottish Government” under s12 of the Scotland Act 2012. This came into effect on 3 July 2012. Note, however, that this name was used unofficially by the SNP following the 2007 Scottish Parliament election.

<sup>5</sup> Includes one hybrid bill – the Forth Crossing Bill.
Individual bill summaries are then presented in Bill number order.

**Abbreviations used in this paper**

- asp: Act of the Scottish Parliament
- C: Committee Bill
- En: Enacted
- E: Scottish Executive
- F: Fell
- G: Government
- H: Hybrid Bill
- M: Member's Bill
- P: Private Bill
- RA: Royal Assent
- W: Withdrawn
Table 4: Bills introduced in Session 4, in bill number order

<table>
<thead>
<tr>
<th>SP Bill</th>
<th>Title of bill</th>
<th>Type of Bill</th>
<th>Date introduced</th>
<th>Passed, Fell or Withdrawn (Date)</th>
<th>RA</th>
<th>Year and asp Number (If passed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Offensive Behaviour at Football and Threatening Communications (Scotland) Bill</td>
<td>E</td>
<td>16/06/2011</td>
<td>Passed (14/12/2011)</td>
<td>19/01/2012</td>
<td>2012 asp 1</td>
</tr>
<tr>
<td>2</td>
<td>National Library of Scotland Bill</td>
<td>E</td>
<td>26/10/2011</td>
<td>Passed (16/05/2012)</td>
<td>21/06/2012</td>
<td>2012 asp 3</td>
</tr>
<tr>
<td>3</td>
<td>Agricultural Holdings (Amendment) (Scotland) Bill</td>
<td>E</td>
<td>31/10/2011</td>
<td>Passed (07/06/2012)</td>
<td>12/07/2012</td>
<td>2012 asp 6</td>
</tr>
<tr>
<td>4</td>
<td>Alcohol (Minimum Pricing) (Scotland) Bill</td>
<td>E</td>
<td>31/10/2011</td>
<td>Passed (24/05/2012)</td>
<td>29/06/2012</td>
<td>2012 asp 4</td>
</tr>
<tr>
<td>5</td>
<td>Criminal Cases (Punishment and Review) (Scotland) Bill</td>
<td>E</td>
<td>30/11/2011</td>
<td>Passed (20/06/2012)</td>
<td>26/07/2012</td>
<td>2012 asp 7</td>
</tr>
<tr>
<td>6</td>
<td>Land Registration etc. (Scotland) Bill</td>
<td>E</td>
<td>01/12/2011</td>
<td>Passed (31/05/2012)</td>
<td>10/07/2012</td>
<td>2012 asp 5</td>
</tr>
<tr>
<td>7</td>
<td>Long Leases (Scotland) Bill</td>
<td>E</td>
<td>12/01/2012</td>
<td>Passed (28/06/2012)</td>
<td>07/08/2012</td>
<td>2012 asp 9</td>
</tr>
<tr>
<td>8</td>
<td>Police and Fire Reform (Scotland) Bill</td>
<td>E</td>
<td>16/01/2012</td>
<td>Passed (27/06/2012)</td>
<td>07/08/2012</td>
<td>2012 asp 8</td>
</tr>
<tr>
<td>9</td>
<td>Budget (Scotland) Bill</td>
<td>E</td>
<td>19/01/2012</td>
<td>Passed (08/02/2012)</td>
<td>14/03/2012</td>
<td>2012 asp 2</td>
</tr>
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<td>10</td>
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<td>Lobbying (Scotland) Bill</td>
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<td>Scottish Elections (Dates) Bill</td>
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<td>86</td>
<td>Budget (Scotland) (No.5) Bill</td>
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Table 5: Bills introduced in Session 4, in alphabetical order

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<th>SP Bill</th>
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<td>32</td>
<td>Public Bodies (Joint Working) (Scotland) Bill</td>
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<td>28/05/2013</td>
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<td>01/04/2014</td>
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<td>26</td>
<td>Regulatory Reform (Scotland) Bill</td>
<td>G</td>
<td>27/03/2013</td>
<td>Passed (16/01/2014)</td>
<td>19/02/2014</td>
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<td>13</td>
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<td>02/05/2012</td>
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<td>84</td>
<td>Scottish Elections (Dates) Bill</td>
<td>G</td>
<td>17/11/2015</td>
<td>Passed (25/02/2016)</td>
<td>30/03/2016</td>
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<td>66</td>
<td>Scottish Elections (Reduction of Voting Age) Bill</td>
<td>G</td>
<td>02/04/2015</td>
<td>Passed (18/06/2015)</td>
<td>24/07/2015</td>
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<td>78</td>
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<td>G</td>
<td>28/09/2015</td>
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<td>14/04/2016</td>
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<td>24</td>
<td>Scottish Independence Referendum (Franchise) Bill</td>
<td>G</td>
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<td>58</td>
<td>Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill</td>
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<td>10/01/2013</td>
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<td>G</td>
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<td>Passed (28/01/2016)</td>
<td>03/03/2016</td>
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<td>21</td>
<td>The National Trust for Scotland (Governance etc.) Bill</td>
<td>P</td>
<td>07/01/2013</td>
<td>Passed (23/05/2013)</td>
<td>28/06/2013</td>
<td>2013 asp 9</td>
</tr>
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<td>72</td>
<td>Transplantation (Authorisation of Removal of Organs etc.) (Scotland) Bill</td>
<td>M</td>
<td>01/06/2015</td>
<td>Fell (09/02/2016)</td>
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<td>30</td>
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<td>08/05/2013</td>
<td>Passed (11/03/2014)</td>
<td>15/04/2014</td>
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<td>23</td>
<td>Victims and Witnesses (Scotland) Bill</td>
<td>G</td>
<td>06/02/2013</td>
<td>Passed (12/12/2013)</td>
<td>17/01/2014</td>
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<td>15</td>
<td>Water Resources (Scotland) Bill</td>
<td>G</td>
<td>27/06/2012</td>
<td>Passed (27/02/2013)</td>
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<td>51</td>
<td>Welfare Funds (Scotland) Bill</td>
<td>G</td>
<td>10/06/2014</td>
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<td>08/04/2015</td>
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<td>E</td>
<td>22/03/2012</td>
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Annexe 1, at the end of this paper, provides a List of Session 4 Acts by year of enactment and asp number order.
Offensive Behaviour and Threatening Communications (Scotland) Bill

Bill Number: SP Bill 1
Introduced on: 16 June 2011
Introduced by: Kenny MacAskill MSP (Executive Bill)
Passed: 14 December 2011
Royal Assent: 19 January 2012

Passage of the Bill
The Scottish Government initially intended to fast-track this Bill [SP Bill 1] through Parliament so that it could become law in time for the new football season in late July 2011. To do this, it proposed that it should be treated as an emergency bill, although it also proposed a gap between Stage 1 (to be taken on 23 June) and Stages 2 and 3 (to be taken on 29 June). Under the Parliament’s standing orders, the normal procedure for emergency bills is that the Parliament takes all three Stages on the same day.

The Justice Committee took evidence on the Bill from five panels of witnesses on 21 and 22 June 2011 in the knowledge that it would not have time to produce a report on the Bill in time for the Stage 1 debate (as would normally be the case). The Committee’s intention was to take as much evidence as possible in the limited time available to help inform that debate and any future debates on the Bill. The Committee also issued a call for written evidence on the Bill (necessarily with a very short deadline for responses) targeted at key stakeholders.

On 23 June, the Parliament first debated a motion to treat the Bill as an emergency bill. This was agreed to after a division. The Parliament then agreed by division to consider the Bill according to the timetable set out above. Following this, the Parliament debated the Bill at Stage 1.

Shortly after the debate, and just before the Parliament was to vote on the general principles of the Bill at Stage 1, the First Minister announced that, if the Parliament agreed to the general principles, he would propose an extended timetable for consideration of the Bill at Stages 2 and 3. He indicated that this would, whilst allowing more scrutiny, enable the Bill to be passed by the end of the year. He said he hoped that providing more time for evidence-taking would increase the likelihood of the Parliament and wider Scottish society achieving consensus on the issues raised.

Following the First Minister's comments, the Parliament approved the general principles of the Bill at Stage 1 (by a majority of 103 to 5, with 15 abstaining). On 29 June, the Parliament agreed, without division, a motion not to take the remainder of the Bill as an emergency bill; that the Justice Committee be the
lead Committee on the Bill; and that Stage 2 be completed by 11 November. This enabled the Committee to extend the deadline for written submissions to 26 August. The Justice Committee’s report on the Bill prior to consideration of amendments at Stage 2 was published on 6 October 2011 and consideration of amendments at Stage 2 took place on 22 November. The Bill was passed following the Stage 3 debate on 14 December 2011.

**Purpose and objectives of the Bill**
The main objective of the Bill is to tackle offensive behaviour at, or in connection with, regulated football matches which is liable to incite public disorder. The Bill was introduced following a number of high profile incidents which occurred during the 2010/11 football season. Incidents ranged from misconduct both on and off the field of play by players, managers and supporters; death threats being posted on the internet; and live ammunition and explosive devices being sent to prominent figures directly and indirectly associated with football.

The Bill also seeks to criminalise communications of any kind which (a) make threats of serious violence to a person, or which incite the commission of acts of serious violence to a person; and (b) communications of any kind which make threats intended to stir up religious hatred.

**Provisions of the Bill**
The Bill sought to introduce two new criminal offences:

1. Offensive behaviour at regulated football matches – this offence aims to criminalise offensive behaviour which is, or would be, likely to incite public disorder, at or in connection with regulated football matches

2. Threatening communications – this offence aims to criminalise behaviour which threatens or incites serious violence and threats which incite religious hatred

A person found guilty of either offence would be liable:

- (a) on conviction on indictment, to imprisonment for a term not exceeding 5 years, or to a fine, or to both or

- (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both

**Parliamentary consideration**
The key issues which arose during Stages 1 and 2 were:

- whether in relation to the new offence of ‘offensive behaviour at football’, there was a need for such an offence given that a number of current offences could be used to prosecute such behaviour including, in certain circumstances, the common law offence of breach of the peace, or the offence of threatening and abusive behaviour provided by section 38 of the Criminal Justice and Licensing (Scotland) Act 2010. A majority of the Justice Committee accepted the Government’s
argument that there were gaps in the law in this area and supported the proposed new offence

- also, in relation to the offence of offensive behaviour at football, whether section 1(2)(e), which provides that a person commits an offence if they engage in behaviour that is likely to incite public disorder or which would be likely to incite public disorder, and the behaviour is that which "a reasonable person would be likely to consider offensive", was too wide in scope. This provision remains in the Bill as passed

- whether in relation to the new offence of ‘threatening communications’ there should be a specific freedom of expression provision on the face of the Bill which makes it clear that Condition B (which provides that a person commits an offence if the person communicates material to another person, and the material is threatening, and the person communicating it intends by doing so to stir up hatred on religious grounds) does not prohibit or restrict certain behaviours that would be protected under existing rights to freedom of expression. The Bill was amended at Stage 2 to include such a provision

During the Justice Committee meeting to consider amendments at Stage 2, James Kelly MSP declared that Labour Party members would abstain on all substantive amendments, arguing that the Government had failed to build a consensus in the Parliament on the best way forward. Alison McInnes, Liberal Democrat MSP, adopted a similar position stating that she would only vote on one substantive amendment and would abstain on all others, arguing that the Bill raised so many concerns it would be impossible to amend it effectively.

Only one, very minor non-Government amendment was agreed to at Stage 3 of the Bill. Patrick Harvie MSP lodged the amendment which sought to ensure that the Government would, in producing a report on the operation of the new offences provided for in the Bill, consult publicly before producing the report as many people have first-hand experiences of such offences. The Minister for Community Safety and Legal Affairs, Roseanna Cunningham MSP, stated that although the Government fully intended to produce a report which was not simply a statistical bulletin, the Government was happy to support the amendment as it regarded as essential the need to consult as wide a range of partners as possible to assist in the preparation of the report.
Passage of the Bill
The National Library of Scotland Bill [SP Bill 2] was introduced by Fiona Hyslop MSP, the Cabinet Secretary for Culture and External Affairs, on 26 October 2011.

The Education and Culture Committee was designated as the lead committee on Bill and started its Stage 1 consideration at its meeting on 15 November 2011. The Bill was also considered by the Subordinate Legislation and Finance Committees.

The Committee put out a call for evidence, with a closing date for written submissions of Friday 20 January 2012.

The Committee took oral evidence from the Scottish Government, Faculty of Advocates, Scottish Library and Information Council and National Library of Scotland (NLS) on 7 February 2012. Fiona Hyslop gave evidence to the Committee on 21 February 2012.

The Committee discussed the Bill in private on 28 February and 6 March 2012 and published its Stage 1 report on 8 March 2012. The Stage 1 debate took place on 15 March 2012.

The Bill was passed on 16 May 2013 following its Stage 3 debate.

Purpose and objectives of the Bill
Following a consultation on the future governance of the National Library of Scotland (NLS) the Scottish Government prepared a Bill which it believed would improve the governance of the Library, providing it with a modern replacement for its existing Board of Trustees, and giving the Library statutory functions which would reflect its present role and which, the Government stated, should help it develop its role in a constantly changing future.

Provisions of the Bill
The NLS was formally established by the National Library of Scotland Act 1925 c. 73. The Bill was intended to repeal and replace the 1925 Act thus updating the legislation on the functions and governance of the National Library of Scotland.
The Bill proposed renaming the Board of Trustees as the National Library of Scotland and reducing the number of Board members from 32 down to between 6 and 13 members. This would bring the Board into line

The Bill also proposed amending the statutory functions of the Library to better reflect its changing role in the digital age and the library community. The Bill also proposed that Scottish Ministers would have a power of direction over the NLS.

**Parliamentary consideration**
Concerns were raised in written and oral evidence over the number of Board members and over the power of direction which Ministers could exercise.

The Scottish Government responded to some of the concerns and introduced amendments at Stage 2 which put the number of Board members as between 8 and 13.

The Government also introduced a number of technical amendments.

### Agricultural Holdings (Amendment) (Scotland) Bill

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<th>Bill Number:</th>
<th>SP Bill 3</th>
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<td>Introduced on:</td>
<td>31 October 2011</td>
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<tr>
<td>Introduced by:</td>
<td>Richard Lochhead MSP (Executive Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>7 June 2012</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>12 July 2012</td>
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**Passage of the Bill**
The Agricultural Holdings (Amendment) (Scotland) Bill [SP Bill 3] was introduced in the Parliament on 31 October 2011. Stage 1 commenced on 11 January 2012 with the Rural Affairs, Climate Change and Environment Committee taking oral evidence. The Stage 1 (general principles) debate took place on 28 March 2012 and the Bill was passed following the Stage 3 parliamentary debate on 7 June 2012.

**Purpose and objectives of the Bill**
According to the Policy Memorandum, the policy objective of the Bill was to amend legislative provisions relating to succession and rent review in order to create a better environment for the letting of farmland to the tenant farming sector of the agricultural industry and to encourage new entrants into tenant farming. The changes included in the Bill had been agreed by the Tenant Farming Forum (TFF) an industry-led body made up of organisations representing tenant and landowning interests.
Provisions of the Bill
The Bill proposed three changes to The Agricultural Holdings (Scotland) Act 1991 and the Agricultural Holdings (Scotland) Act 2003. These were as follows:

- to extend the definition of “near relative” (being the class of successors who are entitled to serve counter notice to a notice to quit) to include a grandchild of a deceased tenant farmer;
- to prohibit lease terms which provide for upward only or landlord only initiated rent reviews in Limited Duration Tenancies; and
- to provide that changes in rent resulting from the exercise or revocation of the option to tax by a landlord, or a change in the rate of VAT, do not qualify as a “variation of rent” (which would prevent parties from seeking a determination from the Land Court on the rent for three years).

Parliamentary consideration
Stage 1: Stage 1 scrutiny of the Bill was undertaken by the Rural Affairs, Climate Change and Environment Committee. The Stage 1 Report broadly welcomed the three proposals contained in the Bill and had two comments on its content:

- On the issue of “near relatives” (section 1), it recommended that the Government seek further comment from the TFF on whether the definition should be extended, for example, to include nieces and nephews as well as grandchildren.
- The transitional provisions for section 1 did not follow the TFF recommendation and the report suggested that the Scottish Government look at this issue again, and consider bringing forward an amendment at Stage 2.

The Committee also heard evidence which went beyond the provisions of the Bill concerning other issues of interest to the tenanted sector such as conservation tenancies, investment in holdings, waygo compensation (when giving up a tenancy), land agents and dispute resolution. It therefore recommended that, following the completion of the Bill, the Scottish Government continue to work with stakeholders to review the operation of agricultural legislation and address other challenges facing the tenant farming community in Scotland.

Stage 2: Stage 2 was taken by the Rural Affairs, Climate Change and Environment Committee on 9 May 2012. One amendment was put forward by the Scottish Government and agreed to.

The amendment concerned the transitional provisions in relation to the extension of the definition of near relative (section 1). As laid, the Bill provided for the change in the definition of a “near relative” in section 1 to have effect only where the death of the tenant farmer occurred after the Bill came into force. The amendment changed the transitional provision so that it covered
circumstances in which the death of the tenant farmer occurred before the Bill came into force, but the process of acquisition by the successor was not complete.

**Stage 3:** The stage 3 debate took place on 7 June 2012. No amendments were lodged. The Parliament agreed that the Agricultural Holdings (Amendment) (Scotland) Bill be passed on 7 June 2012.

### Alcohol (Minimum Pricing) (Scotland) Bill

**Bill Number:** SP Bill 4B  
**Introduced on:** 31 October 2011  
**Introduced by:** Nicola Sturgeon MSP (Executive Bill)  
**Passed:** 24 May 2012  
**Royal Assent:** 29 June 2012

#### Passage of the Bill

The Alcohol (Minimum Pricing) (Scotland) Bill [SP Bill 4B] was introduced in the Scottish Parliament on 31 October 2011. The Health and Sport Committee, as lead committee, began taking stage 1 oral evidence on the general principles of the Bill on 10 January 2012. The stage 1 debate took place on 14 March 2012 and the Bill was passed following the stage 3 parliamentary debate on 24 May 2012.

#### Purpose and objectives of the Bill

The Bill sought to introduce a price at which a unit of alcohol could not be sold below, with the aim of reducing alcohol consumption and related harms.

#### Provisions of the Bill

Section 1 of the Bill sought to amend the Licensing (Scotland) Act 2005 to make it a mandatory licence condition that a unit of alcohol could not be sold under a certain price. The minimum price per unit was not specified in the Bill but will be specified through regulations. Alcohol prices will be calculated using the following formula:

\[
\text{Minimum Price per Unit} \times \text{Strength of Alcohol} \times \text{Volume in Litres}
\]

Section 2 of the Bill sought to remove section 1 of the Alcohol etc. (Scotland) Act 2010 which provides a ‘sunset clause’ relating to the original minimum pricing provision contained in the Bill which preceded that Act. This provision was mistakenly voted through during stage 3 of that Bill after the minimum pricing section was removed. Therefore it is a sunset clause on a provision that does not exist. No similar sunset clause was included in this Alcohol (Minimum Pricing) (Scotland) Bill, as introduced.
Parliamentary consideration

**Stage 1:** Stage 1 scrutiny of the Bill was undertaken by the Health and Sport Committee. The Committee report recommendations fell into four areas: evaluation, announcement of the minimum price, duration of the minimum pricing provisions (sunset clause), and EU law.

**Stage 2:** At stage 2, two amendments were agreed to. The first introduced a sunset clause whereby the minimum pricing provisions will cease to have effect after six years from when the provisions are fully in force. The second imposed a reporting requirement on Scottish Ministers to evaluate the impact of the minimum pricing provisions five years after they come into force.

Amendments not moved or not agreed to related to the calculation of the minimum price, recovery of windfall profits from retailers, and the evaluation of minimum pricing and the provision of statistical information.

On 14 May 2012, the Cabinet Secretary for Health, Wellbeing and Cities Strategy announced that 50 pence per unit was the preferred minimum price for alcohol. This will be introduced through regulations.

**Stage 3:** The stage 3 debate took place on 24 May 2012. Amendments were lodged regarding:

- **Meaning of a “Unit”:** Dr Richard Simpson MSP lodged two amendments in relation the meaning of a “unit”. These amendments were disagreed to or not moved.

- **Recovery of increased revenue:** Dr Richard Simpson MSP lodged an amendment to introduce a scheme to recover windfall profits from retailers. This amendment was disagreed to.

- **Evaluation of operation and effect of minimum pricing:** Five amendments were lodged, three by Dr Richard Simpson MSP and two by Nicola Sturgeon MSP. The Scottish Government amendments, that permit the evaluation report to cover the effect of minimum pricing on specific groups, were agreed to. The amendments lodged by Dr Richard Simpson MSP were disagreed to, not moved or withdrawn.

The Alcohol (Minimum Pricing) (Scotland) Bill was passed after a division. The result of the division was: for 86, against 1, abstentions 32. The Bill received Royal Assent on 29 June 2012.
Criminal Cases (Punishment and Review) (Scotland) Bill

Bill Number: SP Bill 5
Introduced on: 30 November 2011
Introduced by: Kenny MacAskill MSP (Executive Bill)
Passed: 20 June 2012
Royal Assent: 26 July 2012

2012 asp 7

Passage of the Bill
The Criminal Cases (Punishment and Review) (Scotland) Bill [SP Bill 5] was introduced in the Parliament in November 2011.

The Parliament’s Justice Committee was designated as lead committee for the purposes of parliamentary consideration. Its stage 1 report was published in March 2012. The Scottish Government produced a written response to that report in April 2012, and the Bill completed stage 1 proceedings following a parliamentary debate later the same month. Stage 2 consideration of the Bill was carried out by the Justice Committee at a meeting in May 2012.

The Bill was passed following the stage 3 parliamentary debate in June 2012 and became the Criminal Cases (Punishment and Review) (Scotland) Act 2012 following Royal Assent in July 2012.

Purpose of the Bill
The Bill contained provisions in relation to two distinct issues:

- Part 1 of the Bill sought to amend some of the statutory rules used by the High Court when calculating the “punishment part” of a life sentence (ie the period a life sentence prisoner must serve in custody before being eligible to apply for release on parole). The Scottish Government’s proposals in this area were intended to correct a perceived anomaly arising from the decision of the High Court in the case of Petch & Foye v HM Advocate (2011)

- Part 2 of the Bill sought to establish a framework under which the Scottish Criminal Cases Review Commission can disclose information, contained within a “statement of reasons”, about cases it refers to the High Court – where the relevant appeal is subsequently abandoned. The Government’s proposals in this area were originally prompted by the case of the now deceased Abdelbaset al-Megrahi (convicted of murder following the Lockerbie bombing)

Parliamentary Consideration
In relation to Part 1 of the Bill, there was broad support for the stated goals of the Scottish Government, with the stage 1 report noting that the Justice Committee was:
“supportive of the aim of Part 1 of the Bill in seeking to address the anomaly identified in the Petch and Foye case whereby a life prisoner is likely to have a parole hearing earlier than a non-life prisoner sentenced for a similar crime”. (para 4)

Given this fact, the most fundamental issue to be debated was whether or not the detailed approach set out in the Bill would actually provide the judiciary with a clear set of rules, under which they could set a punishment part which is appropriate in all the circumstances of a case. On this point there were differences of opinion. The stage 1 report stated that:

“The Committee accepts that the existing legislative framework on non-mandatory life sentences is already a complex area of law. However, we also note the difference of views between the Scottish Government, which considers the Bill to provide a clear framework for judges to use when calculating the punishment part of non-mandatory life sentences, and those expert witnesses who consider the legislation overly complex. These views are difficult to reconcile.” (para 94)

Despite the existence of some continuing concerns amongst MSPs about how the provisions would be applied in practice, none of the amendments lodged during the passage of the Bill related to Part 1. The Cabinet Secretary for Justice did, however, provide assurances during the stage 3 debate that the Scottish Government would keep the operation of the provisions under review.

Parliamentary scrutiny of the provisions in Part 2 of the Bill was heavily influenced by:

- the publication, by a Scottish newspaper, of the Commission’s statement of reasons in the al-Megrahi case shortly before the Justice Committee was due to finalise its stage 1 report
- active discussions between relevant stakeholders in relation to what barriers data protection rules might present to the publication of any statement of reasons

The publication of the statement of reasons in the al-Megrahi case led some to question whether there was still any need for Part 2. However, there was also an acceptance that the provisions were capable of being used in relation to other cases. The Scottish Government sought to emphasise the more general applicability of the provisions, with the Cabinet Secretary for Justice stating during the stage 3 debate that:

“Subsequent to the introduction of the Bill, the Commission’s statement of reasons has been published by a newspaper. However, our legislation is general, and we consider that it is in the interests of ensuring transparency and openness in the justice system that there is a framework in place to ensure that, in future cases, the Commission is able to consider releasing information relating to abandoned appeals
arising from a reference that it has made, where there is a substantial public interest.” (cols 10277-8)

In relation to data protection rules, the above mentioned discussions led to the emergence of a consensus that any obstacles those rules might present to publication of information by the SCCRC may not be as significant as initially thought by some (including the Scottish Government and the SCCRC).

A number of Scottish Government amendments to the provisions in Part 2 of the Bill were passed during stages 2 and 3. They sought to improve the original provisions in a number of areas, including the impact of legal professional privilege and the treatment of information originating from a foreign authority.

The Bill, as amended, was passed without division.

**Land Registration etc. (Scotland) Bill**

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<th>SP Bill 6</th>
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<td>1 December 2011</td>
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<tr>
<td>Introduced by:</td>
<td>John Swinney MSP (Executive Bill)</td>
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<tr>
<td>Passed:</td>
<td>31 May 2012</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>10 July 2012</td>
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2012 asp 5

**Passage of the Bill**
The Land Registration etc. (Scotland) Bill [SP Bill 6] was introduced in the Scottish Parliament on 1 December 2011 and the Economy, Energy and Tourism Committee was designated as the lead committee.

Stage 1 oral evidence on the general principles of the Bill was taken in January and February 2012 with the Stage 1 debate taking place on 14 March 2012. The Bill was passed following the Stage 3 parliamentary debate on 31 May 2012.

**Purpose and objectives of the Bill**
The Bill provided a statutory framework for the continuation and improvement of the land registration system in Scotland.

In particular, it was intended to achieve five broad policy objectives:

- It provided for the eventual completion of the Land Register
- It introduced a system of ‘advance notices’ designed to remove the risk of losing legal title to the property between the payment of the
purchase price and the date the property is registered (which risk is currently underwritten by insurance)

- It introduced amendments to the Requirements of Writing (Scotland) Act 1995 to promote electronic conveyancing and electronic registration
- It sought to realign land registration law with the general principles of property law
- It placed on a statutory footing the administrative practices of the Keeper of the Registers of Scotland that have evolved since the passing of the Land Registration (Scotland) Act 1979

Provisions of the Bill
Part 1 of the Bill provided for a new structure for the Land Register of Scotland.

Part 2 of the Bill provided for the process of registration in the Land Register, including provisions designed to facilitate the eventual completion of the Land Register. Part 3 of the Bill provided for which documents may be registered in the Land Register and made provision about the competence and effect of registration.

Part 4 of the Bill made provision for ‘advance notices’, as discussed above.

Part 5 of the Bill made provision about ‘inaccuracy’ in the Land Register. Closely linked to Part 5, Part 8 of the Bill provided for when and how the Land Register is to be rectified to correct an inaccuracy.

Part 6 of the Bill made provision for a new statutory system of ‘caveats’ in the Land Register that will regulate how litigation affecting the titles in the Land Register is brought to the attention of third parties.

Part 7 of the Bill made provision for the state guarantee of title associated with properties registered in the Land Register.

Part 9 of the Bill made provision about the rights of individuals acquiring property in good faith in certain circumstances.

Part 10 of the Bill made provision about electronic documents and electronic registration, as discussed above.

Part 11 of the Bill contained general and miscellaneous provisions. Schedule 1 of the Bill related to a particular category of registered leases and schedules 2 and 3 of the Bill contained amendments to existing legislation.

Parliamentary consideration

Stage 1: The main recommendations associated with the Bill made by the Economy, Energy and Tourism Committee in its Stage 1 Report were as follows:
there should be identifiable targets for the completion of the Land Register appearing on the face of the Bill

the Scottish Government should reflect on options for ensuring that the land registration system reduces the scope for tax evasion, tax avoidance and the use of tax havens

where there is a land registration application associated with the ‘prescriptive’ acquisition of legal title to property (i.e. acquisition based on a provisional entry in the Land Register and possession for a specified period of time) there should be a more public process of advertising that property

in relation to the statutory offence created in section 108 of the Bill (now section 112 of the 2012 Act), the wording of the provision should be reconsidered to make clear the offence covers fraud, not genuine mistakes

there should be a dispute resolution process affecting title to registered property involving the Lands Tribunal as an alternative to the ordinary courts

Stage 2: At Stage 2 the Bill was amended by a non-government amendment (supported by the Scottish Government in principle) to give the Lands Tribunal a greater role in relation to the dispute resolution process.

As a result of Scottish Government amendments, changes were also made to the steps which require to be taken before a provisional entry will be made in the Land Register relating to a possible prescriptive acquisition of title. However, these changes did not relate to the publicity surrounding applications made by prescriptive claimants.

Scottish Government amendments also altered the wording of section 108 of the Bill to make clearer the steps which require to be taken to avoid committing the statutory offence created by that provision.

There were various other non-government amendments not agreed to which related to the Economy, Energy and Tourism Committee’s other areas of interest in its Stage 1 Report.

Stage 3: Minor changes to the Bill were made at Stage 3 as a result of Scottish Government amendments. There were three other non-government amendments, either withdrawn or not agreed to.
Passage of the Bill
The Long Leases (Scotland) Bill [SP Bill 7] was introduced in the Scottish Parliament on 12 January 2012 and the Rural Affairs, Climate Change and Environment Committee was designated as the lead committee.

Stage 1 oral evidence on the general principles of the Bill was taken in February and March 2012 with the Stage 1 debate taking place on 25 April 2012. The Bill was passed following the Stage 3 parliamentary debate on 28 June 2012.

The Bill was the same bill, with some amendments, as the Long Leases (Scotland) Bill (SP Bill 61) introduced on 10 November 2010 in Session 3 of the Parliament and which fell at the dissolution of Parliament (see the separate bill summary for the Session 3 bill). In taking Stage 1 oral evidence the Rural Affairs, Climate Change and Environment Committee agreed to take account of the evidence taken by the former Justice Committee and its Stage 1 Report on the Session 3 bill.

Purpose and objectives of the Bill
The purpose of the Bill was to convert tenants’ rights under very long leases into ownership and, in so doing, implement the recommendations of a report of the Scottish Law Commission (SLC) on long leases. It was the final part of a series of recent legislative reforms to the system of property law in Scotland based on reports published by the SLC.

Provisions of the Bill
The automatic conversion scheme under the Bill applied to ‘qualifying’ long leases (see below under ‘Stage 2’ for more details). As well as the conversion scheme, the other key feature of the Bill was the compensation scheme for former landlords relating to the loss of their rights of ownership on the appointed day (Part 4).

The Bill also made provision for the tenant’s right to opt-out of the conversion scheme for qualifying long leases (Part 5). Additionally, the Bill made provision for other exceptions relating to the scope of the conversion scheme (see, for example, section 1(4) which includes an exception for long leases where the annual rent is more than £100 and an exception for long leases relating to pipes and cables).
Finally, the Bill sought to give opportunities to former landlords to preserve sporting rights associated with qualifying leases (sections 8–9) and made provision for a framework for the conversion of certain conditions in a qualifying lease to real burdens (Part 2). A real burden is a form of title condition affecting land which survives changes of ownership of the affected land. The Bill provided for the leasehold conditions converted to real burdens to be enforceable by various parties, including, in some instances, neighbours to the former tenants.

**Parliamentary consideration**

**Stage 1:** The Rural Affairs, Climate Change and Environment Committee supported the general principles of the Bill in its Stage 1 Report.

One of the main issues considered in the Stage 1 Report was the extent to which land and buildings forming part of the common good fund may be affected by the conversion scheme for ultra-long leases contained in the Bill and, if affected, whether this is desirable in policy terms. Ultimately the Committee stated that it did not think that the case for exempting ultra-long leases of common good land and property from the scope of the conversion scheme had been made.

Much of the debate at Stage 1 focused on the Waverley Market site in Edinburgh (now the site of the Princes Mall Shopping Centre). Whether this site was part of Edinburgh’s common good fund was a matter of considerable debate, on which the Committee did not think it was appropriate to comment. The Committee considered whether a specific exemption should be included in this Bill relating to the site and decided the case still had to be made for such an exemption.

The Committee also considered the Bill’s relationship with the Land Registration etc. (Scotland) Bill (see the separate bill summary associated with this bill). The Committee asked the Scottish Government to respond to concerns expressed that there was not a specific project to update the property registers as a result of the provisions in the Bill. The Government did this in its response to the Stage 1 Report, making a number of points in support of its approach.

**Stage 2:** A non-Government amendment with the aim of excluding ultra-long leases of common good land and property from the scope of the Bill was lodged at stage 2. However, this amendment was disagreed to.

Scottish Government amendments which amended the definition of a ‘qualifying lease’ for the purpose of the conversion scheme were agreed to. A ‘qualifying lease’ became a registered lease of over 175 years which has a) more than 100 years left to run, in the case of a lease of residential property; or b) more than 175 years left to run, in any other case (section 1). An important effect of these amendments was to exclude the ultra-long lease associated with Waverley Market from the scope of the conversion scheme contained in the Bill.
**Stage 3:** As at Stage 2, a non-Government amendment aimed to exclude ultra-long leases of common good land and property from the scope of the Bill. This amendment was disagreed to.

**Police and Fire Reform (Scotland) Bill**

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 8</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>16 January 2012</td>
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<tr>
<td>Introduced by:</td>
<td>Kenny MacAskill MSP (Executive Bill)</td>
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<tr>
<td>Passed:</td>
<td>27 June 2012</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>7 August 2012</td>
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(2012 asp 8)

**Passage of the Bill**

*The Police and Fire Reform (Scotland) Bill* [SP Bill 8] was introduced in the Parliament on 16 January 2012 with the Justice Committee designated as the lead committee for the Bill and the Local Government and Regeneration (LGR) Committee designated as a secondary committee. The LGR Committee’s report to the Justice Committee was published on 19 March, the Finance Committee’s report was published on 20 March and the Justice Committee’s stage 1 report was published on 2 May. The Scottish Government produced a written response to the Justice Committee’s stage 1 report on 9 May, and the Bill completed stage 1 proceedings following a parliamentary debate on 10 May 2012. Stage 2 consideration of the Bill was carried out by the Justice Committee at meetings on 29 May and 12 June.

The Bill was passed following the stage 3 parliamentary debate on 27 June receiving Royal Assent on 7 August 2012 to become the *Police and Fire Reform (Scotland) Act 2012* (asp 8).

**Purpose and objectives of the Bill**

The main purpose of the Bill was to create single police and fire and rescue services for Scotland. The Bill therefore sought to establish the Police Service of Scotland (PSS) and the Scottish Fire and Rescue Service (SFRS), together with new governing and funding arrangements, and to abolish the existing eight territorial police forces and eight fire brigades along with their governing bodies. The Bill also sought to abolish the Scottish Police Services Authority and the Scottish Crime and Drugs Enforcement Agency, to place independent custody visiting onto a statutory footing and to reconstitute the Police Complaints Commissioner for Scotland as the Police Investigation and Review Commissioner (PIRC) with new investigatory powers.

**Provisions of the Bill**

The Bill, as introduced, was in 3 parts and 7 schedules. Part 1, the most substantial part of the Bill, was concerned with police reform and comprised 17 chapters.
Part 1
Chapter 1 sought to establish the Scottish Police Authority (SPA) as the governing body for the new single police service and to define its functions and powers while Chapter 2 sought to establish the Police Service of Scotland, including appointment of its members, and to define their duties, functions and terms of office. Chapter 3 sought to ensure that the SPA provides forensic services to the PSS, the Lord Advocate and procurators fiscal and also (as amended) to the PIRC. Chapter 4 provides a definition of the policing principles giving powers to the Scottish Ministers to determine the strategic priorities for the SPA, providing that the SPA must prepare a strategic police plan and that the chief constable must prepare annual police plans. Chapter 5 places a duty on both the SPA and the chief constable to secure best value for their respective organisations while Chapter 7 is concerned with local policing, including the chief constable’s duty to provide adequate policing for each local authority area and the local authority role in policing; it also places a duty on the chief constable to participate in community planning and on local commanders to prepare local police plans. Chapter 10 was concerned with complaints and investigations placing a duty on the SPA and chief constable to maintain arrangements for the handling of complaints against the police. This chapter also sought to establish the PIRC and to define its powers and duties. Chapter 15 provides for the funding of the SPA enabling the Scottish Ministers to make grants to the Authority. Chapter 16 places a duty on the SPA to make statutory arrangements for independent custody visiting which comply with the requirements of the UN’s Optional Protocol to the Convention against Torture (OPCAT).

Part 2
Part 2 of the Bill sought to establish a new body – the Scottish Fire and Rescue Service (SFRS) and to provide for membership of and appointments to, the SFRS, the appointment of a chief officer and staff of the SFRS, its powers, functions and funding arrangements. It sought to give the SFRS a duty to produce a strategic plan, to ensure that there are adequate arrangements in place for carrying out its functions in each local authority area, to produce local fire and rescue plans and to appoint a local senior officer for each area.

The Bill also sought to establish Inspectors of the SFRS and to provide for their duties and functions.

Parliamentary Consideration
This Bill represented the most significant public service reform since devolution and, in the case of the police service, the most significant change to force structure and governance in living memory. Nevertheless, the Bill completed all three parliamentary stages in four months.

It may be noted, however, that considerable work on the efficiency and effectiveness of the police and fire services, including the development of Outline Business Cases and public consultations on reform, took place over a two year period in the lead-up to the introduction of the Bill.
A number of recommendations were made, and concerns raised, by the Justice Committee in its stage 1 report. These included that:

- the SPA and SFRS boards should have no fewer than 11 members
- the SPA and SFRS must be open and transparent in the delivery of its functions, including holding meetings in public
- the Bill should secure effective Parliamentary oversight of the police service
- post-legislative scrutiny will be crucial in assessing whether the move to single services has achieved the stated goals of reform
- local authorities should have the means to assess future changes to resource allocation within their areas
- the PIRC should be able to obtain forensic services at no cost and should have qualified privilege against defamation proceedings
- clarity was needed on the PIRC’s role in investigating serious incidents involving the police and on its powers to carry out public interest investigations
- clarity was required on when the full business cases would be ready and whether projected budgets would be adjusted accordingly
- clarity was sought over why, unlike joint police and fire boards, the SPA and SFRS would be unable to accrue reserves
- there was an urgent need to resolve the issue over the ability of the new police and fire and rescue services to recover VAT (not resolved before the Bill was passed)

Stage 2: The main amendments agreed to at stage 2 included those to:

- enable appointment of the chairs of the SPA and SFRS separately from members to allow for early appointment of the new service chiefs
- allow Ministers to add or remove ranks below that of chief constable (rather than deputy chief constable as originally proposed)
- reduce the proposed maximum penalty for the offence of neglect or violation of duty from 5 years imprisonment to two years
- require the SPA to provide forensic services to the PIRC free of charge
- give responsibility for preparing the annual police plan to the chief constable (rather than to the SPA)
place the duty to engage in community planning on the chief constable (rather than the local commander) – and for this duty to be delegated to local commanders

enable prosecutors to refer offences, other than those that lead to death or serious injury, to the PIRC and to clarify that the SPA or chief constable may refer serious incidents involving the police to the PIRC

provide the PIRC with absolute privilege against actions of defamation in relation to statements made by the PIRC and his staff in carrying out their statutory duties

remove the provision that chief constables who transfer to the PSS, but are not appointed to the chief constable post, retain the rank of chief constable

**Stage 3**: Unsuccessful amendments laid at stage 3 included amendments to:

- require the SPA and SFRS to reserve contracts for bodies which operate supported businesses, supported employment programmes or supported factories and for the SPA and SFRS to obtain Ministerial consent before they entered into contracts

- require the Scottish Ministers to provide full business cases before the 2012 Act comes into force

- compel the chief constable and chief officer to provide information to each local authority on resources allocated to each authority on 1 April each year

- ensure that local authority scrutiny committees maintain a gender balance with a representation of at least 40 per cent of each gender

- establish dispute resolution mechanisms to resolve disagreements between the SPA and local authorities

- establish a Scottish Policing Commission comprising MSPs

- place the general functions of the SFRS on the face of the Bill

Amendments agreed to at stage 3 included:

- that the SPA and SFRS boards should comprise not fewer than 10 nor more than 14 members (not including the chairs)

- that local authorities must be consulted before appointment of a local commander and local authorities may specify policing measures for inclusion in the local policing plan
transitional provisions to require the current police and fire and rescue authorities and joint boards, as well as chief constables and the Scottish Police Services Authority, to provide information and assistance to the SPA, chief constable and the SFRS

a requirement for the SFRS and the SPA to meet in public unless there is good reason not to and for both these bodies to make clear and publish the circumstances in which proceedings will be held in private

placing a duty on the Scottish Parliament to make arrangements for keeping the operation of the 2012 Act under review and to publish reports on this

The Bill, as amended at stage 3, was passed following a division: For 101, Against 6, Abstentions 14

Budget (Scotland) Bill

<table>
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<tr>
<th>Bill Number:</th>
<th>SP Bill 9</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>19 January 2012</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>John Swinney MSP (Executive Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>8 February 2012</td>
</tr>
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<td>Royal Assent:</td>
<td>14 March 2012</td>
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2012 asp 2

Passage of the Bill
The Budget (Scotland) Bill [SP Bill 9] was introduced on 19 January 2012. The Stage 1 debate took place on 25 January 2012, the Finance Committee considered the Bill at Stage 2 on 1 February 2012 and the Bill was passed by the Parliament on 8 February 2012.

Purpose and objectives of the Bill
The Budget Bill is the final stage in the annual budget process and this Bill gives parliamentary authority for spending in Scotland for financial year 2012-13. The budget process is intended to allow the Parliament’s subject committees the opportunity to comment on the Scottish Government’s spending plans prior to the annual budget being agreed. The expectation is for the subject committees to play an active role in scrutinising and making recommendations on spending priorities.

Provisions of the Bill
The Bill authorises approximately £31bn of cash expenditure by the Scottish Government and its associated bodies, other organisations whose core funding is centrally provided (e.g. local authorities and health boards), the Forestry Commissioners, the Food Standards Agency, the Scottish Parliamentary Corporate Body and Audit Scotland.
Social Care (Self-directed Support) (Scotland) Bill

Bill Number: SP Bill 10
Introduced on: 29 February 2012
Introduced by: Nicola Sturgeon MSP (Executive Bill)
Passed: 28 November 2012
Royal Assent: 10 January 2013

2013 asp 1

Passage of the Bill
The Social Care (Self-directed Support) (Scotland) Bill [SP Bill 10] was introduced in the Parliament on 29 February 2012. The Health and Sport Committee (the Committee) was appointed lead Committee for Stage 1 scrutiny of the Bill. The Committee first considered the Bill on 8 February 2012, and issued its call for written evidence on 1 March 2012. The Committee published its Stage 1 Report on 6 July 2012 with the Stage 1 (general principles) debate taking place on 18 September 2012. Stage 2 proceedings took place on 30 October 2012. The Bill was passed following the Stage 3 parliamentary debate on 28 November 2012. The Bill received Royal Assent on 10 January 2013.

Purpose and objectives of the Bill
The Bill sought to ensure adults and children (including carers and young carers) were given more choice and control over how their social care needs are met. Enshrining “self-directed support” (SDS) into legislation, it stipulated the forms of SDS that must be offered by local authorities to those assessed as requiring community care services.

The Bill also aimed to support efforts to promote greater personalisation in service delivery, including ‘Self-Directed Support: A National Strategy for Scotland’ published in November 2010.

Provisions of the Bill
The key provisions in the Bill included:

- A duty on local authorities to have regard to three principles – involvement, informed choice and collaboration - when undertaking their functions in relation to community care assessments and the provision of community care services.

- Providing local authorities with a discretionary power to provide services to support adult carers in their caring role following an assessment of their needs. It built on existing provisions where adult carers could request such an assessment.

- Providing for the four options for SDS:
  1. direct payments (DP) - the local authority makes a direct payment to the supported person in order that the person can then use that payment to arrange their support (already provided for through existing legislation)
2. directing the available resource – where the supported person chooses their support and the local authority makes arrangements for the support on behalf of the supported person
3. local authority arranged support - the local authority selects the appropriate support and makes arrangements for its provision by the local authority (can be viewed as the traditional model of social service delivery)
4. a mix of the first three options

- A specific duty on local authorities to offer the different options to the three groups of supported people who could receive SDS – adults, adult carers and children (and/or their families), including young carers.

- Duties on local authorities to give the supported person the opportunity to choose one of the options for SDS, inform them of the amount of each of the options, and provide a process for dealing with situations where the individual may not be eligible for a DP.

- Specific choice provisions for children and their families, based on the age of the child.

- Duties on local authorities to provide information and advice to those where a person is given the opportunity to choose from the four SDS options. The duty includes signposting the individual to independent sources of such information.

- Further provisions in relation to direct payments

- A power to charge for services provided under section 3 in relation to support for adult carers.

**Parliamentary consideration**

In its Stage 1 Report, the Committee made a number of recommendations on the provisions of the Bill. These together with the Scottish Government’s response are contained in a [SPICe briefing](#), which outlines consideration of the Bill prior to stage 3. This briefing also discusses the key amendments that were laid at stage 2 and which were and were not agreed to. Over stages 2 and 3, the key areas of debate, included:

- the inclusion of “independent living” in the general principles underpinning legislation (agreed to at stage 2)
- providing a right to independent advocacy when making a choice over the SDS options (amendment withdrawn at stage 2 and disagreed to at stage 3)
- replacing a local authority’s discretionary power over the provision of support for adult carers with a duty (not agreed to at stage 3)
- whether Ministers should have the power to introduce regulations relating to personal assistants (not agreed to at stages 2 and 3)

Throughout the debate, the Minister for Public Health agreed to cover a number of issues in statutory guidance.

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6 Scottish Parliament Information Centre. (2012) [Social Care (Self-directed Support (Scotland) Bill: Stage 3.](#)
Power to charge for services provided under section 3

There was a particular debate concerning the power of local authorities to charge for services. Section 16\textsuperscript{7} of the Bill sought to amend section 87 of the Social Work (Scotland) Act 1968 (the 1968 Act) (concerning local authorities' powers to charge for services or support) which would have the effect of allowing local authorities to charge for support provided to carers under section 3 of the Act. The Scottish Government’s position was that this provision, sought to provide consistency on the face of the law, and bring these services into line with other community care services. However, during stage 3, the Minister for Public Health also stated that he planned to use regulatory powers under this section to make it clear that all charges for support to carers should be waived in whole.

However, there was a view, articulated by Jackie Baillie MSP when speaking to her amendment at stage 3 (see col 14027-14030), that section 16 was not required, as the provision already existed in section 87 of the 1968 Act, and such support could already be charged for. Thus, Ministers could already use their powers to introduce regulations. The view was that section 18 effectively highlighted local authorities’ ability to charge carers. However, The Scottish Government’s position, as expressed by the Minister at stage 3, was that unless this section was in the Bill, and thus section 87 amended so as to specifically include support to carers, then there would be no legislative basis to make regulations waiving charges for this group.

The Minister also committed the Scottish Government to consult on any draft regulations.

\textsuperscript{7} Please note that, following a number of amendments as the Bill progressed through Parliament, this became section 18 in the resulting Act.
Welfare Reform (Further Provision) (Scotland) Bill

Bill Number: SP Bill 11
Introduced on: 22 March 2012
Introduced by: Nicola Sturgeon MSP (Executive Bill)
Passed: 28 June 2012
Royal Assent: 7 August 2012

2012 asp 10

Passage of the Bill
The Welfare Reform (Further Provision) (Scotland) Bill [SP Bill 11], a Government Bill, was introduced in the Parliament on 22 March 2012. Stage 1 commenced on 29 March 2012 with the Welfare Reform Committee as the lead committee. The Stage 1 (general principles) debate took place on 23 May 2012 and the Bill was passed following the Stage 3 parliamentary debate on 28 June 2012.

Purpose and objectives of the Bill
This is an enabling Bill which confers powers on Scottish Ministers to make provision via regulations, as considered appropriate, for changes in consequence of the new Universal Credit and Personal Independence Payment created under the Welfare Reform Act 2012.

The Bill broadly mirrors relevant sections in the UK Welfare Reform Act which were removed as a consequence of full legislative consent for that Bill having been withheld by the Scottish Parliament (on 22 December 2011) in relation to the introduction of Universal Credit and Personal Independence Payments. The main aim is to maintain the legislative basis that underpins devolved, passported benefits in Scotland. These are benefits such as free school lunches and blue badge parking permits which people who are in receipt of certain state benefits, such as, income support or disability living allowance, are entitled to receive as a consequence of (or ‘passport’ from) their entitlement to the UK benefit.

Provisions of the Bill
As stated above, this short Bill contains provisions which confers powers on Scottish Ministers to make regulations as considered appropriate in consequence of relevant sections of the Welfare Reform Act 2012, and any associated regulations. This is to ensure that the legislative basis that underpins devolved passported benefits in Scotland is maintained.

Scottish Ministers may also make regulations to make changes to devolved legislation to refer consequentially to some aspect of the new Universal Credit, or to fill a gap left by the abolition of the ‘passporting from’ benefit, for example by creating new eligibility criteria for certain passported benefits.
Parliamentary consideration
Consideration of this Bill differed slightly from the usual process. This is because the Bill was required as a result of the Parliament’s partial rejection of a legislative consent motion, the first time such a rejection has occurred. As a result, the Scottish Government had to introduce the Bill which is not based on Scottish Government policy, and which had parliamentary approval at the outset.

The Welfare Reform Committee, established soon after the Parliament’s refusal to approve the legislative consent motion (25 January 2012), was appointed lead committee on the Bill. Much of the evidence received by the Committee on the Bill was directed at the UK Government’s policy on welfare reform, rather than the content of the Bill. However, stakeholders were unanimous that the Bill should be passed quickly to ensure that the secondary legislation stemming from it could be place before the start of the new welfare system in April 2013, ensuring that individuals and families continue to receive their passported benefits.

The Welfare Reform Committee supported the general principles of the Bill. However, at Stage 2, Jackie Baillie MSP, put forward four amendments. Two of these aimed to ensure that any regulations stemming from the Bill would be subject to the affirmative procedure, and therefore require parliamentary approval. Both these amendments were disagreed to on the grounds that they could delay regulations coming into force in time for April 2013.

A third amendment sought an annual report from the Scottish Government, covering the likely social, economic and financial impact of the Welfare Reform Act 2012. Nicola Sturgeon MSP, the Cabinet Secretary for Health, Wellbeing and Cities Strategy, questioned the need for this to be on the face of the Bill, but said if the amendment was withdrawn she would consider it further. The amendment was withdrawn.

The fourth amendment would require the Scottish Government to lay a policy statement before the Parliament explaining the intended effect of the regulations. The Cabinet Secretary was sympathetic to the amendment, but saw no need for such a provision in the Bill. The amendment was not agreed to.

At Stage 3 the Scottish Government introduced an amendment to the Bill, which was agreed to, requiring Scottish Ministers to prepare an initial report on the likely impact of the Welfare Reform Act on the people of Scotland by 30 June 2013. As a result, Scottish Ministers must publish an annual report on the impact of welfare reform, from 2014 until 2017, by 30 June in each of those years.
Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill

Bill Number: SP Bill 12
Introduced on: 26 March 2012
Introduced by: Alex Neil MSP (Government Bill)
Passed: 31 October 2012
Royal Assent: 5 December 2012

2012 asp 11

Passage of the Bill
The Local Government Finance (Unoccupied Properties etc.) (Scotland) Bill [SP Bill 12] was introduced on 26 March 2012 by Alex Neil, Cabinet Secretary for Infrastructure & Capital Investment. The Local Government and Regeneration Committee was appointed as lead committee and its Stage 1 report was published on 28 June 2012. The Stage 1 debate took place on 6 September 2012 and Parliament voted to agree the general principles of the Bill by 96 votes to 15 with no abstentions. Stage 2 proceedings took place on 28 September 2012. The Bill was passed following the Stage 3 parliamentary debate on 31 October 2012 by 82 votes to 33 with no abstentions.

Purpose and objectives of the Bill
The Bill will amend the law regarding non-domestic rates and council tax in respect of unoccupied properties. For non-domestic rates, it allows Scottish Ministers greater flexibility to vary the relief that applies in relation to the rates for empty properties. For council tax, the Bill enables variation (including an increase) of the tax payable where a property is unoccupied and amends powers in respect of the ability of councils to require provision of information.

The Bill also repeals provisions that allow grants to be made to local authorities in order to allow them to balance their housing revenue account.

Provisions of the Bill
This is a short Bill with three main provisions. The Bill proposes to:

- Allow the Scottish Government to bring forward regulations to alter the level of empty property relief for certain empty commercial properties under the non-domestic rates regime
- Enable the Scottish Government to bring forward regulations to allow Scottish local authorities to increase council tax charges on certain long-term empty homes
- Abolish the requirement on the Scottish Government to pay Housing
Support Grant, currently only paid to the Shetland Islands Council.

**Parliamentary consideration**

In addition to the lead Committee, the Finance Committee and Subordinate Legislation Committee also scrutinised the Bill. In its Stage 1 Report, the Local Government and Regeneration Committee made a number of recommendations on the provisions of the Bill. The provisions in relation to removal of the Housing Support Grant were unanimously agreed. The aspects regarding council tax were generally welcomed and the Committee found little opposition. The non-domestic rates provisions were more contested, and did attract significant opposition from the business sector.

One member of the lead committee took the view that this was the wrong piece of legislation at the wrong time, which failed to acknowledge that the overriding reason for empty properties was due to a fundamental lack of demand and the current economic climate. As such, the member could not support the non-domestic rates and council tax provisions of the Bill.

The Committee accepted that there may be a negative impact in certain situations, but also recognised that the Scottish Government has to balance the need to bring empty properties back into use with the need to support business and to deliver value to the public for the significant sums that are and will continue to be provided by way of non-domestic rates relief.

Twenty four amendments to the Bill were considered by the lead committee at Stage 2, six Government amendments were agreed to. These include penalties for failure to provide correct information regarding council tax on certain properties; restrictions on the level of council tax increase for unoccupied properties and provision for continued rates relief for smaller shops and offices that become occupied after having been empty for more than a year.

Nineteen amendments were proposed at Stage 3. One was agreed to concerning council tax which stated that local authority or registered social landlord owned dwellings should not to be treated more favourably than others.
Scottish Civil Justice Council and Criminal Legal Assistance Bill

Bill Number: SP Bill 13
Introduced on: 2 May 2012
Introduced by: Kenny MacAskill MSP (Government Bill)
Passed: 29 January 2013
Royal Assent: 5 March 2013

2013 asp 3

Passage of the Bill
The Scottish Civil Justice Council and Criminal Legal Assistance Bill [SP Bill 13] was introduced in the Scottish Parliament on 2 May 2012. The Justice Committee was designated the lead committee at Stage 1 and took oral evidence on the general principles of the Bill over four weeks commencing on 26 June 2012. The Committee’s Stage 1 Report was published on 4 October 2012. The Stage 1 debate took place on 25 October 2012. Stage 2 proceedings took place on 13 November 2012, and the Stage 3 debate happened on 29 January 2013. The Bill received Royal Assent on 5 March 2013 to become the Scottish Civil Justice Council and Criminal Legal Assistance Act 2013.

Purpose and objectives of the Bill
The purpose of the Bill was twofold:

- to create a Scottish Civil Justice Council with responsibility for formulating policy and drafting court procedure rules in relation to civil justice matters; and

- to require those accused of a crime to make a financial contribution to their legal aid bill were they were assessed as able to do so

Provisions of the Bill
The Bill sought to create a Scottish Civil Justice Council (SCJC) to replace the current Sheriff Court and Court of Session Rules Councils. In addition to drafting court procedure rules, it was also intended that the Council would have a broader “policy” remit. The Bill therefore sought to give the Council a role in advising the Lord President and Scottish Ministers on the future development of the civil justice system. The Bill envisaged that the Council would have between 14 and 20 members, including up to six “Lord President members” drawn from across the spectrum of those with an interest in civil justice.

In addition, the Bill sought to make changes to legal aid for those accused of a crime to introduce the requirement to make a financial contribution. To do so, the Bill sought to change the “undue hardship” test used to assess financial eligibility in Criminal Legal Aid so that accused people with income and/or
capital assets above set thresholds would be required to make a graduated contribution to their legal aid bill.

The Bill also sought to extend the “undue hardship” test to an additional form of legal assistance known as Assistance By Way of Representation (ABWOR). The Scottish Government’s intention was that this would primarily affect ABWOR for those who plead guilty to a summary criminal charge.

**Parliamentary consideration**
The main issues identified at Stage 1 were:

- whether the powers and functions given to the SCJC were appropriate
- whether the SCJC had the right balance of legally qualified and non-legally qualified members and how such members were to be recruited
- whether access to justice would be compromised by the criminal legal assistance provisions because threshold amounts had been set too low
- whether those who were acquitted should receive a refund of their legal aid contributions
- the effect on the wider justice system of placing the requirement on solicitors to collect legal aid contributions directly from clients in most circumstances

The Justice Committee’s Stage 1 Report concluded that the Scottish Civil Justice Council was appropriately set up to do its job, but it recommended that the Scottish Government should give further consideration to how the principles of open recruitment could be embedded in the Bill. It also recommended that the deputy chair of the Council should be capable of being a non-legally qualified member.

Scottish Government amendments reflecting these concerns were agreed to at Stage 2. In addition, an amendment giving the Council an express ability to conduct research was agreed to. Amendments which sought to increase the representation of non-legally qualified people on the Council and which sought to make explicit reference to guidance from the Commissioner of Public Appointments in Scotland were disagreed to.

The Stage 1 Report accepted that it was fair in principle to require accused people to make contributions to their legal aid bill. It also recommended that the Scottish Government looked again at whether those who were acquitted should receive refunds and whether the Scottish Legal Aid Board would be better placed than solicitors to collect contributions from accused people. It expressed concern that savings generated through the Bill’s proposals could be wiped out if costs in other parts of the justice system increased and asked the Scottish Government to report to the Scottish Parliament on the Bill’s implementation after three years.
Amendments which sought to remove threshold figures from the face of the Bill, require refunds for acquitted people and oblige the Scottish Legal Aid Board to collect contributions from accused people were disagreed to at Stage 2.

Many of the amendments discussed at Stage 2 were revisited at Stage 3 and again disagreed to. A Scottish Government amendment raising the income threshold at which a contribution would become payable from £68 to £82 was agreed to. A Scottish Government amendment enabling the Scottish Legal Aid Board to introduce a collections service for solicitors – for which solicitors would be charged at cost – was also agreed to.

The Bill, as amended at Stage 3, was passed following a division: For 62, Against 53.

**Freedom of Information (Amendment) (Scotland) Bill**

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 14</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>30 May 2012</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Bruce Crawford MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>16 January 2013</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>19 February 2013</td>
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2013 asp 2

**Passage of the Bill**
The Freedom of Information (Amendment) (Scotland) Bill [SP Bill 14] was introduced by Bruce Crawford MSP, the Minister for Community Safety and Legal Affairs, on 30 May 2012.

The Finance Committee was designated as the lead committee for the Bill on 6 June 2012. The Committee issued a general call for written evidence on 14 June 2012. The Committee held oral evidence sessions on 5 and 12 September 2012 and discussed its draft Stage 1 report in private on 24 and 31 October 2012.

The Committee published its Stage 1 report on 2 November 2012.

The Stage 1 debate in the Parliament was held on 15 November 2012.

The Bill was considered at Stage 2 by the Finance Committee on 5 December 2012 and the Bill as amended at Stage 2 was published on 6 December 2012.

The Stage 3 debate took place, and the Bill was passed, on 16 January 2013.

Royal Assent was received on 19 February 2013.
Purpose and objectives of the Bill
The Bill was a technical bill which, in the Government’s words, set out to remedy weaknesses which it had identified in the Freedom of Information (Scotland) Act 2002 (FOI(S)A).

Provisions of the Bill
The Bill as introduced sought to:

- give Scottish Ministers enhanced powers to reduce the lifespan of historical records, so there could be varying lengths of time for different public bodies or for different kinds of records
- clarify that information which is provided in a body’s publication scheme does not also have to be provided in response to an FOI request
- allow authorities to issue, in reply to a request for information concerning personal information, a ‘neither confirm nor deny’ response
- allow prosecution for offences, under Section 65 of FOI(S)A, to be made up to six months after sufficient evidence has been amassed, rather than six months after commission of the offence
- create an absolute exemption for communications with Her Majesty, the heir and the second in line to the throne.

Parliamentary consideration
At Stage 2, in response to consultation responses, the Committee’s report and to the Stage 1 debate, the Government introduced an amendment to remove the provisions relating to the creation of a royal exemption.

The Government also introduced an amendment for a new section 1, to ensure that the FOI legislation can be updated, after appropriate consultation by the Government, and extended to include more public service bodies.

The new section 1 also required the Government to report to the Parliament on its use, or non-use, of the power to designate new bodies covered by the FOI(S) Act. Initially this requirement was to present a report on or before 30 June 2016 and then every three years.

At Stage 3 the Government introduced amendments so that the first report, on the use or non-use of the power, would be laid before Parliament by 31 October 2015, and thereafter every two years.
Water Resources (Scotland) Bill

Bill Number: SP Bill 15
Introduced on: 27 June 2012
Introduced by: Alex Neil MSP (Government Bill)
Passed: 27 February 2013
Royal Assent: 9 April 2013

2013 asp 5

Passage of the Bill
The Water Resources (Scotland) Bill [SP Bill 15] was introduced in the Scottish Parliament on 27 June 2012 by the Scottish Government. The Infrastructure and Capital Investment Committee conducted Stage 1 scrutiny of the Bill at meetings between June and November 2012.

The Subordinate Legislation Committee considered the delegated power provisions of the Bill at Stage 1 during its meetings of 2 October 2012 and 30 October 2012. The Subordinate Legislation Committee published its Stage 1 Report on 1 November 2012.

The Infrastructure and Capital Investment Committee published its Stage 1 Report on 4 December 2012 and the Stage 1 debate took place on 19 December 2012.

The Infrastructure and Capital Investment Committee considered amendments to the Bill at Stage 2 during its meeting of 23 January 2013. The Subordinate Legislation Committee considered the delegated power provisions of the Bill at Stage 2 during its meeting of 19 February 2013 and published its Stage 2 Report on the same day.

The Stage 3 debate took place on 27 February 2013, where the Bill was passed unanimously. The Bill received Royal Assent on 9 April 2013.

Purpose and objectives of the Bill
The Bill provides a legislative basis for the Scottish Government’s ambitions to turn Scotland into a Hydro Nation, which it defines in the Policy Memorandum that accompanied the Bill as “a nation that manages its water environment to the best advantage, employing its knowledge and expertise effectively at home and internationally”.

Provisions of the Bill
Development of Water Resources: The Bill allows Scottish Ministers to “take such reasonable steps as they consider appropriate for the purpose of ensuring the development of the value of Scotland’s water resources”. The Bill would also give Scottish Ministers the power to direct a “designated body” to participate in any water resources related development.
Control of Water Abstraction: The Bill requires anyone (subject to some exemptions) wishing to abstract large amounts of water from bodies of surface water or groundwater to obtain approval from Scottish Ministers.

Scottish Water’s Functions: The Bill allows Scottish Water to do anything which it considers will assist in the development of the value of Scotland’s water resources. It allows Scottish Water take reasonable steps to develop its property, rights, other assets and expertise and promote the use of its assets for the generation of renewable energy.

The Bill allows Scottish Ministers to lend money directly to subsidiaries of Scottish Water and for these subsidiaries to borrow from other sources. The total amount that can be borrowed by Scottish Water and its subsidiaries cannot exceed the amount set out in the annual Budget (Scotland) Act.

Raw Water Quality: Scottish Water would be given the power to enter premises for the purposes of assessing or monitoring the quality of raw water. The Bill would also allow Scottish Water to enter into agreements with the owners or occupiers of land to prevent the deterioration of raw water quality or remove/reduce the need to treat that water.

Non-domestic services: The Bill would establish that “deemed contracts” exist between water and sewerage services providers and the occupier of premises where no written contract currently exists. The Bill also places a duty on the owners of commercial property to inform the water and sewerage provider when there is a change in tenant or when the property falls vacant.

Sewerage Network: The Bill allows Scottish Water to impose a condition on any consent for a trade effluent notice with the aim of preventing or reducing the release of pollutant into the sewer system.

The Bill introduces a new offence of passing fat, oil or grease into the public sewer system, and would allow Scottish Water to recover costs in dealing with such blockages from the owners of commercial premises that allow these to be poured into the sewer. Scottish Water’s power of entry would be amended to allow for the installation of sampling and testing equipment.

This Bill would introduce a new system for the maintenance of private sewage treatment works, including most septic tanks that are owned by two or more people.

Water Shortage Orders: Scottish Water may request that Scottish Ministers make a water shortage order if it believes that there is a serious deficiency of water supplies in an area or there is a threat of a serious deficiency. It would be an offence for a person, without reasonable excuse, to fail to comply with the terms of a water shortage order.

Parliamentary consideration
Key issues of concern raised during the stage one consideration of the Bill, included widening the definition of the “value” of water resources to include social and environmental factors, as well as the financial value. Which bodies
should be included in the list of designated bodies and how Ministerial
directions to such bodies should be consulted upon, co-ordination of
ministerial reports on the development of the value of Scotland’s water
resources with other water related reporting requirements. The Committee
also required the Scottish Government to undertake a short consultation with
key stakeholders on the water abstraction proposals in the Bill.

Amendments at stage 2 dealt with some of the key issues raised during stage
1, extending the definition of the value of water to include social,
environmental and other matters, requiring Ministers to report on the
designation of public bodies for the purposes of the Bill and establishing
additional consultation procedures on the control of water abstraction
provisions. There were also a number of technical amendments, particularly
around offences committed by corporate bodies.

Amendments at stage 3 only dealt with technical matters.

High Hedges (Scotland) Bill

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 16</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>2 October 2012</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Mark McDonald MSP (Member’s Bill)</td>
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<tr>
<td>Passed:</td>
<td>28 March 2013</td>
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<td>Royal Assent:</td>
<td>2 May 2013</td>
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2013 asp 6

Passage of the Bill
On 21 December 2011, Mark McDonald MSP lodged a draft proposal for a
Members’ Bill on high hedges. In light of a previous consultation undertaken
by the Scottish Government in 2009, Mr McDonald also lodged a statement of
reasons as to why, in his opinion, there was no need for further consultation
on his draft proposal.

At its meeting on 1 February 2012, the Local Government and Regeneration
Committee concluded that it was satisfied with the reasons given by the
Member for not consulting further on the draft proposal. Mark McDonald MSP
lodged his final proposal and a revised statement of reasons on 22 March
2012.

Subsequently, the High Hedges (Scotland) Bill [SP Bill 16] was introduced (as
a Member’s Bill) in the Scottish Parliament on 2 October 2012. The Scottish
Government announced that it would support Mr McDonald and that officials
would work with him on all aspects of the Bill.

The Local Government and Regeneration Committee (“the Committee”) was
designated as lead Committee for the Bill and issued a call for evidence on 5
October 2012. The call for evidence closed on 29 November and the Committee received 90 submissions in response.

The Committee commenced taking oral evidence on the general principles of the Bill at Stage 1 on 5 December 2012 and published its Stage 1 Report on 28 January 2013. The Stage 1 debate took place on 5 February 2013 and the Bill was passed following the Stage 3 debate on 28 March 2013.

**Purpose and objectives of the Bill**
The Bill seeks to provide a solution to the problem of high hedges which interfere with the reasonable enjoyment of domestic property.

**Provisions of the Bill**
For the purposes of the Bill as introduced, a high hedge is one which: is formed wholly or mainly by a row of 2 or more evergreen or semi-evergreen trees or shrubs; rises to a height of more than 2 metres above ground level; and forms a barrier to light.

The Bill provides that where a hedge has been defined as a high hedge, an owner or occupier of a domestic property may apply to the relevant local authority for a high hedge notice. It provides local authorities with new powers to issue high hedge notices to owners of hedges specifying the work, if any, to be carried out to remedy problems and prevent their re-occurrence; and also to carry out any work where owners fail to do so.

Local authorities will set fees which must also accompany any application for a high hedge notice. The Bill does not set any upper limit on the fees to be charged but requires that fees must not exceed an amount which the local authority considers represents the reasonable costs that it incurs in coming to a decision on the application and issuing of a high hedge notice.

**Parliamentary consideration**
The definition of a high hedge as provided in the Bill, as introduced, was undoubtedly the key issue raised by witnesses who gave evidence to the Committee at stage 1. As outlined above, the Bill as introduced, defined a high hedge as one which:

- is formed wholly or mainly by a row of 2 or more evergreen or semi-evergreen trees or shrubs;
- rises to a height of more than 2 metres above ground level; and
- forms a barrier to light

Most of the written and oral evidence received by the Committee commented on that part of the definition which limited a high hedge to one consisting of “evergreen or semi-evergreen trees or shrubs”. Opinion varied between those witnesses who believed that the definition should be expanded to include other forms of vegetation, such as single and deciduous trees, while others favoured retaining the definition as set out in the Bill. Other witnesses believed that the definition should be narrowed even further to provide
protection to various types of evergreen or semi-evergreen species (e.g. yew or juniper).

A number of amendments were lodged at stage 2 with regard to the definition and meaning of a high hedge as outlined in the Bill as introduced.

Anne McTaggart MSP, stated that she was concerned that the exclusion of the word ‘deciduous’ from the definition of a high hedge would potentially leave many long-standing disputes over high hedges without a resolution. Ms McTaggart also put forward the argument that where vindictive intent or bullying is involved, a deciduous species could simply replace one which came within the scope of the definition in the Bill and lodged an amendment to include the word ‘deciduous’ in the definition of a high hedge.

Responding on behalf of the Scottish Government, the Minister for Local Government and Planning, Derek Mackay MSP, said that while the Government was willing to listen to arguments seeking to amend the definition of a high hedge, any substantial change to the definition would only be considered once local authorities had been consulted on the matter. To that end, and in light of the amendments put forward, he had written to local authorities to seek their views on the potential impact of widening the definition with a view to revisiting the issue at Stage 3 consideration of the Bill. Anne McTaggart agreed not to move her amendment following reassurances that the issue would be considered prior to Stage 3.

At Stage 3, Anne McTaggart MSP lodged a similar amendment to the one which she lodged at Stage 2, seeking to change the definition of a high hedge. Her amendment at Stage 3 sought to expand the definition of a high hedge to include deciduous species and to achieve this by changing the definition of a high hedge to simply “a row of two or more trees or shrubs”.

Derek Mackay MSP confirmed that, following consultation with local authorities, the Scottish Government would support Ms McTaggart’s amendment, and would seek to ensure that when producing guidance on the legislation, local authorities would engage constructively with those stakeholders who had expressed concerns over the widening of the definition.
Aquaculture and Fisheries (Scotland) Bill

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<tr>
<th>Bill Number:</th>
<th>SP Bill 17</th>
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<tr>
<td>Introduced on:</td>
<td>3 October 2012</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Richard Lochhead MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>15 May 2013</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>18 June 2013</td>
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2013 asp 7

Passage of the Bill
The Aquaculture and Fisheries (Scotland) Bill [SP Bill 17] was introduced in the Scottish Parliament on 3 October 2012. The Rural Affairs, Climate Change and Environment (RACCE) Committee, as lead committee, began taking Stage 1 evidence on the general principles of the Bill on 28 November 2012. The Stage 1 debate took place on 28 February 2013 and the Bill was passed following the Stage 3 parliamentary debate on 15 May 2013.

Purpose and objectives of the Bill
The Bill sought to make changes to the law on fish farming and shellfish farming. New requirements for the management of freshwater fisheries were introduced. Changes were made to sea fisheries laws and rules on shellfish waters. Fixed penalty notices for offences under certain aquaculture, fisheries and other marine legislation were included as well as powers to introduce a charging regime.

Provisions of the Bill
The Bill was presented in six parts and two schedules as follows:

Part 1 was about aquaculture. Specifically, fish farm management, fish farming: equipment and wellboats, commercially damaging species, control, powers, offences, and interpretation.

Part 2 was about governance and management of salmon fisheries.

Part 3 was about sea fisheries. Specifically, enforcement of legislation, detention of vessels in connection with court proceedings, inspection and seizure of objects used in commercial sea fishing, retention and disposal of property seized by British sea-fishery officers, forfeiture, and enforcement of EU rules.

Part 4 was about protection of shellfish waters and orders relating to fisheries for shellfish and Part 5 contained miscellaneous provisions about, for example, charging and fixed penalty notices.

Part 6 contained general sections relating to subordinate legislation, interpretation, ancillary provision, Crown application, Commencement and short title.
Schedule 1 related to control schemes for commercially damaging species, and Schedule 2 was about forfeiture under section 41 or 42 (sea fisheries).

**Parliamentary consideration**

**Stage 1:** Stage 1 scrutiny of the Bill was undertaken by the RACCE Committee. The Committee took a wide variety of evidence. This included fact-finding visits to salmon rivers, wild fisheries hatcheries, coastal netting stations, both fresh and sea water fish farms, scientific stations, and processing plants. It also included extensive written and oral evidence.

In the Stage 1 report the Committee said its work was hindered by some of the more adversarial, tit-for-tat engagement of sections of both the aquaculture and wild fisheries sectors.

Despite this, the Committee broadly welcomed the proposals in the Bill and recommended the Scottish Parliament support its general principles. The Committee said that the Stage 1 draft of the Bill was very much the starting point and, should the Bill reach Stage 2, it would require amendment in order to make it more robust and to take account of evidence received by the Committee throughout its Stage 1 scrutiny.

**Stage 2:** The RACCE Committee considered the Bill at two meetings in March 2013.

Of the 90 amendments considered, only Government amendments were successful (36 in total, 33 agreed without division and 3 agreed by division).

Amendments were proposed by non-Government party members of the Committee that would have required the publication of data on sea lice – a parasite of salmon – at a more detailed geographical level than at present. They were disagreed to by division.

Amendments were proposed to allow regulations on technical requirements for equipment in fish farming to specify training of operators. The Scottish Government said it would come back to this issue at Stage 3.

The requirement for individually numbered tagging of net caught wild salmon was debated. An amendment which would require such a tagging scheme was rejected.

An amendment which would have allowed the Government to make regulations giving District Salmon Fishery Boards a right of first refusal to buy salmon netting rights was rejected.

The Government lodged a package of amendments designed to tackle the problem of illegal cockle fishing on the Solway Firth, and improve enforcement of inshore fisheries legislation more generally. These amendments attracted cross party support and were agreed to.

**Stage 3:** The Bill was considered at Stage 3 on 15 May 2013.
Amendments on technical requirements for equipment used in fish farming, on powers to detain wellboats in connection with court proceedings, and on monitoring and evaluating the effects of orders and penalties for offences were agreed to.

Amendments about fish farm management agreements, a duty to publish information on parasites, and on carcass tagging were not agreed to.

After debate, the motion was agreed to and the Bill passed.

Post-16 Education (Scotland) Bill

Bill Number: SP Bill 18
Introduced on: 27 November 2012
Introduced by: Michael Russell, MSP (Government Bill)
Passed: 26 June 2013
Royal Assent: 7 August 2013

2013 asp 12

Passage of the Bill
The Post-16 Education (Scotland) Bill [SP Bill 18] was introduced in the Parliament on 27 November 2012. The Education and Culture Committee (the Committee) was appointed lead Committee for Stage 1 scrutiny of the Bill. The Committee first considered the Bill on 4 December 2012 at which time a call for written evidence was issued. The Committee published its Stage 1 Report on 20 March 2013, with the Stage 1 (general principles) debate taking place on 27 March 2013. Stage 2 proceedings took place over three meetings: 14 May 2013, 21 May 2013 and 28 May 2013. The Bill was passed following the Stage 3 parliamentary debate on 26 June 2013. The Bill received Royal Assent on 7 August 2013.

Purpose and objectives of the Bill
The Post-16 Education (Scotland) Bill provides legislative underpinning to wider reforms to post-16 education currently being pursued in Scotland. The central aim of the Scottish Government’s post-16 education reform agenda is to achieve sustainable economic growth by ensuring that Scotland has a high performing education and skills system that will allow the workforce to positively participate in the Scottish labour market. The Bill sets down in legislation the underpinnings to a number of policy activities already in train. Notably, in relation to colleges, the key objectives were to set out the governance arrangements associated with the regionalisation of college provision. In relation to higher education institutions, the key objectives were to set out in legislation a fee cap in line with the informal agreement already in place in higher education institutions when charging tuition fees to students from other parts of the UK, to increase efforts to widen access to higher
education and to agree and to adopt a Scottish code of good higher education governance.

Provisions of the Bill
The key provisions in the Bill will:

- Allow Ministers, when providing funding to the Scottish Funding Council (SFC), to impose conditions relating to the need for higher education institutions to adhere to good practice in governance.

- Enable Ministers, when providing funding to the SFC, to impose conditions relating to access to higher education institutions for under-represented socio-economic groups.

- Allow Ministers to set an upper limit on the level of higher education tuition fees which post-16 education bodies can charge UK students and certain others who are not entitled to be charged tuition fees at the level set by the Scottish Government. This provision also allows Ministers, when providing funding to the SFC, to impose conditions with a view to ensuring that post-16 education bodies adhere to such an upper limit.

- Provide two types of incorporated colleges with different duties, composition and appointment provisions, depending on whether they are in single-college or multi-college regions.

- Establish new regional strategic bodies for colleges in multi-college regions to support a regional approach to the planning and funding of college provision.

- Introduce Ministerial powers to remove chairs and other members of incorporated colleges and regional boards for reasons of failure (in addition to mismanagement).

- Enable the SFC to review the provision of fundable further and higher education with a view to ensuring that such education is being provided by post-16 education bodies in a coherent manner.

- Allow Ministers to make secondary legislation to impose a legal duty on relevant bodies to share data with Skills Development Scotland on all young people between the ages of 16 and 24 moving through the learning system to identify those who have disengaged with, or may be at risk of disengaging with, learning or training.

Parliamentary consideration
In its Stage 1 Report, the Committee made a number of recommendations regarding the principles of the Bill. These recommendations, the Scottish Government’s response to these and the key issues debated at stage 2, are summarised in this SPICe briefing. At stage 3, a further 117 amendments were lodged. These focused largely on areas of debate raised, but not agreed, at stage 2, including:
- The introduction of gender quotas for college and university governing bodies.
- Ensuring that widening access is an issue that is recognised as being for a number of stakeholders including schools; that good practice is shared, and that any action taken is comprehensively reviewed to ensure progress is made.
- Ensuring trade union and student association participation in the governance of universities, notably in remuneration committees, and also in the appropriate college governance structures where decisions are being made.
- Regional colleges making links with community planning, community health partners and local transport partners in order to maximise local economic and social gains from regionalisation.
- Clarity and refining of the terms under which Ministers can remove board members for “mismanagement”.
- Ensuring mechanisms are in place that allow the flow of funding within University of Highlands and Islands (UHI) from the University Court to a designated further education board within the UHI governance structure.
- Measures to ensure collective bargaining / formal negotiations on pay and conditions in the college sector.
- The position of colleges as public or private bodies with reserves / assets that are treated as public money. As many colleges receive large amounts of private income, being treated as public bodies calls into question the financial autonomy of colleges in Scotland.

Land and Buildings Transaction Tax (Scotland) Bill

Bill Number: SP Bill 19
Introduced on: 29 November 2012
Introduced by: John Swinney MSP (Government Bill)
Passed: 25 June 2013
Royal Assent: 31 July 2013
2013 asp 11

Passage of the Bill
The Land and Buildings Transaction Tax (Scotland) Bill [SP Bill 19] was introduced on 29 November 2012 by John Swinney MSP, Cabinet Secretary for Finance, Employment and Sustainable Growth. The Finance Committee was appointed as lead committee and its Stage 1 report was published on 27 March 2013. The Public Audit Committee and the Delegated Powers and Law Reform Committee also considered the Bill. The Stage 1 debate took place on 25 April 2013 and Parliament agreed to the general principles of the
Bill without division. Stage 2 proceedings took place on 29 May 2013 and 5 June 2013. The Bill was passed following the Stage 3 parliamentary debate on 25 June 2013.

**Purpose and objectives of the Bill**
The Land and Buildings Transaction Tax (Scotland) Bill (the “LBTT Bill”) was the first of three related Bills resulting from measures enacted in the Scotland Act 2012. The LBTT Bill, along with the Landfill Tax Bill and Tax Management Bill, together provide for the introduction of two new taxes and set a framework for the collection of these taxes. LBTT will replace the current UK stamp duty land tax (SDLT) in April 2015.

**Provisions of the Bill**
The LBTT Bill proposed a number of changes to the SDLT regime. The main proposals were in relation to:

- Changing from a ‘slab’ structure of taxation to a progressive tax structure – the progressive structure is similar to the income tax system and avoids the sudden increases in liabilities that are a feature of the slab system and create distortions in the market

- Requiring payment of LBTT prior to registration of the title – so as to encourage prompt payment of the tax, but also to allow for a ‘one stop’ submission, payment and registration process

- Some modifications to reliefs and exemptions – including withdrawal of sub-sale relief arrangements which are considered to be a feature of many SDLT tax avoidance schemes

- Anti-avoidance measures – the LBTT Bill contained a number of “targeted anti-avoidance rules” aimed at clamping down on tax avoidance which are to be supported by a “general anti-avoidance (or anti-abuse) rule” proposed for the Tax Management Bill

When the Bill was introduced, there were a number of areas where consultation was ongoing. These involved complex legal issues that had not been resolved and where more time was felt to be needed to develop appropriate legislation. The Scottish Government proposed to bring forward amendments at Stage 2 in these areas, which related to non-residential leases; the transfer of shares in residential property holding companies; and the treatment of trusts and partnerships.

The LBTT Bill did not deal with:

- Administration and collection arrangements – these will be dealt with in the Tax Management Bill, which will establish Revenue Scotland

- Adjustments to the block grant to reflect the introduction of the new tax-raising powers – these are the subject of ongoing discussion between the Scottish and UK Governments
- Tax bands and rates for LBTT – these will be decided nearer the time and will be introduced through subordinate legislation

**Parliamentary consideration**
In its Stage 1 report, the Finance Committee made a number of recommendations on the provisions of the Bill. These centred around:

- the setting of bands and rates – with concerns that lack of advance notice could have an adverse impact on commercial activity and concerns about the use of negative procedure in the setting of bands and rates

- the removal of sub-sale relief – with concerns that this could have an adverse impact on certain types of commercial property transactions

- eligibility for charities relief – reflecting concerns about imposing additional burdens on charities based outside Scotland wishing to benefit from LBTT relief

- categories of licence that should be exempt from LBTT – reflecting concerns that types of activity could be adversely affected if all licences became liable for LBTT

At Stage 2, a total of 67 amendments were lodged. Of these:

- 63 were agreed without division, mostly Government amendments – many were technical amendments, or amendments relating to areas deferred until Stage 2 to allow for further consultation (non-residential leases; the transfer of shares in residential property holding companies; and the treatment of trusts and partnerships). In relation to partnerships, the agreed approach was to replicate the existing UK stamp duty land tax legislation because, following continued consultation, the Scottish Government did not consider itself to be in a position to introduce revised legislation in this area. There was some dissatisfaction with this approach within the Committee due to the perceived complexity of the existing legislation.

- 3 amendments were disagreed by division and 1 was not moved

Seventy-four amendments were lodged at Stage 3. The majority were Government amendments and were largely technical in nature. Sixty six amendments were agreed to without division; 5 were disagreed to by division, including a proposal that the Scottish Government should give 12 months’ notice of planned bands and rates applicable to non-residential transactions; a proposal for scope to vary bands and rates according to the energy performance of a property; and proposals relating to sub-sale relief. Three amendments were not moved.
Forth Road Bridge Bill

Bill Number: SP Bill 20
Introduced on: 11 December 2012
Introduced by: Nicola Sturgeon MSP (Government Bill)
Passed: 23 May 2013
Royal Assent: 28 June 2013

2013 asp 8

Passage of the Bill
The Forth Road Bridge Bill [SP Bill 20] was introduced in the Parliament on 11 December 2013 by Nicola Sturgeon MSP, Cabinet Secretary for Infrastructure, Investment and Cities. The Infrastructure and Capital Investment (ICI) Committee was appointed as lead committee for Stage 1. Its Stage 1 report was published on 18 March 2013. The Stage 1 debate took place on 26 March 2013 and Parliament agreed the general principles of the Bill unanimously.

Purpose and objectives of the Bill
The purpose of the Bill was to allow Scottish Ministers to appoint a single private sector contractor to operate, manage and maintain the Forth Road Bridge and, following its completion, the new Queensferry Crossing. This is in line with operational arrangements for the rest of the trunk road network. To do this, the Forth Estuary Transport Authority (FETA), which was the bridge authority, had to be wound up and its responsibilities transferred to Scottish Ministers.

Provisions of the Bill
The key provisions of the Bill are set out below:

- **Section 1:** Designates the road over the Forth Road Bridge as a trunk road, making Scottish Ministers the roads authority for that road.
- **Section 2:** Transfers all Forth Estuary Transport Authority (FETA) owned properties, including the Bridge, to Scottish Ministers along with any other legal or financial liabilities.
- **Section 3:** Provides that all FETA employees will transfer to the operator appointed by Scottish Ministers to manage and maintain the Forth Road Bridge, Forth Replacement Crossing and connecting roads. The Transfer of Undertakings (Protection of Employment) Regulations 2006 apply to this transfer. This means that FETA staff were transferred to the winning operating company on their current terms and conditions.
- **Section 4:** Allows for the dissolution of FETA.
- **Section 5:** Allows for all byelaws made by FETA and the previous Joint Board to continue following FETA’s dissolution. It also gives Scottish Ministers powers to revoke such byelaws through a traffic management order.
Parliamentary consideration
The ICI Committee heard Stage 1 oral evidence on the Bill at meetings on 6, 20 and 27 February 2013. In addition, five organisations responded to the Committee’s call for written evidence. The Committee’s Stage 1 Report made only two firm recommendations. The first was that the Committee be kept updated about tendering of the new private sector maintenance contract. The second being that the Scottish Government write to the City of Edinburgh Council to confirm that the Council would not be left with any financial liability for works associated with the M9 spur, which serves the Forth Road Bridge, following the passage of the Bill.

Only one amendment was lodged at Stage 2, by Elaine Murray MSP. This would have required Scottish Ministers to create an independent body to monitor the management and maintenance of the Forth Road Bridge – the membership to include councillors from the four local authorities nearest to the Bridge. The amendment was withdrawn as the Member considered that it did not correctly address her concerns, due to the way it was drafted.

No amendments were lodged at Stage 3 and the Bill was passed unanimously.

National Trust for Scotland (Governance etc.) Bill

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 21</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>7 January 2013</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>The National Trust for Scotland (Private Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>23 May 2013</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>28 June 2013</td>
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</tbody>
</table>

2013 asp 9

Passage of the Bill
The National Trust for Scotland (Governance etc.) Bill [SP Bill 21] is a Private Bill which was introduced in the Scottish Parliament on 7 January 2013 by the National Trust for Scotland for Places of Historic Interest or Natural Beauty, commonly referred to as ‘the National Trust for Scotland’ (the Trust).

The procedure for Private Bills differs from that for Public Bills (i.e. those introduced by the Scottish Government). It consists of three stages:

1. The Preliminary Stage – consideration of a Bill’s general principles and whether its provisions are of a private rather than a public nature

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8 A Private Bill is a Bill introduced for the purpose of obtaining for an individual person, body corporate or unincorporated association particular powers or benefits in excess of or in conflict with the general law

9 See Rule 9A.7 of the Scottish Parliament’s Standing Orders and the Scottish Parliament’s guide to the stages in the passage of a Private Bill
2. The Consideration Stage – consideration of the details of the Bill

3. The Final Stage – the final consideration of the Bill and a decision whether to pass or reject it.

Private Bills are also subject to a 60-day objection period beginning immediately after introduction. The objection period for this Bill ended on 8 March 2013 with no objections received.

The National Trust for Scotland (Governance etc.) Bill Committee (the Committee) was established on 23 January 2013 to consider the Bill. It issued a general call for evidence on 26 February 2013 and received three submissions. It took evidence from the Trust and other witnesses during the Preliminary Stage at its meeting on 12 March 2013.

The Preliminary Stage Report was published by the Committee on 28 March 2013 and the Preliminary Stage debate took place in the Chamber on 23 April 2013. The Consideration Stage took place on 7 May 2013 and the Parliament debated and passed the Bill during the Final Stage on 23 May 2013.

The Bill received Royal Assent on 28 June 2013 to become the National Trust for Scotland (Governance etc.) Act 2013 (asp 9).

Purpose and objectives of the Bill
The Trust is a conservation charity which was established by private Act of Parliament under the National Trust for Scotland Order 1935 (the 1935 Order).

The objective of the Bill was to make certain amendments to the 1935 Order so as to modernise and streamline the governance of the Trust. It was also aimed at clarifying the use of the Trust’s abbreviated name – The National Trust for Scotland – by which the Trust is generally known.

The Bill followed recommendations made in a strategic review of the Trust, led by the former Presiding Officer of the Parliament, Sir George Reid, which culminated in a 2010 report entitled Fit for Purpose, Report of the Strategic Review of the National Trust for Scotland (the Reid Review).

The majority of the Reid Review’s recommendations could be put into effect by the Trust itself. However, certain aspects of the Trust’s governance could only be amended by making changes to the Trust’s founding legislation (i.e. the 1935 Order).

Provisions of the Bill
The Bill’s main provisions were as follows:

- **Section 1** – This sought to amend the 1935 Order so that presidents and any vice-presidents of the Trust are no longer part of the Trust’s Board of Trustees. The aim being to clarify that the role of presidents and vice-presidents is outside the Trust’s decision-making structure and that they do not have liability as charity trustees.
Section 2 – sought to update the rules for co-opted members of the Trust’s Board of Trustees (i.e. members of the Trust who are appointed to the Board for a limited period of time). In particular, it extended the maximum period of office for co-opted members to four years, in line with the term served by elected members of the Board.

Section 3 – sought to abolish the rules in the 1935 Order which allowed certain public or scientific bodies to nominate representatives to the Board of Trustees (known as representative members). This followed the findings of the Reed Review that, whilst representative members had been appropriate in the Trust’s early days, there were now better ways of providing expert advice within the Trust.

Section 4 – confirms that the Trust’s abbreviated name (the National Trust for Scotland) is legally valid and equivalent to its full name (the National Trust for Scotland for Places of Historic Interest or Natural Beauty).

Section 5 – provides for transitional arrangements to allow the Trust to operate in the period between enactment of the legislation and the first subsequent Annual General Meeting.

Parliamentary consideration
The main issues considered by the Committee during the Preliminary Stage were as follows:10

- The future role of presidents and vice-presidents of the Trust.
- The need to be able to appoint co-opted members to the Board of Trustees for periods of up to four years.
- The rationale behind the abolition of representative members.
- The need to clarify that the Trust’s abbreviated name is legally valid.
- The need for legislation (and in particular a Private Bill) to bring about the proposed reforms to the Trust's governance structure.

No amendments were lodged at the Consideration Stage and the Bill as introduced was agreed to at this stage. No amendments were brought forward at the Final Stage.

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10 See the Preliminary Stage Report and the evidence from the Committee’s meeting on 12 March 2013
Budget (Scotland) Bill

Bill Number: SP Bill 22
Introduced on: 17 January 2013
Introduced by: John Swinney MSP (Government Bill)
Passed: 6 February 2013
Royal Assent: 13 March 2013

2013 asp 4

Passage of the Bill
The Budget (Scotland) Bill [SP Bill 22] was introduced on 17 January 2013. The Stage 1 debate took place on 22 January, the Finance Committee considered the Bill at Stage 2 on 30 January and the Bill was passed by the Parliament on 6 February 2013.

Purpose and objectives of the Bill
The Budget Bill is the final stage in the annual budget process and this Bill gives parliamentary authority for spending in Scotland for financial year 2013-14. The budget process is intended to allow the Parliament’s subject committees the opportunity to comment on the Scottish Government’s spending plans prior to the annual budget being agreed. The expectation is for the subject committees to play an active role in scrutinising and making recommendations on spending priorities.

Provisions of the Bill
The Bill authorises approximately £32bn of cash expenditure by the Scottish Government and its associated bodies, other organisations whose core funding is centrally provided (e.g. local authorities and health boards), the Forestry Commissioners, the Food Standards Agency, the Scottish Parliamentary Corporate Body and Audit Scotland.

The Bill received Royal Assent on 13 March 2013.
Victims and Witnesses (Scotland) Bill

Bill Number: SP Bill 23
Introduced on: 06 February 2013
Introduced by: Kenny MacAskill MSP (Government Bill)
Passed: 12 December 2013
Royal Assent: 17 January 2014

2014 asp 1

Passage of the Bill
The Victims and Witnesses (Scotland) Bill [SP Bill 23] was introduced in the Parliament on 6 February 2013. The Parliament’s Justice Committee was designated as lead committee and considered the proposals in the Bill relating to victims and witnesses. The Health and Sport Committee was designated as a secondary committee and considered proposals relating to the setting up of a National Confidential Forum (NCF). The Justice Committee commenced taking Stage 1 oral evidence on 16 April 2013. The Health and Sport Committee commenced its Stage 1 oral evidence on 26 March 2013. The Stage 1 debate took place on 19 June 2013 and was passed following the Stage 3 debate on 12 December 2013.

Purpose and objectives of the Bill
The Bill seeks to improve elements of the criminal justice system which pertain particularly to victims and witnesses and also provides for the establishment of a National Confidential Forum to give adults who were placed in institutional care as children the opportunity to recount their experiences, including experience of abuse, in a confidential and non-judgemental setting, to an independent panel.

Provisions of the Bill
Key provisions relating to victims and witnesses include, amongst other things, giving victims and witnesses a right to certain information about their case; creating a duty on organisations and agencies within the criminal justice system to set clear standards of service for victims and witnesses; and creating a presumption that certain categories of victim are vulnerable and giving such victims the right to utilise special measures when giving evidence.

The key functions of the NCF are to receive and listen in private to the experiences of adults placed in institutional care as children and to offer acknowledgement of those experiences; to contribute to the prevention of abuse of children placed in institutional care in the future by making proposals to inform policy and practice based on the experiences recounted in hearings of the NCF; and to signpost services to participants and their families which can offer support, advocacy, advice and information before during and after testimony is given.
Parliamentary consideration
In general, the proposals in the Bill received support across the Parliament. There were a number of issues, both in relation to the proposals concerning victims and witnesses and the NCF, which were keenly debated, leading to amendments in some areas. A number of those issues are highlighted below.

Issues in relation to victims and witnesses which were raised during stage 1 included: whether a definition of ‘victim’ should be placed on the face of the bill; and the right of victims of certain sexual offences to specify the gender of any person who has reason to interview them.

At stage 1, some witnesses argued that a clear definition of the word ‘victim’ would help to provide clarity for individuals and their families as to their rights under the proposed legislation. It was also suggested that the word ‘victim’ may have unintended consequences for the rights of the accused where it is used prior to and during a trial. The Justice Committee recommended that the Scottish Government give consideration to including a definition of ‘victim’ on the face of the Bill.

In response, the Cabinet Secretary for Justice stated that the overarching policy objective of the Bill is to improve the support available to victims and witnesses throughout the justice system, putting victims’ interests at the heart of on-going improvements within the system and to ensure that witnesses are able to perform their public duty effectively. He stated that in pursuing these objectives, he was mindful of the need to ensure that the justice process is fair to the accused. He stated that there should be no need for a criminal conviction before a person who has suffered as a result of a crime has access to appropriate support services. He also agreed that it was important to ensure that no negative inference should be drawn in relation to the guilt of the accused. Subsequent amendments to include a definition of ‘victim’ on the face of the Bill were not successful.

The Bill also provided a right for victims of certain sexual offences to choose the gender of any person who has reason to interview them. At stage 1, it was recommended that this right be extended to enable such victims to also choose the gender of a person who was to carry out medical examinations. An amendment to this effect was brought forward by the Government and agreed to without division.

With regard to the NCF, the Health and Sport Committee recommended that the Government give consideration as to whether the age of eligibility to participate in the Forum should be reduced from 18 to 16. In response, the Minister for Public Health stated that he had decided that 16 and 17 year olds should have the opportunity to have their experiences and testimony heard, and had been assured that the NCF would be an appropriate setting for a person of that age. The Minister noted that, as the NCF had been set up to deal with historical matters, participants must have left the institution they had been resident in before they could participate. Notwithstanding this, an amendment brought forward by the Government to reduce the age of those eligible to participate from 18 to 16 was agreed to without division.
Scottish Independence Referendum (Franchise) Bill

<table>
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<tr>
<th>Bill Number:</th>
<th>SP Bill 24</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>11 March 2013</td>
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<tr>
<td>Introduced by:</td>
<td>Nicola Sturgeon MSP (Government Bill)</td>
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<tr>
<td>Passed:</td>
<td>27 June 2013</td>
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<tr>
<td>Royal Assent:</td>
<td>7 August 2013</td>
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2013 asp 13

Passage of the Bill
The Scottish Independence Referendum (Franchise) Bill [SP Bill 24] was introduced by the Deputy First Minister, Nicola Sturgeon, on 11 March 2013.

The remit of the Referendum (Scotland) Bill Committee, established on 23 October 2012, was to consider matters relating to the Referendum Bill and any associated legislation. It would, therefore, be the lead Committee for the Scottish Independence Referendum (Franchise) Bill, and this was confirmed on 19 March 2013.

The Committee issued a general call for written evidence on 12 March 2013. The Committee took oral evidence on the Bill at Stage 1 at its meetings on 14 March, 21 March and 28 March 2013 and discussed its draft Stage 1 report in private on 18 and 25 April and 2 May 2013.

The Bill was also considered by the Subordinate Legislation Committee (19 March 2013) and the Finance Committee (20 March 2013).

The Referendum (Scotland) Bill Committee’s Stage 1 report was published on 7 May 2013.

The Stage 1 debate took place on in the Chamber 14 May 2013.

The Stage 2 consideration of the Bill by the Committee took place on 6 June 2013.

The Stage 3 of the Bill took place on 27 June 2013, when the Bill was passed by the Parliament.

The Bill received Royal Assent on 7 August 2013.

Purpose and objectives of the Bill
The purpose of the Bill was to establish the franchise for the referendum on independence which is to take place on 18 September 2014. The franchise for Scottish elections is a reserved matter so, prior to the Bill being introduced by the Scottish Government, an order amending Schedule 5 of the Scotland Act 1998, had to be approved by the UK and Scottish Parliaments and made by the Privy Council.
Provisions of the Bill
The Bill, which was the first piece of legislation introduced by the Scottish Government in relation to the referendum on Scottish independence, set out the franchise for the Referendum. The franchise was based on the one used for Scottish local government elections, with the eligible age reduced from 18 to 16 years old.

The Bill established a Register of Young Voters to hold information on eligible young voters, who would be at 16 years old on the day of the referendum, who were not eligible to be entered in the usual annual household canvass used to create the local government electoral register.

Parliamentary consideration
In order to give election officers time, to make the practical changes necessary to increase the franchise to include 16 and 17 year olds, the Scottish Government needed the Bill to be passed before end of June 2013.

The Bill was subject to a number of Government amendments at Stages 2 and 3, which addressed concerns about the registration information gathered on young voters would be treated sensitively and kept securely. Some of the Government amendments followed testing of the canvass form by election officers.

Amendments at Stage 2 and 3, which sought to increase the franchise to include certain categories of prisoners, were not successful.

Scottish Independence Referendum Bill

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<th>Bill Number:</th>
<th>SP Bill 25</th>
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<tr>
<td>Introduced on:</td>
<td>21 March 2013</td>
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<tr>
<td>Introduced by:</td>
<td>Nicola Sturgeon MSP (Government Bill)</td>
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<tr>
<td>Passed:</td>
<td>14 November 2013</td>
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<tr>
<td>Royal Assent:</td>
<td>17 December 2013</td>
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Passage of the Bill
The Scottish Independence Referendum Bill [SP Bill 25] was introduced by Nicola Sturgeon MSP, the Deputy First Minister, on 21 March 2013.

The Referendum (Scotland) Bill Committee, whose remit had been agreed by the Parliament on 23 October 2012, was designated as the lead committee for the Bill.

The Committee issued a general call for written evidence on 21 March 2013. The Committee held oral evidence sessions on 28 March, 9 May, 16 May, 23
May, 30 May and 13 June 2013 and discussed its draft Stage 1 report in private on 27 June and 15 August 2013.

The Bill was also considered by the Finance Committee on 29 May 2013 and by the Subordinate Legislation Committee on 16 April 2013 and 14 May 2013 and by its successor committee, the Delegated Powers and Law Reform, on 3 September 2013.

The Referendum (Scotland) Bill Committee published its Stage 1 report on 26 August 2013 and the Stage 1 debate by the Parliament was held on 12 September 2013.

The Bill was considered at Stage 2 by the Committee on 3 October and 10 October 2013 and the Bill as amended at Stage 2 was published on 11 October 2013.

The Stage 3 debate took place, and the Bill as amended was passed, on 14 November 2013.

Purpose and objectives of the Bill
The main purpose of the Bill was to set the date of, and the rules for, holding a referendum on Scotland’s independence. The Bill also contained the wording of the referendum question.

The franchise for the Referendum had already been established by the passing of the Scottish Independence Referendum (Franchise) Bill.

Provisions of the Bill
The Bill established the technical details of the conduct of the Scottish Independence Referendum, including the campaign rules, which included spending limits and reporting. The Bill also established the roles of the Electoral Commission and the Chief Counting Officer.

The Bill’s provisions were based on the provisions for running a referendum set out in the Political Parties, Elections and Referendums Act 2000 (PPERA).

Parliamentary consideration
A number of amendments were made at Stage 2. Following calls by election officials, to bring the legislation into line with other elections, a number of technical amendments were moved by the Scottish Government and individual committee members.

These included moving the official mark on the ballot paper to the front and allowing children of Service personnel to make their own service declaration in order to be able to register and vote.

These amendments were agreed without division. In addition, a number of Government amendments, which the Electoral Commission had concerns about, were agreed after division with the two Labour members of the Committee abstaining.
The Government put forward a number of minor and technical amendments at Stage 3.

The Government also lodged amendments in response to the Electoral Commission’s concerns about its various amendments, previously agreed on division at Stage 2, including ones relating to postal ballots and emergency proxy applications.

A Government amendment allowed the Scottish Parliament to publish its Official Report on the first day of the purdah period prior to the Referendum.

**Regulatory Reform (Scotland) Bill**

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 26</th>
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<tr>
<td>Introduced on:</td>
<td>27 March 2013</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Fergus Ewing MSP (Government Bill)</td>
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<tr>
<td>Passed:</td>
<td>16 January 2014</td>
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<tr>
<td>Royal Assent:</td>
<td>19 February 2014</td>
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2014 asp 3

**Passage of the Bill**

The [Regulatory Reform (Scotland) Bill](#) [SP Bill 26] was introduced in the Scottish Parliament on 27 March 2013. On 16 April, the Parliamentary Bureau referred the Bill to the Economy, Energy and Tourism (EET) Committee as the lead committee, with the Rural Affairs, Climate Change and Environment (RACCE) Committee acting as secondary committee. The RACCE Committee focussed its scrutiny on Part 2 of the Bill, as well as certain aspects of Part 1 (those that related to the Scottish Environment Protection Agency and Scottish Natural Heritage).

The EET Committee took oral evidence on the general principles of the Bill over four weeks commencing on 5 June; the RACCE Committee took evidence on 22 May and 5 June. The EET Committee’s Stage 1 Report incorporated the report of the RACCE Committee, and was published on 8 October, with the Stage 1 debate taking place on 12 November. Stage 2 proceedings took place on 4 December, and the Stage 3 debate took place on 16 January 2014. The Bill received Royal Assent on 19 February 2014 to become the [Regulatory Reform (Scotland) Act 2014](#).

**Purpose and objectives of the Bill**

The Regulatory Reform (Scotland) Bill aimed to:

- Improve the way regulation is developed and applied, creating more favourable business conditions in Scotland and delivering benefits for the environment
• Protect people and environment, help businesses to flourish and create jobs

Provisions of the Bill
Part 1 of the Bill related to Regulatory Functions and had three main elements:

• Encouraging and improving consistency in the exercise of regulatory functions e.g. environmental health. The Bill allowed for the implementation of national regulation systems, although there remains scope for regulators to make a case for local variation
• A duty on listed regulators to exercise functions in a way that contributes to achieving sustainable economic growth
• Provision for a code of practice in relation to the exercise of regulatory functions

Part 2 of the Bill related to Environmental Regulation and had five main chapters:

• Chapter 1 allowed Scottish Ministers to bring forward secondary legislation to simplify and update the objectives and duties of SEPA’s diverse regulatory framework into one statutory purpose, i.e. that all of its functions are for the purpose of “protecting and improving the environment”
• Chapter 2 allowed for regulations to be made which give SEPA additional powers relating to enforcement, as follows: fixed monetary penalties, variable monetary penalties, non-compliance penalties, enforcement undertakings, and cost recovery
• Chapter 3 related to court powers, and set out provision for compensation orders, fines and publicity orders
• Chapter 4 allowed for a new and broad range of miscellaneous provisions such as: vicarious liability, offence relating to significant environmental harm, contaminated land and special sites, waste management authorisations – offences by partnerships, and air quality assessments
• Chapter 5 amended the Environment Act 1995 by inserting a general purpose for SEPA to ensure that it contributes to improving the health and well-being of people in Scotland and achieving sustainable economic growth

Part 3 of the Bill made provision for amendments to three miscellaneous regulatory regimes, as follows:

• Section 40 extended statutory appeal mechanisms to decisions by Scottish Ministers relating to offshore marine energy projects of 1MW and above within Scottish waters
• Section 41 allowed Scottish Ministers to make provision in planning fee Regulations for different fees to be levied by different planning
authorities where Scottish Ministers are satisfied that the performance of the Planning Authority is not, or has not been, carried out satisfactorily

- Section 42 amended the Civic Government (Scotland) Act 1982 to allow street traders who operate mobile food businesses to trade in more than one area in Scotland, using a certificate from the same registering authority for each licence application

Parliamentary consideration

The main issues identified at Stage 1 were:

- Whether there was an adequate definition of sustainable economic growth, and whether the regulators’ duty in respect of this was appropriate
- Whether the regulators’ duty in respect of sustainable economic growth should be removed, or amended to relate to sustainable development
- Whether planning authorities and licensing boards would be included in the list of regulators covered by Parts 1 and 2 of the Bill
- Whether the six week statutory appeal time limit for marine licencing decisions would impact on business confidence, investment, and the ability of individuals, communities and small businesses to appeal
- Whether linking fees to the performance of planning authorities could adversely affect the performance of the authority and the range of services that it could provide

The EET Committee Stage 1 Report recommended that the general principles of the Bill be agreed; however there was a division, with 7 for and 2 against.

At Stage 2, the EET Committee, as lead Committee, considered amendments relating to all parts of the Bill. Approximately 115 amendments were submitted. The majority of these were submitted by the Scottish Government, and were technical in nature. One Government amendment provided for the imposition of fixed penalties as part of the enforcement of carrier bag charging offences. This aimed to provide local authorities (or other ‘enforcement authorities’) with a more proportionate and cost-efficient enforcement option.

Of the amendments that were not agreed to at Stage 2, the main ones sought to leave out the regulators’ duty in respect of sustainable economic growth or replace it with one in respect of sustainable development, and to require Scottish Ministers to take all reasonable steps to support a planning authority to improve its performance, and to prepare and publish guidance setting out the principles to which they must have regard in determining whether the functions of a planning authority were not being, or had not been performed satisfactorily.

At Stage 3, amendments relating to the duty in respect of sustainable economic growth, and supporting a planning authority to improve its performance were revisited and not agreed to. Similarly, an amendment which
sought to remove the provision for the imposition of fixed penalties as part of enforcement of carrier bag charging offences was not agreed to.

Eight minor and technical Scottish Government amendments were agreed to.

The Bill, as amended at Stage 3, was passed following a division: For 93, Against 2, and Abstentions 1.

**Children and Young People (Scotland) Bill**

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<th>Bill Number:</th>
<th>SP Bill 27</th>
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<tr>
<td>Introduced on:</td>
<td>17 April 2013</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Alex Neil MSP (Government Bill)</td>
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<td>Passed:</td>
<td>19 February 2014</td>
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<td>27 March 2014</td>
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**Passage of the Bill**

The Children and Young People (Scotland) Bill [SP Bill 27] was introduced on 17 April 2013. It completed stage 1 on 21 November 2013, stage 2 on 21 January 2014 and was passed at stage 3 on 19 February 2014.

**Purpose and objectives of the Bill**

The purpose of the Bill is to make provision for supporting the wellbeing of children and young people across a range of policy areas. The policy memorandum describes the objective of the Bill as “making Scotland the best place for children to grow up” by “putting children and young people at the heart of planning and delivery of services and ensuring their rights are respected across the sector.”

**Provisions of the Bill**

The Bill seeks to make changes across a wide range of children’s policy. The main provisions are to:

- give recognition of the UN Convention on the Rights of the Child (UNCRC) in domestic legislation (Part 1) and extend the investigatory powers of the Children’s Commissioner (Part 2)
- provide a statutory basis for Getting it Right for Every Child (GIRFEC) and to make changes to children’s services planning (Parts 3 to 5 and 13). This includes provision for a ‘Named Person’ for everyone under 18, a child’s plan for those who need targeted interventions and joint service planning between health boards and local authorities.
- extend provision for early learning and childcare (Part 6)
- extend support for kinship carers (Part 10) and care leavers (Part 8),
• create a statutory definition of corporate parenting (Part 7) and provide for counselling services for families (changed to 'relevant services' at stage 2) (Part 9)
• create a statutory adoption register (part 11) and amend the process for establishing local support structures for the Children's Hearings system (Part 12)
• make changes to the procedures for school closures (part 11A, added at stage 2)

Parliamentary consideration
There were 441 amendments lodged at stage 2 and a further 217 at stage 3. All Scottish Government amendments succeeded without division, with the exception of some provisions on information sharing at stage 2.

Main changes to the Bill
The main additions to the Bill were further extension of the rights of care leavers and changes to the process for school closures. During the passage of the Bill, the Government announced an extension to its policy on early education and care, but this is to be done under regulations and did not require any changes to the Bill.

Care Leavers
The proposals in Part 8 of the Bill to extend support for care leavers were welcomed, but some wanted them to go further. In oral evidence at Stage 1, Aberlour Childcare Trust explained their proposals for widening the eligibility for aftercare and creating a 'right to return' to care. Successful Government amendments provide for a right to stay in the care placement. Regulations are expected to specify a right to stay until the age of 21. The Scottish Government announced £5m per year up to 2020 and an 'expert group' to consider implementation of the provisions. This group will also consider whether a young person ought to be able to return to continuing care if they leave it.

School Closures
At stage 2, there were significant changes made to legislation on school closures. The Schools (Consultation) (Scotland) Act 2010 is amended following a Court of Session judgement relating to the interpretation of that Act and the recommendations of a commission on the delivery of rural education. As this introduced significant new policy to the Bill, the Education and Culture Committee took evidence on the issue in December 2013.

Changes include the introduction of a 5 year moratorium on repeated closure proposals, a presumption against closing rural schools and the creation of a new 'school closure review panel' to review decisions. At stage 2, the Government agreed to work with opposition members on further changes. This resulted in an amendment from Liam McArthur on how local authorities have to deal with allegations of inaccuracies and from Liz Smith requiring local authorities to publish reasons for proceeding with a rural school closure.
Changes due to non-government amendments

Very few non-government amendments were successful. At stage 2, these covered four policy areas: children’s services plans (Joan McAlpine), early learning and childcare planning (Clare Adamson), the definition of counselling services (Colin Beattie) and school closures (Liz Smith). At stage 3 there were successful non-government amendments in three areas – children’s services plans (John Wilson), school closures (Liz Smith and Liam McArthur) and school meals (Adam Ingram).

This last amendment is to section 53 of the Education (Scotland) Act 1980. It provides for regulations which could require local authorities to provide free school meals to certain categories of pupils. It would also enable local authorities to extend eligibility if they choose to do so. These amendments relate to a Scottish Government policy of free school meals in the early years of primary school (See News Release 7 Jan 2014).

Main areas of debate

‘Named Person’

Throughout parliamentary consideration of the Bill, the most controversial aspect was the provision of a ‘Named Person’ service and associated information sharing duties. The Bill requires local authorities and health boards to provide a ‘Named Person’ for everyone aged 0 to 18. This person will be a point of contact for advice or concern about the child. While there are duties for various public bodies to assist the Named Person and to share information with them, there are no new powers of compulsion. That is, the Bill does not give the Named Person any powers to force a child or family to do anything. If powers of compulsion are required, this can be done under existing child protection and Children’s Hearings legislation.

While some were concerned about whether Named Person provisions were necessary and proportionate, others agreed in principle, but were concerned about costs and implementation. At stage 3 Liz Smith MSP said: “We believe that the policy is wrong in principle, that it does not have conclusive supporting evidence and that it has not been properly costed.” (col 27791). Liam McArthur noted that: “this in an area that is crying out for post legislative scrutiny” (col 27797).

Unsuccessful amendments tried to limit the Named Person provisions to children under 16 (instead of those up to 18) and to focus the service on children with serious needs. The Minister argued that the Named Person provision was based on the principle of early intervention and had to be universal “because we do not know when that extra bit of help is needed.” (col 27799).

At stage 2, Ms Smith lodged amendments proposing a mechanism to resolve complaints about the Named Person. Scottish Government amendments at stage 3 allow for this to be done through regulations. The Minister, Aileen Campbell, said that a complaints mechanism will be in place before the GIRFEC elements of the Bill are commenced in 2016 (col 27823).
The Bill also provides for information sharing where there is a concern about a child’s wellbeing. This provoked much debate about the balance between a child’s right to protection and their right to privacy. Government amendments at stage 2 altered the requirement so that information is shared only if:

- it is 'likely to be' relevant (rather than 'might' be)
- the views of the child are considered,
- to do so would benefit the child's wellbeing.

If these conditions are met, information can be shared in breach of a duty of confidentiality. Debate continued at stage 3, with unsuccessful amendments proposing that confidential information is only shared with informed and explicit consent (unless to do so would adversely affect the wellbeing of the child).

**Early education and childcare**
Another area of considerable debate was the extent to which early education and childcare ought to be expanded. While the Scottish Government announced that they would use regulations under the Bill to further expand provision for two year olds, opposition parties argued for such provision to appear on the face of the Bill.

Unsuccessful amendments related to extending provision for 2 year olds, enabling 3 and 4 year olds to have two full years of pre-school, out of school care and childcare during school holidays.

**United Nations Convention on the Rights of the Child**
Throughout all three parliamentary stages there was discussion about whether the Bill could go further in recognising the UNCRC. A number of third sector organisations wanted the Bill to go much further, and referred to the initial plan for separate Bills on rights and services. While the Education and Culture Committee rejected calls for full incorporation of the Convention, there were a number of unsuccessful non-government amendments seeking to strengthen its implementation. These included proposals for a child rights impact assessment on every relevant Bill, adopting specific articles into Scottish law and proposing that Ministers have regard to the Convention.
Landfill Tax (Scotland) Bill

Bill Number: SP Bill 28
Introduced on: 17 April 2013
Introduced by: John Swinney MSP (Government Bill)
Passed: 17 December 2013
Royal Assent: 21 January 2014

2014 asp 2

Passage of the Bill
The Landfill Tax (Scotland) Bill [SP Bill 28] was introduced in the Parliament on 17 April 2013. Stage 1 commenced on 24 April 2013, with the Finance Committee as the lead committee. The Stage 1 (general principles) debate took place on 29 October 2013 and the Bill was passed following the Stage 3 debate on 17 December 2013.

Purpose and objectives of the Bill
The purpose of the Bill is to set a framework for the collection of Landfill Tax in Scotland to replace the current UK Landfill Tax regime in April 2015.

Provisions of the Bill
The Landfill Tax (Scotland) Bill is the second of three related Bills that result from measures enacted in the Scotland Act 2012. This Bill, along with the Land and Buildings Transaction Tax Bill and the Revenue Scotland and Tax Powers Bill provides for the introduction of two new taxes and sets a framework for the collection of these taxes. The Landfill Tax (Scotland) Bill replaces the current UK Landfill Tax regime with a Scottish Landfill Tax in April 2015.

The UK Government introduced Landfill Tax in 1996 to ensure that landfill waste was properly priced and to discourage the disposal of waste to landfill. It has contributed to a reduction in waste sent to landfill of 59% between 2000 and 2010 and consultation responses received by the Scottish Government and Finance Committee generally considered it to have been effective.

The Bill draws on the approach of the existing UK Landfill Tax regime in terms of what constitutes a taxable disposal, and the Scottish Bill will start with an identical set of exemptions. The Scottish Government will, however, be able to add or remove exempted material through subordinate legislation. The Landfill tax rate will be set by subordinate legislation and the Scottish Government has indicated that it intends to initially set rates at a level no lower than the UK tax rate in 2015.

The Bill seeks to tackle the issue of unauthorised landfill sites by defining the person who is liable to pay the tax, and ensuring that Revenue Scotland and the Scottish Environment Protection Agency (SEPA) can identify a person or entity responsible for unauthorised or unregulated disposals.
The Bill also seeks to continue with the Landfill Communities Fund to provide funding for community or environmental projects.

Revenue Scotland will oversee the administration of both the Landfill Tax and the Land and Buildings Transaction Tax. The Scottish Government intends that SEPA will have operational responsibility for the collection of Scottish Landfill Tax.

Parliamentary consideration
Parliamentary consideration focused on:

- Landfill tax rates, which were not specified on the face of the Bill so that changes to rates can be made in future without the need for primary legislation.

- Waste Tourism and issues around cross border movements of waste where there are different tax rates in different tax jurisdictions. The Bill team said that one of the main factors behind the policy of mirroring the UK rate was to “minimise cross-border movement of waste”. The Bill team said that the committee “would be surprised at how small the differential in tax rates would have to be for it to be cost effective to move waste” and that, “initially, we would want to mirror the UK structure and rates closely”.

- The Bill’s provision to impose both fines and taxes on unauthorised operators of landfill sites. The current UK Landfill tax regime does not provide HMRC with powers to collect tax from unauthorised operators and that court fines, which are usually smaller than the tax evaded can make unauthorised activity financial attractive. This tougher approach to evasion was generally welcomed, but there was a view expressed that SEPA might “require additional resources to identify and sanction illegal sites”.

- The Landfill Communities Fund (LCF) and its eligibility criteria. The Landfill Communities Fund (LCF) was established in 1996 to provide funding for community or environmental projects in the “vicinity of landfill sites”. There was general support for this fund and its continuation when Landfill tax is devolved. Most of the debate centred on the 10-mile eligibility radius. The guidance for the existing LCF states that an environmental project should be no more than 10 miles from a Landfill site (whether active or not) in order to be eligible to receive funding. In stage 1 evidence, the Committee heard conflicting views on the 10-mile radius issue. Some, like SEPA, argued that there should not be a fixed area for LCF eligibility as people outwith a 10-mile radius can be affected. Others, like the Scottish Environmental Services Association (SESA) argued that extending the eligibility area criteria would mean that there was less funding available for people most directly impacted by landfill. The Bill team and Cabinet Secretary both stated that the 10-mile radius issue needed further consideration. The Committee concluded that it was “supportive of the principle that those communities most affected by landfill sites should be the ones to benefit most from the fund.”
City of Edinburgh Council (Portobello Park) Bill

Bill Number: SP Bill 29
Introduced on: 25 April 2013
Introduced by: City of Edinburgh Council (Private Bill)
Passed: 26 June 2014
Royal Assent: 1 August 2014

2014 asp 15

Passage of the Bill
The City of Edinburgh Council (Portobello Park) Bill [SP Bill 29] was introduced in the Parliament on 25 April 2013. The Bill is a private bill and is subject to different procedures than a public bill. The City of Edinburgh Council (Portobello Park) Bill Committee was established on 29 May 2013.

The objection period ran from 26 April 2013 to 24 June 2013, and 59 admissible objections were received. The Committee published its preliminary stage report on 4 December 2013. The preliminary stage debate took place on 9 January 2014. Following this, the Bill entered consideration stage with the Committee publishing its consideration stage report on 22 May 2014. The Committee’s final consideration of the Bill took place on 12 June 2014 and the Final Stage debate took place on 26 June 2014.

Purpose and objectives of the Bill
The purpose of the Bill is to remove a legal obstacle in order to allow the City of Edinburgh Council (Edinburgh Council) to use Portobello Park, Edinburgh (the Park), as the site for a new Portobello High School. Heretofore, the Council was unable to do so, because the Park was what is known as “inalienable common good land”.

In simple terms, common good land is a special form of property where title is held by local authorities for the ‘common good’ of the local population (it relates to property which used to be owned by the Scottish burghs).

In the common law\(^\text{11}\) there are two types of common good property:

1. alienable common good land which traditionally could be disposed of (i.e. sold/leased) or used for a different purpose (known as appropriation); and

2. inalienable common good land where this was not possible

Rules in the Local Government (Scotland) Act 1973 (1973 Act) now regulate the disposal or appropriation of common good property. The basic rules are that:

\(^{11}\)The “common law” is the traditional law formed by the decisions of judges in individual cases
• if no question arises as to whether the property is alienable under the common law, it can be disposed of/appropriated under the rules in the 1973 Act (section 75(1)); and

• if there is a question as to whether the property is alienable, it can only be disposed if authorised by the Court of Session/sheriff (section 75(2))

The question in the Portobello Park case was whether Edinburgh Council could legally build a school on the Park, which it accepted was inalienable common good land. The council’s plan was challenged in the Court of Session. The court found that, although section 75(2) allowed the courts to authorise the disposal of inalienable common good land, it did not provide a procedure for local authorities to appropriate inalienable common good land.

Provisions of the Bill
The Bill solves the problem caused by the Portobello Park case by providing that the Park is deemed to be alienable common good land, rather than inalienable common good land. This enables the City of Edinburgh Council to appropriate the Park for functions other than recreation, although the Bill limits this to education functions.

Parliamentary consideration
At the preliminary stage, issues were raised on whether the private bill procedure was appropriate; whether the Council’s consultation process was flawed; different views on how the park is being used at present; and compensatory measures for the loss of open space. The Committee agreed to the general principles of the Bill at the preliminary stage.

At the preliminary stage, the Committee gave preliminary consideration to all admissible objections and rejected those objections where the objector’s private interests were, in the Committee’s opinion, not clearly adversely affected. At the consideration stage, the Committee considered the remaining objections in detail. Objections concerned the use of the Park; road safety, traffic and congestion; visual impact of the new school, environmental issues; impact on the character of the area and reduction in property values; and impact on the golf course on the Park. All objections were rejected.

One amendment was agreed to the Bill at the consideration stage. This amendment ensures that, if the park is not used for educational purposes within ten years, it will revert to its previous inalienable common good status.

The Bill was passed on 26 June 2014 following the final stage debate.

Tribunals (Scotland) Bill

Bill Number: SP Bill 30
Introduced on: 8 May 2013
Introduced by: Kenny MacAskill MSP (Government Bill)
Passed: 11 March 2014
Royal Assent: 15 April 2014

Passage of the Bill
The Tribunals (Scotland) Bill was introduced in the Scottish Parliament on 8 May 2013 on behalf of the Scottish Government. The Justice Committee conducted Stage 1 scrutiny at meetings in May, June, September and October 2013. Following its appearance before the Justice Committee on 17 September 2013, the Scottish Government provided the committee with further written information on how the use of court judiciary in the First-tier Tribunal will work in practice.

The Finance Committee received six responses to its call for written evidence on the Bill’s financial memorandum. These did not raise any substantial issues. The Finance Committee therefore decided not to undertake further scrutiny of the financial memorandum or to report to the Justice Committee on costs associated with the Bill.

The Justice Committee published its Stage 1 report on 14 October 2013 and the Stage 1 Debate took place on 7 November 2013.

The Justice Committee considered amendments to the Bill at Stage 2 on 4 February 2014. The Stage 3 debate took place on 11 March 2014. The Bill, as amended, received Royal Assent on 15 April 2014 to become the Tribunals (Scotland) Act 2014 (asp 10).

Purpose and objectives of the Bill
The Bill’s main policy objective was to create a new structure for devolved tribunals in Scotland. According to the Bill’s Policy Memorandum, the aim was to make the current ad hoc system more coherent, to improve the quality of service for tribunal users and to create, “a structure that would reduce overlap, eliminate duplication, ensure better deployment and allow for the wider sharing of available resources.” An additional objective was to provide for increased tribunal impartiality and independence from government. The Bill broadly follows the suggestions made in a 2011 report by the Scottish Committee of the Administrative Justice and Tribunals Council (“SCAJTC”) entitled “Tribunal Reform in Scotland – A Vision for the Future.” A similar set of reforms had already been made in relation to tribunals which fall under the competence of the UK Government.

Provisions of the Bill
The main changes made by the Bill were:
• The setting up of a new two-tier structure, involving a First-tier Tribunal for first instance decisions (i.e. the initial forum where an action is brought) and an Upper Tribunal which will primarily deal with appeals - collectively referred to as “the Scottish Tribunals”

• The granting of overall leadership of the new structure to the Lord President of the Court of Session and the setting up of an office known as the President of the Scottish Tribunals (a Court of Session judge) who will be responsible for day to day management of the system

• New rules on membership of the First-tier and Upper Tribunals and on: tribunal appointments, tenure, conduct, complaints and appeals

• The introduction of a new rule-making framework which gives the Scottish Civil Justice Council (SCJC) the power to propose procedural rules for certain devolved tribunals, (the “listed tribunals” in schedule 1 of the Bill). As a result of its on-going work in redrafting civil court rules, the SCJC would, however, not have sufficient capacity at the outset to draft the new tribunal rules. Therefore, in the interim rules would be drafted by the Scottish Ministers

• The creation of a statutory duty for various persons who are responsible for the administration of justice to uphold the independence of members of the Scottish Tribunals.

The aim was for the listed tribunals to be transferred to the new structure, with other tribunals potentially being transferred in at a later point in time. Tribunals with similar subject matters were to be grouped together in separate chambers within the structure.

Parliamentary consideration
Provisions of the Bill which received particular attention during its parliamentary passage included:

• Status and nature of tribunals – Tribunals are often regarded as more informal and accessible, and potentially cheaper, than courts. Throughout the Bill’s passage, various arguments were made that the Bill should guarantee that the specific nature of tribunals is preserved and that they should not become too similar to courts

• Rule-making – Issues were raised in relation to whether the Scottish Ministers would use expert advice when drafting new procedural rules in the interim period until the SCJC has sufficient capacity and also how rules would be made for the Upper Tribunal in this period

• Tribunal fees and expenses – The Bill allowed the procedural rules to include provision for the awarding of expenses. It also gave the Scottish Ministers the power to lay regulations which would allow tribunals to charge fees. Questions were raised on the scope of these powers and the degree to which they would be consulted on if introduced for specific tribunals
• **Salaried posts** – The Bill did not make provision for the appointment of full-time salaried judges in any of the tribunals envisaged by the Bill. A number of concerns were therefore raised regarding this perceived gap in the legislation.

• **The status of the Mental Health Tribunal** – Claims were made during the consultation leading up to the Bill that the Mental Health Tribunal should be given a special status in the new framework since it can deprive individuals of their liberty and impose treatment against their will. As a result, the Scottish Government made a commitment in the Policy Memorandum that the Mental Health Tribunal would initially be in a chamber on its own. Arguments were, however, made that the special status of the tribunal should be more permanent and should be enshrined in the Bill.

The Scottish Government brought forward Stage 2 amendments in a number of areas, including: decision-making in the Scottish tribunals; the judicial status and capacity of tribunal members; appointments to tribunals (including allowing for permanent appointments); fitness to be a tribunal member; venues for tribunal hearings; and an obligation to consult stakeholders before introducing any tribunal fees.

In addition, the Scottish Government amended the Bill to include certain guiding principles which the Scottish Ministers and Lord President/President of the Scottish Tribunals must have regard to – namely, the principle that there is a need for proceedings before the Scottish Tribunals to be accessible and fair and to be handled quickly and effectively.

Opposition amendments to define the nature of a tribunal and to require the Mental Health Tribunal to be placed within a single mental health chamber were not agreed to.

The Scottish Government brought forward a number of predominately technical amendments at Stage 3, which were agreed to. An opposition amendment dealing with alternative dispute resolution was withdrawn. The opposition amendments which were disagreed to dealt with the role of the SCJC and a proposal to change the parliamentary procedure for regulations on tribunal rules from the negative procedure to the affirmative procedure. The Bill, as amended, was passed.
Crofting (Amendment) (Scotland) Bill

Bill Number: SP Bill 31
Introduced on: 9 May 2013
Introduced by: Richard Lochhead (Government Bill)
Passed: 25 June 2013
Royal Assent: 31 July 2013

2013 asp 10

Passage of the Bill
The Crofting (Amendment) (Scotland) Bill [SP Bill 31] was introduced in the Parliament on 9 May 2013. Stage 1 commenced on 15 May 2013 with the Rural Affairs, Climate Change and Environment Committee taking oral evidence. The Stage 1 (general principles) debate took place on 6 June 2013 and the Bill was passed following the Stage 3 parliamentary debate on 25 June 2013.

Purpose and objectives of the Bill
According to the Policy Memorandum, the policy objective of the Bill was to address a problem which had arisen in the Crofting (Scotland) Act 2010 (asp 14). Since 1976, crofters have been able to buy their crofts, but crofting law still defined crofters as the tenant of a croft. The 2010 Act amended the Crofters (Scotland) Act 1993 (c.44) to create a new category of “owner-occupier crofter”. It became apparent that an unintended effect of the amendments made by the 2010 Act was to prevent an owner-occupier crofter from applying to the Crofting Commission to decroft land unless the land was vacant. If the Commission agrees to an application it can issue a decrofting direction which means that the land in question is no longer under crofting tenure. The purpose of the Bill was therefore to ensure that owner-occupier crofters were in the position they were meant to be in, namely that they could apply to the Crofting Commission for a decrofting direction for land they occupied.

Provisions of the Bill
The Bill amends the Crofters (Scotland) Act 1993 (c. 44) (“the 1993 Act”) to:

• allow owner-occupier crofters to apply to the Crofting Commission to decroft the whole or part of their crofts, whether the croft is vacant or not;

• allow the Crofting Commission to give decrofting directions on such applications

• allow the Crofting Commission not to consider a decrofting application if they have issued a direction to an owner-occupier crofter requiring them to submit proposals for letting the croft (where the Commission have determined that the owner-occupier crofter had breached one or more of their duties)
enable the new legislation to be applied respectively to address issues arising from 1 October 2011 when the owner-occupier crofter status was introduced

Parliamentary consideration

Stage 1: Stage 1 scrutiny of the Bill was undertaken by the Rural Affairs, Climate Change and Environment (RACCE) Committee. The Scottish Government sought the cooperation of the Scottish Parliament in expediting the passage of the Bill through the legislative process by agreeing to a shorter than usual period for its Stage 1 scrutiny. In its Stage 1 report the Committee agreed that the legislation needed to be corrected and therefore welcomed the fact that the Scottish Government’s had swiftly brought forward amending legislation once it became aware of the legal issue. However, the Committee also noted the significant number of other outstanding issues relating to crofting many believe require to be addressed by the Scottish Government following the conclusion of consideration of this Bill. The Committee was struck by the evidence it received from experts in crofting law, which demonstrated significant frustration and concern with the increasing complexity and layers of crofting law.

Stage 2: Stage 2 was taken by the Rural Affairs, Climate Change and Environment Committee on 12 June 2013. No amendments were lodged at Stage 2.

Stage 3: The stage 3 debate took place on 25 June 2013. No amendments were lodged and the Parliament agreed that the Crofting (Amendment) (Scotland) Bill be passed.

Public Bodies (Joint Working) (Scotland) Bill

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<th>SP Bill 32</th>
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<td>Introduced on:</td>
<td>28 May 2013</td>
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<tr>
<td>Promoted by:</td>
<td>Alex Neil MSP (Government Bill)</td>
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<tr>
<td>Passed:</td>
<td>25 February 2014</td>
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<tr>
<td>Royal Assent:</td>
<td>1 April 2014</td>
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2014 asp 9

Passage of the Bill

The Public Bodies (Joint Working)(Scotland) Bill was introduced in the Parliament on 28 May 2013 by the Cabinet Secretary for Health and Wellbeing, Alex Neil MSP. The Health Committee was designated lead Committee on the Bill and issued a call for evidence on the general principles of the Bill which received 81 submissions. A summary of the evidence received was included in the SPICe stage 1 briefing on the Bill.
The Committee took oral evidence on the Bill at its meetings on 3, 10, 17 and 24 September and 1 October 2013. It published its stage 1 report on 18 November 2013. Two visits were also undertaken by Committee members. On 23 September 2013, members of the Committee visited projects in Inverness, as guests of Highland Council and NHS Highland. On 30 September 2013, members visited West Lothian Council and the Lothian Centre for Independent Living.

Consideration of the Bill at stage 1 concluded with the stage 1 debate on 26 November 2013. Consideration of amendments at stage 2 took place at the Committee meetings on 21 and 28 January 2014. Following the stage 3 debate on 25 February 2014, the Bill was passed and received Royal Assent on 1 April 2014.

**Purpose and objectives of the Bill**

The main policy objective of the Bill was to achieve greater integration in health and social care services in order to:

“...improve the quality and consistency of services for patients, carers, service users and their families; to provide seamless, joined up quality health and social care services in order to care for people in their homes or a homely setting where it is safe to do so; and to ensure resources are used effectively and efficiently to deliver services that meet the increasing number of people with longer term and often complex needs, many of whom are older.” (Policy Memorandum, page 1)

**Provisions of the Bill**

The Bill proposed to require health boards and local authorities to create an integration plan for the local authority area. This will be required for adult services but other services may also be included. The integration plan would be required to detail which model of integration had been chosen. The Bill outlines two available models. These are:

1) The body corporate model, where the health board and local authorities would delegate functions to a joint board headed by a chief officer, and
2) The lead agency model, where local authorities and health boards can delegate functions to each other under the oversight of a joint monitoring committee.

**Parliamentary consideration**

The Health and Sport Committee accepted the need for the Bill but noted a number of concerns and made a number of recommendations at stage 1. These included:

- that the Minister set out in more detail the governance arrangements for the body corporate model
- concerns about the range of services that would be included within the new integrated partnerships, for example, no requirement for housing services and children’s services to be included
• calls for the Cabinet Secretary to consider ways of strengthening the role of carers and the third and independent sectors in the integration arrangements
• the need for a streamlined complaints system to be used across the integrated health and social care landscape

Many of the amendments at stages 2 and 3 were technical in nature, however, more notable amendments agreed to included:

• a requirement that, where an acute hospital serves two or more integration authority areas, each authority will be given an indicative share of the acute budget to direct (a ‘set aside’ budget).
• the inclusion of a process for the approval, modification and resubmission of integration plans, along with timescales
• requiring Ministers to consult with NHS Boards, local authorities and integrated joint boards before making an order that integration authorities can employ staff directly
• clarifying that liability may rest with either the integrated authority, the health board or the local authority rather than just the integrated body. This was intended to enshrine the principle of responsibility resting with control.

Significant amendments not agreed to included the requirement for an integrated complaints system and the need for third sector sign off on strategic plans.

At stage 3 there was another attempt to include a single point of entry for a complaints system. However this amendment was not agreed to following arguments from the Cabinet Secretary that a review of the social work complaints system was already underway and that any changes to the complaints system would need to be consulted on.

**Burrell Collection (Lending and Borrowing) (Scotland) Bill**

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<td>Introduced on:</td>
<td>29 May 2013</td>
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<tr>
<td>Promoted by:</td>
<td>Glasgow City Council (Private Bill)</td>
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<tr>
<td>Passed:</td>
<td>21 January 2014</td>
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<tr>
<td>Royal Assent:</td>
<td>25 February 2014</td>
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2014 asp 4

**Passage of the Bill**
The *Burrell Collection (Lending and Borrowing) (Scotland) Bill* [SP Bill 33] was introduced in the Scottish Parliament on 29 May 2013. The Bill was introduced as a private bill, promoted by Glasgow City Council, and
parliamentary consideration therefore followed private bill procedure. The Burrell Committee (Lending and Borrowing) (Scotland) Bill Committee (the Burrell Committee) was established to scrutinise the Bill. It issued its Preliminary Stage Report on 11 November 2013. The Preliminary Stage Debate took place on 21 November 2013.

The Consideration Stage took place on 5 December 2013. No objections or amendments were received in relation to the Bill. The Scottish Parliament passed the Bill without amendment after the Final Stage debate on 21 January 2014. The Bill received Royal Assent on 25 February 2014 to become the Burrell Collection (Lending and Borrowing) (Scotland) Act 2014 (asp 4).

**Purpose and objectives of the Bill**

The purpose of the Bill was to remove the restrictions on lending items from the Burrell Collection to other museums and to enable externally-borrowed items to be displayed alongside objects from the Collection. The restrictions which existed on lending from, and borrowing into, the Collection prior to the passing of the Bill came from the agreement between the then City of Glasgow Corporation and Sir William Burrell, covering the original donation of the Collection (the Agreement) and from Sir William’s will (the Will).

The Bill was introduced while Glasgow City Council was considering plans to extensively renovate the purpose-built building which houses the Burrell Collection (which leaked to the extent that objects in the Collection were in danger). Items from the Collection could not be displayed during the renovation period, and it was argued that this would present an ideal opportunity to mount an international tour. It was noted that this may also help to raise funds towards the renovation costs.

**Provisions of the Bill**

The Bill made provision to override restrictions in the Agreement and Will to enable Glasgow City Council to lend items from the Collection and to display items borrowed from other institutions alongside objects from the Burrell Collection. The Bill required that Glasgow City Council publish a “lending code” outlining the basis on which its lending and borrowing powers would be exercised.

The lending code must be agreed with the “Burrell Trustees” (people appointed under Sir William’s will to purchase further items for the Collection using money left in trust for that purpose). The draft code provided by Glasgow City Council during consideration of the Bill also gave the Burrell Trustees a role in approving specific lending requests.

**Parliamentary consideration**

The Burrell Committee considered the Bill during the Preliminary Stage at meetings in June, September and October, including an evidence session held at Pollok House, beside the building which houses the Burrell Collection, in Glasgow. Evidence focussed on the views of the promoter and Burrell Trustees, practices of other collections limited by the terms of agreements or
bequests and whether developments in art shipping made it safe to move
delicate artworks and artefacts.

The Preliminary Stage Report recommended the principles of the Bill.
However, it also recommended that the Explanatory Notes which
accompanied the Bill were revised to include copies of the Agreement and
Will. The report stated (paragraph 106):

“It is the Committee’s view that the accompanying documents, as they
stand, do not allow proper scrutiny of the Private Bill and scrutiny would
be greatly improved by the addition of the Will and the Agreement
within the Explanatory Notes. This would also assist those referring to
the Act in the future.”

The promoters agreed to do this, and Supplementary Explanatory Notes
were made available on 30 November 2013.

No objections were received in relation to the Bill, and the Consideration
Stage and Final Stage passed without the Bill being amended.

Bankruptcy and Debt Advice (Scotland) Bill

Bill Number: SP Bill 34
Introduced on: 11 June 2013
Introduced by: John Swinney MSP (Government Bill)
Passed: 20 March 2014
Royal Assent: 29 April 2014

2014 asp 11

Passage of the Bill
The Bankruptcy and Debt Advice (Scotland) Bill was introduced in the
Scottish Parliament on 11 June 2013 by the Scottish Government. The
Economy, Enterprise and Tourism Committee (the Economy Committee)
conducted Stage 1 scrutiny at meetings in September, October and
November 2013.

The Finance Committee wrote to the Economy Committee on 18 September
2013 outlining the views it had received on the Bill’s Financial Memorandum.
The Delegated Powers and Law Reform Committee reported on the
delegated powers contained in the Bill (54th Report 2013 (Session 4)).

The Economy Committee published its Stage 1 report on 3 December 2013
and the Stage 1 Debate took place on 18 December 2013. The Scottish
Government responded to the Stage 1 Report in two letters to the Convener
The Economy Committee considered amendments to the Bill at Stage 2 on 22nd January 2014. The Stage 3 debate took place on 20 March 2014. The Bill, as amended, received Royal Assent on 29 April 2014 to become the Bankruptcy and Debt Advice (Scotland) Act 2014 (asp 11).

**Purpose and objectives of the Bill**
The Bill made a number of changes to personal bankruptcy law in Scotland. It was part of a suite of legislation which reformed “statutory debt solutions” (options provided for in legislation for those who cannot pay their debts) more generally, including the Debt Arrangement Scheme (Scotland) Amendment Regulations 2013 and the Protected Trust Deeds (Scotland) Regulations 2013. The reforms harmonised a debtor's treatment in relation to the various statutory options – for example, by ensuring that contributions from income are for the same amount and are made for the same length of time. The Scottish Government argued that the changes better balanced the needs of debtors and creditors.

Following on from the Bankruptcy and Debt Advice (Scotland) Act 2014, it is expected that the Scottish Government will introduce a Bankruptcy Consolidation Bill to consolidate the changes made by the 2014 Act and other legislation to the Bankruptcy (Scotland) Act 1985.

**Provisions of the Bill**
The key changes made by the Bill were:

- compulsory money advice for those entering bankruptcy
- financial education for bankrupt debtors whose circumstances indicate that it may be beneficial
- a “common financial tool” to be used to calculate how much of a debtor's income can be used to repay creditors.
- an extension of the time period a debtor may be expected to make payments from income from three to four years
- a “Minimal Asset Process” route into bankruptcy for those with little income and few assets.
- a freeze on a creditor’s ability to enforce debts (also known as a “moratorium on diligence”) while an application for a statutory debt solution is made
- removal of automatic discharge from bankruptcy
- transfer of powers from the sheriff court to the Accountant in Bankruptcy

**Parliamentary consideration**
The provisions of the Bill which proved most controversial during its parliamentary passage were:
• an increase in the time during which the practical effects of bankruptcy would be felt from three to four years – the Bill’s provisions extended the time period for which bankrupt debtors (who are assessed as being able to afford do so) make contributions from their income. It also extended the time period during which any assets acquired by a debtor automatically become the property of the trustee in the bankruptcy. Many stakeholders argued that these extensions punished debtors without resulting in clear advantages to creditors

• the fee paid by debtors to enter bankruptcy – the Bill did not set a fee to enter bankruptcy. However, it did introduce a new route (the “Minimal Asset Process”) into bankruptcy for low income debtors, accompanied by assurances that the cost to debtors of using this route would be less than under the current processes. Some stakeholders argued that any fee to enter bankruptcy was an unnecessary barrier for debtors

• the removal of automatic discharge from bankruptcy – the Bill introduced a new procedure for gaining discharge from bankruptcy which was specifically linked to a debtor’s co-operation during the bankruptcy process. Some stakeholders expressed concerns, both around the technical feasibility of the procedure and in relation to potential unintended consequences, such as debtors being stuck in bankruptcy for years

The Scottish Government brought forward Stage 2 amendments in a number of areas, including: to increase the maximum debt level which could be dealt with under the Minimal Asset Process; to make technical changes to the procedures covering discharge from bankruptcy; and to enable the Accountant in Bankruptcy to apply to a sheriff for advice when dealing with responsibilities which had previously been covered by the courts.

In addition, the Scottish Government amended the Bill to provide that trustees in bankruptcy could only recover assets directly from a bank where they had given written notice to the bank identifying the debtor and the funds in question. The purpose of this amendment was to reduce the risk to banks of offering accounts to undischarged bankrupts. It was hoped that its effect would be to make it easier for those in bankruptcy to access a bank account.

Opposition amendments to keep the time period during which contributions from income may be made at three years, remove the Accountant in Bankruptcy’s ability to charge a fee for entering bankruptcy via the Minimum Asset Process and to re-instate automatic discharge, were not agreed to.

The Scottish Government brought forward a number of technical amendments at Stage 3, which were agreed to. Opposition amendments dealing with contributions from income and re-instanting automatic discharge were again disagreed to. The Bill, as amended, was passed without division.
Criminal Justice (Scotland) Bill

Bill Number: SP Bill 35
Introduced on: 20 June 2013
Introduced by: Kenny MacAskill MSP (Government Bill)
Passed: 8 December 2015
Royal Assent: 13 January 2016

2016 asp 1

Passage of the Bill
The Criminal Justice (Scotland) Bill [SP Bill 35] was introduced in the Parliament in June 2013.

The Justice Committee was designated as lead committee for parliamentary consideration of the Bill. Its stage 1 report was published in February 2014, with the stage 1 debate taking place later the same month. The general principles of the Bill were agreed to following the debate.

Consideration of all stage 2 amendments was postponed in light of concerns about provisions in the Bill to abolish the general requirement for corroboration in criminal cases. During this postponement, an independent review was conducted into what additional measures might be needed in light of the planned abolition of the corroboration requirement.

The Justice Committee returned to its scrutiny of the Bill with consideration of stage 2 amendments in September and October 2015.

The Bill was passed following the stage 3 parliamentary debate in December 2015 and became the Criminal Justice (Scotland) Act 2016 following Royal Assent in January 2016.

Purpose of the Bill
The Bill as introduced included provisions:

- setting out police powers to arrest, hold in custody and question suspects, as well as the rights of suspects
- abolishing the current general requirement for corroboration in criminal cases and changing the rules on the level of jury majority needed for a guilty verdict
- seeking to facilitate the better preparation of sheriff and jury cases
- seeking to address delays in determining appeals and making changes to the way in which references from the Scottish Criminal Cases Review Commission (SCCRC) are dealt with
• establishing a Police Negotiating Board for Scotland to provide a forum for negotiating the pay and conditions of police officers

As discussed below, the Bill was subject to a number of significant changes during its passage through the Parliament.

Parliamentary Consideration
The most controversial measures contained in the Bill as introduced related to the proposal to abolish the current general requirement for corroboration in criminal cases. This was reflected in the Justice Committee’s stage 1 report, which noted that:

“The majority of Committee Members are of the view that the case has not been made for abolishing the general requirement for corroboration and recommend that the Scottish Government consider removing the provisions from the Bill.” (para 412)

In light of concerns about abolishing the requirement for corroboration, the Scottish Government established an independent review (the Post-corroboration Safeguards Review headed by Lord Bonomy) to consider what additional measures might be needed following abolition. In addition, the consideration of all stage 2 amendments was postponed until after publication of the review report. The report (the Bonomy report) was published in April 2015.

On the same day as the Bonomy report was published, the Cabinet Secretary for Justice announced that the Scottish Government now considered that the Bill should proceed with amendments to remove provisions on corroboration (and related measures dealing with jury majorities). He added that the Scottish Government still believed there to be a case for abolishing the requirement for corroboration, but that this would be best considered as part of a wider package of measures during the next parliamentary session.

As a result of stage 2 amendments, the provisions seeking to abolish the current requirement for corroboration were (along with those on jury majorities) removed from the Bill.

There was also significant debate (and changes made) in relation to a number of other topics. For example, during scrutiny of:

• provisions in the Bill dealing with police powers and the rights of suspects (including the provision of appropriate adult support for vulnerable suspects)

• amendments adding new provisions to take forward recommendations of an advisory group established in light of concerns about police use of non-statutory (or ‘consensual’) stop and search

• reforms dealing with the role of the High Court, in relation to possible miscarriages of justice, following a referral from the SCCRC

• amendments relating to support for children affected by parental imprisonment
The Bill, as amended, was passed without division.

**Marriage and Civil Partnership (Scotland) Bill**

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<th>SP Bill 36</th>
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<td>Introduced on:</td>
<td>26 June 2013</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Alex Neil MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>04 February 2014</td>
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<tr>
<td>Royal Assent:</td>
<td>12 March 2014</td>
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**Passage of the Bill**

The Marriage and Civil Partnership (Scotland) Bill was introduced on 26 June 2013. The Equal Opportunities Committee was designated as lead committee. The Bill completed stage 1 on 20 November 2013, stage 2 on 17 January 2014 and was passed at stage 3 on 4 February.

**Purpose and objectives of the Bill**

The purpose of the Bill is to make provision for the marriage of persons of the same sex. It also makes further provision regarding the persons who may solemnise marriage; marriage procedure and the places at which civil marriages may be solemnised. Provision would also be made for the registration of civil partnerships by celebrants of religious or belief bodies and gender change by married persons and civil partners.

**Provisions of the Bill**

The main provisions of the Bill are to:

- introduce same sex marriage and the religious and belief registration of civil partnerships
- protect religious and belief celebrants who do not wish to solemnise same sex marriage
- provide an opt in procedure for religious and belief bodies who want to solemnise same sex marriage or register civil partnerships
- allow civil partnership to change to marriage
- allow civil marriage ceremonies to take place anywhere agreed by the registrar and the couple, other than religious premises
- establish belief marriage ceremonies
- remove the requirement for a couple to divorce before obtaining a full gender recognition certificate
- automatically authorise Church of Scotland deacons to solemnise opposite sex marriage; and,
- introduce the possibility of qualifying requirements for religious and belief bodies so that they can be authorised to solemnise marriage or
register civil partnership, in light of increasing concerns over sham and forced marriages and marriages being carried out for profit or gain.

**Parliamentary consideration**
There were 77 amendments to the Bill lodged at stage 2 and a further 31 at stage 3. Members of the Scottish Parliament were allowed to consider this Bill as a matter of conscience and not along party lines. All Scottish Government amendments were agreed without division. One amendment by SNP Member Linda Fabiani was also passed. No other amendments were agreed to.

**Main changes to the Bill**

*Changing Civil Partnership to Marriage*
Following a recommendation by the Equal Opportunities Committee, and calls from stakeholders, Ministers now have the power to extend, by order, the categories of civil partnership which can change to marriage by undergoing a marriage ceremony in Scotland. This would enable civil partners in a partnership registered outwith Scotland to marry here. Clarification was also made so that persons changing their relationship from a civil partnership to a marriage will have the same rights and responsibilities regardless of whether the change occurs through a marriage ceremony or through the administrative route.

*Marriage ceremony*
Following a recommendation by the Equal Opportunities Committee concerning the language used in marriage declarations, the Scottish Government lodged an amendment to allow a gender neutral form of words to be used. Religious or belief bodies can use either gender specific or gender neutral language, or a mix of the two, depending on their beliefs and the couples’ requirements.

*Transgender spousal consent and gender recognition*
Amendments to section 4 of the Gender Recognition Act 2004 ensures that a person who has spousal consent to stay in the marriage and a person in a civil partnership whose partner is transitioning on the same day can receive a full Gender Recognition Certificate (GRC).

Further amendments were agreed in order that a person who does not have written spousal consent for their gender recognition, and who therefore obtains only an interim gender recognition certificate from the UK Gender Recognition Panel (GRP), may then apply to the sheriff court to convert to a full certificate.

The role of the sheriff in the conversion would be purely administrative. The sheriff is required to notify the trans person’s spouse that the application has been made and when it has been granted. The spouse is then permitted an indefinite right to apply for a non-contestable divorce. (This amendment only removes the need for spousal consent in Scotland.)
When gender recognition is granted, a revised marriage certificate would be issued only with the spouse’s agreement. Continuity of the marriage would not be impacted by the issue of the full gender recognition certificate. As such, the spouse’s financial, parental and other rights associated with the marriage would not be affected by the gender recognition.

A new addition was also made to Schedule 2 to the Bill which makes it possible for certain long-term transitioned persons to be able to apply to the GRP under a new “long term transitioned” process. There is a range of eligibility criteria to qualify for this process which would allow for simpler evidence requirements. This recognises the fact that those who have been living in their acquired gender in the long term may find it more difficult to assemble the evidence required by the GRP.

Provisions were also made for applications to the GRP for a full GRC in certain cases where the civil partner or spouse of a transgender person dies. The right of appeal to the Court of Session on a point of law against a decision by the panel to reject an application was also provided for.

*Reset*

The Bill repealed the defence for wives against the crime of reset (handling stolen goods).

**Reviews that will influence future action by the Scottish Government**

The Equal Opportunities Committee noted in its stage 1 report that the Scottish Government plans to consider issues relating to reform of civil partnerships, including opposite-sex civil partnerships, in its [forthcoming consultation and review](#). The review is planned for completion in early 2015. The Committee also heard in evidence from the Cabinet Secretary that the UK Government is planning to conduct a review on the issue of survivor pension benefits relating to same sex couples. Section 16 of the Marriage (Same Sex Couples) Act 2013 outlines the terms of the review. The review will extend to Scotland and is expected to report in July 2014. It will inform the Scottish Government’s approach to the public sector pension schemes which fall under its devolved responsibility.

**Main areas of debate**

All topics highlighted below were raised in discussion at stage 1 as well as in various amendments at stages 2 and 3 of the Bill Scrutiny.

*Adequate protections for those who believe in a traditional view of marriage*

There was a range of proposed amendments to further protect the rights and freedom of speech for those who hold a traditional view of marriage. In particular, assurances were sought within the legislation to ensure that this belief was one that was ‘worthy of respect in a democratic society’.

In relation to the public sector, it was viewed that the principle of ‘reasonable accommodation’ should be employed to protect civil registrars who do not wish to officiate at same sex marriages or public sector workers who may be asked to act against their conscience if they believe in traditional marriage. It was also proposed that public bodies should seek to make ‘reasonable
accommodation’ for religious groups who believe in traditional marriage in order to allow those organisations to maintain their ethos while using public facilities or undertaking public contracts.

Members in opposition to these proposals drew a distinction between a registrar fulfilling a public function and a celebrant performing a religious function. They also highlighted the protections in the Equality Act 2010 which would mean that a public sector body discriminating against a person or body because of their beliefs would be unlawful. They also questioned why these particular groups and views needed to be singled out for special protections when the Equality Act offers overarching protections.

It was proposed that an amendment be made to ensure that views (for or against) same sex marriage cannot be taken into consideration during the process of approving prospective foster carers or adoptive parents. The Cabinet Secretary stated that he did not consider the amendment necessary as it is already the case that views on same-sex marriage cannot in and of themselves disqualify anyone from becoming a foster carer or an adoptive parent.

*No compulsion to conduct same sex marriage*

There was a desire to strengthen the existing wording in the Bill to protect religious or belief bodies from being “compelled by any means” to carry out same-sex marriages. It was envisaged that the phrase “by any means” should cover, for example, the hire of public premises not being made conditional on a religious body having registered to conduct same-sex marriages. The Cabinet Secretary considered the amendment to be unnecessary, referencing the protections that are already in place within the Bill to protect religious bodies and celebrants.

*Review of legislation*

There was a call for a review of the legislation after 5 years in order to establish whether it is operating as intended. Opponents argued that post-legislative scrutiny is a matter for parliamentary committees and that the review could potentially destabilise the impact of the Bill.

*Equality Act 2010*

It was proposed that the commencement of the same-sex marriage elements of the Bill should be conditional upon the Equality Act 2010 being amended to specify that the protected characteristic of religion or belief includes the belief in marriage as being between a man and a woman. As the Equality Act is a reserved matter this was deemed to be outwith the competence of the Scottish Parliament and potentially a wrecking amendment, as the suggested changes would be unlikely to be implemented by the UK Government.
Passage of the Bill

The City of Edinburgh Council (Leith Links and Surplus Fire Fund) Bill [SP Bill 37] was introduced in the Parliament on 5 September 2013. The Bill is a private bill and is subject to different procedures than a public bill. The City of Edinburgh Council (Leith Links and Surplus Fire Fund) Bill Committee (the Committee) was established on 18 September 2013.

The 60 day objection period ran from 5 September 2013 to 4 November 2013. No objections were received. The Committee published its preliminary stage report on 16 December 2013. The preliminary stage debate took place on 21 January 2014. Following this, the Bill entered the consideration stage and the Committee’s final consideration of the Bill took place on 30 January 2014. The Final Stage debate took place on 18 February 2014. #

Purpose and objectives of the Bill

The Bill has two distinct objectives:

1. to allow for the erection of a statue of John Rattray (a leading 18th Century golfer) on Leith Links in Edinburgh; and

2. the modernisation, transfer and dissolution of the Surplus Fire Fund – a registered Scottish Charity set up to provide awards in relation to injury and meritorious service connected to fires in Edinburgh

Provisions of the Bill

Leith Links

The Bill relates to a proposal by the Leith Rules Golf Society\(^\text{13}\) to erect a statue of John Rattray (a leading 18th Century golfer) on Leith Links in Edinburgh where it is claimed that the first recorded rules of the game of golf were created. The location for the statue is the site of the former first hole of the old Leith Links golf course.

The problem confronted by this plan was that section 22 of the Schedule to the City of Edinburgh District Council Order Confirmation Act 1991 (the 1991

\(^{13}\)The Leith Rules Golf Society is an organisation formed in 2002 with the aim of increasing recognition of Leith as the home of the first recorded written rules of golf
Act) prohibits the construction of buildings on Leith Links other than those which fall into certain permitted categories.

Monuments or statues are not permitted categories under the 1991 Act. Section 1 of the Bill therefore amends section 22 of the Schedule to the 1991 Act so that the erection of a statue of John Rattray on Leith Links is no longer prohibited. Other existing building restrictions in the 1991 Act remain in place.

**Surplus Fire Fund**

The Surplus Fire Fund (“the Fund”) dates back to a series of fires which occurred in Edinburgh’s High Street in 1824. In its current form, the Fund is constituted under the Edinburgh Corporation Order Confirmation Act 1927 (the 1927 Act) as amended. The Fund is vested in the City of Edinburgh Council (the Council), as sole trustee.

The main aim of the Bill is to revitalise the Fund, which is apparently little used by individuals. This involves: expanding the charitable purposes for which its assets can be applied (section 2); transferring the property, rights, interests and liabilities of the Fund (section 3) to the Edinburgh Voluntary Organisations Trust (EVOT); and then dissolving the Fund (section 5). The Bill also places certain restrictions on EVOT’s actions in relation to the fund (section 4).

**Parliamentary consideration**

*Leith Links*

As regards Leith Links, issues were raised at the preliminary stage in relation to: the funding for the statute of John Rattray; the local consultation which had been carried out; the maintenance of the statute; the design of the statue/the possibility of metal theft occurring; and whether the Private Bill process was necessary.

As regards the Fund, issues were raised at the preliminary stage in relation to: the need for a Private Bill; the work carried out by EVOT; the goals behind expanding the Fund’s charitable purposes; and the consultation carried out by the Council.

No amendments were dealt with at the consideration stage and the Bill was passed on 18 February 2014 following the final stage debate.

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14 EVOT is a registered Scottish charity with a history of managing various grant programmes and funds in Edinburgh
Passage of the Bill
The Procurement Reform (Scotland) Bill [SP Bill 38] was introduced in the Parliament on 3 October 2013. Stage 1 commenced on 9 October 2013, with the Infrastructure and Capital Investment Committee as the lead committee. The Stage 1 (general principles) debate took place on 20 February 2014 and the Bill was passed following the Stage 3 debate on 13 May 2014.

Purpose and objectives of the Bill
The purpose of the Bill is to establish a national legislative framework for public procurement through placing a number of general and specific duties on public sector bodies involved in procurement ("contracting authorities").

Provisions of the Bill
Public procurement in Scotland is governed by a detailed and complex framework of European law and the Bill is framed within this existing EU legislation, but does not transpose new EU Directives agreed in 2014. Procurement above certain thresholds is mostly governed by EU law, so many of the Bill’s provisions only apply below these thresholds.

In addition to setting out that that they must comply with EU treaty principles even below the EU thresholds (as is the case at present), the Bill provides that contracting authorities must fulfil the terms of a “sustainable procurement duty”. Provision is also made for certain contracting authorities to publish procurement strategies and annual reports. The Bill also provides that contracting authorities must publish all regulated contracts on the Public Contracts Scotland website; apply community benefit requirements to all contracts at or above £4,000,000; and apply a number of other measures designed to offer benefits to potential bidders in terms of greater transparency, and ensuring that processes are proportionate.

For those regulated contracts with a value between those set out in the Bill, and the EU thresholds, the Bill provides remedies for suppliers, similar (but not identical) to those in place for above-EU threshold procurement at present.

Parliamentary consideration
Much debate during all stages of the Bill focussed on whether the Bill could require contracting authorities to include payment of the "living wage" as a condition in public contracts. Amendments to introduce a “Scottish Living
Wage Duty” at Stage 2 and Stage 3 were not agreed to. But at Stage 3, government amendments were agreed on the living wage, both in terms of contracting authorities’ procurement strategies and annual reports, and in the Scottish Government’s guidance on selection of tenderers.

Changes were also made to the Bill during the amending stages on:

- the publication of guidance on the sustainable procurement duty
- the definition of supported businesses
- the content of annual reports, including reporting on community benefits
- exemptions from the Bill for care and support services and university research
- a Scottish Government report on Scotland-wide procurement activity.

A number of other issues arose during parliamentary consideration of the Bill, including changing the bodies that the Bill applies to, and the extent to which small and medium sized enterprises would be able to benefit from the Bill. However, these issues either did not give arise to changes to the text of the Bill, or will be addressed in Scottish Government guidance.
Passage of the Bill
The Defective and Dangerous Buildings (Recovery of Expenses) (Scotland) Bill [SP Bill 39] was introduced in the Parliament on 30 October 2013 by David Stewart MSP. The Local Government and Regeneration Committee was appointed as lead committee for Stage 1. The Committee’s Stage 1 report was published on 18 March 2014. The Stage 1 debate took place on 3 April 2014 and Parliament agreed the general principles of the Bill unanimously.

Twenty six amendments to the Bill were proposed at Stage 2. Of these, 22 were lodged by Derek Mackay MSP, the Minister for Local Government and Planning, and four by David Stewart MSP. All amendments were agreed without division. The title of the Bill was amended at Stage 2, with the words “Defective and Dangerous” removed from the title.

Thirteen amendments were lodged at Stage 3. All amendments were agreed to without division. The Bill was passed unanimously at Stage 3, without amendment, on 19 June 2014.

Purpose and objectives of the Bill
The Bill amends the Building (Scotland) Act 2003 (“the 2003 Act”) to allow local authorities to make charging orders for the recovery of expenses incurred where they have carried out work to defective or dangerous buildings under sections 28, 29 or 30 of the 2003 Act.

A charging order is a method of debt recovery available to local authorities under certain statutes. A charging order declares that a building is burdened with an annuity (i.e. an annual payment due to the local authority) to repay the expenses incurred by the authority.

Provisions of the Bill
The Bill amends the 2003 Act to allow a local authority to make a charging order in respect of certain expenses incurred in undertaking work to a dangerous or defective building. It provides definitions of the key terms “qualifying expenses” and “repayable amount”, sets out the core terms of a charging order and how these are to be repaid and discharged. It also defines how a local authority should register, and discharge, a charging order and specifies the liabilities of new owners and continuing liabilities of former owners.
Parliamentary consideration

Three key concerns were raised during Stage 1 consideration of the Bill. The first concerned the relative inflexibility of the specified 30 year timescale for cost recovery by charging order. Local authorities and representatives from the building and property industries thought that cost recovery should be made over a period based on the level of cost incurred and the property owners’ ability to pay. Amendments at Stage 2 allowed for the duration of the charging order to be varied from the usual 30 year term.

Secondly, concerns were raised about the limited scope for using charging orders to recover expenditure made under the 2003 Act. Amendments were made at Stage 2 to extend the circumstances under which a charging order could be used to recover local authority expenditure to include where building regulations compliance notices; continuing requirement enforcement notices and building warrant enforcement notices have been issued.

Finally, concerns were raised about the liability of owners, particularly where a property is sold before a charging order could be registered. Amendments were subsequently made at Stage 2 to ensure that current and new owners were jointly liable with the seller for unpaid amounts at the time of sale. Amendments were also made at stage 3 to ensure that charging orders would only apply where the person liable for the expense that is the subject of a charging order is the owner of the building.

Assisted Suicide (Scotland) Bill

Bill Number: SP Bill 40
Introduced on: 13 November 2013
Introduced by: Margo MacDonald MSP (Member’s Bill)
Fell: 27 May 2015

Passage of the Bill

The Assisted Suicide (Scotland) Bill [SP Bill 40] was introduced in the Scottish Parliament on 13 November 2013 by Margot MacDonald MSP.

This was the second attempt by Margo MacDonald to introduce a form of assisted dying in Scotland. Her previous End of Life Assistance (Scotland) Bill was considered by the Scottish Parliament in Session 3 but was defeated after the stage 1 debate by 85 votes to 16, with 2 abstentions.

Sadly, Ms MacDonald passed away on 4 April 2014. On the Assisted Suicide (Scotland) Bill’s introduction, Patrick Harvie MSP had, under Rule 9.2A of the Parliament’s Standing Orders, been designated as an “additional Member in Charge” of the Bill. Such a member can exercise any right conferred on the “member in charge” by Standing Orders. Accordingly, Patrick Harvie took over responsibility for the Bill after Ms MacDonald’s death.
The Health and Sport Committee was designated as the lead committee by the Parliament and, as such, was required to report to the Parliament on the general principles of the Bill. The Justice Committee was assigned as secondary committee for stage 1 consideration of the Bill and focussed its evidence-taking on the practical application and legal aspects of the Bill, as well as compliance of its provisions with the European Convention on Human Rights (ECHR). The Justice Committee published its report to the Health and Sport Committee on 8 January 2015.

Following the Bill’s introduction, the Health and Sport Committee issued a call for evidence which ran from 13 March 2014 to 6 June 2014. The Committee received 886 submissions during this period with 16 further submissions after the closing date. The Committee took evidence on the Bill at its meetings on 13, 20 and 27 January and 3 and 17 February 2015 and published its stage 1 report on 30 April 2015 (see below).

Objectives of the Bill
The stated policy objective of the Bill was to enable:

“...people with terminal or life-shortening illnesses or progressive conditions which are terminal or life-shortening and who wish to end their own lives to obtain assistance in doing so. It does this by removing criminal and civil liability from those who provide such assistance provided that the procedure set out in the Bill is followed. This procedure for accessing a lawful assisted suicide is designed to ensure that the individual seeking it meets the Bill’s eligibility criteria, has made his or her own informed decision to end his or her life and has had the opportunity to reflect before moving forward at key stages.”

Key provisions in the Bill
To be eligible to receive assistance to commit suicide under the Bill, an individual would require to:

- be diagnosed with an illness or progressive condition that was terminal or life-shortening;
- have come to the conclusion that his or her quality of life was unacceptable and that there was no prospect of any improvement;
- be aged 16 or over;
- be registered with a Scottish medical practice; and
- have the legal capacity to make such a decision.

The Bill did not specify what means of death would be available to an eligible individual but the accompanying documents to the Bill envisaged what would constitute “physician assisted suicide”, whereby a doctor would provide a
prescription for a drug that would end the person’s life painlessly. The Bill envisaged the cause of death being the result of the individual’s own act and no-one else’s.

Parliamentary consideration
In its stage 1 report, the Health and Sport Committee, “noted the good intentions of the Member in Charge of the Bill” and recognised the complexity of the various moral and ethical issues that consideration of the Bill presented.

The Committee also recognised the strength of feeling expressed by those who gave evidence both in support of, and in opposition to, the general principles of the Bill. The Committee recommended that the Parliament should approach the stage 1 decision with due respect for this diversity of views.

The Committee concluded that the bill contained significant flaws and that these flaws presented major challenges as to whether the Bill could be progressed. A majority of Committee members did not support the general principles of the Bill and, as the issue of assisted suicide was a matter of conscience, the Committee chose to make no formal recommendation to the Parliament on the Bill.

The stage 1 debate took place on 27 May 2015. MSPs were given a free vote on the Bill at stage 1.

During the stage 1 debate, Patrick Harvie acknowledged that there were clearly areas in the Bill where there was room for improvement, and he gave a commitment to work with other members to make those improvements should the Bill be passed at stage 1. He stated:

“I ask members who see the case for a change in the law, whether or not they are convinced by the detail of the bill, to let us go on after today to debate the detail, make changes if necessary and send a clear signal that society is moving away from a paternalistic approach to care at the end of life towards one that empowers people to make their own informed decisions and which respects people on those terms.”

However, following the stage 1 debate, the Assisted Suicide (Scotland) Bill fell as it was defeated by 82 votes to 36, with no abstentions.
### Housing (Scotland) Bill

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<tr>
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<td>21 November 2013</td>
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<tr>
<td>Introduced by:</td>
<td>Nicola Sturgeon MSP (Government Bill)</td>
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<td>Passed:</td>
<td>25 June 2014</td>
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### Passage of the Bill

The Infrastructure and Capital Investment (ICI) Committee began taking Stage 1 oral evidence on the general principles of the Bill [SP Bill 41] on 15 January 2014. The Committee’s Stage 1 Report was published on 3 April 2014. The Stage 1 debate took place on 24 April 2014. Stage 2 proceedings commenced on 14 May 2014. The Bill was passed following the Stage 3 parliamentary debate on 25 June 2014, receiving Royal Assent on 1 August 2014.

### Purpose and objectives of the Bill

According to the Bill’s Policy Memorandum, the Scottish Government’s vision is that all people in Scotland live in high-quality, sustainable homes that they can afford and that meet their needs. This Bill aims to contribute to that vision through its main policy objectives of:

- safeguarding the interests of consumers
- supporting improved quality
- delivering better outcomes for communities.

### Provisions of the Bill

The Bill, as introduced, was in 7 parts and 2 schedules. The Bill was structured as following:

- **Part 1** sought to abolish the right to buy.

- **Part 2** sought to: amend provisions in the Housing (Scotland) Act 1987 that govern the requirements for social landlords to give certain people “reasonable preference” when they allocate housing and factors that may be considered in the allocation of social housing; make provision for the use of short Scottish secure tenancies where there has been a history of antisocial behaviour and for temporary lets to homeowners; extend the term of the short Scottish secure tenancy and introduce qualifying periods before tenants can exercise rights to assign, sub-let or request a joint tenancy.

- **Part 3 and Schedule 1** proposed to transfer jurisdiction for civil cases relating to the private rented sector from the sheriff court to the First-tier
Tribunal; introduce a time limit for determining applications for landlord registration; and allow local authorities to apply to the private rented housing panel for enforcement of the repairing standard

- Part 4 sought to provide for a registration system for letting agents. Letting agents would be required to register with the Scottish Government and adhere to a Letting Agent Code of Practice.

- Part 5 proposed to amend the site licensing requirements for mobile home sites with permanent residents.

- Part 6 sought to amend local authority powers to enforce repairs and maintenance in private homes. It proposed that local authorities could use repayment charges to recover the costs of paying missing shares from the owner on whose behalf the missing share was paid.

- Part 7 sought to make a number of miscellaneous amendments including to exiting legislation, for example, regarding the Scottish Housing Regulator’s powers to transfer assets following inquiries.

- Part 8 made supplementary and final provisions.

**Parliamentary consideration**

SPICe briefings 14-02 and 14-45 provide more information on the Bill as introduced and as amended at Stage 2.

**Stage 1:** In their Stage 1 Report, the ICI Committee welcomed the Housing (Scotland) Bill as providing a package of measures which will contribute to the improvement of housing in the social, private rented and owner-occupied sectors.

The Committee made a number of recommendations. In particular:

- the Committee considered that the three-year notice period for the end of the right to buy was excessive and recommended that the notice period should be reduced to 1 year from the date on which the Bill receives Royal Assent (Alex Johnstone MSP dissented from this recommendation).

- the Committee noted the concerns of many stakeholders regarding the provision that would have allowed social landlords to take a housing applicant’s age into account when they allocated housing. The Committee considered that the use of the provision should be monitored.

- in relation to the physical standard of private rented properties, the Committee supported the introduction of: mandatory five yearly checks of electrical appliances; the provision of suitable mains smoke alarms and the mandatory installation of carbon monoxide alarms.
in relation to mobile home licensing, the Committee was concerned at the suggestion that financial lenders may withdraw support for sites on the basis of the introduction of fixed term licences.

Stage 2: At Stage 2, 155 amendments were lodged. All Government amendments were agreed to. The substantive amendments which were agreed at Stage 2 sought to:

Right to Buy: Reduce the notice period for the end of the right to buy from at least three years from the date of Royal Assent to at least two years.

Social Housing: Remove provision that would have removed the prohibition on social landlords taking age into consideration for the allocation of social housing.

Private Rented Housing

- Add the requirement for the installation of carbon monoxide detectors to the Repairing Standard. The Repairing Standard is a minimum standard that private landlords must ensure their properties meet (as set out in section 13 of the Housing (Scotland) Act 2006).
- Introduce a duty on private landlords to ensure regular electrical safety inspections are carried out on their properties at least every five years.
- Give local authorities a new power to enter any properties they suspect do not meet the Repairing Standard, for the purpose of making an application to the Private Rented Housing Panel to enforce the Repairing Standard.

Registration of Letting Agents

- Strengthen the provisions regarding enforcement of the proposed registration of letting agents scheme, including a power for the Scottish Ministers to inspect premises that appear to be used to carry out letting agency work.
- Provide the Scottish Ministers with a power to specify the training requirements that letting agents must meet to be registered.

Residential Mobile Home Licensing

- Provide that residential mobile site licences will last for five years, rather than three years, as the Bill as introduced proposed.

Scottish Housing Regulator - Transfer of Assets following inquiries

- Provide that the Scottish Housing Regulator must consider as two separate exercises whether there is time to consult a) tenants and b) lenders of a registered social landlord (RSL) before directing a transfer
of assets where the RSL is in financial jeopardy (without the normal consultation requirements).

_RSL Disposal and Restructuring_

- Require that tenants of a RSL must be balloted before the RSL becomes a subsidiary, or part of group structure, of another body.

**Stage 3:** Amendments passed at Stage 3 included those that:

- make changes to existing powers for local authorities to issue repayment charges which previously had to be recovered in 30 equal annual instalments. Local authorities have the power to determine a reasonable repayment period of between five and 30 years.

- give Scottish Ministers the power to make regulations to allow registered social landlords to recover, by repayment charge, the costs of missing shares paid for repair and maintenance work on behalf of private home-owners in a tenement.

- provide that Scottish Ministers must make regulations for a scheme that would enable local authorities to apply to Scottish Ministers for additional discretionary powers to target enforcement in areas subject to poor housing conditions in the private rented sector. Such areas would be designated as Enhanced Enforcement Areas (EEAs).

The Bill, as amended at Stage 3, was passed following a division: For 93, Against 12, Abstentions 0).

**Criminal Verdicts (Scotland) Bill**

<table>
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<th>Bill Number:</th>
<th>SP Bill 42</th>
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<tr>
<td>Introduced on:</td>
<td>27 November 2013</td>
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<tr>
<td>Introduced by:</td>
<td>Michael McMahon MSP (Member’s Bill)</td>
</tr>
<tr>
<td>Fell:</td>
<td>25 February 2016</td>
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**Passage of the Bill**

The [Criminal Verdicts (Scotland) Bill](link) was introduced in the Parliament in November 2013.

The Justice Committee was designated as lead committee for parliamentary consideration of the Bill. Its stage 1 report was published in February 2016, with the stage 1 debate taking place later the same month.
Following the stage 1 debate, a majority of MSPs voted against a motion seeking the agreement of the Parliament to the general principles of the Bill.\textsuperscript{15} As a result, the Bill fell on that date.

**Purpose of the Bill**

Under current rules:

- three verdicts are available to a judge or jury in a criminal trial – guilty, not guilty and not proven. In legal terms, the implications of a not proven verdict are the same as a not guilty verdict in that the accused is acquitted
- a jury returns a verdict of guilty where at least eight of its members support that verdict. This level of support is required whether the jury has a full complement of 15 jurors or is reduced in numbers (eg because one or more jurors have been excused). Under these rules, a person can be convicted on the basis of a simple majority (ie eight out of 15 jurors)

The Bill sought to:

- remove the not proven verdict as an option in criminal trials, leaving two possible verdicts of guilty and not guilty
- change the rules relating to the number of jurors who must support a guilty verdict before the jury as a whole returns such a verdict, effectively requiring at least two-thirds in favour of a guilty verdict

The proposals for changing the level of juror support required for a guilty verdict were advanced as a way of ensuring that abolition of the not proven verdict did not heighten the risk of wrongful convictions.\textsuperscript{16}

**Parliamentary Consideration**

The Committee’s stage 1 scrutiny of the Bill was postponed whilst the Criminal Justice (Scotland) Bill (a Scottish Government bill) completed its passage through the Parliament. The decision to delay scrutiny was based on the fact that there was an overlap between the two bills in relation to the reform of jury majorities. The Government bill (as introduced) also included, although for different reasons, provisions seeking to move to a system under which a guilty verdict would require the support of at least two-thirds of jurors. The relevant provisions of the Government bill were removed prior to it being passed in December 2015.

The Government, whilst indicating that it was open to the possibility of the not proven verdict being removed in the future, favoured retaining current arrangements until evidence from planned jury research becomes available. This approach to potential reforms was also reflected in the recommendations set out by the Committee in its stage 1 report:

\textsuperscript{15} The motion was disagreed to by division: For 28, Against 80, Abstentions 0; with mainly Labour members voting for.

\textsuperscript{16} See paragraph 16 to 18 of the policy memorandum published along with the Bill.
“A clear majority of the Committee supports the intention of the Bill to abolish the not proven verdict but not the proposal in relation to jury majorities. The Committee considers that the latter proposal should be considered alongside the other reforms proposed by Lord Bonomy.17

In the Committee’s view, Mr McMahon has effectively acknowledged that removal of the not proven verdict requires consideration of wider issues relating to decision-making by juries by proposing in the Bill parallel reforms in relation to jury majorities. The Committee understands the reasons for Mr McMahon including this measure in the Bill but notes the opposition to this proposal that arose in written evidence. In our view, this underlines the benefit of further research on decision-making by juries before proceeding with the reforms set out in the Bill.

The Committee hopes that the research on juries announced by the Scottish Government will proceed soon.

A majority of the Committee is therefore unable to support the general principles of the Bill.” (p 15)

As noted above, the Bill fell at stage 1 after a majority of MSPs voted against a motion seeking the agreement of the Parliament to its general principles.

Revenue Scotland and Tax Powers Bill

Bill Number: SP Bill 43
Introduced on: 12 December 2013
Introduced by: John Swinney MSP (Government Bill)
Passed: 19 August 2014
Royal Assent: 24 September 2014

2014 asp 16

Passage of the Bill
The Revenue Scotland and Tax Powers Bill [SP Bill 43] was introduced on 12 December 2013. The Stage 1 debate took place on 20 May 2014; the Bill was considered at Stage 2 on 11 June and passed by the Parliament on 19 August 2014.

Purpose and objectives of the Bill
The Revenue Scotland and Tax Powers Bill is the third of three related Bills implementing powers devolved to the Scottish Parliament under the Scotland Act 2012.

17 The Post-corroboration Safeguards Review (also referred to as the Bonomy Review) was established to consider what additional measures might be needed in light of the planned abolition of the requirement for corroboration in criminal cases.
Its purpose is to establish Revenue Scotland; to establish Scottish tax tribunals; to put in place a general anti-avoidance rule; to make provision about the collection and management of devolved taxes; and for connected purposes.

Provisions of the Bill
The Bill makes provision for a Scottish tax system that allows for the collection and management of Land and Buildings Transaction Tax (LBTT) and Scottish Landfill Tax (SLfT). It establishes Revenue Scotland as the tax authority responsible for the collection and management of devolved taxes.

The Bill comprises twelve parts and proposes a number of subordinate legislation provisions. Revenue Scotland is established as a non-ministerial department with its own legal status, and accountable to the Scottish Parliament. Much of the Bill is administrative in nature with proposals that are required in any tax system around responsibilities of the tax authority and taxpayers, use of taxpayer information, penalties for non-compliance and appeal procedures.

The proposed Scottish General Anti-Avoidance Rule (GAAR) is the only part of the Bill that relates to the interpretation of tax law. The Scottish General Anti-Avoidance Rule is designed to be broader in scope than the UK General Anti-Abuse Rule.

The Bill received Royal Assent on 24 September 2014 to become the Revenue Scotland and Tax Powers Act 2014 (asp 16)

Disabled Persons’ Parking Badges (Scotland) Bill

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<th>Bill Number:</th>
<th>SP Bill 44</th>
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<td>Introduced on:</td>
<td>17 December 2013</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Dennis Robertson MSP (Member’s Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>19 August 2014</td>
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<tr>
<td>Royal Assent:</td>
<td>24 September 2014</td>
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2014 asp 17

Passage of the Bill
The Disabled Persons’ Parking Badges (Scotland) Bill [SP Bill 44] was introduced on 17 December 2013. The Local Government and Regeneration Committee was designated as lead committee. The Bill completed stage 1 on 20 May 2014, stage 2 on 11 June 2014 and was passed by the Parliament at stage 3 on 19 August.
Purpose and objectives of the Bill
The Disabled Persons’ Parking Badges (Scotland) Bill is a Member’s Bill supported by the Scottish Government. It aims to tackle the misuse of the Blue Badge scheme and improve the quality of life for disabled people by freeing up parking spaces for legitimate Blue Badge users. Badge misuse may take a range of forms. For example, allowing a friend or family member to use the badge when the disabled person it belongs to is not in the car, tampering with a badge or using a badge that is out of date.

Provisions of the Bill
The main provisions are as follows:

- **Section 1 - Form of badge** provides that the form of a blue badge must fulfil any requirements specified in regulations or set administratively by the Scottish Ministers.
- **Section 2 – Power to cancel badge** provides a power for local authorities to cancel badges which are no longer held by the person to whom they were issued.
- **Section 3 – Power to confiscate badge** extends the provision which currently allows a constable or other enforcement officer to examine a blue badge to allow confiscation where it is apparent that the badge should have been returned to the local authority or has been cancelled, misused or forged.
- **Section 4 - Offence of using cancelled badge** it is made an offence to use a badge that should have been returned to the local authority as provided for in the regulations or to use a badge that has been cancelled.
- **Section 5 – Enforcement officers** provides a power for local authorities to designate certain persons (other than parking attendants in uniform) to examine and retain badges in pursuance of matters relating to fraud or misuse of a blue badge.
- **Section 6 – Review of local authority decision** allows the making of regulations to require local authorities to have review processes in place for applicants who have been refused a blue badge on grounds of eligibility.

Parliamentary consideration
SPICe briefings SB 14/24 and SB 14/53 provide more detail on the Bill as introduced and at stage 2. No amendments were agreed to at Stage 2 or Stage 3 of the scrutiny process.

Key points of discussion during Stage 1 scrutiny related to the creation of a criminal offence for using a cancelled badge and whether the proposed review process would adequately meet the needs of scheme users. Evidence submissions questioned badge holders’ ability to identify the proposed non-uniformed enforcement officers and outlined the need for clear and sensitive guidance in relation to badge confiscation. They also highlighted the need for improved education surrounding what constitutes badge misuse. In written evidence, COSLA outlined concerns at the withdrawal of the Police Scotland
Traffic Warden Service and the impact this would have on local authorities in terms of enforcement.

At Stage 2, seven amendments were lodged which focused on the following topics:

- Limiting the power to confiscate badges.
- Protecting disabled people from fraud and identifying non-uniformed enforcement officers.
- Protecting disabled people from being punished for inadvertently using a non-valid badge
- Making guidance statutory and ensuring the local authorities must have regard to it.

As noted above, all amendments were withdrawn following debate.

**Budget (Scotland) Bill**

- **Bill Number:** SP Bill 45
- **Introduced on:** 16 January 2014
- **Introduced by:** John Swinney MSP (Government Bill)
- **Passed:** 5 February 2014
- **Royal Assent:** 12 March 2014

**Passage of the Bill**

The Budget (Scotland) Bill [SP Bill 45] was introduced on 16 January 2014. The Stage 1 debate took place on 22 January, the Finance Committee considered the Bill at Stage 2 on 29 January and the Bill was passed by the Parliament on 5 February 2014.

**Purpose and objectives of the Bill**

The Budget Bill is the final stage in the annual budget process and this Bill gives parliamentary authority for spending in Scotland for financial year 2014-15. The budget process is intended to allow the Parliament’s subject committees the opportunity to comment on the Scottish Government’s spending plans prior to the annual budget being agreed. The expectation is for the subject committees to play an active role in scrutinising and making recommendations on spending priorities.

**Provisions of the Bill**

The Bill authorises approximately £33bn of cash expenditure by the Scottish Government and its associated bodies, other organisations whose core funding is centrally provided (e.g. local authorities and health boards), the Forestry Commissioners, the Food Standards Agency, the Scottish Parliamentary Corporate Body and Audit Scotland.
Passage of the Bill
The Courts Reform (Scotland) Bill [SP Bill 46] was introduced in the Scottish Parliament on 6 February 2013 by the Scottish Government. The Justice Committee conducted Stage 1 scrutiny at meetings in March and April 2014.


The Justice Committee published its Stage 1 Report on 9 May 2014 and the Stage 1 Debate took place on 21 May 2014. The Scottish Government responded to the Stage 1 Report in a letter to the Justice Committee dated 2 June 2014.

The Justice Committee considered amendments to the Bill at Stage 2 on 10 June and 17 June 2014. The Delegated Powers and Law Reform Committee published its report on the delegated powers provisions of the Bill as amended at Stage 2 on 7 October 2014. The Stage 3 debate also took place on this date. The Bill, as amended, received Royal Assent on 10 November to become the Courts Reform (Scotland) Act 2014 (asp 18).

Purpose and objectives of the Bill
The overarching objective of the Bill was to address the problems identified in the Scottish Civil Courts Review headed by Lord Gill (also known as ‘the Gill Review’). The Gill Review made a wide range of recommendations designed to improve the efficiency and effectiveness of Scotland’s civil courts.

Note that not all Lord Gill’s recommendations were taken forward in the Bill. Some were departed from; others were addressed by other means, including the Scottish Government’s Making Justice Work programme and modernised court rules.

Provisions of the Bill
The Bill proposed a number of reforms to court structure, organisation and procedure. These included the following key reforms:
• an increase in the ‘exclusive jurisdiction’ (or ‘exclusive competence’) of the local sheriff courts so that more cases would be heard there rather than in the Court of Session

• the creation of a new judicial tier in the form of the ‘summary sheriff’, who will deal with less serious criminal cases and less complex civil matters

• the creation of a Sheriff Appeal Court to hear appeals from the decisions of sheriffs in civil and summary criminal matters. Permission will be required before appeal to a superior court is possible

• increased sheriff specialisation, both in the form of specialisation by individual sheriffs and specialist courts, such as the proposed specialist personal injury court

• changes to the rules relating to ‘judicial review’, a type of court action which allows individuals and organisations to challenge the exercise of power by public bodies and other official decision makers

Parliamentary consideration

The jurisdiction of the sheriff courts
Much of the debate at Stage 1 focused on the appropriate level at which the ‘exclusive competence’ of the sheriff court should be set. This competence is expressed as a monetary amount and indicates which cases must be heard in the sheriff court. The previous limit was £5,000 but the Bill proposed to increase the exclusive competence to £150,000.

In its Stage 1 report, the Justice Committee took the view that the proposed increase was too great a leap and recommended that the Scottish Government introduce a lower limit.

At Stage 2, a non-Government amendment, which set the level of the exclusive competence of the sheriff court at £100,000, was agreed to.

Sanction for counsel
Counsel (or ‘advocates’ as they are also known) are lawyers who specialise in presenting arguments to the higher courts in Scotland (i.e. the Court of Session in civil cases), although they can also appear in the sheriff courts.

In the Court of Session, the winning party typically recovers his or her legal expenses of instructing counsel from the losing party. That is not the position in the sheriff court, where the expenses of instructing counsel are recoverable only if the sheriff sanctioned the employment of counsel.

Part of the policy debate associated with altering the exclusive competence of the sheriff court was linked to the absence of automatic sanction for counsel in the sheriff courts. Concerns were raised by some stakeholders that, as a result, parties would sometimes not get access to the best legal advice.

The report of the Taylor Review (which looked at the funding of civil litigation in Scotland) recommended that the current test for sanctioning counsel be
amended. Specifically, a general test of reasonableness should be added, along with the need to have regard to the resources of the other party in the case. In its Stage 1 Report the Justice Committee recommended that this amended test be included on the face of the Bill. At Stage 2, a non-government amendment giving effect to this change was agreed to.

There were further non-governmental amendments at Stage 3 which proposed further alterations to the test to make it more likely that counsel would be sanctioned in the sheriff courts. These amendments included proposals relating to specific types of case. All of these amendments were disagreed to or not moved.

Resources
At Stage 1, some stakeholders raised concerns about whether the sheriff court system could cope with the increase in business created by the new exclusive competence of the sheriff courts.

At Stage 2, non-government amendments sought to address these concerns. They included proposals that orders bringing into force certain parts of the Bill, where concerns about resources had been expressed, would be subject to the affirmative procedure in the Scottish Parliament. These amendments were disagreed to. There were similar non-government amendments at Stage 3 and these were also disagreed to.

The Sheriff Appeal Court

Whether experienced sheriffs should be Appeal Sheriffs
Under the current system, civil cases begun in the sheriff courts are initially heard and decided upon by sheriffs, whereas sheriffs principal (senior local judges) hear appeals from those decisions. The Bill provided for existing sheriffs principal to be Appeal Sheriffs (section 48) in the new Sheriff Appeal Court but also, unlike the recommendation of Lord Gill in this regard, for sheriffs with five years’ experience to be eligible for appointment (section 49).

In its Stage 1 Report, the Justice Committee recommended that only sheriffs principal should hear appeals in the Sheriff Appeal Court. The Scottish Government did not accept this recommendation. At Stage 2, non-government amendments aimed to make only sheriffs principal eligible for appointment as Appeal Sheriffs. These were disagreed to. Furthermore, at Stage 3 there were non-government amendments which aimed to give effect to the policy intent of Lord Gill’s original recommendation by different means. These were also disagreed to.

How many Appeal Sheriffs should hear appeals?
The Bill allows court rules to be made on the number of judges required to hear an appeal in particular circumstances. The Financial Memorandum to the Bill (para 116) assumes that 95% of civil appeals will get a hearing in front of one Appeal Sheriff, with only 5% of cases requiring a bench of three. At Stage 1, some stakeholders expressed concerns about this approach.
At Stage 2, non-government amendments aimed to ensure that a minimum of three judges heard appeals in the Sheriff Appeal Court in both civil and criminal matters. They would also have required one of the judges hearing the appeal to be a sheriff principal and another to be a subject specialist in the relevant subject area. These amendments were not moved.

**Judicial review**
One of the key changes proposed by the Bill relating to judicial review was the introduction of a three month time limit to commence an action (with the court retaining discretion to allow an action to be commenced outside this timeframe). This new limit would apply to judicial review actions relating to the European Convention on Human Rights. Previously such actions were subject to a one year time limit.

At Stage 1, several stakeholders expressed concern that the proposed limit was too restrictive, particularly where the party raising the action had to apply for legal aid.

At Stage 2, various non-government amendments aimed to either remove the three month time limit or to soften its impact in practice. On the other hand, other non-government amendments sought to introduce a six week time limit for cases relating to planning or procurement issues. All amendments at Stage 2 were either not moved or moved but, with agreement, withdrawn.

At Stage 3, various non-government amendments proposed the alternative time limits of six months and one year respectively. These amendments were either disagreed to or not moved.

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**Historic Environment Scotland Bill**

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<td>Introduced on:</td>
<td>3 March 2014</td>
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<tr>
<td>Introduced by:</td>
<td>Fiona Hyslop MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>4 November 2014</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>9 December 2014</td>
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2014 asp 19

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**Passage of the Bill**
The **Historic Environment Scotland Bill** [SP Bill 47] was introduced by Fiona Hyslop MSP, the Cabinet Secretary for Culture and External Affairs, on 3 March 2014.

The Education and Culture Committee was designated as the lead committee for the Bill on 12 March 2014. The Committee issued a general call for written evidence on. The Committee held oral evidence sessions on 18 March, 6 and
20 May 2014 and discussed its draft Stage 1 report in private on 10 June 2014.

The Committee published its [Stage 1 report](#) on 12 June 2014 and the [Stage 1 debate](#) was held on 19 June 2014.

The Bill was considered at [Stage 2](#) by the Committee on 19 August 2014 and the [Bill as amended at Stage 2](#) was published on 20 August 2014.

The [Stage 3 debate](#) took place, and the Bill was passed, on 4 November 2014.

**Purpose and objectives of the Bill**
The main purpose of the Bill was to create a new lead body for Scotland’s historic environment: Historic Environment Scotland. The new body would be a Non-Departmental Public Body (NDPB) with the combined functions of Historic Scotland (a Scottish Government Agency) and the Royal Commission on the Ancient and Historical Monuments of Scotland (RCAHMS) (which had been established by a Royal Warrant).

**Provisions of the Bill**
The Bill set out the functions carried out by the existing bodies which would pass to the new body and proposed changes to those powers and functions. It also set out the functions carried out by the Historic Scotland which would be retained by Scottish Ministers. Some of the functions were put on a statutory basis for the first time, in particular the functions of RCHAMS.

**Parliamentary consideration**
The Bill was introduced following a number of consultations carried out by the Scottish Government on the historic environment in Scotland and on the future of RCAHMS.

The Bill was subject to a number of Government amendments at Stage 2. For example, the scheduled monument processes were aligned with the existing procedures for listed building and the planning systems.

The Bill was subject to minor changes at Stage 3 and was passed on 4 November 2014.
Food (Scotland) Bill

Bill Number: SP Bill 48
Introduced on: 13 March 2014
Introduced by: Alex Neil MSP (Government Bill)
Passed: 9 December 2014
Royal Assent: 13 January 2015

2015 asp 1

Passage of the Bill
The Food (Scotland) Bill [SP Bill 48] was introduced in the Scottish Parliament on 10 December 2014. The Health and Sport Committee, as lead committee, began taking Stage 1 oral evidence on the general principles of the Bill on 25 March 2014. The Stage 1 debate took place on 2 October 2014 and the Bill was passed following the Stage 3 parliamentary debate on 9 December 2014.

Purpose and objectives of the Bill
The Bill sought to create a new body - Food Standards Scotland - to take over and build on the work of the UK-wide Food Standards Agency in Scotland, and to establish new food law provisions. Responsibilities of the new body will include: food safety, food standards, nutrition, food labelling, and meat inspection policy and operational delivery.

Provisions of the Bill
Part 1 of the Bill sought to create the body “Food Standards Scotland” which, following subsequent secondary legislation will be designated as a non-ministerial office of the Scottish Administration, taking over the functions of the Food Standards Agency in Scotland.

Part 2 seeks to introduce new food law provisions. First, relating to contravention of food information law; second, to allow Scottish Ministers to create (at some point in the future) a mandatory food hygiene information scheme; and third, a wide ranging power allowing Ministers to make regulations related to animal feed stuff and their production.

Part 3 provides for a range of new administrative sanctions for use when offences related to Scotland’s food law are committed. These provisions include fixed penalty notices and compliance notices.

Parliamentary consideration
Stage 1: Stage 1 scrutiny of the Bill was undertaken by the Health and Sport Committee. The Committee’s evidence during Stage 1 found widespread (though not completely unanimous) support for the provisions contained in the Bill. However, a number of specific points for clarification from the Scottish Government were highlighted. These related to: finances available to Food Standards Scotland and access to and influence over research.
Stage 2: The Health and Sport Committee considered the Bill at Stage 2 on 11 November 2014. 36 amendments were agreed to without division including amendments on the promotion of best practice in enforcement of food legislation, delegation of functions to staff of Food Standards Scotland, and the meaning of “food” and “animal feeding stuffs”.

Stage 3: The Bill was considered at Stage 3 on 9 December 2014. Minor and technical amendments were agreed to. Other amendments were either disagreed to, moved and, with the agreement of the Parliament, withdrawn or not moved.

After debate, the motion was agreed to and the Bill passed.

Royal Assent: The Bill received Royal Assent on 13 January 2015

Air Weapons and Licensing (Scotland) Bill

Bill Number: SP Bill 49
Introduced on: 14 May 2014
Introduced by: Kenny MacAskill MSP (Government Bill)
Passed: 25 June 2015
Royal Assent: 4 August 2015

2015 asp 10

Passage of the Bill
The Air Weapons and Licensing (Scotland) Bill [SP Bill 49] was introduced in the Parliament on 14 May 2014. The Parliament’s Local Government and Regeneration Committee (“the LGR Committee”) was designated as lead committee for the purposes of parliamentary consideration. Its stage 1 report was published in March 2015. The Scottish Government produced a written response to that report in April 2015, and the Bill completed stage 1 proceedings following a parliamentary debate later the same month. Stage 2 consideration of the Bill was carried out by the LGR Committee at two meetings in May 2015.

The Bill was passed following the stage 3 parliamentary debate in June 2015 and became the Air Weapons and Licensing (Scotland) Act 2015 following Royal Assent on 4 August 2015.

Purpose and objectives of the Bill
The Bill sought to amend the licensing regime in Scotland across three broad areas to improve and strengthen the licensing system with the objectives of:

(a) preserving public order and safety; (b) reducing crime; and (c) advancing public health policy.
The Bill sought to achieve this by doing the following. First, to establish two new licensing regimes in Scotland:

(i) a new licensing regime for owning and using an air weapon in Scotland;
(ii) a new licensing regime for the operation of sexual entertainment venues in Scotland.

Secondly, the Bill sought to amend the current licensing regime under the Licensing (Scotland) Act 2005 to make it an offence to supply alcohol to people under 18 for consumption in a public place. The Bill also took forward a number of technical changes to the licensing system for alcohol sales.

Thirdly, the Bill sought to amend the existing civil licensing regime in relation to the licensing of taxis and private car hires, scrap metal dealerships and public entertainment venues.

Parliamentary consideration
There was broad support for the Bill’s objectives as set out by the Scottish Government, and the LGR Committee reported that it was content with the general principles of the Bill as introduced.

The stage 1 debate took place on 23 April 2015.

In relation to air weapons, many speakers highlighted the dangers such weapons posed. However, there was a call from Tavish Scott MSP to consider the proportionality of the proposed approach and the Conservatives indicated that they would abstain in the vote on the general principles of the Bill because they did not support the air weapons provisions.

The main issues highlighted in relation to other aspects of the Bill were:

- the wide-ranging nature of the Bill, with some contributors expressing concern that this hindered effective scrutiny
- whether a more fundamental review of the Civic Government (Scotland) Act 1982 was needed
- the impact of metal theft on communities; the importance of public safety in relation to the licensing of taxis and private hire cars; and
- concerns about the licensing of sexual entertainment venues, particularly that they encouraged unhealthy attitudes to women and therefore damaged society as a whole.

A number of amendments on all aspects of the Bill were brought forward at stage 2. Some of the most significant amendments are discussed below.

Air weapons
With regard to the provisions on air weapons, opinion amongst stakeholders was clearly divided between those who saw no good reason to introduce a
licensing regime and those who considered a licensing regime to be a sensible and measured approach to ownership and use of such weapons.

The Scottish Government brought forward an amendment to ensure that a young person’s certificate would prevent 14 to 17 year olds from purchasing, hiring, accepting a gift of, or owning, an air weapon (in line with the Firearms Act 1968).

Section 24 of the Bill would allow air weapons to be sold to people who lived outside Great Britain who did not hold an air weapon certificate. However, the Gun Trade Association raised concerns that the Bill made no provision for the sale of air weapons to people resident outside Scotland but within Great Britain. The LGR Committee recommended that the Bill should not prevent sales of air weapons to customers in the rest of Great Britain. To address this, the Scottish Government brought forward an amendment which would enable air weapons to be sold to people in England and Wales, provided they are delivered to a registered firearms dealer for collection. This would ensure compliance with section 25 of the Bill and section 32 of the Violent Crime Reduction Act 2006.

**Alcohol licensing**

The Committee heard evidence that the current licensing regime was being abused. Key concerns included:

- that major events were taking place under occasional licences, thus avoiding public entertainment licence requirements; and

- that some members’ clubs operated like pubs without having to meet the same licensing criteria.

The Scottish Government agreed to consider concerns around public entertainment licensing in more detail and brought forward an amendment which would require those holding an occasional licence to also apply for a public entertainment licence if they intended to put on any licensable forms of public entertainment. Holders of premises licences to sell alcohol would remain exempt from the requirement to hold a public entertainment licence. The amendment was agreed to.

**Taxi and Private Hire Car Licensing**

The Bill would empower licensing authorities to limit the number of private hire cars where there was “overprovision”. There is currently no limit on the number of private hire car vehicle licences a licensing authority can grant and licensing authorities can choose to limit the number of taxi vehicle licences. Practitioners were concerned that the overprovision test was different from the current “unmet demand” test for taxis. There was also a fear of legal challenge as the new system bedded in.

Amendment 94, in the name of Colin Keir MSP, sought to require the Scottish Government to prescribe the methodology for calculating overprovision in secondary legislation. Mr Keir withdrew his amendment having received an assurance from the Cabinet Secretary that the Scottish Government would
issue guidance on this matter. Cameron Buchanan MSP’s amendment 91 sought to remove the section creating overprovision powers from the Bill altogether on the basis that it was anti-competitive. Mr Buchanan’s amendment was disagreed to.

**Sexual entertainment licensing**

At stage 2, amendments were brought forward by Cara Hilton MSP which sought to require local authorities to publish a policy statement in relation to sexual entertainment venue licensing whereby local authorities would be required to state how their approach would address violence against women.

Amendment 97, also in the name of Ms Hilton, sought to require local authorities to consult with violence against women partnerships when dealing with applications.

The Cabinet Secretary expressed support for the broad intentions of the amendments while outlining practical concerns. The amendments were withdrawn after the Cabinet Secretary agreed to bring forward amendments at stage 3 which would require local authorities to consider the wider policy context.

Consequently, the Cabinet Secretary brought forward an amendment at stage 3 which would require specific notification to particular bodies that will have an interest in the licensing of sexual entertainment venues. He also stated that there was a practical advantage in ensuring that important stakeholders, including violence against women partnerships and community councils, are notified of applications early, so that they have sufficient time to consider applications and to make such representations to the authority as they consider appropriate.

Rather than identifying particular bodies in primary legislation, the Scottish Government’s preference was for each local authority to identify which organisations in its area should be notified of applications, because local authorities are best placed to make that judgement. To that end, statutory guidance following the passing of the Bill will indicate the types of bodies and organisations that should be considered, and the intention is that they will include bodies such as violence against women partnerships. Local authorities will have to take that guidance into consideration when compiling their list of recipients. Local authorities will also have to have regard to their sexual entertainment venue licensing policy statement and the full range of objectives that are set out in that document.

The amendment was agreed to.
Legal Writings (Counterparts and Delivery) (Scotland) Bill

Bill Number: SP Bill 50
Introduced on: 14 May 2014
Introduced by: John Swinney MSP (Government Bill)
Passed: 24 February 2015
Royal Assent: 1 April 2015

2015 asp 4

Passage of the Bill
The Legal Writings (Counterparts) (Scotland) Bill (the Bill) [SP Bill 50] is a Government Bill which was introduced in the Scottish Parliament on 14 May 2014 by the Cabinet Secretary for Finance and Sustainable Growth John Swinney MSP.

The Delegated Powers and Law Reform Committee (the Committee) was designated as lead committee on 21 May 2014. It issued a call for written evidence on 28 May 2014, which closed on 14 July 2014 receiving ten responses.

The Committee took Stage 1 evidence at its meetings on 17 June, 19 August, 30 September, 7 October and 28 October 2014 and received additional written information from: the Scottish Law Commission on signatures in Scots law; Professor George Gretton; the Scottish Government and the Scottish Law Commission; and the Law Society of Scotland.

The Finance Committee issued a call for evidence on the financial implications of the Bill which closed on 15 August 2014 receiving four responses.

The Committee published its Stage 1 Report on 14 November 2014 and the Stage 1 debate took place on 25 November 2014.

No amendments were lodged and Stage 2 proceedings took place on 20 January 2015.

The Stage 3 debate took place on 24 February 2015. The Bill received Royal Assent on 1 April 2015 to become the Legal Writings (Counterparts) (Scotland) Act 2015 (asp 4).

Purpose and objectives of the Bill
The Bill is the first Scottish Law Commission (SLC) bill to be considered by the Committee following changes to the Scottish Parliament’s Standing
Orders in June 2013 which altered the Committee’s remit, allowing it to take the lead role in scrutinising certain SLC bills.¹⁸

The Bill implements the vast majority of the legislative recommendations in the SLC Report on Formation of Contract: Execution in Counterpart (the SLC Report) which was published in April 2013. It proposed two changes to Scots law, namely:

1. Making it clear that legal documents can be “executed in counterpart”, in other words brought into legal effect by each party signing separate identical copies, (the counterparts) rather than the same physical document. The aim being to resolve the uncertainty as to whether counterparts are a valid way of creating legally effective documents

2. Making it possible to deliver paper legal documents electronically, the aim being to resolve doubts as to whether faxing or e-mailing a copy of a signed paper document creates something which is legally effective.

The broad objective was to modernise the law to make it easier for parties to enter into commercial transactions.

Provisions of the Bill
The main provisions in the Bill included:

- **Section 1** – This confirms that execution in counterpart is a legal, albeit optional, process for signing documents and that the counterparts are to be treated as a single legal document. It also confirms that a document executed in counterpart becomes effective when both or all the counterparts are delivered (the method of delivery can be chosen by the parties, but delivery must be made to each party whose signature is not on the counterpart).

- **Section 2** – This allows counterparts to be delivered to a nominee (for example a solicitor) as an alternative to delivery to a party to the transaction (section 2(1)). It also provides, unless otherwise agreed, that nominees are to, “hold and preserve the counterpart(s) for the benefit of the parties."

- **Section 3** – This confirms that the rules on execution in counterpart also apply to electronic documents as defined by the Requirements of Writing (Scotland) Act 1995 (1995 Act).¹⁹ The 1995 Act provides that a limited number of legal documents, including contracts for the sale of land and wills, are only valid if correctly signed and in writing (certain of these can now be drawn up in electronic form).

¹⁸ These changes were recommended by the Standards, Procedures and Public Appointments Committee in its report on the matter published on 18 April 2013
¹⁹ The Bill, however, recognises that this provision is unlikely to be used in practice since amendments to the 1995 Act mean that electronic documents can be delivered and hence executed electronically (See Explanatory Notes, para. 15).
• **Section 4** – This provides that traditional paper documents can be delivered by electronic means.

**Parliamentary consideration**
Issues which were considered during Stage 1 included: the potential benefits of the Bill for the Scottish legal sector, Scottish business, and individuals more generally; the possible potential for fraud and error under the Bill’s rules; the use of pre-signed signature pages; the need for greater use of electronic signatures; and the benefits provided by electronic document repositories. No amendments were lodged at Stage 2 and the Bill was passed without amendment at Stage 3.

**Welfare Funds (Scotland) Bill**

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 51</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>10 June 2014</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Nicola Sturgeon MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>3 March 2015</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>8 April 2015</td>
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2015 asp 5

**Passage of the Bill**
The Welfare Funds (Scotland) Bill [SP Bill 51] was introduced in the Scottish Parliament on 10 June 2014. The Welfare Reform Committee, as lead committee, began taking Stage 1 evidence on the Welfare Funds (Scotland) Bill on 10 September 2014.

The Welfare Reform Committee published its Stage 1 report on the Bill on 8 December 2014. The Stage 1 debate took place on 16 December 2014. This was followed by Stage 2 proceedings on 27 January 2015. The Stage 3 consideration was completed, and the Bill was passed, on Tuesday 3 March 2015. The Welfare Funds (Scotland) Bill received Royal Assent on 8 April 2015, becoming the Welfare Funds (Scotland) Act 2015 (asp 5).

**Purpose and objectives of the Bill**
The purpose of the Bill was to give the interim Scottish Welfare Fund (SWF) scheme a statutory foundation. The objectives of the interim Scottish Welfare Fund, in operation since April 2013, are to:

- provide a safety net in an emergency when there is an immediate threat to health and safety, through the provision of a non-repayable grant which is known as a Crisis Grant, and
- enable people to live independently, or to continue to live independently, preventing the need for institutional care, through the provision of a non-repayable grant which is known as a Community
Care Grant (CCG). This includes providing assistance to families facing exceptional pressures. For example, where there has been a breakdown in family relationships, perhaps involving domestic violence, which is resulting in a move.

The SWF has been operating as an interim scheme since the Department for Work and Pensions (DWP) abolished the UK discretionary Social Fund in April 2013 and transferred the funding for community care grants and crisis loans to the Scottish Government.

**Provisions of the Bill**
The Welfare Funds (Scotland) Bill, as introduced, contains eight sections which sought to:

- place a duty on local authorities to maintain and administer welfare funds
- define the circumstances in which a local authority can provide financial or other assistance through the welfare fund
- provide powers for Scottish Ministers to make regulations about arrangements that local authorities are required to have in place to carry out reviews of decisions they make in relation to the provision of assistance
- place a requirement on the Scottish Public Sector Ombudsman (SPSO) to carry out reviews in relation to local authority decisions on provision of assistance from welfare funds. Currently, applicants can only ask the local authority to review its decision. The introduction of this second tier review process for appeals is the main change to the way the interim SWF scheme currently operates.
- provide a right for an individual to apply to the SPSO for a further review, beyond that carried out by a local authority. This is a new power for the SPSO and is distinct from the SPSO’s current jurisdiction which involves considering whether there has been poor service or maladministration.
- give the SPSO the power, where it considers that the decision made by the local authority is not the one that should have been made, to direct the local authority to make an award or to remit the case to the local authority so that it can re-consider its decision.
- provide powers for Scottish Ministers to make regulations, and publish guidance, setting out how welfare funds should be administered.

The Bill was intended to provide a framework for welfare funds and further detail is expected to be set out in regulations and guidance made under the Act.

**Parliamentary consideration**
**Stage 1:** The Welfare Reform Committee’s Stage 1 Report was supportive of the general principles of the Bill. Much of the evidence at Stage 1 concerned the detail about operational improvements to the existing interim arrangements. The Committee’s Stage 1 report reflected these concerns and
made a number of recommendations for the Scottish Government to take into account during the development of the regulations and guidance that would be published under the Welfare Funds (Scotland) Act.

**Stage 2:** The main amendments agreed to at Stage 2 provided further detail on the role of the Scottish Public Services Ombudsman in undertaking independent review of local authority decisions on welfare fund applications. Section 3 of the Bill as introduced was also removed at Stage 2. Section 3 would have allowed a local authority to make arrangements for another organisation, including a private sector organisation, to administer its welfare fund on its behalf. The Committee heard some concerns about the potential for private sector companies to administer the fund. Further amendments introduced the introduction of a right of review of a local authority decision on a welfare fund application. A number of opposition amendments were disagreed to.

**Stage 3:** Two amendments were agreed to. One was a Scottish Government technical amendment. The other was an opposition amendment (lodged by Ken McIntosh MSP) which concerned timing of decisions on applications for crisis grants. The amendment required that regulations made by the Scottish Government should provide that a local authority must make a decision on an application for a crisis grant immediately after the authority has received all the information allowing a decision to be made and no later than the end of the next working day.

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**Community Empowerment (Scotland) Bill**

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 52</th>
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<tr>
<td>Introduced on:</td>
<td>11 June 2014</td>
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<tr>
<td>Introduced by:</td>
<td>John Swinney MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>17 June 2015</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>24 July 2015</td>
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2015 asp 6

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**Passage of the Bill**
The **Community Empowerment (Scotland) Bill** [SP Bill 52] was introduced in the Parliament on 11 June 2014. Stage 1 commenced on 25 June 2014, with the Local Government and Regeneration Committee as the lead committee. The Rural Affairs, Climate Change and Environment Committee also considered the provisions of the Bill related to its remit in detail at Stages 1 and 2. The Stage 1 (general principles) debate took place on 3 February 2015 and the Bill was passed following the Stage 3 debate on 17 June 2015.
Purpose and objectives of the Bill
The purpose of the Bill was to reform a range of policy areas relating to community involvement, including community planning, community right to buy land, involvement of communities in public service delivery, communities taking on public assets, allotments and the common good.

Provisions of the Bill
The Bill as introduced was split into eight parts:

- Part 1 aimed to provide a statutory basis for the use of “National Outcomes”.
- Part 2 contained a number of reforms to the system of community planning.
- Part 3 provided for a process to allow community bodies to become involved in delivery of public services.
- Part 4 made a range of changes to the community right to buy land.
- Part 5 provided for a process to allow community bodies to take on assets from the public sector.
- Part 6 made a number of reforms to the system of common good.
- Part 7 was concerned with allotments.
- Part 8 allowed local authorities to set their own reliefs for business rates.

Parliamentary consideration
At both Stage 1 and Stage 2, consideration of the Bill was split between the Local Government and Regeneration Committee (Parts 1-3 and 5-8), and the Rural Affairs, Climate Change and Environment Committee (Part 4).

The Local Government and Regeneration Committee focussed its scrutiny of each part of the Bill around three main themes. The Committee called for:

- increased accountability around engagement by public bodies;
- measures to ensure that all communities could take advantage of the Bill; and that it should not only benefit those communities “already empowered”; and
- that communities should be fully supported to be able to use the provisions in the Bill.

A range of amendments were agreed throughout the Bill at Stage 2 and Stage 3 to address these concerns. Additional parts were also added on supporter ownership of football clubs and on public participation in decision-making.
On Part 4, the Rural Affairs, Climate Change and Environment Committee focussed its scrutiny on how the Bill:

- should simplify the process of community ownership and make it less onerous; and
- proposed to extend the right to buy land and under-used assets, including neglected and abandoned land, to communities across Scotland.

A range of amendments were agreed throughout the Bill at Stage 2 and Stage 3, including a significant new section simplifying the Crofting Community Right to Buy, and extending the Community Right to Buy to include “Abandoned, Neglected or Detrimental Land”.

### Mental Health (Scotland) Bill

- **Bill Number:** SP Bill 53
- **Introduced on:** 19 June 2014
- **Introduced by:** Alex Neil MSP (Government Bill)
- **Passed:** 24 June 2015
- **Royal Assent:** 4 August 2015

#### Passage of the Bill

The Mental Health (Scotland) Bill [SP Bill 53] was introduced in the Scottish Parliament on 19 June 2014. The Health and Sport Committee, as lead committee, began taking stage 1 oral evidence on the general principles of the Bill on 30 September 2014. The stage 1 debate took place on March 12, 2015 and the Bill was passed following the stage 3 parliamentary debate on 24 June 2015.

#### Purpose and objectives of the Bill

The overarching objective of the Bill was to help people with a mental disorder to access effective treatment quickly and easily.

The Bill sought to amend the Mental Health (Care and Treatment) (Scotland) Act 2003 in various respects; to make provision about mental health disposals in criminal cases; to make provision as to the rights of victims of crime committed by mentally-disordered persons; and for connected purposes.

#### Provisions of the Bill

Part 1 of the Bill will make provision about the operation of the Mental Health (Care and Treatment) (Scotland) Act 2003. It seeks to improve the efficiency and effectiveness of the mental health system in Scotland. Part 2 of the Bill will make provision about criminal cases. Part 3 of the Bill will create a new
notification scheme for victims of some mentally disordered offenders to allow certain information to be provided to victims of offenders subject to certain orders, and to allow victims to make representations in certain circumstances in connection with the release of the patient from detention.

**Parliamentary consideration**

**Stage 1:** Stage 1, scrutiny of the Bill was undertaken by the Health and Sport Committee. The Committee held five oral evidence sessions. The Stage 1 Report was published on 30 January 2015. The stage 1 debate took place on 12 March 2015.

**Stage 2:** At stage 2, 119 amendments were lodged. The Committee considered these amendments at its meetings on 19 May and 26 May 2014. Stage 2 amendments focused on: measures until application determined; maximum suspension of detention measures; orders relating to non-state hospital; detention pending medical examination; opt-out from having a named person; registering advance statements; services and accommodation for mothers, dealing with absconding patients, agreement to transfer patients and right to information. One of the key amendments to the Bill related to the removal of the default provisions for having a named person to ensure that people should only have a named person if they choose to have one. Some changes to timescales were also removed.

**Stage 3:** At stage 3, 23 amendments were lodged. The stage 3 debate took place on 24 June 2014. The key amendments are discussed below:

- Amendment 24 focused on the use of psychotropic substances, in particular by people with learning disabilities including autism. This amendment was disagreed to.
- A Government amendment (3) was agreed to this resulted in the number of days that that a detention can be suspended for being limited to 200 rather than being raised to 300.
- Amendment 1 related to the meaning of mental disorder, and the inclusion of learning difficulties in the definition. During the stage 3 debate the Minister for Sport, Health Improvement and Mental Health stated that he has “committed to carry out a review on the inclusion of learning disability and autism spectrum disorders under the act” (col. 72). Amendment 1 was disagreed to.
- Amendment 36 related to deaths in detention. It sought to require ministers to carry out a review of the arrangements for investigating the deaths of patients who were in hospital for treatment of a mental disorder. This amendment was agreed to.
- Amendment 39 to impose a Duty on Health Boards and Mental Welfare Commission to review certain criminal behaviour by mentally disordered persons was disagreed to.
- Amendments relating to excessive security, advocacy services, the meaning of responsible medical officer, recorded matters, referrals to the high court were also disagreed to.
Following the stage 3 debate, the Mental Health (Scotland) Bill was agreed to without division. The Bill received Royal Assent on 4 August 2014.

Prisoners (Control of Release) (Scotland) Bill

<table>
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<tr>
<th>Bill Number:</th>
<th>SP Bill 54</th>
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<tr>
<td>Introduced on:</td>
<td>14 August 2014</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Kenny MacAskill MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>23 June 2015</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>4 August 2015</td>
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Passage of the Bill

The Prisoners (Control of Release) (Scotland) Bill [SP Bill 54] was introduced in the Parliament on 14 August 2014.

The Parliament’s Justice Committee was designated as lead committee for the purposes of parliamentary consideration. Its stage 1 report was published in March 2015. The Scottish Government produced a written response to that report in April 2014, and the Bill completed stage 1 proceedings following a parliamentary debate later the same month. Stage 2 consideration of the Bill (including taking additional evidence) was carried out by the Justice Committee in May and June 2015.

The Bill was passed following the stage 3 parliamentary debate on 23 June 2015 and became the Prisoners (Control of Release) (Scotland) Act 2015 following Royal Assent in August 2015.

Purpose of the Bill

The Bill as introduced contained two distinct sets of provisions relating to the release of offenders serving custodial sentences:

- Restriction of automatic early release (section 1) – seeking to end automatic early release for sex offenders receiving determinate custodial sentences of four years or more and other offenders receiving determinate custodial sentences of ten years or more

- Early release for community reintegration (section 2) – allowing the Scottish Prison Service to release sentenced prisoners up to two days early where this would help facilitate community reintegration (eg by allowing for prompt access to public services)

Parliamentary Consideration

The Justice Committee’s stage 1 report noted clear support for the provisions in section 2 and welcomed the flexibility they would give the Scottish Prison Service. In relation to section 1, however, it reflected a number of concerns, including:
• scope of the reforms – the justification for focusing on long-term prisoners, especially sex offenders, was questioned

• supervision of released prisoners – concerns were raised about the possibility of some long-term prisoners being released without a period of community supervision

In light of the issues raised, the Scottish Government lodged a number of stage 2 amendments with the aim of:

• expanding the reform of automatic early release to all long-term prisoners (but still excluding short-term prisoners)

• ensuring that a period of post-release supervision is preserved for all long-term prisoners (for some this would be achieved by retaining a point in the sentence at which automatic early release takes place)

There was continued debate during stage 2 on a number of issues, in particular the appropriate length of compulsory community supervision for long-term prisoners. However, the Government’s amendments were agreed to by the Justice Committee.

Two non-government amendments were also lodged at stage 2. The first of these dealt with the minimum length of post-release supervision for long-term prisoners, seeking to make it a proportion of the sentence. The second sought to highlight a need for further consideration of the appropriate length of post-release supervision; and to look at the reform of automatic early release for short-term prisoners. Both amendments were withdrawn following debate.

The appropriate duration of post-release supervision and the desirability of wider reform of automatic early release were also debated at stage 3. Non-government amendments similar to those lodged at stage 2 were voted on but defeated.

The Bill was passed following a vote (for 67, against 0, abstentions 46)
British Sign Language (Scotland) Bill

Bill Number: SP Bill 55
Introduced on: 29 October 2014
Introduced by: Mark Griffin MSP (Member’s Bill)
Passed: 17 September 2015
Royal Assent: 22 October 2015

2015 asp 11

Passage of the Bill
The British Sign Language (Scotland) Bill was introduced in the Scottish Parliament on 29 October 2014 by Mark Griffin MSP. The Education and Culture Committee conducted Stage 1 scrutiny of the Bill at meetings held in December 2014 and also in February and March 2015.

The Finance Committee wrote a report to the Education and Culture Committee in February 2015 outlining its views on the Bill’s Financial Memorandum. On 14 April 2015, the Delegated Powers and Law Reform Committee published its report on the delegated powers contained in the Bill (21st report Session 4 (2015)).

The Education and Culture Committee published its Stage 1 report on 27 April 2015 (4th report Session 4 (2015)). The stage 1 debate took place on 5 May 2015. The Scottish Government provided a response to the Stage 1 report in its letter to the Education and Culture Committee dated 30 April 2015.

The Education and Culture Committee considered amendments to the Bill at stage 2 on 2 June 2015. The Stage 3 debate took place on 17 September 2015. The Bill, as amended, received Royal Assent on 22 October 2015 to become the British Sign Language (Scotland) Act (asp 11).

Purpose and objectives of the Bill
The Bill is a single purpose Bill intended to promote the use of British Sign Language (BSL). It does this by making provision for the preparation and publication by the Scottish Government and selected national level public bodies of a BSL national plan and the preparation and publication of authority plans by a number of other listed public authorities. In preparation of the BSL national and authority plans, listed public bodies are required to consult with relevant stakeholders including BSL users and their organisations. They are also required to review and revise published BSL Plans.

The legislation was brought forward as a means of increasing the profile of BSL as a minority language and its use in delivery of public services. It does not go as far as imposing an explicit statutory requirement on authorities to provide BSL interpreters or translation services, nor does it require listed authorities to deliver specific services to BSL users or those wishing to learn BSL. It is for the listed authorities to set out the organisation’s planned actions to promote and facilitate the promotion of BSL.
Provisions of the Bill
The key provisions in the Bill are:

- An obligation on the Scottish Ministers and relevant Scotland wide agencies to prepare a plan setting out a strategy for the promotion of BSL – the National Plan. Preparation of the National Plan is to include publication and consultation on a draft plan, ensuring engagement with BSL users and those who represent BSL users.

- An obligation on listed authorities to prepare a BSL plan – “Authority Plans”. The authority plans should set out the measures to be taken by the listed authorities to use BSL when carrying out its functions. The authority plan is to aim to be consistent with the relevant National Plan.

- In preparation of the authority plan, listed authorities should, as with the National Plan, consult with relevant stakeholders and take account of the representations received from BSL users and those who represent BSL users.

- The Bill also requires that a Progress Report be published by the Scottish Ministers and laid before the Scottish Parliament.

Parliamentary consideration
As soon as the Bill was introduced at stage 1, the Scottish Government provided a response (memorandum) to the Member in charge of the Bill offering recommendations for changes to the content of the Bill. The memorandum highlighted support for the proposal for a duty on Scottish Ministers to publish a BSL National Plan. In recognition of the fact that most service delivery takes place within other public bodies, there was also support for the proposal to require a number of public authorities to publish an authority plan setting out how it would work to promote BSL. The requirement for Authority Plans to mirror the priorities in the National Plan was also supported. The view was that this approach would ensure greater consistency across public authorities, while also making it easier to review performance.

While supportive of the principles of the Bill, the Scottish Government’s memorandum proposed a number of revisions to the approach taken. This led to the unusual position where there was discussion of substantive amendments to the Bill very soon after its introduction.

A number of changes were proposed in the memorandum, most being brought forward as amendments at stage 2, including:

- Rationalisation of the approach to consultation with BSL users and organisations to ensure limited resources used to best advantage.

- Plans to be published not just in written report form, but also in BSL.

- The timetable for publishing, reviewing and reporting to be extended to allow adequate time for reporting and then reviewing activity.
The removal of the original proposal in the Bill that there be a Minister with responsibility for BSL.

Bringing a number of national bodies, including executive agencies of the Scottish Government, into the reporting at National Plan level rather than reporting separately as listed authorities.

An explicit reference on the face of the Bill to consideration of tactile forms of BSL (for deafblind BSL users).

At Stage 3, the Bill was passed without opposition.

**Community Charge Debt (Scotland) Bill**

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<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 56</th>
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<tr>
<td>Introduced on:</td>
<td>3 December 2014</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>John Swinney MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>19 February 2015</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>25 March 2015</td>
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2015 asp 3

**Passage of the Bill**
The Community Charge Debt (Scotland) Bill [SP Bill 56] was introduced in the Parliament on 3 December 2014. The Finance Committee was designated as the lead committee on the Bill. The timetable for the Bill was severely truncated, although the Bill was not subject to the emergency procedure. The Finance Committee took Stage 1 oral evidence on the general principles of the Bill on 14 January 2015. The Stage 1 debate took place on 29 January 2015. Stage 2 consideration took place on 4 February 2015, and the Bill was passed at Stage 3 on 19 February 2015.

**Purpose and objectives of the Bill**
The intention of the Bill was to end collection of community charge (more commonly known as “poll tax”) debts.

**Provisions of the Bill**
The Bill was for this single purpose and consisted of four sections. The Policy Memorandum made clear that the Bill does not apply to council tax debts, and that the Bill removes liability to pay community charge debt, rather than to make it illegal for local authorities to collect the debt. Historic community water charge debt will no longer be collectable, nor will fees and other financial outlays for community charge debt enforcement action, surcharges and civil penalties.

The Scottish Government reached a financial settlement with local authorities, which reflects the outstanding amounts of community charge which local
authorities might have expected to collect through existing recovery arrangements, had their community charge collection operations continued.

Parliamentary consideration
The Bill process in the Parliament was very short, but during Stage 1 a number of issues were raised by the Finance Committee. The Committee examined the possible impact on council tax collection rates of passing the Bill, and scrutinised the assumptions and data behind the settlement to local authorities.

No amendments were lodged at Stage 2. At Stage 3 one amendment was lodged, to place a duty on the Scottish Government to monitor and report on the impact of the Bill on collection of other local government taxes. The amendment was moved, but disagreed to by division.

The Bill was then passed on 19 February 2015 following the Stage 3 debate.

Human Trafficking and Exploitation (Scotland) Bill

<table>
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<th>Bill Number:</th>
<th>SP Bill 57</th>
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<tr>
<td>Introduced on:</td>
<td>11 December 2014</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Michael Matheson MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>1 October 2015</td>
</tr>
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<td>Royal Assent:</td>
<td>4 November 2015</td>
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2015 asp 12

Passage of the Bill
The Human Trafficking and Exploitation (Scotland) Bill [SP Bill 57] was introduced in the Parliament on 11 December 2014 by the Cabinet Secretary for Justice, Michael Matheson MSP. The Justice Committee was designated lead committee on the Bill and issued a call for evidence on the general principles of the Bill which closed on 24 February 2015. In response, the Committee received 58 submissions.

The Committee took oral evidence on the Bill at its meetings on 3, 10, 17, 24, and 31 March 2015 and published its stage 1 report on 24 April. Consideration of the Bill at stage 1 concluded with the stage 1 debate on 12 May. Consideration of amendments at stage 2 took place at the Committee meeting on 16 June and following the stage 3 debate on 1 October, the Bill was passed and received Royal Assent on 4 November 2015.

Purpose and objectives of the Bill
The Policy Memorandum states that, “the overarching policy objectives of the Bill are to consolidate and strengthen the existing criminal law against human trafficking and the offence relating to slavery, servitude and forced or compulsory labour and enhance the status of and support for victims”.

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Provisions of the Bill
Amongst other things, the Bill sought to create a single offence of human trafficking for all forms of exploitation of adults and children, and to strengthen the current slavery, servitude and forced labour offence in Scotland by allowing the court to consider, in assessing whether a person has been a victim of an offence, the victim’s characteristics such as age, physical or mental illness, disability or family relationships. The maximum penalty for such an offence would be increased from 14 years to life imprisonment.

The Bill also sought to establish statutory aggravations to any criminal offence where it can be proved that the offence had a connection with a human trafficking background, and also where a human trafficking offence has been committed by a public official while acting, or purporting to act, in the course of his or her official duties. The Bill also sought to place a duty on the Lord Advocate to publish guidance about the prosecution of credible trafficking victims who have committed offences, and a duty on the Scottish Ministers to secure the provision of relevant immediate support and recovery services for adult victims of trafficking.

Parliamentary consideration
A number of key issues emerged during stage 1 consideration including two issues surrounding the definition of the offence of human trafficking, as drafted in the Bill as introduced. The first was a concern that the use of the word “travel” in the definition suggested that the offence would require a cross-border element. The second was a wider concern that the emphasis on travel in the definition did not align with Scotland’s international obligations, including those in the European Union trafficking directive, which does not have a similar emphasis on travel. Accordingly, the Justice Committee asked the Government to look again at the definition to see whether it could be better aligned with international obligations and also to consider the wording of the definition with regard to the word “travel”.

In response, the Scottish Government stated that the definition provided was wider than those outlined in international obligations as it mirrored offences in corresponding legislation in the rest of the UK and Northern Ireland. However, the Government did accept that many people felt that the emphasis on travel within the definition was unhelpful and served to unduly narrow the offence’s scope. To that end, the Government brought forward amendments at stage 2 to remove the need to establish that a victim’s travel had been arranged or facilitated and instead reframed the offence to criminalise certain defined and listed relevant actions.
Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill

Bill Number: SP Bill 58
Introduced on: 15 December 2014
Introduced by: Jim Hume MSP (Member’s Bill)
Passed: 17 December 2015
Royal Assent: 21 January 2016

2016 asp 3

Passage of the Bill
The Smoking Prohibition (Children in Motor Vehicles) (Scotland) Bill was introduced in the Parliament on 15 December 2014 by Jim Hume MSP. Stage 1 commenced on the 9 June 2015, with the Health and Sport Committee as the lead committee.

The Committee took oral evidence on the Bill at its meetings on 9, 16 and 23 June and published its stage 1 report on 24 September 2015. Consideration of the Bill at stage 1 concluded with the stage 1 debate on 8 October 2015.

Consideration of amendments at stage 2 took place at the Committee meeting on 17 November 2015.

Following the stage 3 debate on 17 December 2015, the Bill was passed and received Royal Assent on 21 January 2016.

Purpose and objectives of the Bill
The purpose of the Bill was to protect children from the harmful effects of exposure to second-hand smoke in a confined space by prohibiting smoking in private motor vehicles in the presence of children.

Provisions of the Bill
The Bill sought to make it an offence for an adult to smoke in a private motor vehicle when there is a child in the vehicle, and the vehicle is in a public place.

Parliamentary consideration
Stage 1
In its Stage 1 report, the Health and Sport Committee supported the general principles of the Bill. The Committee considered that the Bill would bring Scotland into line with England and Wales, and that its general principles would complement the Scottish Government’s tobacco control strategy.

The Committee supported the Bill’s proposal to make the person smoking an offending person, as this ascribed responsibility to the person causing harm to the child’s health. It also recommended that, whilst the person smoking should be held criminally responsible, a similar sanction should be in place for
the driver. The Committee considered that this would offer added child protection and mirror similar legislation on children’s safety, such as seatbelt laws for children aged 14 and under.

In terms of the enforcement and detection aspects of the Bill, the Committee supported the Bill’s proposal to make Police Scotland responsible for enforcing the legislation using its existing powers to stop vehicles. It also supported the Scottish Government’s proposal to extend the enforcement powers to local authorities considering that this would maximise the advice, education and publicity provided to the public about the legislation.

However, the Committee’s stage 1 report identified several issues that arose in evidence where the Bill could potentially be strengthened or benefit from further consideration. These predominately related to the exemptions in the Bill, liability for the offence, and its enforcement. While the Committee supported the use of a fixed penalty notice, it suggested consideration of an alternative such as putting an education programme in place.

In the stage 1 debate there was discussion around whether an amendment should be lodged for an exemption for convertible vehicles with the roof down and stowed away. However, this did not progress on the basis of the evidence provided by the University of Aberdeen that a child who is within 1m of a cigarette will still be exposed to second-hand smoke.

**Stages 2 and 3**

Most amendments to the Bill were lodged at Stage 2.

The main amendments agreed to included refining the exemption for vehicles being used as living accommodation and the removal of the defence that the person smoking reasonably believed all other occupants of the vehicle to be adults.

In accordance with the views of the Scottish Government and Police Scotland, the Bill was amended so that responsibility for enforcement would be shared between police and local authority environmental health officers. A new section was also inserted to reflect the joint enforcement regime, granting entry and search powers to authorised officers of a local authority and allowing them to obtain the name and address of a person whom they reasonably believe might be committing, or might have committed, an offence under section 1 or whom they reasonably believe to have information relating to such an offence. Those powers were based on similar powers available to local authority officers under the Smoking, Health and Social Care (Scotland) Act 2005.

A further amendment provided similar powers to local authorities in respect of enforcement and the administration of fixed-penalty notices to those provided in the 2005 act which the Minister believed would allow for a consistent approach.
The amendments which would have made it an offence for the driver of a car knowingly to permit another adult to smoke in the car when a child was present (which had been suggested by the Committee in its report) were rejected at the request of the Minister. The Minister considered that it was important to send a clear and consistent message that all adults were responsible for their own behaviour when it came to protecting the health of children from second-hand smoke in cars. She also believed that the person smoking should be responsible for committing the offence and that there should be no confusion or uncertainty about who is ultimately responsible for an individual adult’s decision to break the law.

Jim Hume MSP also argued that he was not in favour of driver liability for a number of reasons e.g. that they may not necessarily be in a position of authority in relation to other adults in the vehicle, but he was primarily concerned that the proposals would add unnecessary complexity to a Bill that was seeking to be as uncomplicated and easy to enforce as possible.

The Minister stated that she was committed to running a national campaign to raise awareness of the new offence and the final amendment which was agreed to aimed to allow Scottish Ministers to commence the legislation when the campaign has been developed and launched.

Further amendments to the Bill, tabled at stage 3 by Jackson Carlaw MSP, including a 5 year sunset clause, were defeated in the stage 3 debate.

The Bill was subsequently passed on 17 December 2015 and received Royal Assent on 21 January 2016.

Budget (Scotland) Bill

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 59</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>15 January 2015</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>John Swinney MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>4 February 2015</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>11 March 2015</td>
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</tbody>
</table>

2015 asp 2

Passage of the Bill
The Budget (Scotland) Bill [SP Bill 59] was introduced on 15 January 2015. The Stage 1 debate took place on 21 January, the Finance Committee considered the Bill at Stage 2 on 28 January and the Bill was passed by the Parliament on 4 February 2015.

Purpose and objectives of the Bill
The Budget Bill is the final stage in the annual budget process and this Bill gives parliamentary authority for spending in Scotland for financial year 2015-
16. The budget process is intended to allow the Parliament’s subject committees the opportunity to comment on the Scottish Government’s spending plans prior to the annual budget being agreed. The expectation is for the subject committees to play an active role in scrutinising and making recommendations on spending priorities.

**Provisions of the Bill**

The Bill authorises approximately £33.5bn of cash expenditure by the Scottish Government and its associated bodies, other organisations whose core funding is centrally provided (e.g. local authorities and health boards), the Forestry Commissioners, the Food Standards Agency, the Scottish Parliamentary Corporate Body and Audit Scotland.

The Bill received Royal Assent on 11 March 2015.

### Apologies (Scotland) Bill

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 60</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>3 March 2015</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Margaret Mitchell MSP (Member's Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>19 January 2016</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>23 February 2016</td>
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</table>

2016 asp 5

### Passage of the Bill

The Apologies (Scotland) Bill [SP Bill 60] is a Member’s Bill which was introduced in the Scottish Parliament on 3 March 2015 by Margaret Mitchell MSP.

The Justice Committee took Stage 1 evidence at its meetings on 9 June, 16 June and 23 June 2015. On May 1 2015, the Scottish Government provided the Justice Committee with a memorandum to assist it in its consideration of the Bill. On 17 June 2015, the Minister for Community Safety and Legal Affairs submitted additional written evidence.

The Finance Committee issued a call for written evidence on the Bill’s financial memorandum which closed on 8 May 2015, receiving seven responses. The Finance Committee agreed not to take any further evidence or to formally report on the financial memorandum.

The Delegated Powers and Law Reform Committee published its report on the Bill’s Delegated Powers Memorandum on 28 April 2015, in which it approved the only delegated power in the Bill without further comment.

The Justice Committee published its Stage 1 Report on 11 September 2015 and the Stage 1 debate took place on 27 October 2015.
The Justice Committee considered amendments to the Bill at Stage 2 on 8 December 2015 and the Bill as amended at Stage 2 was published on 9 December 2015.

The Stage 3 debate took place on 19 January 2016. The Bill received Royal Assent on 23 February 2016 to become the Apologies (Scotland) Act 2016 (asp 5).

Purpose and objectives of the Bill
The Bill proposed legislation which would stop apologies from being used as evidence of liability in most civil legal proceedings in Scotland (for example damages actions), the aim also being to encourage a change in people’s attitudes towards apologising (Policy Memorandum, para. 4). The Bill follows similar legislation adopted in certain other common law jurisdictions – for example the USA, Canada and Australia.

Provisions of the Bill
The main provisions in the Bill included:

- Rules restricting the use of apologies in civil legal proceedings (except for defamation proceedings and Fatal Accident Inquiries) by:
  - making them inadmissible as evidence of liability; and
  - prohibiting them from being used to the prejudice of the person making the apology.

- A wide definition of ‘apology’ going beyond simple statements of regret and also covering admissions of fault, factual statements, and undertakings taken to prevent problems recurring.

The Bill was drafted in very general terms and the Policy Memorandum suggested that the Scottish Ministers draw up separate guidance on the use of the legislation. According to the Policy Memorandum, this could be prepared in the six months following Royal Assent before the legislation comes into force (para 12).

Parliamentary consideration
The wide definition of apology received particular attention in Parliament. In its Stage 1 Report, the Justice Committee noted the views of witnesses that the definition could result in individuals’ rights to bring court actions being compromised as the evidence available to them might be reduced (see para. 66 of the report). The definition was amended at Stage 2 so that it no longer includes admissions of fault or statements of fact (undertakings to prevent problems recurring are, however, still covered).

The scope of the civil legal proceedings covered was also raised during the passage of the Bill. In its Stage 1 Report, the Committee considered that there were strong arguments for a number of other proceedings to be added to the list of exceptions to the Bill (i.e. in addition to defamation proceedings and Fatal Accident Inquiries). At Stage 2 the Bill was amended so that public
inquiries and proceedings under the Children’s Hearings (Scotland) Act 2011 were added to the list of exceptions.

There was also a focus on the interaction between the rules in the Bill and the Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill (the Health Bill). The Health Bill included a ‘duty of candour procedure’ whereby health and social care organisations have to inform people when they have been harmed as a result of the care or treatment they have received. It also provided that apologies given as part of this procedure would not amount to an admission of negligence or a breach of a statutory duty. In this regard ‘apology’ was defined narrowly to cover statements of sorrow or regret – i.e. not admissions of fault or statements of fact. During the Committee’s evidence sessions, the potential inconsistency between the definition of apology in the Health Bill and in the Apologies Bill was raised. In its Stage 1 Report the Committee indicated that it was difficult to see how the provisions in the Apologies Bill and the Health Bill could co-exist without some form of exception for health matters. The Bill was duly amended at Stage 2 so that it no longer applies to an apology made under the duty of candour procedure.

The Scottish Government brought forward two technical amendments at Stage 3 which were aimed at clarifying the powers of the Scottish Ministers to modify the exceptions to the legal proceedings that are covered by the Bill. These amendments were agreed to at Stage 3.

### Carers (Scotland) Bill

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 61</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>9 March 2015</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Shona Robison MSP (Government Bill)</td>
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<tr>
<td>Passed:</td>
<td>4 February 2016</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>9 March 2016</td>
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### Passage of the Bill

The Carers (Scotland) Bill was introduced in the Scottish Parliament on 9 March 2015 by Shona Robison MSP, Cabinet Secretary for Health and Wellbeing. The Health and Sport Committee was designated the lead Committee on the Bill and issued a call for evidence on the general principles of the Bill which closed on 22 April 2015. In response, the Committee received 71 submissions. The main themes to arise from the written submissions were included in the SPICE stage 1 briefing on the Bill.

The Committee took oral evidence on the Bill at its meetings on 5, 12 and 26 May. It also undertook a fact-finding visit with Carers from across Scotland and with Marie Curie’s Expert Voices Group for Scotland. The Committee published its stage 1 report on 21 September 2015. Consideration of the Bill at stage 1 concluded with the stage 1 debate on 5 November 2015.
Consideration of amendments at stage 2 took place at the Committee meeting on 1 December 2015.

Following the stage 3 debate on 4 February 2016, the Bill was passed and received Royal Assent on 9 March 2016.

**Purpose and objectives of the Bill**
The policy memorandum set out the policy objective of the Bill as seeking to further the rights of carers in order that they are better supported and can continue to care, if they so wish, and to have a life alongside caring. The Bill had the same ambitions for young carers but also sought to enable them to have a childhood similar to their non-carer peers.

**Provisions of the Bill**
The key provisions of the Bill on introduction included:

- changing the definition of carer so that it encompassed a greater number of carers
- giving local authorities a duty to prepare an adult care and support plan (ACSP) or young carer statement (YCS) for anyone they identify as a carer, or for any carer who requests one
- giving local authorities a duty to provide support to carers that meet local eligibility criteria
- requiring local authorities and NHS boards to involve carers in carers’ services
- giving local authorities a duty to prepare a carers strategy for their area
- requiring local authorities to establish and maintain advice and information services for carers.

**Parliamentary Consideration**
A number of issues with the Bill were raised by stakeholders at stage 1. These included that:

- the proposed changes to the definition of carer and right to request an ACSP/YCS would have a significant resource impact and could draw resources away from other services
- the Bill would allow eligibility for support to be set locally rather than nationally and could therefore lead to postcode lotteries of support
- there should be a greater role for the NHS, especially in relation to identifying carers, and also that carers should be involved in hospital discharge and admission procedures
- there should be an explicit requirement for ACSPs/YCSs to include emergency and anticipatory care plans
• the Bill did not contain a duty for local authorities to offer carers a short break.

The Health and Sport Committee supported the general principles of the Bill, but with some key recommendations based on the issues that arose during stage 1. The main amendments agreed to at stage 2 were:

• giving Ministers the power to regulate the timescale for preparing a support plan for the carer of a terminally ill person
• providing a joint duty for both health boards and local authorities to create local carer strategies
• introducing the requirement for carers to be involved in the hospital discharge procedures of the person they care for
• removal of the automatic sharing of information in a young carer statement with the young carer’s named person
• providing a requirement for an adult carer support plan or young carer statement to include emergency plans
• providing a requirement for Scottish Ministers to prepare a Carers Charter.

One of the most notable amendments not agreed to at stage 2 included the requirement for Ministers to set the level of need at which carers would be entitled to support. The issue of whether the eligibility criteria are set locally or nationally was a key area for debate during stage 1.

The Bill was passed on 4 February 2016 and received Royal Assent on 9 March 2016.

Harbours (Scotland) Bill

Bill Number: SP Bill 62
Introduced on: 18 March 2015
Introduced by: Keith Brown MSP (Government Bill)
Passed: 27 October 2015
Royal Assent: 2 December 2015

2015 asp 13

Passage of the Bill
The Harbours (Scotland) Bill [SP Bill 62] was introduced in the Parliament on 18 March 2015 by Keith Brown MSP, Cabinet Secretary for Infrastructure, Investment and Cities. The Infrastructure and Capital Investment Committee
was appointed as lead committee for Stage 1. Its Stage 1 report was published on 5 June 2015. The Stage 1 debate took place on 16 June 2015 and Parliament agreed the general principles of the Bill unanimously.

There were no amendments to the Bill at Stage 2.

The Bill was passed unanimously at Stage 3, without amendment, on 27 October 2015.

**Purpose and objectives of the Bill**
The Bill had two key objectives:

1. Repeal sections of the Ports Act 1991 that gave Scottish Ministers the power to require certain larger trust ports to bring forward privatisation proposals. The Office of National Statistics had indicated in 2013 that this power meant that trust ports were effectively under public sector control and that this would lead to major trust ports being reclassified as public corporations – which would have had implications for public sector finances. In addition, the removal of these powers would also provide certainty for trust ports over future governance arrangements.

2. Streamline procedures for making Harbour Orders.

**Provisions of the Bill**
Section 1 of the Bill repealed sections 10 to 12 of the Ports Act 1991, as it applied to Scottish Ministers. This removed Ministers’ power to require major trust ports to bring forward privatisation proposals. There were also a number of consequential amendments to take account of these repeals.

Section 2 made minor amendments to Schedules 3 and 4 of the Harbours Act 1964, streamlining procedures for submitting Harbour Orders and harbour reorganisation schemes.

**Parliamentary consideration**
The Infrastructure and Capital Investment Committee did not raise any concerns about the proposals in the Bill in its Stage 1 Report. There were no amendments to the Bill at either Stage 1 or Stage 2.
Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Bill

<table>
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<tr>
<th>Bill Number:</th>
<th>SP Bill 63</th>
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<tr>
<td>Introduced on:</td>
<td>19 March 2015</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Michael Matheson MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>10 December 2015</td>
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<td>Royal Assent:</td>
<td>14 January 2016</td>
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2016 asp 2

Passage of the Bill

The Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Bill [SP Bill 63] was introduced in the Scottish Parliament on 19 March 2015. It was a Scottish Government bill. The Bill as introduced was accompanied by Explanatory Notes and a Policy Memorandum.

The Justice Committee conducted Stage 1 Scrutiny at meetings in May 2015. The Delegated Powers and Law Reform Committee reported on the delegated powers contained in the Bill (31st Report, 2015 (Session 4)).

Further information about Stage 1 scrutiny is available from the Justice Committee’s dedicated Bill webpage.

The Justice Committee published its Stage 1 Report on 1 July 2015 (13th Report, 2015 (Session 4)). The Scottish Government responded by way of a letter from Paul Wheelhouse, Minister for Community Safety, on 17 September 2015.

The Stage 1 debate took place on 24 September 2015.

The Justice Committee considered Stage 2 amendments at its meeting on 3 November 2015.

The Stage 3 debate took place on 10 December 2015, where the Bill as amended was passed. The Bill received Royal Assent on 14 January 2016 to become the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2).

Purpose and objectives of the Bill

The purpose of the Bill was to “reform and modernise the law governing the holding of fatal accident inquiries (FAIs) in Scotland” (Policy Memorandum, paragraph 2). To do so, the Scottish Government took forward most of the recommendations from the Review of Fatal Accident Inquiry Legislation (also known as the “Cullen Review”).

FAIs are held to establish the circumstances surrounding certain deaths. They are presided over by sheriffs. The sheriff may make recommendations intended to prevent future deaths in similar circumstances.
Mandatory FAIs must be held where someone dies in legal custody, or in an accident relating to their work. An FAI can also be held where a death is sudden, suspicious, unexplained, or gives rise to serious public concern.

Procurators Fiscal lead evidence about the death at an FAI. The Lord Advocate (through the Crown Office and Procurator Fiscal Service) exercises decision-making powers in the FAI process. In particular, he decides if an FAI should be held in circumstances where this is not mandatory.

Provisions of the Bill
The main changes made by the Bill were:

- **Mandatory FAIs** – updating the definition of legal custody, and requiring a mandatory FAI where a child dies while living in secure accommodation.

- **Discretionary FAIs** – enabling discretionary FAIs to be held were a Scottish resident dies outside the UK.

- **Written reasons** – requiring the Lord Advocate to give written reasons for a decision not to hold an FAI. It is intended that this will make the basis of the decision clearer to the deceased’s family.

- **Delay** – introducing a requirement to hold a preliminary hearing, as well as encouraging the sharing and agreeing of evidence in advance, with the intention of speeding up the process.

- **Sheriffs’ recommendations** – creating an obligation on any person or body to whom a sheriff’s recommendation is addressed to respond.

- **Procedural** – creating more flexibility in relation to FAI administration, including greater choice of venue.

Parliamentary consideration
At the same time as it scrutinised the Scottish Government Bill, the Scottish Parliament was also considering a Member’s Bill on the subject of FAIs. Patricia Ferguson’s Inquiries into Deaths (Scotland) Bill was introduced in the Scottish Parliament on 1 June 2015.

The Scottish Government Bill and Ms Ferguson’s bill covered similar ground, although with different policy intentions. For example, Ms Ferguson’s bill would have extended the mandatory categories for death inquiries to include deaths from industrial diseases and exposure to hazardous substances. It would also have set time scales for holding FAIs and made sheriffs’ recommendations legally binding in some circumstances.

Patricia Ferguson withdrew her bill on 24 September 2015.

The main issues to emerge during parliamentary consideration of the Scottish Government Bill are discussed below.
**Mandatory FAIs**

Various proposals to extend the categories of death requiring a mandatory FAI were discussed during parliamentary scrutiny of the Bill. Proposals to include those detained under mental health legislation were agreed at Stage 2 but overturned at Stage 3.

**The role of the deceased’s family in the process**

Issues around communications between the deceased’s family and the Crown Office, and access to legal aid were debated during the Bill’s progress. A proposal for a more generous legal aid scheme was agreed at Stage 2 but overturned at Stage 3.

During parliamentary scrutiny, the Solicitor General announced that the Crown Office would produce a “family liaison charter”. This would set out clear stages and timescales in relation to communications with the family.

The Justice Committee welcomed this commitment. A Stage 2 amendment put it on a statutory footing.

**Delays**

A key concern during parliamentary scrutiny was the potential for lengthy delays between a death occurring and an FAI being held. Patricia Ferguson’s Bill proposed statutory timescales. However, members were ultimately persuaded that this would be impractical.

**Sheriffs’ recommendations**

There was concern to ensure that sheriffs’ recommendations were implemented. The Bill would require those to whom a recommendation is made to respond to the Scottish Courts and Tribunals Service (SCTS) outlining how it had been implemented or why it had not. Responses would be published on the SCTS website.

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**Education (Scotland) Bill**

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<tr>
<th>Bill Number:</th>
<th>SP Bill 64</th>
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<tr>
<td>Introduced on:</td>
<td>23 March 2015</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Angela Constance MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>02 February 2016</td>
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<tr>
<td>Royal Assent:</td>
<td>08 March 2016</td>
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2016 asp 8

**Passage of the Bill**

The Education (Scotland) Bill [SP Bill 64] was introduced on 23 March 2015. It completed stage 1 on 29 October, stage 2 on 8 December and was passed at stage 3 on 2 February 2016.
Purpose and objective of the Bill

The purpose of the Bill is to make provision across a range of different school policy areas. The policy memorandum describes the objectives of the Bill which include:

- To promote equity in education and to raise attainment for all
- To strengthen Gaelic education
- To ensure children have rights to question any support needs they may have at school
- To ensure that all children and young people have highly qualified and trained teachers and that education authorities have an appropriately qualified and experienced Chief Education Officer with responsibility for delivering their education functions
- To introduce a clear process for parents to make complaints to Ministers with regard to the delivery of educational duties by education authorities

Provisions of the Bill

Reflecting the range of objectives listed above, the Bill makes changes across a variety of school education policy. The Bill's main provisions will:

- Require local authorities and Scottish Ministers to have due regard to the need to reduce inequalities of educational outcome that result from socio-economic deprivation, and creates associated reporting duties
- Place the National Improvement Framework for education on a statutory footing
- Create a process for parents to request Gaelic Medium Primary Education. This includes a presumption that a request will be granted where it is reasonable to do so
- Give rights to 12 to 15 year olds, who are assessed as having capacity, in relation to additional support for learning legislation
- Prevent complaints going to Ministers under s.70 of the Education (Scotland) Act 1980, if they might also be taken to the Additional Support Needs Tribunal.
- Require local authorities to employ a Chief Education Officer
- Enable Ministers to introduced regulations in relation to: school hours, teacher registration, head teacher qualifications and local authority school clothing grants.
Parliamentary consideration
SPICe briefings SB 15/19 and SB 16/05 provide more detail on the Bill as introduced and as amended at Stage 2.

There were 174 amendments lodged at stage 2 and a further 76 at stage 3. At stage 2, all Government amendments were agreed to, 12 by division. Non-government amendments were successful in relation to Gaelic education and requirements on Ministers to consult stakeholders.

At stage 3, all the Government amendments were agreed to. Non-government amendments were successful in relation to local authority reporting requirements (Liam McArthur) and Gaelic education (Michael Russell and John Finnie).

Main changes to the Bill
There were substantial changes to the Bill at stage 2 but only minor changes at stage 3. Changes included:

- A presumption in favour of granting a request for Gaelic Medium Primary Education where there is reasonable demand.
- Removal of the requirement (in the Bill as introduced) that young people (16 and over) be assessed in relation to capacity and best interests before exercising their existing rights under the 2004 Act
- Inclusion of the National Improvement Framework
- Regulation making powers to set the number of hours in the school year and the level of and eligibility for school clothing grants
- Regulation making powers to set out the experience and qualifications required by head teachers.

The costs of the Bill increased from £0.6m to around £12m and a supplementary financial memorandum was issued. See: http://www.scottish.parliament.uk/S4_Bills/Education%20(Scotland)%20Bill/S PBill64AFMS042016.pdf All these costs were on the Scottish Administration, and reflect additions to the Bill in relation to the National Improvement Framework, learning hours, school meals, clothing grants and head teacher qualifications.

Main areas of debate
"Attainment Gap" Throughout parliamentary consideration of the Bill, the provisions related to the attainment gap were the most discussed. Much of the discussion related to wider policy work on reducing the attainment gap. At stage 1, the concerns in relation to the Bill were about whether the provisions would have much practical effect. At stages 2 and 3, the focus was on the introduction of the National Improvement Framework and the role of standardised assessment
within this. Standardised tests are not specified in the Bill. The Bill requires a Framework to be published and reported on, but the detail of its content is left to policy. The Cabinet Secretary said: “I do not think it is right to legislate for such a level of detail.” While not legislative, the Cabinet Secretary considered that standardised tests are intended to be a “crucial part of the framework”. At stage 3 Liam McArthur said: “I urge the government to heed the calls of teaching unions, teachers and parents to drop plans for national standardised testing in primary schools.” (OR col 21, 2nd Feb 2016).

Presumption in favour of Gaelic
At stage 2, the provisions on Gaelic were strengthened. At stage 3, the Minister for Learning, Science and Scotland’s Languages (Alasdair Allan) said that: “the Bill delivers on our manifesto commitment for parents to have an entitlement to Gaelic medium primary education where reasonable demand exists” (OR 2nd Feb 2016, col 51). However, Liam McArthur expressed concerns that due to: “…a lack of resources, including teachers, that commitment looks increasingly like a hostage to fortune” (OR 2nd Feb 2016 col 51).

Capacity of children with additional support needs
One area that created particular concern amongst some stakeholder groups was the approach taken in the Bill to extending additional support needs rights to 12 to 15 year olds. See SCYP, EHRC and others stage 3 briefing at: http://www.cypcs.org.uk/ufiles/Education-(Scotland)-Bill-Stage-3-MSP-Briefing.pdf. At stage 3, Liam McArthur described the Bill as requiring: “children successfully to negotiate two assessments before they can even begin to exercise their rights” (OR 2nd Feb 2016 col 56). He quoted the Children’s Commissioner who had said: “the bill places children in a position where they are given the impression that they can exercise their rights independently, yet in reality they are beholden to adults to assess that they are capable of doing so.” (OR 2nd Feb 2016 col 62). Alasdair Allan described the assessments required as safeguards which: “ensure that children will not have to cope with information, processes and decisions that could be detrimental to their well-being.” He also noted that there was provision for appeals (OR 2nd Feb 2016 col 60).

School Hours
At stage 2, provision was added to the Bill to make regulations that would set the annual number of school learning hours. There was concern, particularly from COSLA, that there had been no prior consultation on the measure. At stage 3 the Cabinet Secretary, Angela Constance confirmed that: “regulations made under section 17B will be underpinned by a robust and inclusive consultation exercise” (OR 2nd Feb 2016 col 64).
Bill Number: SP Bill 65  
Introduced on: 1 April 2015  
Introduced by: Richard Simpson MSP (Member’s Bill)  
Fell: 4 February 2015

**Passage of the Bill**  
The Alcohol (Licensing, Public Health and Criminal Justice) (Scotland) Bill [SP Bill 65] was a Member’s Bill. It was introduced in the Scottish Parliament by Dr Richard Simpson MSP on 1 April 2015. The Bill as introduced was accompanied by Explanatory Notes and a Policy Memorandum.

The Health and Sport Committee conducted Stage 1 scrutiny of the Bill at meetings in October and November 2015. Further information about the evidence considered at Stage 1, including letters from the member in charge, is available from the dedicated Committee webpage.

The Finance Committee reported on the Financial Memorandum to the Bill (Report on the Alcohol (Licensing, Public Health and Criminal Justice) (Scotland) Bill’s Financial Memorandum, 2015 (Session 4)).

The Delegated Powers and Law Reform Committee reported on the delegated powers contained in the Bill (66th Report, 2015 (Session 4)).

The Health Committee produced its Stage 1 Report on 13 January 2016 (2nd Report, 2016 (Session 4)). The majority of members did not support the Bill’s general principles.


The Stage 1 debate was held on 4 February 2016. Members did not support the Bill’s general principles, so it fell at this stage.

**Purpose and objectives of the Bill**  
The Bill’s purpose was to promote public health and reduce alcohol-related offending. It contained ten separate proposals, covering licensing, public health and criminal justice matters.

**Provisions of the Bill**  
1. **Minimum price for packages containing more than one alcoholic product** – extending the existing ban on discounted alcohol sales by preventing retailers from selling larger multipacks of alcohol at a discount in comparison to smaller multipacks.
2. **Alcoholic drinks containing caffeine** – banning pre-mixed alcoholic drinks containing caffeine above a specified limit.

3. **Age discrimination in off-sales** – preventing licensing boards putting in place a higher age limit than 18 for the sale of alcohol as a condition of an off-sales licence.

4. **Container marking in off-sales** – this is better known as “bottle-tagging”. The provision would allow licensing boards to require off-licences to mark alcohol containers with a code. It would then be possible to trace alcohol consumed by underage drinkers back to the shop that sold it.

5. **Community involvement in licensing decisions** – changing the requirements to notify people about licence applications and variations. The intention would be to increase community involvement in licensing decisions.

6. **Restrictions on alcohol advertising** – banning most alcohol advertising near places (such as schools) used by children and at events targeted at children. The provisions would also limit alcohol advertising on retail premises.

7. **Alcohol education policy statements** – requiring the Scottish Government to publish, and review, an alcohol education policy statement every five years.

8. **Drinking banning orders** – enabling the courts to restrict the behaviour of those who engage in criminal or disorderly behaviour when drunk.

9. **Alcohol awareness training as an alternative to a fixed penalty fine** – enabling training to be offered as an alternative to a fine when an offence is committed under the influence of alcohol.

10. **Notification of offender’s GP** – requiring that an offender’s GP is notified by the courts where the consumption of alcohol has been a contributory factor in their offending behaviour.

**Parliamentary consideration**

The majority of members of the Health and Sport Committee concluded that the Bill was not “an effective and workable package of measures to tackle alcohol misuse”\(^{20}\). They argued that the Scottish Government’s alcohol strategy was a more effective route to make changes.

As a result the majority of Committee members did not support the general principles of the Bill at Stage 1. The Bill went on to be rejected in the Chamber at Stage 1.

Scottish Elections (Reduction of Voting Age) Bill

Bill Number: SP Bill 66
Introduced on: 2 April 2015
Introduced by: John Swinney MSP (Government Bill)
Passed: 18 June 2015
Royal Assent: 24 July 2015

2015 asp 7

Passage of the Bill
The Scottish Elections (Reduction of Voting Age) Bill [SP Bill 66] was introduced by, John Swinney, the Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy, on 2 April 2015.

The Devolution (Further Powers) Committee was designated as the lead committee for the Bill on 22 April 2014. The Committee had already issued a general call for written evidence on 3 April 2015. The Committee held oral evidence session on 30 April 2015 and discussed its draft Stage 1 report in private on 14 May 2015.

The Committee published its Stage 1 report on 20 May 2015.

The Stage 1 debate by the Parliament was held on 28 May 2015.

The Bill was considered at Stage 2 by the Committee on 11 June 2015 and the Bill as amended at Stage 2 was published on 12 June 2015.

The Stage 3 debate took place, and the Bill as amended was passed, on 18 June 2015.

Royal Assent was received on 24 July 2015.

Purpose and objectives of the Bill
The Bill’s purpose was to introduce the changes to electoral procedures necessary to allow the voting age for Scottish Parliament and local elections to be reduced to 16 years old from 18 years old.

This proposed reduction followed on from the franchise used for the Scottish Independence Referendum (SIR) and the recommendation in the Smith Commission report that:

“The parties call on the UK Parliament to devolve the relevant powers in sufficient time to allow the Scottish Parliament to extend the franchise to 16 and 17 year olds for the 2016 Scottish Parliamentary elections, should the Scottish Parliament wish to do so.”

An Order, (The Scotland Act 1998 (Modification of Schedules 4 and 5 and Transfer of Functions to the Scottish Ministers etc. Order SI 2015/692) was
made under section 30 and section 63 of the 1998 Scotland Act on 19 March 2015. This enabled the Scottish Parliament to legislate to extend the franchise in time for the 2016 Scottish Parliament elections.

**Provisions of the Bill**

The Bill, a highly technical one, was drafted, by the Government in light of the practical experience of electoral registration officers (EROs) in Scotland when dealing with extension of the franchise for the SIR.

Provisions in the Bill dealt with registration of specific categories of young people, namely:

- those who satisfy the “safety” test to register anonymously (Section 7 of the Bill)
- looked after children (Sections 8 and 15 of the Bill)
- children in secure accommodation (Section 8 of the Bill)
- children of Service personnel, including civil servants and British Council staff (Sections 9, 10 and 11 of the Bill).

The provisions in the Bill would amend sections of the Representation of the People Acts 1983 and 2000, to account for the reduction in age of the franchise for Scottish elections.

**Parliamentary consideration**

The Bill had to be passed before the summer recess 2015. This timescale for the passage of the Bill would provide EROs with the necessary time to carry out the changes required to provide electoral registers, with the new age range of potential voters, in time for the 2016 Scottish Parliament election and any subsequent Scottish elections.

In order to meet this deadline Standing orders had to be suspended on two occasions.

On the 20 May 2015, the Parliament agreed, under Rule 9.6.3A of the Standing Orders, that the Parliament would consider the general principles of the Bill on the fourth sitting day after publication of the lead committee report.

On 3 June 2015, the Parliament agreed that, Rules 9.5.3A and 9.5.3B of Standing Orders would be suspended; and Rules 9.7.8B, 9.7.10 and 9.10.2A be amended to allow for the Stage 3 to take place on the first sitting day after Stage 2 had been completed.

The Bill was subject to Government amendments at Stage 2. These technical amendments, which arose from on-going discussions with election officials, aimed to improve the provisions on the protection of information relating to those aged under 16 and to amend the individual application for registration in order to deal with the new category of under 16 year olds.
The Bill was also amended at Stage 3, in response to an issue raised in the Devolution (Further Powers) Committee’s Stage 1 report, the amendment sought in a proportionate and practical way, to clarify the duty on local authorities to advise and assist looked-after children in using their right to vote.

Pentland Hills Regional Park Boundary Bill

Bill Number: SP Bill 67
Introduced on: 30 April 2015
Introduced by: Christine Grahame MSP (Member’s Bill)
Fell: 26 January 2016

Passage of the Bill
The Pentland Hills Regional Park Boundary Bill [SP Bill 67] was introduced in the Scottish Parliament on 30 April 2015. The Pentland Hills Regional Park Boundary Bill Committee, which was specially convened to consider the Bill, began taking Stage 1 evidence on the general principles of the Bill on the 29 October 2015. The Stage 1 debate took place on 26 January 2016. The Parliament did not agree to the general principles of the Bill, and the Bill fell on the 26 January 2016.

Purpose and objectives of the Bill
According to the Policy Memorandum the aim of the Bill was to extend the existing Regional Park to encompass all (or nearly all) of the Pentland Hills range, thus ensuring it is protected and that decisions about how the land is used and maintained in the long term are guided by the Regional Park principal aims.

Provisions of the Bill
The Bill was a short Bill with six sections of which sections one to three were the substantive sections.

Section 1 of the Bill would give Scottish Ministers a power to make regulations altering the boundary of the Park. Such regulations could only designate an area to the southern edge of the existing park, and would follow a proposal from the now five local authorities part of whose areas would be within the extended park. The extension would have to include three southern summits, which are three of the Pentland hills to the South of the existing Park: Seat Hill; Black Mount; and Mendick Hill.

Section 2 of the Bill sets out a procedure which local authorities would follow in making a proposal for an extension to the Park. This would involve notifying landowners and occupiers; and publishing a notice. The notice would specify how representations could be made, and local authorities would be obliged to consider them. Section 2 would also give Scottish Ministers a power to make further provisions about this procedure through subordinate legislation.
Section 3 of the Bill provides for a scenario where the boundary of the Park had not been extended by a default date, which would be 2 years beginning on the day after the Bill received Royal Assent. If that had not happened, Section 3 would provide that the boundary would be altered on that date to include all the land from the existing Southern boundary of the Park up to the “outer limit”. This limit would run from the existing Southwesternmost point of the Park on the A70, South to Carnwath, and then following the A721 from Carnwath to its junction with the A702, and then following the A702 North to rejoin the existing park boundary in Carlops.

Parliamentary consideration

Stage 1: Stage 1 scrutiny of the Bill was undertaken by the Pentland Hills Regional Park Boundary Bill Committee, which was specially convened to consider the Bill. The Bill was introduced under the Members’ Bill procedure. The Committee considered the Bill raised issues similar to those which might arise in a Private Bill, and that if the Bill had been introduced by the Government it would have been a Hybrid Bill. There are no provisions in Standing Orders which apply to Members’ Bill which affect private interests differently, or which provide for consideration of Hybrid Members’ Bills. One of the main features of both the hybrid and the private bill processes is that they allow for representations to be heard from those affected by the Bill, through a process of advertising and intimation. The Member in charge of the Bill, Christine Grahame MSP, placed notices about the Bill in newspapers and in public places in the area to allow anyone concerned to raise an objection. Seven objections were received, and the Committee also received 12 written submissions. The Committee also took evidence from local authorities; representatives of landowners and park users; objectors; the Minister; and Christine Grahame MSP.

In its Stage 1 report the Committee did not support the general principles of the Bill. Whilst recognising Christine Grahame MSP’s passionate commitment to better protecting the whole of the Pentland Hills, the Committee was not convinced that extending the Regional Park was the best way of achieving this. The Committee was concerned that extending the park would dilute the funding available for the existing park, which could have a damaging impact. The Committee recommended that a full feasibility study would be needed to ascertain demand for an extension to the park and give detailed consideration to governance and funding arrangements for an extension.

The Stage 1 debate was held on the 26 January 2016. Following the debate 105 members voted against the motion that the general principles of the Bill be agreed, with 8 members in favour and no abstentions, and therefore the Bill fell.
Community Justice (Scotland) Bill

Bill Number: SP Bill 68
Introduced on: 7 May 2015
Introduced by: Michael Matheson MSP (Government Bill)
Passed: 11 February 2016
Royal Assent: 21 March 2016
2016 asp 10

Passage of the Bill
The Community Justice (Scotland) Bill [SP Bill 68] was introduced in the Parliament in May 2015.

The Justice Committee was designated as lead committee for parliamentary consideration of the Bill. Its stage 1 report was published in November 2015, with the stage 1 debate taking place later the same month. The general principles of the Bill were agreed to following the debate.

Stage 2 consideration of the Bill was carried out by the Committee in January 2016.

The Bill was passed following the stage 3 parliamentary debate in February 2016 and became the Community Justice (Scotland) Act 2016 following Royal Assent in March 2016 (asp 10).

Purpose of the Bill
The Bill as introduced sought to establish new arrangements for the delivery and oversight of community justice services, with current arrangements being replaced by a model involving:

- Scottish Ministers being responsible for a number of matters, including a national strategy and national performance framework for community justice, and holding Community Justice Scotland to account
- national leadership, oversight and support for community justice services by a new body called Community Justice Scotland
- local planning, delivery and monitoring of services by community justice partners
- Scottish Government funding for local services being allocated directly to local authorities

Parliamentary Consideration
In its stage 1 report, the Committee accepted that improvements to current community justice structures and arrangements were needed. It went on to state that it broadly supported the general principles of the Bill, whilst making a number of recommendations aimed at strengthening the proposals.
Amendments agreed at stage 2 included ones widening the definition of community justice used in the Bill and emphasising the role of relevant third sector organisations in relation to community justice planning. Further information on a number of key issues highlighted during stage 1 and stage 2 consideration of the Bill is set out in the SPICe briefing Community Justice (Scotland) Bill: Stage 3.

The definition of community justice and the role of third sector organisations were also areas where amendments were agreed at stage 3. In relation to the former, these included Government amendments removing some changes agreed by the Committee at stage 2. For example, a stage 2 amendment (agreed by division) had extended the meaning of community justice as used in the Bill to cover some elements of work aimed at preventing first-time offending. However, the Government argued that the Bill should focus on preventing further offending by those who have already offended; with the prevention of first-time offending being taken forward through a range of other policies (eg on educational attainment and youth unemployment).

In relation to the role of third sector organisations and community justice, amendments agreed at stage 3 included ones highlighting the relevance of organisations promoting the interests of victims and families of victims.

The Bill, as amended, was passed without division.

Footway Parking and Double Parking (Scotland) Bill

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 69</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>20 May 2015</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Sandra White MSP (Member’s Bill)</td>
</tr>
<tr>
<td>Fell:</td>
<td>23 March 2016</td>
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Passage of the Bill
The Footway Parking and Double Parking (Scotland) Bill [SP Bill 69] was introduced in the Parliament on 20 May 2015 by Sandra White MSP. The Local Government and Regeneration Committee was appointed as lead committee for Stage 1. Its Stage 1 report was published on 8 February 2016. The Bill fell on 23 March 2016, following dissolution of Session 4 of the Scottish Parliament.

Purpose and objectives of the Bill
The Bill aimed to prohibit vehicles using public roads in built-up areas from:

- parking on the footway (normally referred to as ‘the pavement’)
- parking in front of a dropped kerb
- double parking
The key aim of the Bill was to ensure pedestrians, particularly people with mobility problems, older people or people pushing prams/buggies, could easily and safely use pavements and dropped kerbs free from obstruction caused by inconsiderately parked vehicles.

Provisions of the Bill
Section 1 states that the provisions of the Bill would apply to all Scottish public roads in built up areas, defined as roads that are automatically subject to the default 30mph limit, including roads where the limit has been reduced to 20mph.

Section 2 would introduce a prohibition on parking or waiting on the footway, subject to exemptions for emergency vehicles, disabled persons’ parking places which form part of the footway and areas designated as exempt from the provisions of the Bill.

Section 3 would introduce a prohibition on parking or waiting in front of a dropped kerb, subject to exemptions for vehicles parked in designated parking places, parked outside residential premises by, or with the consent of the occupier of the premises, emergency vehicles, delivery vehicles for a maximum of 20 minutes, certain service vehicles, vehicles stopped to avoid accidents or to drop-off passengers.

Section 4 would introduce a prohibition on double parking or waiting whilst double parked. Double parking is defined as a vehicle being parked more than 50cm from the edge of the carriageway. The prohibition on double parking is subject to similar exemptions as to parking in front of a dropped kerb.

Section 5 would require the prohibitions in sections 2, 3 and 4 to be made through a traffic regulation order made under section 1 of the Road Traffic Regulation Act 1984.

Section 6 would give local authorities the power to designate “exempt areas”, where any or all of the provisions set out in sections 2 to 4 would not apply.

Parliamentary consideration
The Local Government and Regeneration Committee’s Stage 1 report recommended that the general principles of the Bill be agreed to by the Parliament. The key concern highlighted in the report was whether the provisions of the Bill were within the legislative competence of the Scottish Parliament. During Stage 1 oral evidence, the Scottish Government confirmed it was in discussion with the UK Government on how to resolve these concerns. Subsequently, the Scotland Bill (now Scotland Act 2016) was amended to specifically devolve competence over on-street parking to the Scottish Parliament.
Passage of the Bill
The Interests of Members of the Scottish Parliament (Amendment) Bill [SP Bill 70] was a Committee Bill introduced by Stewart Stevenson, Convener of the Standards, Procedures and Public Appointments Committee, on 27 May 2015.

The Stage 1 debate by the Parliament was held on 29 September 2015.

The Interests of Members of the Scottish Parliament (Amendment) Bill Committee was designated as the lead committee for the Bill on 7 October 2015.

The Bill was also considered by the Delegated Powers and Law Reform Committee on 1 September and 15 September 2015 and by the Finance Committee on 2 September 2015.

The Bill was considered at Stage 2 by the Bill Committee on 10 November 2015 and the Bill as amended at Stage 2 was published on 11 November 2015.

The Stage 3 debate took place, and the Bill was passed, with no further amendments, on 17 December 2015.

Royal Assent was received on 21 January 2016.

Purpose and objectives of the Bill
The Bill sought to amend the Interests of Members of the Scottish Parliament Act 2006. The Scottish Parliament had been given increased power over its members interests scheme by the provisions of the Scotland Act 2012.

In April 2013, after the new powers had commenced in July 2012, the Standards, Procedures and Public Appointments (SPPA) Committee launched a consultation on a potential Members Interests Bill. It received only three responses. In its 2nd Report of 2015, published on 6 March 2015, the SPPA Committee set out a draft Members’ Interest Bill.

The Bill as introduced sought to amend the Political Parties, Elections and Referendum Act 2000 (PPERA) so that the dual reporting was no longer
required for MSPs who are not members of a registered political party, as well as for MSPs who are members of a registered political party. The intention was that the dual reporting would stop after the next ordinary general election to the Parliament in May 2016, but secondary legislation is required to introduce the change to PPERA, which would only be made by the UK Government once it had been informed by the Electoral Commission that the Commission is satisfied that it would receive from the Parliament all the information it requires relating to political donations.

These changes are intended to streamline the process for MSPs and to make all the information available in one place, on the Parliament’s website. The provisions in the Bill would also extend the length of time that records are retained by the Parliament from five to ten years.

Provisions of the Bill
The Bill introduced by the Committee on 27 April 2015 was very similar to the draft Bill.

The provisions in the Bill would introduce amendments to the Interests of Members of the Scottish Parliament 2006 Act which would combine the currently separate processes of members declaring their financial interests in accordance with Parliament’s members’ interests regime and the reporting of political donations and loans to the Electoral Commission.

Other changes to the 2006 Act included broadening the range of sanctions that can be imposed on members who breach the disclosure requirements.

The offence of paid advocacy would be extended by the provisions in the Bill to include agreeing to receive inducements as well as actually receiving them.

The Bill also addressed the recommendation in the GRECO (Group of States against Corruption) evaluation report so that the specified limit for the threshold for exemption from registration, of, for example, remuneration, stocks and shares or gifts, would be reduced.

Parliamentary consideration
There are special procedures that apply to Committee Bills. In particular, under Rule 9.15 of the Parliament’s standing orders, they are not referred to a lead committee at Stage 1. In addition, those MSPs who developed the proposal for the Bill cannot play an active part in scrutinising it at Stage 2 (Rule 9.13A.2(c)). It is for this reason that it is usually necessary to establish an ad hoc committee to undertake Stage 2 scrutiny of a Committee Bill.

The Interests of Members of the Scottish Parliament (Amendment) Bill Committee was established by the Parliament on 22 September 2015.

At Stage 2 the Committee agreed to two amendments lodged on behalf of the SPPA Committee, which dealt with the issue of paid advocacy, which had been raised during the Stage 1 debate. The Bill amended the existing paid advocacy offence to ensure greater consistency with the Bribery Act 2010.
The Bill was passed, with no further amendments at Stage 3, on 17 December 2015.

**Inquiries into Deaths (Scotland) Bill**

<table>
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<tr>
<th>Bill Number:</th>
<th>SP Bill 71</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>1 June 2015</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Patricia Ferguson MSP (Member’s Bill)</td>
</tr>
<tr>
<td>Withdrawn:</td>
<td>24 September 2015</td>
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**Passage of the Bill**

The Inquiries into Deaths (Scotland) Bill [SP Bill 71] was introduced in the Scottish Parliament on 1 June 2015. It was a Member’s Bill, introduced by Patricia Ferguson MSP. The **Bill as introduced** was accompanied by **Explanatory Notes** and a **Policy Memorandum**.

The Justice Committee undertook scrutiny of the Bill at Stage 1. It held a dedicated evidence session on **9 June 2015**. Many of the issues raised by the Bill were also scrutinised during the Committee’s consideration of the Scottish Government’s Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Bill. This took place in May 2015.

The Delegated Powers and Law Reform Committee **reported** on the delegated powers contain in the Bill (41st Report, 2015 (Session 4)).

The Committee published its **Stage 1 Report** on 4 September 2015 (14th Report 2015 (Session 4)). Ms Ferguson did not respond to the Stage 1 Report.

The Scottish Government outlined its views on Ms Ferguson’s Bill in its **response to the Justice Committee’s Stage 1 Report** on the Scottish Government bill. Those views can be found in Annex A to the letter (from Paul Wheelhouse MSP, Minister for Community Safety, dated 17 September 2015).

Patricia Ferguson withdrew her Bill on 24 September 2015. She outlined her reasons in the **Stage 1 debate** on the Scottish Government bill, which also took place on that date (see col 60).

**Purpose and objectives of the Bill**

The purpose of the Bill was to modernise the system of Fatal Accident Inquiries (FAIs) to take into account the recommendations of the **Review of Fatal Accident Inquiry Legislation**. This is also known as the “Cullen Review”.

Patricia Ferguson acknowledged that the Bill’s proposals went further than the Cullen Review recommendations in several respects.
FAIs are held to establish the circumstances surrounding certain deaths. They are presided over by sheriffs. The sheriff may make recommendations intended to prevent future deaths in similar circumstances.

Mandatory FAIs must be held where someone dies in legal custody, or in an accident relating to their work. An FAI can also be held where a death is sudden, suspicious, unexplained, or gives rise to serious public concern.

Procurators Fiscal lead evidence about the death at an FAI. The Lord Advocate (through the Crown Office and Procurator Fiscal Service) exercises a number of decision-making powers in the FAI process. In particular, he decides if an FAI should be held in circumstances where this is not mandatory.

**Provisions of the Bill**

As noted above, Ms Ferguson’s Bill and a Scottish Government bill were considered in the Scottish Parliament at the same time. More information about the Scottish Government’s bill can be found in the relevant Bill Summary.

The key areas where this Bill would go beyond the Scottish Government’s bill are:

- **Mandatory FAIs** – extending the mandatory categories of death inquiry to cover work-related deaths from industrial diseases and exposure to hazardous substances, as well as some other categories.

- **Role of the family** – requiring the Lord Advocate to give written reasons to inquiry participants for a number of decisions, including the decision not to hold an inquiry.

- **Delays** – creating time limits for the Lord Advocate to apply for death inquiries with the intention of speeding up the process.

- **Sheriffs’ recommendations** – making sheriffs’ recommendations legally binding in certain circumstances (subject to further hearings and a right of appeal).

- **Lessons learned** – clarifying the role of death inquiries in preventing future deaths.

**Parliamentary consideration**

Both this Bill and the Scottish Government bill would repeal and restate existing FAI legislation. It was therefore not practical for both bills to proceed through the legislative process.

In its Stage 1 Report, the Justice Committee supported the general principles of both bills. However, it stated “We consider the Government’s Bill to be the
appropriate vehicle to modernise fatal accident inquiry legislation. It recommended that Ms Ferguson worked with the Scottish Government to strengthen the Scottish Government bill.

On this basis, Ms Ferguson withdrew her Bill. She tabled several amendments to the Scottish Government’s bill at Stage 2.

**Transplantation (Authorisation of Removal of Organs etc.) (Scotland) Bill**

<table>
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<tr>
<th>Bill Number:</th>
<th>SP Bill 72</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>1 June 2015</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Anne McTaggart MSP (Member’s Bill)</td>
</tr>
<tr>
<td>Fell:</td>
<td>9 February 2016</td>
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**Passage of the Bill**
The Transplantation (Authorisation of Removal of Organs etc.) (Scotland) Bill [SP Bill 72] was introduced in the Scottish Parliament on 1 June 2015. The Health and Sport Committee, as lead committee, began taking stage 1 oral evidence on the general principles of the Bill on 6 October 2015. The stage 1 debate took place on 9 February 2015 and the Bill fell as the Parliament did not agree the general principles of the Bill.

**Purpose and objectives of the Bill**
The Bill sought to amend the law on the removal of parts of the human body for transplantation by providing for decisions to be made on behalf of a deceased adult by a proxy and by authorising removal and use in certain cases where the deceased adult has not recorded an objection.

**Provisions of the Bill**
The Bill sought to amend the Human Tissue (Scotland) Act 2006 and make minor amendments to the Adults with Incapacity (Scotland) Act 2000.

The Bill required Scottish Ministers to approve a register in which people resident in Scotland may record an objection to the removal of their organs or tissue for transplantation.

The Bill sought to allow any adult to appoint a proxy (or proxies) to make decisions about authorisation (for the removal of the adult’s organs for transplantation), on their behalf, after their death.

The Bill referred to “authorised investigating persons” (AIPs). These would have been health professionals whose role it would have been to determine

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whether or not a deceased adult’s organs could lawfully be removed and used for transplantation.

The Bill did not allow relatives to block the removal of organs by reference to their own views or preferences about organ donation.

Scottish Ministers would have been responsible for ensuring that a publicity campaign of at least 6 months was run.

The Bill would have prevented a welfare attorney from either appointing (or withdrawing the appointment of) a proxy, or objecting to the removal of the adult’s organs.

The Bill would have applied to people who at the time of their death had been habitually resident in Scotland for a continuous 6 month period beginning after their 16th birthday and after the day the opt-out register became available.

Parliamentary consideration
The Committee issued a call for written evidence on the Bill and received 32 responses. It also commissioned a survey to seek public views.

The Scottish Government submitted a written response to the Committee’s Call for Evidence. The Scottish Government commended the aim of the Bill, but stated that it was not in a position to support it.

In November 2015, the Committee held a number of informal meetings with transplant recipients, donor families and faith and belief groups. On 16 November, the Committee visited Madrid on a fact-finding visit.

Stage 1 scrutiny of the Bill was undertaken by the Health and Sport Committee. The Committee held four evidence sessions. The Committee’s Stage 1 Report was published on 29 January 2016.

The overall conclusion of the Committee was that:

“A majority of the Committee is not persuaded that this Bill is an effective means to increase organ donation rates in Scotland due to serious concerns over the practical implications of aspects of this Bill. A majority of members consider that there is not enough clear evidence to demonstrate that specifically changing to the opt-out system of organ donation as proposed in this Bill would, in of itself, result in an increase in donations. As a result a majority of the Committee cannot recommend the general principles of the Bill.

However, a majority believes that along with on-going efforts to increase organ donation rates that there may be merit in developing a workable soft opt-out system for Scotland. The Committee therefore calls on the Scottish Government to commence work in preparation for a detailed consultation on further methods to increase organ donations and transplants in Scotland, including soft opt-out, as an early priority in the next Parliament, learning from the experiences of Wales who are
currently implementing their own opt-out legislation, and to consider legislating itself as appropriate.

A minority of the Committee considers that this Bill needs to be introduced now so that the resulting increase in organ donation rates can benefit those currently on transplantation waiting lists. They consider the opt-out system proposed in this Bill will enhance the range of other activities undertaken and will change the conversation with families at a time of loss such that there will be an increase in donation rates. As such a minority of members agree with the general principles of the Bill.” (para 260).

The Scottish Government’s response was published on 8 February 2016.

The stage 1 debate took place on 9 February 2016. The Scottish Government laid an amendment (S4M-15128.1) to the Member in charge of the Bill’s amendment S4M-15128 which had called for the Parliament to agree to the general principles of the Bill. The Government’s amendment to the motion was to leave out from “agrees” to end and insert:

“...does not agree to the general principles of the Transplantation (Authorisation of Removal of Organs etc.) (Scotland) Bill because it has serious concerns about the practical impact of the specific details in the bill that relate to organ donation rates and transplants; agrees the merits of developing a workable soft opt-out system for Scotland, and calls on the Scottish Government to commence work in preparation for a detailed consultation on further methods to increase organ donations and transplants in Scotland, including soft opt-out, as an early priority in the next parliamentary session, learning from the experiences in Wales, which is currently implementing its own opt-out legislation, and to consider bringing forward legislation as appropriate.”

This amendment was agreed to by majority with 59 MSPs voting for the amendment and 56 voting against it. The motion (S4M-15128), as amended, was agreed to by 65 to 48 with 2 abstentions. As a result, the Bill fell.
Passage of the Bill
The Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill was introduced in the Parliament on 4 June 2015 by the Cabinet Secretary for Health and Wellbeing, Shona Robison MSP. The Health Committee was designated lead Committee on the Bill and issued a call for evidence on the general principles of the Bill which closed on 5 August 2015. In response, the Committee received 94 submissions. The main themes to arise from the written submissions were included in the SPICe stage 1 briefing on the Bill.

The Committee also undertook a survey asking for views on regulating e-cigarettes and restricting smoking in hospital grounds. The findings of the survey were published in a report to the Committee.

The Committee took oral evidence on the Bill at its meetings on 1, 8, 15 and 22 September, and with the Minister for Public Health on 6 October. It published its stage 1 report on 9 November 2015. Consideration of the Bill at stage 1 concluded with the stage 1 debate on 1 December 2015. Consideration of amendments at stage 2 took place at the Committee meetings on 19 and 26 January 2016.

Following the stage 3 debate on 3 March 2016, the Bill was passed and received Royal Assent on 6 April 2016.

Purpose and objectives of the Bill
The Bill was in three parts, each with its own policy objective. These were:

Part 1: Tobacco, nicotine vapour products and smoking – the proposals were intended to support the aims of the Tobacco Control Strategy in achieving a smoking prevalence of less than 5% by 2034

Part 2: Duty of candour – the duty was intended to support a consistent response across health and social care providers when there has been an unexpected incident which has resulted in death or harm

Part 3 – Ill-treatment and wilful neglect – to implement a recommendation of the Francis report that there should be an offence of wilful neglect or ill treatment which is on a par with that covering mental health patients.
**Provisions of the Bill**
The Health (Tobacco, Nicotine etc. and Care) (Scotland) Bill contained four broad proposals at introduction:

1. To introduce restrictions on the sale of nicotine vapour products (NVPs) such as e-cigarettes. The restrictions proposed included: a minimum purchase age of 18; the power to prohibit their sale from vending machines; to make it an offence to purchase an NVP on behalf of someone under 18; a requirement for NVP retailers to register on the tobacco and nicotine vapour product retailer register; and the power to restrict or prohibit domestic advertising and promotions. It also places further controls on the sale of tobacco.

2. To make it an offence to smoke in a designated zone outside of buildings on NHS hospital sites.

3. To place a duty of candour on health and social care organisations. This would create a legal requirement for health and social care organisations to inform people when they have been harmed as a result of the care or treatment they have received.

4. To establish new criminal offences of ill-treatment or wilful neglect in health and social care settings; one offence would apply to individual health and social care workers, managers and supervisors, and another to organisations.

**Parliamentary consideration**
The Health and Sport Committee supported the general principles of the Bill at stage 1 and was generally positive about the proposals contained therein. The part of the Bill that caused most debate was the restrictions around smoking in hospital grounds. However, this was more in relation to how designated zones should operate as opposed to the principle of having them at all. The Committee had concerns about the feasibility of setting the same distance from hospital buildings for all hospital sites and suggested each NHS Board could set its own distance. This was rejected by the Scottish Government which argued that the change in law needs to be clearly communicated to the public in order for people to understand when it is an offence and when it is not.

There were few amendments to the Bill at stage 2, but the most significant was the inclusion of a statutory duty on Ministers to provide (or secure the provision of) communication equipment, and support in using that equipment, for any person who has lost their voice or has difficulty speaking.

One of the most significant amendments to be withdrawn at stage 2 was one which would have established a single register for retailers of all age restricted products.
Higher Education Governance (Scotland) Bill

Bill Number: SP Bill 74
Introduced on: 16 June 2015
Introduced by: Angela Constance MSP (Government Bill)
Passed: 8 March 2016
Royal Assent: 13 April 2016

2016 asp 15

Passage of the Bill
The Higher Education Governance (Scotland) Bill [SP Bill 74] was introduced in the Parliament on 16 June 2015.

The Education and Culture Committee was designated as lead committee for parliamentary consideration of the Bill. Its stage 1 report was published on 17 December 2015. The stage 1 debate then took place on 14 January 2016. The general principals of the bill were agreed to following the stage 1 debate.

Stage 2 consideration of the Bill was carried out by the Committee during February 2016.

The Bill was passed on 8 March 2016 following the stage 3 parliamentary debate. The Bill became the Higher Education Governance (Scotland) Act 2016 following Royal Assent on 13 April 2016 (asp 15).

Purpose and objectives of the Bill
The Bill as introduced sought to modernise the framework of higher education governance to make it more inclusive and accountable. To this end, the main proposals in the Bill at introduction focused on:

- The process to be used to appoint the chair of the governing body of a higher education institution (HEI).
- Setting out minimum levels of representation on the governing body of a HEI from among specific groups of stakeholders.
- Establishing processes to be followed for nomination and / or election of specific members of the governing body of a HEI.
- Setting out levels of payment of remuneration to be available to the chair of the governing body of a HEI.
- Setting out a maximum size of membership of the academic board of a HEI, as well as the composition and process of election of academic board members.
- Revising the definition of academic freedom to be applied to research active staff working in HEIs in Scotland.
Parliamentary consideration

A SPICe briefing: Higher Education Governance (Scotland) Bill was published in September 2015. The briefing discussed the background to the Bill and gave an overview of the main provisions at introduction.

In its stage 1 report, the Committee pointed out that, while the Bill contained relatively few provisions, it had: “generated a considerable amount of comment and criticism.” Given this, the Committee’s stage 1 report offered conditional support for the Bill’s general principles, while asking the Scottish Government to give further consideration to several issues.

There were a number of amendments agreed to at stage 2. These included some that focused on removing the range of regulation making powers that had been included in the Bill at introduction. Information on the main development of the Bill through stage 1 and stage 2 are set out in the SPICe briefing Higher Education Governance (Scotland) Bill – Stage 3.

Many of the amendments at stage 3 were relatively minor or consequential, with some following on from amendments agreed to at stage 2. The amendments agreed to include adding a requirement for the senior lay member of the governing body to be someone that is available to participate in the activities of the governing body of the HEI. A provision was added that means HEIs will be required to produce a report when a new senior lay member is elected. The report is to include information on the number of people that applied for the role, the characteristics of applicants, those interviewed and those that stand for election (if they agree to share this information).

Other relevant amendments at stage 3 included the removal of provisions added at stage 2 on the resignation or removal of the senior lay member and ordinary members of the governing body. These were replaced by provisions offering a “lighter touch” approach to how HEIs manage the resignation or removal of members of the governing body.

The Succession (Scotland) Bill

Bill Number: SP Bill 75  
Introduced on: 16 June 2016  
Introduced by: Michael Matheson MSP (Government Bill)  
Passed: 28 January 2016  
Royal Assent: 3 March 2016

2016 asp 7

Passage of the Bill

The Succession (Scotland) Bill [SP Bill 75] was introduced in the Scottish Parliament on 16 June 2016 by the Scottish Government. The Delegated
Powers and Law Reform Committee (‘the Delegated Powers Committee’), as lead committee, took Stage 1 oral evidence on the general principles of the Bill at meetings in September 2015.

The Delegated Powers Committee published its Stage 1 Report on 2 November 2015 and the Scottish Government responded to this report on 5 November 2015. The Stage 1 debate took place on 11 November 2015.

The Delegated Powers Committee considered amendments to the Bill at Stage 2 on 8 December 2016. The Stage 3 debate took place on 28 January 2016, after which the Bill was passed by Parliament. The Bill, as amended, received Royal Assent on 3 March 2016 to become the Succession (Scotland) Act 2016 (asp 7).

**Purpose and objectives of the Bill**
The Bill aimed to reform a number of discrete topics associated with succession law, that is to say the law which determines what happens to someone’s property and possessions when he or she dies. (This area of law is also sometimes referred to as ‘inheritance law’.)

The Bill has its origins in a report of the Scottish Law Commission (‘SLC’) published in 2009. The SLC is an independent statutory body which makes recommendations for simplifying, updating and improving the law of Scotland.

**Provisions of the Bill**
The provisions of the Bill (numbered according to the sections as they now appear in the Act) can be summarised as follows:

- **wills:** sections 1–8 made a series of reforms to the law relating to wills and (to a lesser extent) ‘special destinations’. The latter are provisions in the title deeds to property which can also transfer property on death;

- **survivorship:** sections 9–11 reformed the law of survivorship. This area of law deals with the situation where people die simultaneously or in circumstances where it is unclear who died first;

- **forfeiture:** sections 12–17 reformed the law of forfeiture. This part of succession law addresses the relatively rare situation where someone has unlawfully killed the person he or she stood to inherit from;

- **estate administration:** sections 18–24 made changes relating to the process of winding up of a person’s estate after death. As a result of Scottish Government amendments to the Bill at Stage 3, significant reforms were made to the requirement on executors to take out a ‘bond caution’ (KAY-shun) in certain circumstances (see further below under ‘Parliamentary consideration’)

- **miscellaneous reforms:** sections 25–27 dealt with several other discrete topics, including ‘private international law’. This is the area of law which applies to an estate connected to more than one country or to more than one part of the UK.
Parliamentary consideration
The reforms proposed in the Bill, as introduced, had previously attracted a good level of consensus on consultation. Furthermore, after a thorough consideration of the evidence received on the policy issues at Stage 1, the Delegated Powers Committee was ultimately supportive of the position of the Scottish Government in the Stage 1 Report on several key matters.

This means that the main area of controversy associated with the Bill was the Scottish Government amendments which were agreed to at Stage 3 relating to ‘bonds of caution’.

A bond of caution is a guarantee, usually provided by an insurance company. It is normally required where a person dies without leaving a will, or when leaving a will that does not name an executor. The aim of the guarantee is to protect the beneficiaries and creditors of the estate from fraud, negligence or maladministration by the executor of the estate.

Reforms to bonds of caution were originally intended by the Scottish Government for a later, more substantial piece of legislation on succession. However, shortly before Stage 3, one of the two providers of the specialist type of insurance associated with bonds of caution (Zurich) indicated its intention to withdraw from the market.

The remaining provider, Royal Sun Alliance, makes the provision of a bond of caution conditional on a solicitor being appointed to administer the estate (whereas Zurich did not have this requirement).

The Scottish Government was concerned that, without reform, this development would have impacted financially on small estates which, in some circumstances, can take advantage of a simplified procedure relating to winding up the estate. One of its key advantages is that there is no requirement to employ a solicitor to advise the executor.

One of the Scottish Government’s main Stage 3 amendments removed the requirement on executors who are administering a small estate to obtain a bond of caution (where that estate is eligible for the simplified procedure). The other main Scottish Government amendment inserted new powers in favour of Scottish Ministers to make secondary legislation. The intention is that such powers could be used to deal with the consequences of the remaining insurance provider withdrawing from the market place at some future date. (At the time of writing Royal Sun Alliance has not indicated any such intention).

Because of the potential policy impact of these proposed reforms, as well as the absence of an opportunity to consider them at Stage 1, the Delegated Powers Committee heard oral evidence on these amendments from key stakeholders on 26 January 2016. (This was a separate initiative on the part of the Committee and not part of the formal procedure associated with the parliamentary passage of the Bill.)
Land Reform (Scotland) Bill

Bill Number: SP Bill 76
Introduced on: 22 June 2015
Introduced by: Richard Lochhead MSP (Government Bill)
Passed: 16 March 2016
Royal Assent: 22 March 2016

2016 asp 18

Passage of the Bill
The Land Reform (Scotland) Bill [SP Bill 76] was introduced in the Scottish Parliament on 22 June 2015. The Rural Affairs, Climate Change and Environment (RACCE) Committee, as lead committee, began taking Stage 1 evidence on the general principles of the Bill on 2 September 2015. The Stage 1 debate took place on 16 December 2015 and the Bill was passed following the Stage 3 parliamentary debate on 16 March 2016.

Purpose and objectives of the Bill
The aim of the Bill was to:

- ensure the development of an effective system of land governance and on-going commitment to land reform in Scotland;
- address barriers to furthering sustainable development in relation to land and improve the transparency and accountability of land ownership; and
- demonstrate commitment to effectively manage land and rights in land for the common good, through modernising and improving specific aspects of land ownership and rights over land.

Provisions of the Bill
The Bill was presented in ten parts and one schedule as follows—

Part 1 would require the Scottish Government to prepare a land rights and responsibilities statement and publish it within 12 months; Ministers must review this, and subsequent statements within five years.

Part 2 provides for the creation of a Scottish Land Commission whose functions include reviewing the impacts and effectiveness of land law or policy; as well as to gather evidence and conduct research. The Land Commission will consist of a total of 6 members – 5 Land Commissioners and a Tenant Farming Commissioner.

Part 3 provides for a right of access to information about persons in control of land for interested parties.
Part 4 will require Ministers to issue guidance about engaging communities in decisions relating to land which may affect communities.

Part 5 would create a right to buy land to further sustainable development for eligible Community Bodies (or a nominated third party purchaser).

Part 6 reintroduces “sporting rates” by ending business rate exemptions for shootings and deer forests by including them on the valuation roll so that they are identified and valued by the Assessors.

Part 7 would amend the Local Government (Scotland) Act 1973 so that local authorities can change the use of inalienable common good land with court approval, without the need to pass a private bill in the Scottish Parliament.

Part 8 seeks to make a number of amendments to the Deer (Scotland) Act 1996, the main one being to create a new power for SNH to require landowners and occupiers to prepare deer management plans.

Part 9 would make minor technical amendments to the Land Reform (Scotland) Act 2003 in relation to reviewing and amending core paths plans, and judicial determination of the existence and extent of access rights and rights of way.

Part 10 will make substantial amendments to both the Agricultural Holdings (Scotland) Act 1991, and the Agricultural Holdings (Scotland) Act 2003. These are: the creation of a modern limited duration tenancy; the removal of the requirement for a tenant to register their interest in purchasing their holding under existing right to buy provisions; enabling a tenant to apply to the Scottish Land Court to order the sale of their holding where the landlord persistently fails to meet their obligations; changing the process of rent reviews for farm tenancies; extending the classes of people to whom a tenant farmer can assign or bequeath their tenancy; providing for an amnesty period whereby certain tenants can serve a notice on their landlord detailing improvements that have been made that they would like compensation for on departure; and providing a right for tenants to object to certain improvements proposed by the landlord if they are considered unnecessary.

Parliamentary consideration
Stage 1: Stage 1 scrutiny of the Bill was undertaken by the RACCE Committee. The Committee took a wide variety of evidence. This included fact-finding visits to visits to Orkney, Skye, Islay, Jura, Fife, and the Scottish Borders. It also included extensive written and oral evidence, including at two meetings held outside Edinburgh, on Skye and in Dumfries.

In the Stage 1 report, the Committee supported many of the proposals and the general principles of the Bill. It made a several recommendations for strengthening the Bill in a number of areas, the main one being to improve transparency about who owns, controls and benefits from land. The Committee also expressed concerns over a lack of supporting information on the reintroduction of sporting rates, and called on the Government to explain
more effectively why engagement between landowners, land managers and communities is demanded by the Bill.

Following the Stage 1 debate, the general principles of the Bill were agreed to with 100 votes in favour and 15 against.

**Stage 2:** The RACCE Committee considered the Bill at four meetings in January and February 2016, where the Committee considered over 300 amendments.

Significant amendments at this stage include a change in approach to Part 3 – ‘Information about the Control of Land’, where the Government was expected to bring forward broad regulation making powers at Stage 3 to provide for the creation of a public register requiring the disclosure of information about persons who control land. A significant change was also made to Part 10 of the Bill in relation to farm tenancies. As introduced, the Bill provided a regulation making power for Scottish Ministers to allow 1991 Act tenancies to be converted into the new form of Minimum Limited Duration Tenancy, also created by Part 10. Government amendments passed during Stage 2 would now allow a 1991 Act tenant to sell or assign their tenancy to an individual who is either a “new entrant” or “progressing in farming” having first given the landlord the opportunity to buy the lease back at a price fixed by an independent valuation. The tenancy would remain a 1991 Act tenancy, with the same rights e.g. of security of tenure.

**Stage 3:** The Bill was considered at Stage 3 on 16 March 2016.

The main amendments agreed to at Stage 3 were a package of Government amendments to Part 3 of the Bill on access to information about land. The regulation-making powers will enable Scottish Ministers to make provision requiring the disclosure of information about persons who have a controlling interest in landowners or tenants and for the publication of that information in a public register to be kept by the Keeper of the Registers of Scotland.

After debate, the motion that the Bill be passed was agreed to by 102 votes to 14.

\[22^\text{These terms would be defined in subordinate legislation}\]
National Galleries of Scotland Bill

Bill Number: SP Bill 77
Introduced on: 25 June 2015
Introduced by: The Board of Trustees of the National Galleries of Scotland (Private Bill)
Passed: 19 January 2016
Royal Assent: 23 February 2016

2016 asp 6

Passage of the Bill
The National Galleries of Scotland Bill [SP Bill 77] is a Private Bill which was introduced in the Scottish Parliament on 25 June 2015 by the Board of Trustees of the National Galleries of Scotland (the Promotor).

The procedure for Private Bills differs from that for Public Bills (i.e. those introduced by the Scottish Government). It consists of three stages:

4. The Preliminary Stage – consideration of a Bill’s general principles and whether its provisions are of a private rather than a public nature
5. The Consideration Stage – consideration of the details of the Bill
6. The Final Stage – the final consideration of the Bill and a decision whether to pass or reject it.

Private Bills are also subject to a 60-day objection period beginning immediately after introduction. In this case the objection period ran from 26 June 2015 to 24 August 2015 and no objections were received.

The National Galleries of Scotland Bill Committee (the Committee) was established on 2 September 2015 to consider the Bill. It conducted a site visit on 29 September 2015. It took evidence from the Promotor during the Preliminary Stage at its meeting on 8 October and from the Council at its meeting on 29 October 2015. It also issued a call for views which closed on 15 October 2015 with no responses being received.

The Preliminary Stage Report was published by the Committee on 13 November 2015 and the Preliminary Stage debate took place in the Scottish Parliament on 3 December 2015. The Consideration Stage took place on 15 December 2015 and the Parliament debated and passed the Bill during the Final Stage on 19 January 2016.

23 A Private Bill is a Bill introduced for the purpose of obtaining for an individual person, body corporate or unincorporated association of persons particular powers or benefits in excess of or in conflict with the general law
24 See Rule 9A.7 of the Scottish Parliament’s Standing Orders and the Scottish Parliament’s guide to the stages in the passage of a Private Bill
The Bill received Royal Assent on 23 February 2016 to become the National Galleries of Scotland Act 2016 (asp 6).

**Purpose and objectives of the Bill**
The aim behind the Bill was to facilitate the extension of the Scottish National Gallery (National Gallery) building in Edinburgh into an area of land which currently forms part of Princes Street Gardens (the Gardens). The extension is part of the Scottish National Gallery Project which is aimed at improving the display of the National Gallery’s Scottish Collection, tripling the size of the galleries, and providing direct access to the National Gallery from the Gardens.

The relevant land is part of the common good\(^\text{25}\) of the City of Edinburgh Council (the Council). Since it is classified as ‘inalienable’ common good land (in other words common good land which cannot be used for a different purpose or disposed of) the Council was unable to dispose of it to a third party without court authorisation.\(^\text{26}\)

In addition, the land was also subject to a statutory restriction in the City of Edinburgh District Council Order Confirmation Act 1991 (1991 Act) which prohibits the construction of permanent buildings in any part of the Gardens.

The Bill therefore had two connected purposes:

1. to change the status of the common good land so that the Council could dispose of it to the National Gallery without the need for court approval; and
2. to remove the land from the Gardens thus removing the statutory restriction on the construction of permanent buildings on the land.

**Provisions of the Bill**
The Bill had three main provisions:

- **Section 1(1)** – This deemed that the land should be alienable common good land thus allowing the Council to dispose of it.

- **Section 1(2)** – This limited the scope of the Bill to the disposal of the land to the Promotor to extend the National Gallery (thus stopping the Council from disposing of the land to another party, or for other purposes, without court approval/further legislation).

- **Section 2** – This provided that the land will no longer be part of the Gardens so that the building restrictions in the 1991 Act cease to apply.

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\(^{25}\) The common good is a fund of money and assets owned and administered by a local authority in respect of the former burgh within the area of that local authority.

\(^{26}\) See Local Government (Scotland) Act 1973. Section 75
Parliamentary consideration
The main issues considered by the Committee during the Preliminary Stage were as follows:\[^{27}\]

- Whether it was appropriate that the Bill be dealt with as a Private Bill and, in particular, whether there were any other alternative, non-statutory, solutions to achieve the Promoter’s aims.

- The general benefits of the Bill.

- The costs and funding connected to the extension and redevelopment project envisaged by the Bill.

- Ensuring best value in the disposal of the Council’s common good land.

No amendments were lodged in the Consideration Stage and the Bill as introduced was agreed to at this stage. No amendments were brought forward at the Final Stage.

Scottish Fiscal Commission Bill

Bill Number: SP Bill 78
Introduced on: 28 September 2015
Introduced by: John Swinney MSP (Government Bill)
Passed: 10 March 2016
Royal Assent: 14 April 2016

2016 asp 17

Passage of the Bill
The Scottish Fiscal Commission Bill [SP Bill 78] was introduced on 28 September 2015. The Stage 1 debate took place on 14 January 2016, the Bill was considered at Stage 2 on 10 February 2016 and the Bill was passed by the Parliament on 10 March 2016.

Purpose and objectives of the Bill
The Scottish Fiscal Commission Bill establishes the Scottish Fiscal Commission and provides for its functions. There was a significant change in the functions of the Commission from the Bill as introduced and the Bill as passed. This was due to the functions of the Commission being a factor in the negotiations between the Scottish and UK Governments over the Fiscal Framework governing the implementation of new Scotland Act 2016 powers.

[^{27}]: See the Preliminary Stage Report
When introduced, the Bill proposed that the Scottish Fiscal Commission be tasked with scrutinising, assessing the reasonableness of, and reporting on the Scottish Government’s devolved tax forecasts and the economic determinants underpinning Scottish Government non-domestic rate income (NDRI) forecasts. By the time the Bill was passed, the Scottish Fiscal Commission was tasked with producing the official devolved tax forecasts.

**Provisions of the Bill**
The Bill as passed provides for the Scottish Fiscal Commission to prepare independent forecasts of demand-driven welfare spending, revenues from the fully devolved taxes and income tax, and onshore GDP in Scotland. The legislation also contains regulation making powers to enable the Commission to prepare forecasts of other factors once the Scottish Parliament has the relevant competence. The timing for commencement of the new responsibilities is still to be announced.

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**Private Housing (Tenancies) (Scotland) Bill**

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<th>Bill Number:</th>
<th>SP Bill 79</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>7 October 2015</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Alex Neil MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>17 March 2016</td>
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<tr>
<td>Royal Assent:</td>
<td>22nd April 2016</td>
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2016 asp 19

**Passage of the Bill**
The Private Housing (Tenancies) (Scotland) Bill [SP Bill 79] was introduced in the Parliament on 7 October 2015. The Infrastructure and Capital Investment (ICI) Committee was appointed as lead Committee on the Bill and they published their Stage 1 Report on 14 January 2016. The Stage 1 debate was held on 1 January 2016 followed by Stage 2 proceedings on 10 February 2016. Stage 3 proceedings took place on 17 March 2016.

**Purpose and objectives of the Bill**
The Bill seeks to introduce a new private residential tenancy to supersede the existing assured and short assured tenancies provided for by the Housing (Scotland) Act 1988. The Scottish Government expects that the Bill will improve security of tenure for tenants and provide appropriate safeguards for landlords, lenders and investors.

**Provisions of the Bill**
The Bill provides that the new tenancy will be an open ended tenancy that can be ended by the tenant giving the landlord notice. If the landlord wishes to end the tenancy they must give notice to the tenant setting out which of the specified eviction grounds they are using.
If the tenant does not leave the property after being given notice by the landlord, the landlord will have to refer the case to the First-tier Tribunal (‘the Tribunal’) to obtain an eviction order. Some of the eviction grounds are mandatory which means, if the Tribunal finds that circumstances associated with the ground exist, they must make an eviction order. Other grounds are discretionary (or are a mix of mandatory and discretionary), which means that, even if the ground is established, the Tribunal can decide whether or not to make an eviction order.

The Bill also provides that a tenant will have recourse to the Tribunal if he or she believes the tenancy has been wrongfully terminated. If the Tribunal finds that a tenancy has been wrongfully terminated, it can order the landlord to pay the tenant compensation.

The Bill also seeks to provide tenants with protection from excessive rent rises. Landlords will only be able to increase rents once in every 12 month period and only with three months’ notice. If a tenant considers that any proposed rent increase would take their rent beyond rents charged for comparable properties in the area, they will have the ability to refer the increase for adjudication to a Rent Officer at Rent Service Scotland.

Finally, the Bill also provides local authorities with powers to apply to Scottish Ministers to approve a ‘rent pressure zone’ covering all or part of its area. This would limit rent increases for sitting tenants in that area for up to five years. Within a rent pressure zone landlords would still be able to increase their rents by a minimum of CPI +1%.

Parliamentary consideration
In its Stage 1 report, the ICI Committee supported the general principles of the Bill but requested that the Scottish Government give further consideration to a number of areas.

At Stage 2, 198 amendments were lodged. All Scottish Government amendments were agreed to. Details of how the Bill was amended at Stage 2 are contained in the SPICe Briefing 16/25 Private Housing (Tenancies) (Scotland) Bill: Stage 3.

The more substantial policy changes made at Stage 2 include:

- **Changes to the proposed eviction grounds** – two new eviction grounds were introduced and the balance between mandatory and discretionary grounds was shifted towards more discretionary grounds. A number of the eviction grounds are based on the landlord intending to make an alternative use of the property. At Stage 2, examples of the types of evidence that a landlord might use to demonstrate that intent were added to the grounds.

- **Purpose Built Student Accommodation (PBSA)** built by private providers were exempted from the Bill’s provisions (in the same way that student accommodation provided by further and higher education institutions already was in the Bill as introduced).
Wrongful Termination - the level of compensation payable to the tenant for a wrongful termination was increased from up to three months’ rent to up to six months’ rent.

Removal of the initial tenancy period - the Bill, as introduced, had proposed that, unless otherwise agreed between the tenant and the landlord, there would be an initial tenancy period of six months. This was removed at Stage 2.

Rent Pressure Zones - the formula for determining the limit that rents in a designated rent pressure zone could be increased by was changed to enable an amount to be added for improvements to the property carried out by the landlord, as determined by a Rent Officer.

Stage 3
At Stage 3 most of the amendments agreed to were of a technical nature. Other, more substantial amendments agreed to were:

- Removal of the need for an executor’s involvement to terminate a tenancy on the sole tenant’s death, and clarification of the circumstances in which the partner of a tenant, a family member and a carer of a tenant can inherit a private residential tenancy.

- Introduction of timescales in which Scottish Ministers must make a decision on a rent pressure zone (within 18 weeks of receiving a valid application).

- Change in the nature of the mandatory eviction ground that enables a landlord to regain possession of a property if the landlord or a family member of the landlord intends to live in the property. Where a family member of the landlord intends to live in the property became a discretionary eviction ground. Where the landlord intends to live in the property remained a mandatory ground.

Burial and Cremation (Scotland) Bill

<table>
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<tr>
<th>Bill Number:</th>
<th>SP Bill 80</th>
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<tr>
<td>Introduced on:</td>
<td>08 October 2015</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>Shona Robison MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>22 March 2016</td>
</tr>
<tr>
<td>Royal Assent:</td>
<td>28 April 2016</td>
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2016 asp 20

Passage of the Bill
The Burial and Cremation (Scotland) Bill [SP Bill 80] was introduced in the Parliament on 8 October 2015. Stage 1 commenced on 4 November 2015,
with the Health and Sport Committee as the lead committee and the Local Government and Regeneration Committee as a secondary committee. The Stage 1 (general principles) debate took place on 11 February 2016 and the Bill was passed following the Stage 3 debate on 22 March 2016.

**Purpose and objectives of the Bill**

The purpose of the Bill is to provide a modern, comprehensive legislative framework for burial and cremation. Many of the Bill’s provisions are based on recommendations made by various review groups, particularly the Infant Cremation Commission and the Burial and Cremation Review Group.

**Provisions of the Bill**

The Bill includes a range of reforms to the system of burial and cremation, including:

- ensuring that all burial authorities are subject to the Bill;
- ensuring that alternative methods of disposing of human remains are included;
- regulation of private burial and cremation;
- defining ashes;
- rules on the management of burial grounds and on burial and cremation records;
- alleviating pressure on burial grounds;
- rules on instructing the disposal of a pregnancy loss;
- creation of formal, independent inspection regime; and
- regulation of the funeral industry.

**Parliamentary consideration**

At both Stage 1 and Stage 2, consideration of the Bill was split between the Health and Sport Committee and the Local Government and Regeneration Committee. As lead committee, the Health and Sport Committee considered the general principles of the Bill and as well as those parts of the Bill which relate to losses during pregnancy. The Local Government and Regeneration Committee considered the remainder of the Bill.

The Health and Sport Committee outlined where the Bill needed clarification and amendment to ensure, as much as possible, that previous poor practices are never repeated. The Local Government and Regeneration Committee concluded at Stage 1 that the Bill was “lacking in ambition” with regards to an “opportunity to fundamentally change how the funeral industry operates in Scotland.” Both committees supported the general principles of the Bill.
A number of changes were made to the Bill at Stages 2 and 3 to address the concerns of both committees.

Abusive Behaviour and Sexual Harm (Scotland) Bill

Bill Number: SP Bill 81
Introduced on: 08 October 2015
Introduced by: Michael Matheson MSP (Government Bill)
Passed: 22 March 2016
Royal Assent: 28 April 2016

2016 asp 22

Passage of the Bill
The Abusive Behaviour and Sexual Harm (Scotland) Bill [SP Bill 81] was introduced in the Parliament on 8 October 2015 by the Cabinet Secretary for Justice, Michael Matheson MSP. The Justice Committee was designated lead committee on the Bill and issued a call for evidence on the general principles of the Bill which closed on 17 November 2015. In response, the Committee received 36 submissions.

The Committee took oral evidence on the Bill at its meetings on 27 October, 17 and 24 November, 8 December and 5 January and published its stage 1 report on 21 January 2016. Consideration of the Bill at stage 1 concluded with the stage 1 debate on 28 January 2016. Consideration of amendments at stage 2 took place at the Committee meetings on 1 and 8 March 2016. Following the stage 3 debate on 22 March 2016 the Bill was passed and received Royal Assent on 28 April 2016.

Purpose and objectives of the Bill
The Scottish Government stated that the provisions in the Bill would help to improve how the justice system responds to abusive behaviour, including domestic abuse, and sexual harm, thereby helping to improve public safety through ensuring perpetrators are appropriately held to account.

Provisions of the Bill
Amongst other things, the Bill provides a new domestic abuse aggravator that an offence is aggravated where it involves abuse of a person’s partner or ex-partner. It also provides a new specific offence for non-consensual sharing of private, intimate images (often referred to as “revenge porn”). The Bill also provides for juries in sexual offence cases to be given specific directions as to how evidence in such cases is to be considered.

Parliamentary consideration
A number of key issues emerged during stage 1 consideration.
The inclusion of jury directions proved to be the most contentious aspect of the Bill. Opinion was split between those stakeholders who felt that jury directions were wrong in principle in that they forced judges to give particular directions in particular circumstances, rather than letting the judge decide whether directions were appropriate given the circumstances of the case. It was also suggested that the introduction of statutory jury directions represented an unprecedented intrusion into the long held constitutional separation of powers. Supporters of statutory directions tended to say that there was no good reason why they should be opposed, because all they did was provide information to the jury that is factual, uncontroversial, and unobjectionable.

An amendment brought forward by Margaret Mitchell MSP sought to remove the section in the Bill on jury directions in its entirety. Ms Mitchell repeated the arguments put forward by those stakeholders opposed to their introduction and stated that the introduction of jury directions represented a “dangerous precedent”. In response, the Cabinet Secretary for Justice stated that the provisions had been included in the Bill to deal with the important underlying issue that some members of the public, and thus, some members of a jury, will hold preconceived and ill-founded attitudes towards how sexual offences are committed and how someone who is subjected to a sexual offence is likely to act both when the offence takes place and afterwards.

He went on to say that the intent behind the introduction of jury directions was that the Government wanted the focus of the jury to be on the evidence before them and that any preconceived and ill-founded attitudes that may be held should not play a part in the jury’s decision.

Following a division, Ms Mitchell’s amendment was disagreed to.

With regard to the non-consensual sharing of private, intimate images, the Bill provides that it would be a criminal offence to share, publish or distribute private, intimate images in the form of a photograph or film relating to another person without that person’s consent. It will also be an offence to threaten to disseminate intimate images. During stage 1 consideration some witnesses considered it important that the focus of the offence remain on images of the body which, they considered, had particular power to humiliate. Others saw merit in including, for instance, text or voice recordings of intimate conversations. A clear majority of the Committee supported the approach set out in the Bill.

However, amendments to expand the scope of the disclosure offence in the Bill were brought forward at stage 2 by Margaret McDougall MSP. The amendments sought to have sound recordings containing intimate content or intimate written communications included within the scope of the offence. Ms McDougall argued that by including only images within the scope of the offence, a loophole would be created whereby someone could share intimate written texts or recorded conversations without consent and escape punishment. In response, the Cabinet Secretary for Justice reiterated the Scottish Government’s view that almost all the cases which it was aware of have involved the sharing of images which may enable a complete stranger to
identify the victim, and that this is especially likely to cause distress. The Cabinet Secretary also stated that the Government’s understanding was that the amendments brought forward by Margaret McDougall may unintentionally criminalise behaviour in certain circumstances.

Following a division, the amendments were not agreed to.

**Lobbying (Scotland) Bill**

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<tr>
<td>Introduced on:</td>
<td>29 October 2015</td>
</tr>
<tr>
<td>Introduced by:</td>
<td>John Swinney MSP (Government Bill)</td>
</tr>
<tr>
<td>Passed:</td>
<td>10 March 2016</td>
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<tr>
<td>Royal Assent:</td>
<td>14 April 2016</td>
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2016 asp 16

**Passage of the Bill**

The Lobbying (Scotland) Bill [SP Bill 82] was introduced in the Scottish Parliament on 29 October 2015 by the Cabinet Secretary for Finance, Constitution and Economy, John Swinney MSP.

The Standards, Procedures and Public Appointments Committee (SPPA Committee) was designated as lead committee on 3 November 2015. Just prior to this, the SPPA Committee issued a call for written evidence on 30 October 2015. The call for evidence closed on 30 November 2015.

The SPPA Committee took Stage 1 evidence at two meetings on 12 November and 19 November 2015.

The Delegated Powers and Law Reform (DPLR) Committee considered the delegated power in the Bill (for the Parliament to publish a code of conduct) at Stage 1 on 17 November and 1 December 2015.

The DPLR Committee published its Stage 1 Report on 2 December 2015 and the SPPA Committee published its Stage 1 Report on 15 December 2015.

The Stage 1 debate took place on 7 January 2016 at which the general principles of the Bill were agreed to (S4M-15220).

Thirty seven amendments were lodged at Stage 2 with the SPPA Committee taking Stage 2 proceedings on 4 February 2016.

The Bill was passed by the Parliament after the Stage 3 debate on 10 March 2016 and received Royal Assent on 14 April 2016 to become the Lobbying (Scotland) Act 2016 (asp 16).
Purpose and objectives of the Bill
The broad objective of the Bill was to increase public transparency of contacts between organisations and elected Members by establishing a register to contain certain details relating to lobbying by paid consultant and in-house lobbyists who engage directly (orally and in person) with MSPs and Scottish Ministers.

Provisions of the Bill
The Bill was in 5 parts with 1 schedule. The main provisions in each part of the Bill, as introduced, are described below. SPICe briefing SB 15/79 Lobbying (Scotland) Bill (Oag and McGrath, 2015) provides more information on the Bill as introduced.

Part 1
- Defines ‘regulated lobbying’ as oral, face to face engagement with MSPs and Ministers in relation to their Government or parliamentary functions. This would include ‘in person’ meetings, events and other hospitality but exclude all other forms of communication such as letters, emails, telephone calls and video conferences.
- Defines “Government or parliamentary functions” as including: the development, adoption or modification of any proposal related to primary or secondary legislation or to any policy of the Scottish Ministers or other Scottish Administration office-holders; the making, giving or issuing by Scottish Ministers or other Scottish Administration office-holders of contracts, agreements, grants, financial assistance, licences or other authorisations.

Part 2
- Requires the Clerk of the Parliament (the Clerk) to establish and maintain a register containing information about active registrants; inactive registrants and voluntary registrants
- Makes provision for the content of the lobbying register to include information about the identity of the registrant and information about the regulated lobbying activity
- Imposes a duty to register on lobbying firms and organisations with in-house lobbyists who engage in regulated lobbying but who are not yet registered as active registrants

Part 3
- Places a duty on the Clerk to monitor compliance with the Bill and provides the Clerk with powers to require information (by serving an ‘information notice’) relating to compliance.
- Creates a criminal offence of failing to provide the required information on or before the date specified for those served with an information notice
Establishes an enforcement regime, with the Clerk overseeing registration and monitoring compliance.

Part 4

Provides that the Parliament may publish guidance on the operation of the Act and that it must publish, and from time to time review, a Code of Conduct for lobbyists. Lobbying "in relation to the Code of Conduct is defined more widely than regulated lobbying, to include communication of any kind by a lobbyist to an MSP in relation to the MSPs’ functions.

Part 5

Contains various provisions including provision for offences committed by bodies corporate and, in certain circumstances, by specific individuals who played a role in the offence.

Schedule

The Schedule to the Bill lists the forms of communication which are not lobbying activities.

Parliamentary consideration

The main issues which arose during parliamentary consideration of the Bill included:

Methods of Communication

The SPPA Committee, and many consultation respondents and witnesses, felt that, in addition to oral face to face engagement, the Bill should capture other means of communication by lobbyists such as telephone calls, emails and letters.

Opposition amendments were lodged at Stage 2 to expand the range of oral and written communications which would be covered by regulated lobbying. However, the only successful amendments were those by the Government to include videoconferencing and equivalent forms of communications.

Targets of lobbying

The SPPA Committee considered that the definition of regulated lobbying should be expanded to include other public officials who may be the target of lobbyists.

At Stage 2, the Government lodged an amendment to bring government special advisers (Spads) within the definition of regulated lobbying. At Stage 3, the Government brought a further amendment to include the Permanent Secretary of the Scottish Government within the definition. Both amendments were agreed to.

Communications which are not lobbying

At Stage 2, the Scottish Government responded to criticism of the exemption for meetings initiated by Members by lodging an amendment to replace this
exception for one which exempted “communications made on request”. This extends only to factual information or views from the person to whom the request was made, or to someone acting on his or her behalf.

Also at Stage 2, the Government lodged an amendment to exempt communications made by trade unions or employers in relation to terms and conditions of employment.

At Stage 3, the Government lodged an amendment to exclude constituency-based engagement from the regulated lobbying regime by exempting communications made by organisations on their own behalf in the course of a business or other activity to a local constituency or regional list MSP. “Local” in this situation means an MSP for the constituency or region in which the person’s business or other activity is ordinarily carried out, or for the place of residence of the individual who made the communication.

The Scottish Government also lodged an amendment at Stage 3 to exempt communications by individuals to MSPs, carried out in the course of a business or other activity on their own behalf, where that individual represents a small business or organisation (but not a representative body) which has fewer than 10 full-time equivalent employees.

**Bankruptcy (Scotland) Bill**

<table>
<thead>
<tr>
<th>Bill Number:</th>
<th>SP Bill 83</th>
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<tbody>
<tr>
<td>Introduced on:</td>
<td>30 October 2015</td>
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<tr>
<td>Introduced by:</td>
<td>Frank Mulholland, Lord Advocate (Government Bill)</td>
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<td>Passed:</td>
<td>22 March 2016</td>
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<td>28 April 2016</td>
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2016 asp 21

**Passage of the Bill**

The Bankruptcy (Scotland) Bill [SP Bill 83] was introduced in the Scottish Parliament on 30 October 2015 by the Scottish Government. As a consolidation bill, the Bankruptcy (Scotland) Bill made no substantive changes to the existing law. Instead, its purpose was to restate existing legislation in an easier to understand format.

Consolidation bills are considered under a special parliamentary procedure. The Bill as introduced was accompanied by tables of derivations and destinations. These detail what existing legislation has been consolidated, and where the previous law is to be found in the new Bill. There were also statements of legislative competence.

The Delegated Powers and Law Reform Committee undertook Stage 1 scrutiny in November and December 2015, and January 2016. The question considered by the Committee was whether the Bill should proceed as a consolidation bill.

The Delegated Powers and Law Reform Committee considered Stage 2 amendments to the Bill at its meeting on 23 February 2016 (cols 2 to 13). The Bill as amended was published on 24 February 2016.

Stage 3 proceedings took place on 22 March 2016 (cols 56 to 61). The Bill was passed without further amendment. The Bill received Royal Assent on 28 April 2016 to become the Bankruptcy (Scotland) Act 2016 (asp 21).

Purpose and objectives of the Bill
The purpose of a consolidation bill is to restate legislation in a more coherent form, so that the law is easier to understand. The Scottish Law Commission noted that existing bankruptcy legislation had been so heavily amended that it was difficult to follow.

Provisions of the Bill
When a person or entity becomes bankrupt, their property is administered by a trustee for the benefit of their creditors. Usually, assets will be sold to pay creditors. At the end of the process, almost all outstanding debts will be written off so that the debtor is no longer liable for them.

The Bill restated existing bankruptcy legislation in a manner that was easier to follow. In particular, existing provisions were simplified and re-ordered to follow the normal course of a bankruptcy. Regulations governing a form of personal insolvency known as the “protected trust deed” were consolidated into primary legislation.

Parliamentary consideration
The Delegated Powers and Law Reform Committee’s consideration focussed on whether the Bill should proceed as a consolidation bill. It also considered whether the Bill had correctly consolidated existing legislation and whether the language used was “clear, coherent and consistent”.

In consideration of these points, the Committee engaged in a substantial amount of correspondence with the Bill’s drafter. The letters are available on the Committee’s Bankruptcy (Scotland) Bill webpage.

The Committee accepted that the Bill should proceed as a consolidation bill. Its Stage 1 Report also contained a number of recommendations in relation to accurate consolidation and improving on the language used. These were all addressed, either by amendment at Stage 2 or otherwise by the Scottish Government.
### Scottish Elections (Dates) Bill

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<td>30 March 2016</td>
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#### Passage of the Bill

The Scottish Elections (Dates) Bill (SP Bill 84) was introduced on 17 November 2015, by John Swinney, the Deputy First Minister and Cabinet Secretary for Finance, Constitution and Economy.

On 25 November 2015, the Parliament agreed that the Standards, Procedures and Public Appointments Committee be designated as the lead committee in consideration of the Bill at Stage 1.

The Committee took evidence in public on 3 December 2015 and agreed its draft Stage 1 report on 10 December 2015. The Stage 1 report was published on 14 December 2015.

The Parliament agreed the general principles of the Bill in its Stage 1 debate on 7 January 2016.

The Standards, Procedures and Public Appointments Committee considered the Bill at Stage 2 on 28 January 2016. No amendments to the Bill were lodged.

The Parliament considered the Bill at Stage 3 and passed it, without amendment, on 25 February 2016.

#### Purpose and objectives of the Bill

The purpose of this one page Bill was to change the dates of the Scottish Parliament and local elections to be held after 2016.

A Section 30 order, The Scotland Act 1998 (Modification of Schedules 4 and 5) Order 2015 SI 2015/1764, approved by the Scottish and UK Parliaments, had transferred to the Scottish Parliament the legislative power that enabled the Scottish Government to introduce the bill.

The Bill would lead to the second five year term for the Scottish Parliament, moving the date of the election from 7 May 2020, when it would have coincided with the UK Parliament election date, to 6 May 2021.

The Bill would also move the date of the Scottish local elections scheduled for 6 May 2021 to 5 May 2022, to avoid a clash with the new date for the Scottish Parliament election.
The transfer of the power to change the timings of subsequent Scotland Parliament and local elections is included in Section 5 of the Scotland Act 2016 and will come into force under an order to be made by the Secretary of State for Scotland.

**Provisions of the Bill**
Section 1 of the Bill proposed amending the Scotland Act 1998, in order to change the date of the Scottish Parliament election.

Section 2 of the Bill proposed amending Section 5 of the Local Government etc. (Scotland) Act 1994, in order to change the date of the Scottish Local elections

**Parliamentary consideration**
The short technical Bill was not subject to any amendments during its passage.

**Land and Building Transaction Tax (Amendment) (Scotland) Bill**

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**Passage of the Bill**
The Land and Building Transaction Tax (Amendment) (Scotland) Bill [SP Bill 85] was introduced on 27 January 2016. The Stage 1 debate took place on 23 February 2016, the Bill was considered at Stage 2 on 2 March 2016 and was passed by the Parliament on 8 March 2016.

**Purpose and objectives of the Bill**
In his Spending Review and Autumn Statement of 25 November 2015, the Chancellor of the Exchequer announced a supplementary Stamp Duty Land Tax (SDLT) charge in the rest of the UK of 3% on the purchase of additional residential properties. In setting out his tax and spending proposals on 16 December 2015, the Deputy First Minister announced that legislation would be introduced proposing a new LBTT supplement on purchases of additional residential properties in Scotland (such as buy-to-let properties and second homes) with a market value of £40,000 and over.

The stated policy objective of the Scottish Government in replicating the UK Government’s proposal is to
“...ameliorate the likely distortions which will arise in Scotland when new SDLT higher rates of tax for the purchase of additional residential properties are introduced in the rest of the UK from 1 April 2016. The absence of a similar LBTT supplement could make it more attractive to invest in buy-to-let properties and second homes (and in particular those properties at the lower end of the market) in Scotland compared to other parts of the UK, making it difficult for first time buyers in Scotland to purchase a main residence.”

The Scottish Government wish to “ensure that the opportunities for first time buyers to enter the housing market in Scotland remain as strong as they possibly can, aligning with LBTT policy on rates and bands.”

Provisions of the Bill
The Bill as passed provides for an LBTT supplement to apply to the total purchase price of an additional residential property purchase with a market value of £40,000 or above (£40,000 is the point at which a buyer is required to make an LBTT return). The LBTT supplement will be chargeable if, at the time of the settlement of a transaction involving the purchase of a dwelling in Scotland, the buyer owns more than one dwelling (whether in Scotland or another country) unless that dwelling is a replacement of the buyer’s existing main residence.

Budget (Scotland) (No 5) Bill

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2016 asp 12

Passage of the Bill
The Budget (Scotland) (No 5) Bill [SP Bill 86] was introduced on 28 January 2016. The Stage 1 debate took place on 3 February and the Finance Committee considered the Bill at Stage 2 on 10 February. The Bill was passed by the Parliament on 24 February 2016.

Purpose and objectives of the Bill
The Budget Bill is the final stage in the annual budget process and this Bill gives parliamentary authority for spending in Scotland for financial year 2016-17. The budget process is intended to allow the Parliament’s subject committees the opportunity to comment on the Scottish Government’s spending plans prior to the annual budget being agreed. The expectation is for the subject committees to play an active role in scrutinising and making recommendations on spending priorities.
Provisions of the Bill
The Bill authorises approximately £33.3bn of cash expenditure by the Scottish Government and its associated bodies, other organisations whose core funding is centrally provided (e.g. local authorities and health boards), the Forestry Commissioners, the Food Standards Agency, the Scottish Parliamentary Corporate Body and Audit Scotland.

The Bill received Royal Assent on 30 March 2016 to become the Budget (Scotland) Act 2016 (asp 12).
## Annexe 1: List of Session 4 Acts by year of enactment and asp number order

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