Parliamentary Bureau – Referral of Bills at Stage 1

Wellbeing and Sustainable Development (Scotland) Bill

Introduction

1. The Wellbeing and Sustainable Development (Scotland) Bill was introduced in the Parliament on 27 March by the member in charge, Sarah Boyack MSP.

Discussion

2. The Bill defines sustainable development and wellbeing for the purposes of the Bill, places a duty on public bodies to have due regard for the need to promote wellbeing and sustainable development when exercising their functions, and provides for the establishment and functions of a Future Generations Commissioner for Scotland.

3. The Bill falls within the remit of both the Net Zero, Energy and Transport Committee and the Finance and Public Administration Committee. At its meeting on 22 April, the Bureau agreed to write to the Conveners of both Committees, seeking views on the extent to which the Bill falls within the remit of their Committee and the capacity of their Committee in the period through to dissolution to scrutinise the Bill.

4. The responses from the Conveners are set out in the Annexe to this paper.

5. At the Bureau Strategic Planning meeting on 21 May, in the context of the wider discussion about committee workloads and the referral of Bills, Business Managers also discussed the possibility of referring this Bill to either the Economy and Fair Work Committee or the Social Justice and Social Security Committee.

Recommendation

6. The Bureau is invited to recommend to the Parliament by motion which committee should be designated as lead committee for consideration of the Wellbeing and Sustainable Development (Scotland) Bill at Stage 1.

Desecration of War Memorials (Scotland) Bill

Introduction

7. The Desecration of War Memorials (Scotland) Bill was introduced in the Parliament on 14 May by the member in charge, Meghan Gallacher MSP.

Discussion

8. The Bill inserts a new section into the Criminal Law (Consolidation) (Scotland) Act 1995 to create the statutory offence of wilfully or recklessly destroying, damaging or desecrating a war memorial. It includes an explanation of what is meant by desecrating a war memorial, a definition of war memorial for the purposes of the offence and provides for a person who commits an offence to be tried on summary conviction or indictment. It also sets out maximum penalties of 10 years in prison and an unlimited fine.

9. The Bill falls within the remit of the following committees—

   Criminal Justice Committee
   The remit of the Criminal Justice Committee includes matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Home Affairs. The Bill creates a specific statutory offence of desecrating a war memorial and provides maximum penalties for committing such an offence. Accordingly, the remit of this Committee is engaged.

   Constitution, Europe, External Affairs and Culture Committee
   The remit of the Constitution, Europe, External Affairs and Culture Committee includes matters within the responsibility of the Cabinet Secretary for the Constitution, External Affairs and Culture. The Policy Memorandum explains the Member's intention for the legislation is to acknowledge the commemorative importance of war memorials, their prominence within local communities and sentimental value. It is the Member's view that existing vandalism offences are therefore inappropriate when considering desecration of war memorials due to their cultural significance. The Cabinet Secretary for the Constitution, External Affairs and Culture also has responsibility for Historic Environment Scotland which promotes best practice for the conservation of war memorials. Although there is no provision in the Bill for the maintenance of war memorials, it could be argued that Historic Environment Scotland may also have an interest. The links between war memorials, culture and heritage mean that the remit of the Committee is engaged.

10. The remit of other committees is also arguably engaged in relation to the war memorials aspect of the Bill. Local authorities have powers to use funds to maintain and repair war memorials, but there is no legislative obligation for them to do so. The Bill does not provide for maintenance or upkeep of war memorials, but nonetheless the Local Government, Housing and Planning Committee may have an interest. War memorials may also be considered to have particular commemorative significance to veterans. As such, the Minister for Higher and Further Education; and Minister for Veterans may also have an interest which would in turn mean that the Education, Children and Young People Committee's remit may be engaged, although there is nothing in the Bill regarding education.

11. Designation of one committee as lead committee does not preclude any other committee whose remit is engaged from considering the Bill if it wishes to do so.

12. At the Bureau Strategic Planning meeting on 21 May, in the context of the wider discussion about committee workloads and the referral of Bills, Business Managers indicated a preference for referring this Bill to the Constitution, Europe and External Affairs Committee.

Recommendation

13. The Bureau is invited to agree that the Constitution, Europe and External Affairs Committee be designated as lead committee for consideration of the Desecration of War Memorials (Scotland) Bill at Stage 1.

Prostitution (Offences and Support) (Scotland) Bill

Introduction

14. The Prostitution (Offences and Support) (Scotland) Bill was introduced in the Parliament on 20 May 2025 by the Member in Charge, Ash Regan MSP.

Discussion

15. The Bill makes provision for a new criminal offence of paying for sexual acts; repeals the offence of soliciting for the purposes of prostitution in a public place under section 46 of the Civic Government (Scotland) Act 1982 ("the 1982 Act"); quashes historic convictions (under section 46 of the 1982 Act); gives people in prostitution, or people who have previously been in prostitution, the legal right to support and requires the Scottish Ministers to make provision for that support including in regulations.

16. The Bill falls within the remit of the following committees—

Criminal Justice Committee
The remit of the Criminal Justice Committee includes matters relating to criminal justice falling within the responsibility of the Cabinet Secretary for Justice and Home Affairs. The Bill creates a new offence of paying for sexual acts. Accordingly, the remit of this Committee is engaged.

Social Justice and Social Security Committee
The remit of the Social Justice and Social Security Committee is to consider and report on matters falling within the responsibility of the Cabinet Secretary for Social Justice excluding matters relating to housing and tenants' rights. The Minister for Equalities is one of the Cabinet Secretary's supporting Ministers, who has responsibility for the Equally Safe Strategy. The Equally Safe Delivery Plan[1] includes progressing Scotland's strategic approach to challenging and deterring men's demand for prostitution and support the recovery and sustainable exit of those involved in prostitution. Accordingly, the remit of this Committee is considered to be engaged.

Equalities, Human Rights and Civil Justice Committee
The remit of the Equalities, Human Rights and Civil Justice Committee includes considering matters relating to equal opportunities. Given the impacts on women of prostitution, the issue is viewed as an equalities issue. The remit of the Committee is therefore considered to be engaged.

17. It is understood that the Criminal Justice Committee is best placed to be designated as the lead committee in respect of this Bill.

18. We are not aware of any interest of the two other committees in being formally designated as a secondary committee. Lack of formal designation does not, of course, prevent the committee from considering the Bill if it subsequently decides to do so.

[1] Equally Safe Delivery Plan: Spring 2024 - Summer 2026

Recommendation

19. The Bureau is invited to consider recommending to the Parliament by motion that it agrees, under Rule 9.6.1, that the Criminal Justice Committee be designated as lead committee.

20. A draft motion can be found below.

Draft Parliamentary Bureau motion on the Prostitution (Offences and Support) (Scotland) Bill:

Designation of Lead Committee – That the Parliament agrees that the Criminal Justice Committee be designated as the lead committee in consideration of the Prostitution (Offences and Support) (Scotland) Bill at Stage 1.

Parliamentary Business Team
May 2025

Annexe

Letter from Edward Mountain MSP, Convener, Net Zero, Energy and Transport Committee

Dear Presiding Officer

Wellbeing and Sustainable Development (Scotland) Bill
Thank you for your letter of 24 April and for the opportunity to respond. The NZET Committee discussed the possibility of the Bill being referred to us at our 1 April meeting, when we were discussing our work programme. Whilst there might be some individual differences on some points, the response below sets out a general Committee view on the two points you raise in your letter. I do recognise that the scope of this Bill falls across the remit of a number of committees with many of these very busy, making decision-making difficult. I appreciate the Bureau taking time to reflect carefully and am sure the Member in Charge would welcome this too.

Below is a hopefully comprehensive answer to the two matters you raised but I would of course be happy to address the Bureau in person when it next considers this matter, if that would be helpful.

Extent to which scope of Bill appears relevant to NZET Committee remit
The Committee does not dispute that the Bill partly falls within the NZET Committee's remit but considers its engagement with it quite marginal, having little to do with matters the Committee normally deals with.

For background, the NZET Committee was set up in June 2021 with a remit exactly mirroring that of the then Cabinet Secretary for Net Zero, Energy and Transport. Apart from one small change later agreed to in Parliament, the remit has remained the same ever since, despite a number of changes in job titles and roles on Scottish Government side.

The Committee's core responsibilities relate to

- All transport matters;
- Practically all aspects of environmental regulation;
- All energy matters (other than the just transition);
- The circular economy;
- Land reform;
- Above all, scrutinising the overall performance and progress of the Scottish Government and Scottish public agencies in achieving statutory net zero targets; this having been recognised as an over-arching scrutiny priority for this session by the Parliament's Conveners Group.

I understand that is has been observed that "sustainable development" is listed as a responsibility of the current Acting Cabinet Secretary for Net Zero and Energy and that this might perhaps have been a factor in considering the NZET Committee a possible candidate for the Bill. Leaving aside the fact that (as noted above), the Committee's remit was set by reference to the responsibilities of the former Cabinet Secretary for Net Zero, Energy and Transport, not the current Cabinet Secretary with

a redefined role and title, the Committee, in its 1 April discussion, noted that the Bill defines “sustainable development” in a distinctive way.

First, “sustainable development” is defined solely by reference to the concept of “wellbeing”. The Bill says:

> “Sustainable development” is development that improves wellbeing in the present without compromising the wellbeing of future generations.

It is thus “wellbeing” and not “sustainable development” that is the key term in the Bill and it is “wellbeing” and not “sustainable development” that the Bill goes on to define in its own right. It does this in some detail, describing “wellbeing” as “the ability of individuals, families and other groups within society to enjoy—

(a) personal dignity, including respect for their choices and beliefs,
(b) freedom from fear, oppression, abuse and neglect,
(c) good physical, mental and emotional health,
(d) participation in meaningful activity including work, education, training and recreation,
(e) an adequate standard of living including suitable and affordable accommodation, food, clothes and energy,
(f) access to the natural environment for health, leisure and relaxation.

These listed elements appear to have the character of “social and cultural rights”: collectively to have a good, healthy and flourishing life. Only two issues mentioned appear to have any connection to the everyday work of the Committee, and in both cases the connection appears tenuous. One is the reference to the cost of energy in a list of “living standard” issues in paragraph (e). The other is the reference to the “natural environment” in paragraph (f) and it is notable even here that this is expressly and solely in the context of the right of people to enjoy it. There is no further reference anywhere in the 18 pages of Bill text to the environment or nature, and no reference to climate change or net zero.

Taking into account the core duty set out in section 1(1) of the Bill (“A public body must, in the exercise of its functions, have due regard for the need to promote wellbeing and sustainable development.”) it appears that the fundamental purpose of the Bill is *to require public bodies to take account of the social and cultural rights of people when they take their decisions, and to take account of these in both the short and long term.*

The remainder of the Bill is then mainly taken up with establishing a new independent officer; the Ombudsman, to uphold this duty and provide some "teeth”.

This seems, with respect, some considerable distance away from the matters the Committee ordinarily concerns itself with and in which it has built up a degree of experience and institutional memory over the past 4 years.

For the avoidance of any doubt, none of the above constitutes any kind of commentary on the merits of the Bill: it is meant as neutral and factual background

as to the extent to which the Committee sees the Bill as a “good fit” with our remit. The general view is that it is not.

Committee capacity
As you will know from recent correspondence, the Committee considers that there is an inherent problem of our remit being too wide and covering too many important issues. This in itself means that the Committee is practically always busy. It is a constant challenge to do justice to our diverse remit.

Looking ahead, I do not realistically see this changing. Indeed, our workload may intensify. I expect the Committee to be very busy with important work all the way to dissolution next year, with no real let-up. Foremost amongst this work is the next Climate Change Plan. In my view, scrutiny of the draft Plan over the 120 days it will be before the Parliament is the single most important task for the Committee in this session, especially in the light of the Conveners Group’s determination to prioritise net zero.

To provide some additional detail should you need it, the annexe lists current and future commitments of which the Committee and its staff are aware at this time.

I once again thank the Bureau for taking the time to consider this matter

Yours sincerely,

Edward Mountain MSP
Convener

Appendix: Matters under consideration by the NZET Committee

- Land Reform Bill: the Committee will begin Stage 2 consideration of the Bill in early June. This is likely to be a major piece of work, taking up the whole month, with the possibility of having to be continued after summer;

- Carbon budgets: at the same time, the first set of regulations setting carbon budgets will be lodged. This is an important milestone in our net zero scrutiny journey and the Committee considers it important to consider these carefully;

- Climate Change Plan: if the regulations are agreed to then shortly afterwards the draft CCP will be laid, with 120 days for the Parliament to complete its scrutiny. Scrutinising these delayed and much-needed proposals will be the Committee’s main priority in the coming autumn and winter;

- Ecocide Bill: we understand that a Member’s Bill on ecocide may be lodged soon with the NZET Committee a candidate to be lead committee;

- Subordinate legislation: the Committee frequently and perhaps increasingly deals with important SSIs, many of these arising from quite recently enacted framework environmental legislation. Some are laid under a super-affirmative procedure. For instance, we expect regulations with potentially significant business

impacts under the Circular Economy (Scotland) Act 2024 in the coming months. New regulations on the deposit return scheme are also imminent;

- Legislative Consent Memorandums: the Committee has just begun scrutiny on one of these (on planning and electricity consent) with one other (on railways) of which we are aware. Past experience strongly suggests others may arise;

- A9 dualling: the Committee has made a commitment to continuing the CPPP Committee's work and to take evidence on this when the opportunity arises;

- Environmental regulation: on behalf of the Parliament, the Committee exercises a statutory role in relation to all Improvement Plans prepared following an Environmental Standards Scotland investigation, and there is a strong likelihood of at least one more of these in the coming months;

- Public bodies: the Committee monitors an unusually large number of autonomous public bodies, aiming as a minimum, to have annual "check-ins" with each of them, but even this is challenging. What is likely to be our final round of check-ins is currently incomplete. The Committee also has a role in relation to statutory appointment processes for several of these bodies;

- Other matters of continuing public interest where the Committee still has work to complete. A non-exhaustive list includes ferries (especially the delayed delivery of the Glen Rosa and the next Clyde and Hebrides contract), future energy policy (including prospects for the green hydrogen sector and the Acorn Project), natural capital finance, and issues arising from current scrutiny of Scotland's bus and train sectors we may wish to pursue further with the Scottish Government. There is also one current petition on air quality.

Letter from Kenneth Gibson MSP, Convener, Finance and Public Accountability Committee

Dear Alison

Wellbeing and Sustainable Development (Scotland) Bill

Thank you for your letter seeking views on the extent to which the Wellbeing and Sustainable Development (Scotland) Bill falls within the Finance and Public Administration (FPA) Committee's remit and its capacity to scrutinise the Bill in the period through to dissolution.

The FPA Committee considered this letter at our meeting on 29 April 2025.

Our response set out below was unanimously agreed by the Committee and raises significant concerns regarding the possible referral of the Bill to the FPA Committee, both in relation to remit and capacity, as well as potential reputational issues for the Committee and Parliament as a whole.

Remit

As the Parliamentary Bureau is aware, the FPA Committee's remit is—

To consider and report on the following (and any additional matter added under Rule 6.1.5A):

(a) any report or other document containing proposals for, or budgets of, public revenue or expenditure or proposals for the making of a Scottish rate resolution, taking into account any report or recommendations concerning such documents made by any other committee with power to consider such documents or any part of them;

(b) any report made by a committee setting out proposals concerning public revenue or expenditure;

(c) Budget Bills; and

(d) any other matter relating to or affecting the revenue or expenditure of the Scottish Administration or other monies payable into or expenditure payable out of the Scottish Consolidated Fund.

(e) matters relating to the National Performance Framework within the responsibilities of the Deputy First Minister, public service reform within the responsibility of the Cabinet Secretary for Finance and Local Government, and public administration.

In establishing the FPA Committee, the Bureau's expectation was that the public administration element of its remit would involve "oversight and scrutiny of the way in which Government exercises its overall functions and the quality and standards of administration provided by the civil service in the Scottish Government".

According to the Policy Memorandum, the policy objectives of the Wellbeing and Sustainable Development (Scotland) Bill are to embed sustainable development and wellbeing as primary considerations in public policymaking to accelerate the progress towards reducing emissions and meeting Scotland's climate goals.

The member in charge of the Bill, Sarah Boyack MSP, when giving evidence to the SPCB Supported Landscape Review Committee on 13 March 2025 further explained that a Futures Generations Commissioner, as proposed in her Bill, "… works as a way to deliver climate ambitions".

It is the FPA Committee's clear view that, while the Scottish Government's general approach to and culture around Government policymaking sits within the Committee's public administration remit, the specific policy focus in this Bill on sustainable development, net zero and climate change does not.

Without the knowledge or expertise in the policy areas covered by the Bill, we do not consider the FPA Committee to be best placed to scrutinise it as effectively as the relevant subject committee.

We further note that the draft proposal lodged by the Member prior to the Bill's introduction was referred by the Bureau to the Net Zero, Energy and Transport Committee.

The Bill does not engage any other areas of the FPA Committee's remit.

As the Bureau is aware, the Committee carried out a comprehensive inquiry into Scotland's Commissioner Landscape in 2024, which led to the Parliament agreeing that there should be a moratorium on the creation of any new SPCB supported body, or expanding the remit of any existing body, while a 'root and branch' review of the landscape is carried out by a dedicated Committee.

On the basis of the detailed evidence received during the inquiry, the FPA Committee has a clearly stated position on the creation of new advocacy-type SPCB supported bodies as set out in our report as follows—

> "It is our clear view that this advocacy role is for MSPs to undertake, with Parliament holding Government to account on how it seeks to improve the lives of specific groups of society or develop and deliver effective policy, with the third sector continuing to play a crucial role.
>
> "We also believe that the funding for new supported bodies would be better spent on improving the delivery of public services 'on the ground', where greater impact can be made. Continuing the trend for creating new advocacy-type SPCB supported bodies is not sustainable, especially at a time of significant pressure on public finances in Scotland."

Our standpoint is established and well known. It is therefore not possible for the Committee to be seen to examine this Bill and in particular the proposal to create a new advocacy-type Commissioner, in a balanced and objective manner.

This not only risks reputational damage to the Committee and the Parliament in relation to important scrutiny of legislation but would also presumably not be the preferred outcome of the member in charge.

Capacity

As demonstrated by the month-by-month indicative work programme of substantive items of business set out below, the FPA Committee has no capacity to scrutinise the Bill in the period through to dissolution.

Our forward work programme does not include scrutiny of Financial Memorandums, contingent liabilities or work programme items which are scheduled throughout the year as and when required.

Month	Item of business
May	• Budget process inquiry: evidence taking • Inquiry into cost effectiveness of public inquiries: evidence taking
June	• Inquiry into cost effectiveness of public inquiries: evidence taking • Scottish Government's Medium-Term Financial Strategy and Fiscal Sustainable Delivery Plan: evidence taking to inform pre-budget scrutiny • Budget process inquiry: agree report • Bonds: private briefing
September	• Pre-budget 2026-27 scrutiny: evidence taking • Inquiry into cost effectiveness of public inquiries: agree report
October	• Pre-budget 2026-27 scrutiny: evidence taking and agree report • Building Safety Levy Bill: evidence taking
November	• Building Safety Levy Bill: evidence taking • Autumn Budget Revision: evidence taking • UK Budget impact on Scotland to inform scrutiny of the Scottish Budget 2026-27: evidence taking • Building Safety Levy Bill: agree report
December	• Scottish Budget 2026-27 – evidence taking • Revenue Scotland and Scottish Fiscal Commission governance – evidence taking
January	• Scottish Budget 2026-27 – evidence taking and agree report
February	• Building Safety Levy Bill: Stage 2 proceedings • Budget Bill Stage 2 proceedings

March	• Spring Budget Revision: evidence-taking • Land Buildings Transactions Tax SSI and Scottish Landfill Tax SSIs: evidence-taking • Legacy report: evidence taking and agree report

I trust that the above is useful in informing the Bureau's considerations on referral of the Wellbeing and Sustainable Development (Scotland) Bill.

I am happy to discuss the Committee's views and concerns in more detail with the Bureau if it would be helpful.
Yours sincerely,

Kenneth Gibson MSP
Convener