The Committee will meet at 10.00 am in the Mary Fairfax Somerville Room (CR2).

1. **Post Legislative Scrutiny**: The Committee will consider its approach to Post Legislative Scrutiny.

2. **Islands (Scotland) Bill (in private)**: The Committee will consider a draft Stage 1 report.

Steve Farrell
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The papers for this meeting are as follows—

**Agenda Item 1**

Note by the Clerk  
REC/S5/18/2/1

**Agenda Item 2**

PRIVATE PAPER  
REC/S5/18/2/2
Background

1. During its work planning activity the Committee expressed an interest in conducting some post legislative scrutiny during the course of the current parliamentary session. This would allow the Committee to investigate whether established pieces of legislation within its remit are delivering their stated policy intentions and working effectively for the people of Scotland.

2. The Committee agreed to seek the views of experts and relevant stakeholders through a call for views to identify legislation passed in sessions 1 – 3 which might benefit from an assessment of its effectiveness. This will allow stakeholders, many of whom will have direct experience of the outcomes of legislation, to comment on how it is working.

Criteria for selection

3. The Public Audit and Post Legislative Scrutiny (PAPLS) Committee is keen for all Committees to undertake PLS where appropriate. It has put together a checklist of points for stakeholders to consider when suggesting Bills for PLS. It is suggested that the Committee use this checklist as a guide to its own considerations:

- **Do you consider that the Act has had sufficient time to have made a difference?** The Committee is unlikely to consider Acts that have only recently come into force.

- **Does the Act have a measurable outcome or policy objective, and has it fulfilled its intended purpose?** When a Bill is introduced, a separate document called the Policy Memorandum explains why the Bill has been proposed and describes the objectives and outcomes it is designed to achieve. Has the Act been effective in delivering these objectives and outcomes?

- **Has another committee of the Parliament already carried out post-legislative scrutiny of the Act?** Other committees of the Parliament have always been able to undertake post-legislative scrutiny and will continue to do so. It is therefore important to avoid possible duplication; having said that, if the scrutiny was undertaken more than five years ago, a committee may wish to revisit the legislation.
• Does the Act contain an in-built mechanism for post-legislative scrutiny? The High Hedges (Scotland) Act 2013, for example, was amended to allow for a review of the operation of the Act to take place within a specific timeframe. It is anticipated that the relevant subject committee would therefore undertake post-legislative scrutiny at the appropriate time.

• Has the Act been subject to, or could it be subject to, significant revision? The Scottish Government outlines its legislative programme on an annual basis, which may contain proposals for Bills that would alter existing Acts or perhaps even repeal an Act. MSPs and Committees can also seek to introduce bills. If the Government has said it will be reviewing or is planning to amend the legislation, we would not want to duplicate that work.

• Has there been a call from relevant stakeholders for the Act to be reviewed? For example have there been suggestions from those impacted by the provisions that the Act is not delivering on its objectives; has created practical difficulties; or is in need of revision to meet changed circumstances?

• Would there really be merit in undertaking post-legislative scrutiny of the Act? For example, does the Act deal with a very technical or minor issue?

• Is the Act subject to legal challenge? The Committee is not allowed to consider any matter that is sub judice; in other words, the Committee would not consider an Act that is being reviewed in the courts.

Call for Views

4. It is suggested that the Committee issue a call for views welcoming suggestions for Acts which would merit an assessment to determine whether they are delivering their stated policy intentions. This would be issued at the end of January and would include the above PAPLS checklist to assist respondents. It is suggested that this call for evidence runs until the end of April to give stakeholders enough time to research their area of concern as they consider their suggestions.

Acts from sessions 1 – 3

5. Below is an indicative list of the Bills considered in sessions 1 – 3 which would fall under the Committee’s remit. Members should note that this is not exhaustive. A full list will be compiled to be issued alongside the call for views.

Session 1
• Agricultural Holdings (Scotland) Bill
• Erskine Bridge Tolls Bill
• Salmon and Freshwater Fisheries (Consolidation) (Scotland) Bill
• Salmon Conservation (Scotland) Bill
• Sea Fisheries (Shellfish) Amendment (Scotland) Bill
• Transport (Scotland) Bill

**Session 2**
• Aquaculture and Fisheries (Scotland) Bill
• Crofting Reform etc Bill*
• Provision of Rail Passenger Services (Scotland) Bill
• Transport (Scotland) Bill
• Transport and Works (Scotland) Bill

**Session 3**
• Abolition of Bridge Tolls (Scotland) Bill
• Crofting Reform (Scotland) Bill*
• Marine (Scotland) Bill

*The Scottish Government has recently undertaken a consultation on the future of crofting legislation and is expected to bring forward a crofting bill later in the current session. The Committee published its [Report on Priorities for Crofting Law Reform](#) in March 2017, following what was, in effect, post-legislative scrutiny of crofting legislation.

**Next steps**

6. Once the call for views has closed, a paper will be brought to the Committee outlining the views received. The Committee will then consider appropriate next steps once the evidence gathering process has been completed and the results analysed.

**Recommendations**

7. **The Committee is asked to agree to issue a call for views seeking suggestions of suitable candidates for post legislative scrutiny.**

Heather Lyall
Rural Economy and Connectivity Committee
12 January 2018