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SPICe Briefing

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# SPICe Bill Summaries - Session 6 - May 2021 to June 2023

SPICe Research

This briefing provides summaries of all bills considered by the Scottish Parliament in Session 6 between May 2021 and June 2023. Republished 23 June 2026.



26 February 2024  
SB 24-10

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# Introduction

This briefing provides summaries of all bills considered by the Scottish Parliament during the 6th Session of Parliament, between May 2021 and June 2023. These summaries are intended to be complementary to the information on [the bills and laws section of the Parliament's website](#) and have been prepared by SPICe subject specialists.

SPICe will publish further bill summary briefings during Session 6.

# Bail and Release from Custody (Scotland) Bill

Bill Number: SP Bill 16

Introduced on: 8 June 2022

Introduced by: Keith Brown MSP (Government Bill)

Passed: 22 June 2023

Royal Assent: 1 August 2023

## Purpose of the Bill

The [Bail and Release from Custody \(Scotland\) Bill](#), as introduced in June 2022, provided for reforms relating to bail and the release of prisoners from custody.

In relation to bail, it set out:

- a range of measures aimed at increasing the likelihood of an accused being granted pre-trial bail, as opposed to being held (remanded) in custody, where this can be done safely
- provisions on what account should be taken of any period a person has spent on bail subject to a curfew condition when a court is imposing a custodial sentence in the case.

In relation to release from custody, it set out

- a range of measures aimed at improving the transition of prisoners back into the community – including release planning, prisoner throughcare, information on prisoner release to support victims, and a new form of temporary release for certain long-term prisoners
- provision for a Scottish Government regulation-making power to release groups of prisoners early in emergency situations.

Further information is provided in a [SPICe briefing on the Bill as introduced](#) (August 2022).

## Parliamentary consideration

The Criminal Justice Committee, as lead committee for parliamentary scrutiny of the Bill, published its [Stage 1 report](#) on 6 March 2023. It noted that, whilst all members agreed that the Bill set out some useful provisions, they differed on whether the general principles should be supported.

The Stage 1 report also noted that evidence received by the Committee highlighted differences of view on the potential impact of the Bill. For example, in relation to provisions seeking to change the grounds upon which a court may decide to refuse bail (para 166):

“ It has not been entirely clear to some observers if the proposed change is intended to be a minor reframing of the rules, or a more fundamental reform.”

The Scottish Government provided a [written response](#) to the Stage 1 report on 14 March.

The [Stage 1 debate](#) took place on 16 March, following which the general principles of the Bill were agreed to (for 70, against 29, abstentions 19).

Stage 2 included the agreement of an amendment (inserting a new section) requiring the Scottish Government to publish a report on the operation of bail and remand covering the first three years in which the new bail test provided for in the Bill is in force.

More information on parliamentary consideration up to the end of Stage 2 is provided in a [SPICe briefing on the Bill prior to Stage 3](#) (June 2023).

Stage 3 proceedings (final consideration) took place on [21 June](#) and [22 June 2023](#).

Amendments agreed at Stage 3 included ones:

- expressly stating that courts have the power to seek information from the prosecution on complainer safety when considering bail
- extending the range of information covered by the bail and remand reporting requirement added at Stage 2
- adding a new section requiring courts to state and record their reasons where granting bail in certain serious cases
- expressly stating that protection of victims and their families must be considered when deciding whether to release a prisoner on reintegration licence
- requiring the Scottish Government to consult on and publish guidance concerning the operation of provisions in the Bill dealing with personal release plans for prisoners
- adding a new section requiring the Scottish Government to publish a report on the operation of the provisions in the Bill relating to the release of prisoners from custody.

After debate, [the Bill was passed](#) (for 66, against 44, abstentions 0).

The Bill received Royal Assent on 1 August 2023.

# Budget (Scotland) Bill

Bill Number: SP Bill 07

Introduced on: 9 December 2021

Introduced by: Kate Forbes, Cabinet Secretary for Finance and the Economy (Government Bill)

Passed: 10 February 2022

Royal Assent: 23 March 2022

## Passage of the Bill

The Budget (Scotland) Bill was introduced on 9 December 2021. The Stage 1 debate took place on 27 January 2022, the Finance and Public Administration Committee considered the Bill at Stage 2 on 1 February 2022, and the Bill was passed by Parliament on 10 February 2022.

## Purpose and objectives of the Bill

The Budget Bill is the final stage in the annual budget process and gives parliamentary authority for spending in Scotland for financial year 2022-23.

## Provisions of the Bill

The Bill authorises approximately £49 billion 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 Budget is underpinned by forecast tax revenues from the devolved taxes (Land and Buildings Transaction Tax and Scottish Landfill taxes) and non-savings non-dividend Income Tax, which is a shared tax with the UK. It also builds in forecast expenditure on social security, also produced by the Scottish Fiscal Commission.

## Parliamentary consideration

The Bill was amended at Stage 2 to provide for an increase of £120 million to Local Government.

These amendments were funded by late changes to the 2021-22 funding position from the UK Government, which allowed the Scottish Government to carry forward an additional £120 million into the Scotland reserve for 2022-23.

Stage 3 of the Budget (Scotland) Bill passed with 69 in favour, 54 against and 0 abstentions.

# Budget (Scotland) (No. 2) Bill

Bill Number: SP Bill 23

Introduced on: 22 December 2022

Introduced by: John Swinney, Deputy First Minister (Government Bill)

Passed: 21 February 2023

Royal Assent: 27 March 2023

## Passage of the Bill

The Budget (Scotland) Bill was introduced on 22 December 2022. The Stage 1 debate took place on 2 February 2023, the Finance and Public Administration Committee considered the Bill at Stage 2 on 7 February 2023, and the Bill was passed by Parliament on 21 February 2023.

## Purpose and objectives of the Bill

The Budget Bill is the final stage in the annual budget process and gives parliamentary authority for spending in Scotland for financial year 2023-24.

## Provisions of the Bill

The Bill authorises approximately £52 billion 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 Budget is underpinned by forecast tax revenues from the devolved taxes (Land and Buildings Transaction Tax and Scottish Landfill taxes) and non-savings non-dividend Income Tax, which is a shared tax with the UK. It also builds in forecast expenditure on social security, also produced by the Scottish Fiscal Commission.

## Parliamentary consideration

The Bill was passed without any amendments made to the Bill, although the Deputy First Minister and Acting Cabinet Secretary for Finance and the Economy signalled increases of £223 million for local government at Stage 3 of parliamentary proceedings. He stated that this increase would be formally “put through the books” via the in-year Budget Revision process.

Stage 3 of the Budget (Scotland) Bill passed with 68 in favour, 57 against and 0 abstentions.

# Carer's Allowance Supplement (Scotland) Bill

Bill Number: SP Bill 2

Introduced on: 22 June 2021

Introduced by: Shona Robison MSP (Government Bill)

Passed: 7 October 2021

Royal Assent: 15 November 2021

## Passage of the Bill

The Carer's Allowance Supplement (Scotland) Bill (SP Bill 2) was introduced on 22 June 2021. The Social Justice and Social Security Committee ('the Committee') was designated as lead committee. The Bill completed Stage 1 on [23 September 2021](#), Stage 2 on [30 September 2021](#), and was passed by the Parliament at [Stage 3 on 7 October 2021](#).

## Purpose and objectives of the Bill

The purpose of the Bill was to double the payment of Carer's Allowance Supplement in December 2021.

## Provisions of the Bill

The Bill provided for a one-off double payment of Carer's Allowance Supplement in December 2021. It also included a regulation-making power which could increase the amount of Carer's Allowance Supplement in future.

Carer's Allowance Supplement is a payment, made twice a year, to all those in Scotland who are in receipt of Carer's Allowance on the qualifying dates. The Bill proposed that the December 2021 payment would be £462.80 instead of £231.40

## Parliamentary consideration

### *Timescale*

The Bill was subject to a shorter than normal parliamentary timetable. This was so that the payment could be made in December.

### *Stage 1*

The Committee received 133 written submissions on the Bill. [The SPICe summary](#) noted that nearly all the respondents supported the Bill. However, many said that more was needed – including more financial support, greater recognition of the role of unpaid carers, improved health and social care support and greater availability of breaks from caring.

There was one evidence session at Stage 1 on [2 September 2021](#).

The [Committee's Stage 1 Report](#) unanimously approved the general principles of the Bill at Stage 1. It noted however that:

“ There is a wider discussion to be had about future reforms of the way carers are supported in Scotland. An important mechanism for doing this is likely to be the new Scottish Carer's Assistance.”

### *Stages 2 and 3*

There was debate about the amount of the benefit and whether the Bill should provide for the increased level of payment to continue until it is replaced by Scottish Carer's Assistance.

However there were no successful amendments at either Stage 2 ([30 September 2021](#)) or Stage 3 ([7 October 2021](#)) and the Bill was [passed unanimously](#).

The Bill as passed is therefore the same as the Bill as introduced.

# Charities (Regulation and Administration) (Scotland) Bill

Bill Number: SP Bill 20

Introduced on: 15 November 2022

Introduced by: Shona Robison, Cabinet Secretary for Social Justice, Housing and Local Government (Government Bill)

Passed: 28 June 2023

Royal Assent: 9 August 2023

## Passage of the Bill

The Social Justice and Social Security Committee scrutinised the Bill at Stage 1. It published its [Stage 1 report](#) on 28 April 2023.

The Stage 1 debate on the Bill took place on 11 May 2023.

The Delegated Powers and Law Reform Committee (DPLRC) considered the Bill on 24 January 2023 and 7 February 2023. The [DPLRC published its Stage 1 report on 10 February 2023](#). The DPLR Committee's report noted that the Bill confers seven powers to make subordinate legislation on the Scottish Ministers. The DPLR Committee sought further information from the Scottish Government on three of the delegated powers and was content with the explanations and additional information received from the Scottish Government.

The Social Justice and Social Security Committee [considered the Bill at Stage 2](#) on 1 June 2023.

Following the [Stage 3 debate on 28 June 2023](#), the Bill was passed and received [Royal Assent](#) on 9 August 2023.

## Purpose and objectives of the Bill

The Bill was intended to strengthen and update the current legislative framework for charities by:

- increasing transparency and accountability in charities
- making improvements to OSCR's powers
- bringing Scottish charity legislation up to date with certain key aspects of charity regulation in England, Wales and Northern Ireland.

The Scottish Government considered the Bill proposals to be "generally regulatory in nature as opposed to anything more fundamental about charities". Acknowledging that there have been calls for a more fundamental review of the charitable sector, the Scottish

Government committed to a wider review of the sector following the passage of this Bill.

More background and detail on the Bill can be found in the [SPICe briefing on the Bill](#).

### **Provisions of the Bill**

The Bill's provisions:

- required OSCR to publish names of trustees on the public Scottish Charity Register
- required OSCR to maintain an internal database of trustee contact details
- updated the range of offences and situations that result in disqualification of charity trustees
- extended the criteria for disqualification to apply to senior management positions as well as trustees
- required OSCR to create a searchable record of charity trustees who have been barred by the courts from acting as trustees
- allowed OSCR to appoint interim trustees in specific circumstances
- required OSCR to publish annual accounts for all charities on the Register
- allowed OSCR to remove charities from the Register if they fail to submit accounts and fails to respond to subsequent communication from OSCR
- required OSCR to keep a record of charity mergers to assist with the transfer of legacies
- allowed OSCR to undertake inquiries into former charities and their trustees
- enabled OSCR to issue positive directions to charities following inquiry work
- required charities to demonstrate a connection to Scotland if they are to be registered by OSCR.

The Bill also provided a mechanism for charities or trustees with concerns regarding the publication of names or other details to request that information is withheld. The Bill also included a range of minor and technical amendments to existing legislation.

### **Parliamentary consideration**

The Social Justice and Social Security Committee published its [Stage 1 report](#) on 28 April 2023.

The Stage 1 report recommended that the general principles of the Bill be agreed to. However, the Committee highlighted a number of concerns or issues that had arisen from the written and oral evidence received. These included:

- That the level of engagement with third sector organisations could have been better and should be considered as part of any future wider review of charity law.
- That clear, extensive and effective communication with the sector of the Bill proposals is critical, including around implementation timescales.

- That there is significant confusion surrounding undischarged bankruptcy as a disqualification criterion for acting as a charity trustee and that communication is needed from OSCR to clarify the regulation to the sector.
- That those with lived experience can bring particular value to a charitable organisation and so the waiver process must be well understood by the sector and any administration associated with it kept as straightforward as possible.
- That more information was required in respect of the appointment by OSCR of interim trustees, and any arrangements for a dispute mechanism in relation to this.
- That the benefits and/or disadvantages of including lifetime gifts within the merger provisions for the Bill be clearly articulated.
- That the issue of exemptions for designated religious charities should be covered as part of any wider review.
- That OSCR monitors the operation of the requirement for a charity to demonstrate a connection to Scotland.

The Committee considered the Bill at Stage 2 on 1 June 2023. At Stage 2, a review/appeal mechanism was introduced for occasions where OSCR makes an interim trustee appointment (either at the charity's request or of its own initiative). Some further minor technical amendments were also made. Following the completion of Stage 2 an [amended version of the Bill was published](#) .

At Stage 3, amendments were included to require OSCR to set out details of communications activity with the charities sector. Some further minor technical amendments were also made. Following the [Stage 3 debate on 28 June 2023](#), the Bill was passed and received Royal Assent on 9 August 2023.

# Coronavirus (Discretionary Compensation for Self-isolation) (Scotland) Bill

Bill Number: SP Bill 6

Introduced on: 15 November 2021

Introduced by: John Swinney, Deputy First Minister and Cabinet Secretary for COVID Recovery (Government Bill)

Passed: 9 February 2022

Royal Assent: 23 March 2022

## Passage of the Bill

The [Coronavirus \(Discretionary Compensation for Self-isolation\) \(Scotland\) Bill](#) was introduced in the Scottish Parliament on 15 November 2022.

The COVID-19 Recovery Committee was designated as the lead committee. It published its [Stage 1 report](#) on 13 January 2022.

The Delegated Powers and Law Reform Committee wrote to John Swinney MSP, Deputy First Minister and Cabinet Secretary for Covid Recovery, with [questions on the delegated powers](#). The Committee considered the [Cabinet Secretary's response](#) at its meeting on 14 December 2021 and published its [report on the delegated powers provisions](#) in the Bill on the same day.

The [Stage 1 debate](#) on the Bill took place on 20 January 2022.

The COVID-19 Recovery Committee [considered the Bill at Stage 2](#) on 27 January 2022.

Following the [Stage 3 debate](#) on 9 February 2022, the Bill was passed and received [Royal Assent](#) on 23 March 2022.

## Purpose and provisions of the Bill

Before the COVID-19 pandemic, health boards were required to compensate people who they asked to self-isolate due to an infectious disease. This was required by the [Public Health etc. \(Scotland\) Act 2008](#).

The [Coronavirus Act 2020](#) changed this. The 2020 Act let health boards decide whether people who were self-isolating because of infectious diseases received compensation under the 2008 Act. The [relevant provision of the 2020 Act](#) was set to expire in March 2022.

This Bill prolonged this discretionary approach but only regarding self-isolation requests related to COVID-19.

The law applied until 31 October 2022. The Bill allowed for the Scottish Government to reduce or extend that period if required, but these powers were not used.

### **Parliamentary consideration**

The COVID-19 Recovery Committee published its [Stage 1 report](#) on 13 January 2022. The report recommended that the general principles of the Bill be agreed to. However, the Committee highlighted five areas where they would have liked to see further consideration from the Scottish Government.

These included: first, reviewing the support available to those asked to self-isolate in respect of COVID-19 and eligibility criteria for those who qualify for support. Second, consideration of how best to increase public awareness of the support schemes in place. Third, reviewing the compensation provisions in the 2008 Act at an appropriate time to ensure they are fit for purpose. Forth, considering if provisions allowing the Government to use emergency powers to adjust the expiry date of the main provisions in the Bill should include a requirement that the Government explains why it is necessary to make regulations urgently

The Committee considered the Bill at Stage 2 on [27 January 2022](#). Only [three amendments were lodged](#), all by the Government. They had two aims. First, to require the Government to consult with every health board before adjusting the expiration time of provisions in the Bill. Second, to add the above mentioned requirement that the Government must explain why it is necessary to make urgent regulations adjusting the expiry of provisions in the Bill if it decided to use these powers. All three amendments were agreed to without division.

Following the completion of Stage 2, an [amended version of the Bill was published](#).

There were no amendments proposed before the final debate on the bill on [9 February 2022](#). The Bill was passed with 122 votes for the motion, with no Members voting against or abstaining. The Bill received Royal Assent on 23 March 2022.

# Coronavirus (Extension and Expiry) (Scotland) Bill

Bill Number: SP Bill 1

Introduced on: 18 June 2021

Introduced by: John Swinney, Deputy First Minister and Cabinet Secretary for COVID Recovery (Government Bill)

Passed: 24 June 2021

Royal Assent: 4 August 2021

## Passage of the Bill

The [Coronavirus \(Extension and Expiry\) \(Scotland\) Bill](#) was introduced in the Scottish Parliament on 18 June 2021.

On 22 June 2021, the Parliament agreed for the Bill to be treated as an Emergency Bill, which is a Government Bill that needs to be enacted at a faster pace than the typical timetable.

The Parliament agreed that Stages 1-3 would run on consecutive days from 22 June to 24 June 2021. The Bill was therefore not put out for public consultation and was also not scrutinised by a parliamentary committee.

The lack of scrutiny of the Bill was a point of contention for many members during the [Stage 1 debate](#). The Scottish Government stated that the expedited timetable was necessary due to emergency COVID-19 powers scheduled to expire at the end of September 2021, leaving insufficient time for scrutiny following Parliament's return from summer recess.

## Purpose and objectives of the Bill

According to the [Scottish Government's Policy Memorandum](#), the purpose of the Bill was to:

“ Update a range of existing legislative measures which support various aspects of the ongoing response to the public health emergency caused by the coronavirus (COVID-19) pandemic”

The Bill amended the [Coronavirus \(Scotland\) Act 2020](#) and the [Coronavirus \(Scotland\) \(No.2\) Act 2020](#) (“the Scottish Acts”). These Acts contained provisions which gave the Scottish Government significant powers to respond to the pandemic. These provisions were subject to an expiry date, which was extended by regulations on two occasions.

It is worth noting that the Scottish Government [explicitly aimed to use such powers](#) in a way that was “proportionate to the challenge” and would “only last as long as is required”.

In the context of the ongoing public health crisis, the Scottish Government stated that many of the powers granted by the Scottish Acts would need to continue to allow it to respond to the public health and wider challenges posed by the COVID-19 pandemic.

The Bill therefore sought to set the expiry date of many provisions contained in the Scottish Acts for a further six-month period to 31 March 2022, with Parliament given the power to extend the Acts for another period of six months to 30 September 2022 if necessary.

The Bill expired a number of provisions which the Scottish Government considered were “no longer required to respond to the public health emergency”. The Bill also extended a list of other provisions which the Scottish Government deemed “essential”.

[SPICe produced a detailed extended blogpost on the Bill](#), discussing each of the measures set to be expired and extended, as well as the Government's reasoning for doing so.

It should be noted that the Bill only relates to the Scottish Acts and not the [Coronavirus Act 2020](#) passed by the UK Parliament.

## **Provisions of the Bill**

The main purpose of the Bill was to extend the expiry date of many of the powers available through the Scottish Acts, with the Scottish Government also focusing on which provisions should be expired.

The below provides a brief outline of some key provisions in the Coronavirus (Scotland) Act 2020 and No. 2 Act which were deemed necessary to expire or extend.

### *Provisions to be expired*

- Temporary extension of moratoriums on diligence (multiple applications) - suspension of 12-month time limit.
- Children and vulnerable adults: children's hearings and cases of adults with incapacity - expiry of statutory provisions which meant local authorities could prioritise work, transitional arrangements to be put in place beyond expiry.
- Community Orders – expiry of provisions relating to Community Payback Orders and Drug Treatment and Testing Orders (Schedule 4, paragraphs 12(1), (2), (7), 14, 15).
- Freedom of information – expiry of provision allowing a reasonable delay in releasing info from public authority due to COVID (Schedule 6, paragraph 6 of 2020 Act and Schedule 4, paragraphs 10 and 11 of No.2 Act).
- Duties under the Public Finance and Accountability (Scotland) Act – provision allowing for amendment of statutory deadlines to publish annual accounts on Scottish Ministers and/or public bodies to be expired.
- Social security - non-extension of relaxation of deadlines and expiry of provision that allowed for one-off double payment of carer's allowance supplement.
- Irritancy clauses in commercial leases - expiry of 14-week notice period before landlords can recover possession where there has been monetary breach of the tenancy.

- Care homes - expiry of provisions which required care homes to make daily reports to the Care Inspectorate and onto Scottish Ministers, who in turn had to report to the Parliament within seven days.
- Marriage and civil partnerships - expiry of Schedule 1, Part 10, paragraph 24 in No.2 Act.
- Student residential tenancy: termination by tenant – provision allowing for student to end lease with notice period of seven days to be expired.

*Provisions to be extended or expiry delayed*

- Eviction from dwelling-houses – extending the notice period landlords need to give tenants to end their tenancy; most cases extended to six months. Also making all eviction grounds in private rented housing discretionary.
- Temporary extension of moratoriums on diligence – extension from usual six weeks to six months.
- Courts and tribunals: conduct of business by electronic means – provisions enable court business to be carried out remotely in most cases, specifically; documents relating to court proceedings can be signed electronically and documents relating to court proceedings can be transferred electronically.
- Fiscal fines in criminal cases – delayed expiry of provision allowing for temporary increase in level of fiscal fine available to prosecutors from maximum £300 to £500.
- Delay of expiry to provisions allowing for criminal proceedings to begin with an appearance from police custody.
- Delay expiry of extension of time limits in criminal cases.
- Delay expiry of provisions allowing for exceptions to the rule that hearsay evidence is inadmissible evidence in criminal cases.
- Community orders – extension of time limit for completion of all unpaid work or other activity requirements by 12 months and provisions allowing Scottish Ministers to vary or revoke requirements imposed in CPOs or DTTOs.
- Parole board functions – extension of provisions allowing parole boards more flexibility in decision making.
- Release of prisoners – extension of provision allowing for Scottish Ministers to provide for early release of certain prisoners.
- Legal aid – extension of provision allowing for interim legal aid payments to be made.
- Licensing – extension of provision allowing for greater flexibility in both alcohol and civic government licensing.
- Freedom of information – extension of provision allowing for public authorities to issue formal notices electronically.
- Local authority meetings – extension of provision allowing for exclusion of the public from meetings.

- Duration of planning permission and listed buildings and conservation areas: consent – extension of provisions allowing for extension of duration of consents that were due to expire while restrictions were in place.
- Land registration – electronic delivery of copies to Registers of Scotland
- Scrutiny of subordinate legislation in urgent cases – extension of provision allowing for regulations that would normally be made under the affirmative procedure to be made under the “made affirmative procedure” where an accelerated timetable is necessary “by reason of urgency”.
- Tenancies: pre-action requirements for order for possession or eviction order on ground of rent arrears.
- Continuation of social care staff support fund.
- Bankruptcy – provisions making changes to how bankruptcy operates (though some not made permanent).
- Mental health: named person nomination – extension of provision allowing for a nominated named person's signature to not require a witness by a prescribed person.
- Care Homes – Emergency directions and emergency intervention orders – extension of provision giving health boards power to direct care home providers to take any steps they think necessary to protect residents.
- Extension of powers giving health boards and local authorities power to purchase care home services and care at home providers.
- Criminal justice proceedings: extension of time limits.
- Extension of provision allowing for Prisoner Custody Officers to carry out their functions of facilitating court appearances of prisoners in police custody electronically (i.e appearing before court via video link from police stations).
- Proceeds of crime - extension of provisions which amend parts of the Proceeds of Crime Act 2002.
- Intimation of documents – allows documents to be published on the Scottish Courts and Tribunals Service website (rather than walls of a court building) as a way of intimation to the general public.
- Care services – giving of notices by the Care Inspectorate by electronic means.
- Execution of documents etc. - extension of provision removing legal requirement for lawyers or notaries public to be physically present to witness signing of document or taking an oath or affirmation.
- Council tax: exempt dwellings – extension of provision allowing landlords to be exempt from council tax for properties that tenants have left early.
- Extending the restriction on giving coronavirus-related grant funding to a business connected to tax havens.

## **Parliamentary consideration**

As previously highlighted, the Bill was deemed to be an Emergency Bill and therefore did not receive the usual level of scrutiny afforded to most Government Bills.

There was no formal consultation published for the Bill. The Bill also was not referred to a committee for Stage 1 consideration. However, as noted in the Policy Memorandum, the Scottish Government justified its approach by stating:

*“ Due to the pre-election period and the need to have this legislation in force by 30 September 2021, it has not been possible to undertake a formal consultation on the Bill itself. The Scottish Government has, however, consulted with public bodies affected by the measures to be extended or expire by the Bill. ”*

Further details on the level of informal consultation carried out with the above-mentioned public bodies is available in the [Policy Memorandum](#).

The Bill passed at [Stage 1](#) on 22 June 2021 with 92 votes for and 27 against.

For [Stage 2](#) consideration, an [amended version of the Bill](#) was published as well as a [marshalled list](#) and [grouping of amendments](#) .

The Bill then moved to [Stage 3](#) consideration, where final changes were made. Stage 3 amendments can be found on the [marshalled list](#) and [groupings of amendments](#) . Labour members tabled a number of amendments at this stage regarding reporting.

Amendment 14, which added the duty to report on the effect of the Act on social services, was agreed to following division (For 61, Against 60, Abstentions 0).

Amendments 11, 12 and 13 were disagreed to following division. These would have added a duty to report on the impact the Act had on business support, social security support for carers, and support for self-isolating persons respectively.

Amendments 5B and 7 were not moved, with the rest of the amendments being agreed to without division.

The [final version of the Bill](#) was passed on 24 June 2021 with 87 votes for, 31 against and 11 not voting.

The Bill received [Royal Assent and became an Act on 4 August 2021](#) .

# Coronavirus (Recovery and Reform) (Scotland) Bill

Bill Number: SP Bill 9

Introduced on: 25 January 2022

Introduced by: John Swinney, Deputy First Minister and Cabinet Secretary for COVID Recovery (Government Bill)

Passed: 28 June 2022

Royal Assent: 10 August 2022

## Passage of the Bill

The [Coronavirus \(Recovery and Reform\) \(Scotland\) Bill](#) was introduced in the Scottish Parliament on 25 January 2022.

The COVID-19 Recovery Committee was designated as the lead committee. It published its Stage 1 report on 22 April 2022.

A wide range of other committees also considered the Bill at Stage 1. [Full details are on the Parliament's webpage for the Bill.](#)

The Stage 1 debate on the Bill took place on 12 May 2022.

Parliament agreed that [Stage 2 proceedings for the Bill](#) be split between the Lead Committee (COVID-19 Recovery Committee) and the Criminal Justice Committee.

Following the Stage 3 debate on 28 June 2022, the Bill was passed and received [Royal Assent](#) on 10 August 2022.

# Cost of Living (Tenant Protection) Scotland Bill

Bill Number: SP Bill 18

Introduced on: 3 October 2022

Introduced by: Shona Robison MSP (Government Bill)

Passed: 6 October 2022

Royal Assent: 27 October 2022

## Passage of the Bill

The Parliament agreed that the [Bill](#) should be treated as an emergency Bill at the meeting of the Parliament on 4 October 2022. The Parliament considered the general principles at Stage 1 on [4 October 2022](#).

At Stage 2, an emergency Bill is considered by a Committee of the Whole Parliament. The Parliament considered the Bill at Stage 2 on [5 October 2022](#).

The Parliament considered the Bill at Stage 3 on [6 October 2022](#).

Although the Bill was considered as an emergency Bill, the Scottish Government announced its intentions to introduce the legislation in its [Programme for Government on 6 September 2022](#).

The Local Government, Housing and Planning Committee considered the issues arising from the proposals at its meeting of [4 October 2022](#).

## Purpose and objectives of the Bill

The purpose of the Bill was to respond to the emergency situation caused by the impact of the cost crisis on people living in the rented sector.

It introduced a temporary rent freeze and a temporary moratorium on evictions, along with increased damages for unlawful evictions with additional powers to temporarily reform rent adjudication in connection with the expiry of the rent freeze.

As the Policy Memorandum to the Bill noted, the intended effect of the Bill was to:

- protect tenants by stabilising their housing costs
- where possible, during the cost crisis, reduce impacts on the health and wellbeing of tenants caused by being evicted and/or being made homeless by giving them more time to find alternative accommodation
- seek to avoid tenants being evicted from the private sector by a landlord wanting to raise rents between tenancies during the temporary measures and reduce unlawful evictions, through the complementary measures of a moratorium on evictions and

raising the level of damages that may be awarded.

## **Provisions of the Bill**

The Bill made provision for:

- a cap on tenancy rent increases in rented accommodation. The Bill allowed Scottish Ministers to vary the level of the rent cap by regulations.
- a pause of six months on the enforcement of some eviction orders
- a reformed process and increased civil damages for illegal eviction
- change to the way in which civil damages are awarded for unlawful eviction
- powers for Scottish Ministers to temporarily reform the existing rent adjudication process.

The Bill's provisions initially applied to 31 March 2023 but allowed Scottish Ministers, with parliamentary approval, to extend the Act for two further six-month periods to 31 March 2024. The rent adjudication provisions can be extended to 31 March 2025.

## **Parliamentary consideration**

At Stage 1 consideration, the Bill was agreed to on division (For 88, Against 29, Abstentions 0). All those voting against the Bill were members of the Scottish Conservative and Unionist Party.

One of the main arguments made against the proposals was a concern about the unintended consequences of the legislation and a potentially negative impact on the supply of privately rented accommodation.

At Stage 2, an amendment was passed that would introduce a new consultation and information provision requirements on the Scottish Government.

At Stage 3, more technical amendments were passed relating to the process for rent increases approved by a rent officer.

Another amendment passed committed the Government to set out its decision on whether it intended to raise, suspend, or expire the rent cap provisions for the social rented sector by 14 January 2023. This was to give social landlords certainty as social landlords normally increase rents in April each year and must give their tenants notice of any rent rise.

Other amendments provided additional exemptions to the eviction moratorium where a tenant is no longer an employee of a landlord.

# Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill

Bill Number: SP Bill 14

Introduced on: 20 April 2022

Introduced by: Pam Duncan-Glancy MSP (Member's Bill)

Fell: 23 November 2023 (at Stage 1)

## Purpose of the Bill

The purpose of the Bill was to improve the transitions to adulthood for disabled children and young people. Transitions here means, for example, moving from school education to further or higher education or work; from or being supported by children's health or social work services to adult services.

The Bill would have required:

- the Scottish Government to have a strategy explaining how they are going to improve opportunities for disabled children and young people
- a Scottish Government Minister to be in charge of improving opportunities for disabled children and young people moving into adulthood
- local authorities to have plans for each disabled child and young person as they move into adulthood.

Further information is provided in a [SPICe briefing on the Bill as introduced](#).

## Parliamentary consideration

The Education, Children and Young People Committee was the lead Committee at Stage 1. The Committee issued a call for views in autumn 2022 and took formal evidence in February and March 2023. The Committee also undertook informal evidence sessions with disabled children and young people, parents/carers and practitioners.

Before issuing a Stage 1 report, the committee wrote to the Member in Charge, Pam Duncan-Glancy MSP, and the Scottish Government with its observations and conclusions. This was an unusual approach. The Committee agreed that the support for disabled children's transitions into adulthood required urgent improvement, but it was not convinced that the Bill provided the solution to these issues.

The Committee's letter said it was "deeply concerned" about the experiences of disabled children and young people when transitioning to adult services and the services available. The Committee said that it did "not believe that the Bill will resolve the issues with resourcing and interaction between children's and adult services."

The Committee said that it agreed that a "national strategy is needed to improve

transitions to adulthood for disabled children and young people”, but highlighted concerns about the Bill’s approach to a statutory strategy which would create duties on public bodies. It also noted that the Scottish Government was, at that time, working on a non-statutory transitions strategy.

The Committee noted that there are currently planning processes and policies to support disabled children and young people. The Committee questioned how the proposals for a separate planning process would fit within the existing policy landscape and how it would work in practice.

The [response from the Scottish Government stated](#) :

“ Whilst fully supporting the intentions of the Bill to improve transitions for disabled young people, the Scottish Government shares many of the questions that the Committee has raised in its correspondence in respect of how the Bill’s provisions would be implemented; the duplication and overlap with existing policy and legislation; the proposed costs associated with the Bill; and whether the Bill could achieve its intended aims and impact.”

[Pam Duncan-Glancy MSP’s response](#) stated:

“ The Government hopes to rely on tried, tested, and sadly to date, failed approaches to address transitions in Scotland. I do welcome efforts to improve the current situation, but I do not believe much progress will be made unless the framework my Bill proposes is implemented. A statutory solution is, in my view, the way forward, as it is the only solution that has not yet been explored.”

The [Committee published its Stage 1 Report on 5 October 2023](#) . This included the letter and responses discussed above. In the conclusions of the Stage 1 report, the Committee reiterated that it was “extremely concerned by the evidence it heard about the poor experiences of transitions for many disabled young people.” The Committee said that it was “not convinced that the general principles should be agreed”, but that, “doing nothing is not an option and believes that the Scottish Government must address the issues of deep concern to the Committee as a matter of urgency.”

Parliament considered the Bill at [Stage 1 on 23 November 2023](#) . Parliament voted against the general principles of the Bill and the Bill fell.

The Scottish Government published the [National Transitions to Adulthood Strategy for Young Disabled People](#) in June 2025.

# Fireworks and Pyrotechnic Articles (Scotland) Bill

Bill Number: SP Bill 10

Introduced on: 1 February 2022

Introduced by: Keith Brown MSP (Government Bill)

Passed: 29 June 2022

Royal Assent: 10 August 2022

## Passage of the Bill

The [Fireworks and Pyrotechnic Articles \(Scotland\) Bill](#) (“the Bill”) was introduced in the Scottish Parliament on 1 February 2022. The Bill was referred to the Criminal Justice Committee (“the Committee”) for consideration.

The Committee began taking oral evidence on the Bill on [16 March 2022](#), and took further evidence at meetings on [21 March](#), [23 March](#), and [30 March](#). The Committee’s evidence sessions were expedited quickly at the request of the Scottish Government as it was keen to see certain provisions contained within the Bill in force before the traditional fireworks season in November 2022.

The Committee published its [Stage 1 Report on 28 April 2022](#).

## Purpose and objectives of the Bill

The Scottish Government stated that the overarching policy objective of the Bill was to protect public and community safety and wellbeing by ensuring that fireworks and pyrotechnics do not cause harm, distress, or injury. The Scottish Government also hoped that the provisions in the Bill would support a cultural shift in how fireworks and pyrotechnics are used in Scotland.

The Bill sought to achieve these objectives by altering how the general public could access and use fireworks and pyrotechnics. This would be done by making provisions for new restrictions to apply to the purchase, acquisition, possession and use of fireworks and pyrotechnics. The Bill also introduced new criminal offences which would apply where these restrictions were not complied with.

## Provisions of the Bill

The Bill was in seven parts:

Part 1 of the Bill introduced key concepts, including the meaning of fireworks and pyrotechnic articles;

Part 2 dealt with fireworks licensing;

Part 3 placed restrictions on the supply and use of fireworks and pyrotechnic articles including prohibition on supply to children; and days of use and supply and fireworks;

Part 4 dealt with firework control zones;

Part 5 dealt with pyrotechnic articles at certain venues or events;

Part 6 dealt with exemptions and enforcement; and

Part 7 included general provisions, including interpretation, regulations, ancillary provision, Crown application and commencement.

### **Parliamentary consideration**

The Committee's consideration of the Bill was carried out to an accelerated timetable. This was because the Scottish Government was keen to bring the provisions on prohibition on providing fireworks or pyrotechnic articles to people under 18 years of age into force by the bonfire season in November 2022. Ash Regan MSP, the then Minister for Victims and Community Safety, explained this wish was motivated by the desire to maintain the momentum of cultural change around fireworks which the Scottish Government had undertaken in the last few years.

To meet that timetable, Parliament needed to conclude its scrutiny of the Bill by the end of June 2022. To achieve that, the Committee agreed to the Scottish Government's request for it to undertake an "accelerated" scrutiny timetable.

As a consequence of the accelerated timetable, the Committee was only able to seek a call for written views on the Bill over a four-week period and had to complete its oral evidence-taking at Stage 1 by 30 March 2022.

One of the key provisions in the Bill was to introduce a prohibition on the supply of fireworks to those under the age of 18 – in essence, banning the proxy purchase of fireworks. To that end, the Bill introduced a new offence with regard to proxy purchasing where a person buys or attempts to buy fireworks for, or who gives or otherwise makes available fireworks to, a person under 18.

The Committee agreed that a gap appeared to exist in the current legislation regarding the proxy purchase of fireworks by adults, who are not "economic operators", and their subsequent provision to those under 18 years of age. Agreeing that the gap needed to be addressed, the Committee supported efforts to address this issue.

Other key provisions in the Bill were the introduction of a licensing scheme for fireworks across Scotland, and the introduction of firework control zones.

The purpose of a licensing scheme was to regulate the purchase, acquisition, possession and use of certain fireworks. The main policy aim of the system was to encourage the safer use of fireworks by the general public and reduce the risk of firework related harm and injury.

A number of stakeholders expressed concern that introducing a licensing scheme would be likely to push the sale and acquisition of fireworks on to the black market thereby having the opposite effect of what was intended. The Minister pointed to a lack of evidence from other countries where control of fireworks has been restricted on the resultant growth of a black market in fireworks, saying:

“ We have looked carefully at evidence from countries where restrictions have been tightened, and we did not find any that it has fuelled the black market. There does not seem to be much evidence of a black market in Scotland at the moment. Clearly, the agencies at work in the area will continue to review that. I hope that we will be able to come back to the committee with evidence on that in a few years, so that we can discuss what impact the measures have had.”

The Committee concluded that, based on the limited amount of evidence it had received in the time available to scrutinise the Bill, it was concerned about the lack of detail available on the licensing scheme and on that evidence was, therefore, not convinced that the proposed licensing system would achieve the outcomes which the Scottish Government intended.

Part 4 of the Bill provided local authorities with the power to designate a place or places within its area as a Firework Control Zone (“a control zone”), in which the use of fireworks is restricted, including the use of fireworks on private land. This is not the same as a zone where there is no firework use at all.

Local authorities can amend these zones, including the period of time they are in force, or stipulate that zones would only be in force on certain days, and not on others. Local authorities must consult people who live or work in, or near, the proposed control zone, and other persons or bodies that the zone may affect. Zones will be able to take account of local circumstances, such as vulnerable populations, concerns about disorder and anti-social behaviour.

The majority of stakeholders supported the proposed introduction on control zones, while others expressed doubts about their efficacy and how they would be policed.

The Committee also expressed a number of concerns regarding control zones and urged the Scottish Government to consider how it would make it clear to the general public what control zones would mean in practice, and to also consider introducing a provision to also allow local authorities to establish genuine no-firework zones, where the use of certain categories of fireworks would be a criminal offence in all circumstances, for as long as such a zone is in force.

On 29 June 2022, the Bill was passed by 84 votes for, none against, and 25 abstentions.

# Good Food Nation (Scotland) Bill

Bill Number: SP Bill 4

Introduced on: 7 October 2021

Introduced by: Mairi Gougeon (Government Bill)

Passed: 15 June 2022

Royal Assent: 26 July 2022

## Passage of the Bill

The Good Food Nation (Scotland) Bill (“the Bill”) was introduced in the Scottish Parliament on 7 October 2021. The Bill was referred to the Rural Affairs, Islands and Natural Environment Committee (“the Committee”) as lead committee for consideration.

The Committee launched [a call for views on the bill](#) on 5 November 2021.

The Committee began taking oral evidence on the Bill in November 2021 and took evidence at six meetings in 2021 and 2022: [3 November](#); [19 January](#); [26 January](#); [2 February](#); [9 February](#); [23 February](#).

The Committee published its [Stage 1 report](#) on the Bill on 17 March 2022. The Bill completed [Stage 2 consideration](#) on 11 May 2022 and [Stage 3 consideration](#) on 15 June 2022.

## Purpose and objectives of the Bill

The purpose of the Bill was to place a duty on Scottish Ministers to produce a national Good Food Nation Plan, and on local authorities, health boards and other public authorities specified in secondary legislation to produce Good Food Nation plans.

## Provisions of the Bill

The Bill placed a duty on Scottish Ministers to consult on and produce a national Good Food Nation Plan within 12 months of the section coming into force. The plan must set out the main outcomes in relation to food-related issues which the Scottish Ministers want to be achieved in relation to Scotland; indicators of other measures of progress; and policies which the Scottish Ministers intend to pursue to achieve the outcomes. The plan must have regard to, among other things, the scope for food-related issues to affect outcomes in relation to social and economic wellbeing, the environment, health, and economic development, as well as its international obligations under a specified set of conventions. The Bill provides a power to amend the list of international instruments.

The Bill required Scottish Ministers to publish and lay a report on progress in the Parliament every two years, and review and revise the plan every five years.

Similarly, the Bill required that relevant authorities – health boards, local authorities and other “specified public authorities” – must also consult on and produce good food nation

plans with consideration of the national good food nation plans. The Scottish Ministers were conferred a power to specify additional public authorities.

Both Scottish Ministers and relevant authorities must have regard to their respective plans when exercising a “specified function or a function falling within a specified description”. Scottish Ministers were conferred a power to specify these functions.

For detailed information on the changes proposed by the Bill as introduced, [see the SPICe briefing](#).

### **Parliamentary consideration**

[In its Stage 1 report, the RAINE Committee agreed to the general principles of the Bill but made several comments.](#) Discussions in Stage 1 included:

- Concerns that the Bill did not provide enough purpose or direction of travel for Scotland's food system. The Committee called on the Scottish Government to “clearly articulate these wider ambitions” in the Plan when it is laid before the Parliament.
- Whether the areas which the Scottish Ministers must have regard to when preparing the plan should be wider.
- How to achieve effective oversight and accountability in relation to good food nation ambitions.
- The limited statutory role for the Parliament in scrutinising good food nation plans in the Bill as it was introduced.
- Whether the Bill should be the vehicle for incorporating a ‘[right to food](#)’ in Scots law. Ultimately, the Committee agreed with the Scottish Government that this right should be incorporated via forthcoming human rights legislation but suggested that the Bill should “align closely to the proposed right to food, especially until a statutory right to food is in place”.
- That consultations on the good food nation plans should be wide, inclusive, participatory, and tailored for specific audiences.
- That the Scottish Government should consult prior to laying secondary legislation which requires any new public authorities to produce good food nation plans.

The [Cabinet Secretary responded to the RAINE Committee's report](#) on 22 April 2022.

[At Stage 2, some amendments were passed, and several topics were agreed to be discussed further ahead of Stage 3.](#)

Agreed amendments created an expanded list of food-related topics which Scottish Ministers and relevant authorities must ‘have regard to’ when exercising their functions, and a role for the Parliament in scrutinising good food nation plans. In addition, the Bill was amended, among other things:

- To require Scottish Ministers to consult with appropriate people ahead of making regulations which would specify when Scottish Ministers and public authorities must take their good food nation plans into account, and which public authorities must produce a good food nation plan.

- To make certain regulation-making powers subject to the affirmative procedure in the first instance.
- To define 'food business sector'.

Stage 2 also saw the addition of a new set of principles, which Scottish Ministers and relevant authorities must have regard to in preparing national food plans. The principles acknowledge the systemic nature of the food system and supply chain, the role of sustainable food production in mitigating climate change, reversing biodiversity loss and improving animal welfare, the importance of adequate and appropriate food for physical and mental wellbeing, that adequate food is a human right, and the importance of the food business sector in Scotland.

These government amendments were amongst several proposed to establish the 'purpose of the act' in the legislation. Those proposed amendments that were not agreed to variously aimed to, for example, define what it means to be a 'good food nation' and establish that the purpose of the act is "to give effect to the human right to food through good food nation plans".

Amendments were also agreed requiring Scottish Ministers to lay a proposed plan before the Parliament and have regard to any representations, resolutions or reports on the draft plan during a 28-day consultation period; this was extended to 60 days (of which no fewer than 30 must be sitting days) at Stage 3.

Among other amendments which were not passed were proposals to further define the required content of good food nation plans, targets, and indicators, proposals to strengthen the Bill with regard to the right to food, and proposals to add to the list of 'specified public authorities' who must produce good food nation plans.

At Stage 3, amendments were put forward and agreed which:

- Established a Scottish Food Commission. This followed discussion in earlier stages about ensuring oversight and accountability of cross-cutting issues related to food.
- Require the plan to set out Scottish Ministers' plans for ensuring that implementation of policies is informed by the views of the food business sector.
- Aim to ensure inclusive communication, including engaging children and young people.
- Require Scottish Ministers to summarise the consultation process undertaken and the responses to the consultation and set out how they had regard to those responses, and have communicated in an inclusive way.
- Add additional requirements in relation to reporting.

# Gender Recognition Reform (Scotland) Bill

Bill Number: SP Bill 13

Introduced on: 2 March 2022

Introduced by: Shona Robison MSP (Government Bill)

Passed: 22 December 2022

Royal Assent: N/A

## Passage of the Bill

The [Gender Recognition Reform \(Scotland\) Bill](#) (SP Bill 13) was introduced on 2 March 2022. The Equalities, Human Rights and Civil Justice Committee ('the Committee') was designated as lead committee. The Bill completed Stage 1 on 27 October 2022, Stage 2 on 22 November 2022, and was passed by the Parliament at Stage 3 on 22 December 2022.

## Purpose and objectives of the Bill

The aim of the Gender Recognition Reform (Scotland) Bill was to improve the application process for legal gender recognition, which the Scottish Government said could have an adverse impact on applicants. The Bill's provisions sought to amend the current gender recognition process under the Gender Recognition Act 2004 (GRA) and introduce a statutory declaration-based system for obtaining a gender recognition certificate (GRC).

## Provisions of the Bill

### *As introduced*

The Bill's provisions would:

- remove the requirement for an applicant to have, or have had gender dysphoria, and therefore remove the requirement for medical evidence to be provided
- reduce the minimum age for application from 18 to 16
- remove the Gender Recognition Panel from the process; instead applications would be made to the Registrar General for Scotland
- reduce the period for which an applicant must have lived in their acquired gender before making an application from two years to three months
- introduce a mandatory three-month reflection period and a requirement for the applicant to confirm at the end of that period that they wish to proceed with the application before the application can be determined
- introduce a new duty on the Registrar General for Scotland ('the Registrar General') to

report the number of applications for GRCs made, and the number granted, on an annual basis.

It would also be a criminal offence to make a false statutory declaration or false application. A person who committed such an offence would be liable to imprisonment for up to two years and/or a fine.

## **Parliamentary consideration**

### **Stage 1**

The Committee ran a call for views on the Bill between 21 March and 16 May 2022.

It received:

- 10,800 individual submissions to a [short survey](#) on the general principles of the Bill, once duplicate responses were removed
- 814 detailed [written submissions](#) on the provisions of the Bill, of which 63 were from organisations.

The Committee held eight formal oral evidence sessions between 17 May and 28 June 2022. It also held several informal engagement events with people with different lived experiences.

The Committee published its [Stage 1 report](#) on 6 October 2022. A majority of the Committee (5-2) supported the general principles of the Bill.

The Scottish Government gave its [response](#) on 26 October 2022.

The Stage 1 debate was held on [27 October 2022](#). At the start of the debate, the Cabinet Secretary for Social Justice, Housing and Local Government, Shona Robison MSP, welcomed the Committee's majority support for the general principles of the Bill and acknowledged that Members and the wider public "have differing and genuinely held opinions on the matter of gender recognition reform."

[Issues raised in the debate](#) included:

- whether a GRC changes someone's sex in relation to the protections in the Equality Act 2010
- the potential impact on women and girls, in terms of access to single-sex services and spaces, and to participation in sport
- concerns about lowering the minimum age from 18 to 16
- calls to take note of the [Cass Review](#)'s findings (the Cass Review was commissioned to make recommendations about the services provided by the NHS in England to children and young people who are questioning their gender identity)
- concerns about how the provisions would operate cross-border.

Closing the debate, the Cabinet Secretary said she wanted to achieve 'maximum consensus' on the Bill and would continue to have an 'open door' policy to discuss the provisions.

The Bill was [passed at Stage 1](#): For 88, Against 33, Abstained 4, did not vote 4.

## Stage 2

*As amended at Stage 2*

*The main amendments at Stage 2 were:*

- 16 and 17 year olds to take advice or guidance before making their decision to obtain a GRC – having discussed the matter with an adult they knew personally, or someone that had a role in giving guidance, they must then confirm this with the Registrar General for Scotland
- 16 and 17 year olds must have lived in their acquired gender for six months, extending the three-month period available to older applicants
- asylum seekers to be included in the definition of 'ordinarily resident'
- the three month reflection period to be waived for applicants who are "gravely ill and not expected to recover"
- Registrar General to be required to publish information online on the effect of obtaining a GRC, how to make an application, the requirement to make a statutory declaration, and the consequences of making a false application
- creation of an aggravator for offences, where the circumstances of the offence are proven to be connected to the fact that a person has fraudulently obtained a GRC
- a statement that: "For the avoidance of doubt, nothing in this Act modifies the Equality Act 2010."

There were also three amendments made to review the operation of the Act across a range of specified areas. The Cabinet Secretary for Social Justice, Housing and Local Government, Shona Robison MSP, indicated an intention to create a single provision for review of the Act at Stage 3.

It was also announced that the Scottish Government would introduce regulations to amend the sex offender notification requirements so that those who are on the register are required to notify the police with details about whether they have made an application for a GRC. These would be introduced before the Bill was commenced.

Stage 2 was completed on 22 November 2022.

For further detail see SPICe briefing: [Gender Recognition Reform \(Scotland\) Bill: Consideration prior to Stage 3](#)

## After Stage 2 and before Stage 3

There were some developments after Stage 2 that were referred to during Stage 3.

### ***Intervention from the UN Special Rapporteur on violence against women and girls***

The day after Stage 2 had completed, the UN Special Rapporteur on violence against women and girls, Ms Reem Alsalem, published a [letter on Twitter on 23 November 2022](#). The Special Rapporteur shared the concern that "such proposals would potentially open

the door for violent males who identify as men to abuse the process of acquiring a gender certificate and the rights that are associated with it.”

More clarity was sought on how GRC applications would be processed, and on a number of issues previously raised in evidence, including: women who self-exclude from single-sex services; that sex related data collection has been deprioritised in favour of data collection on gender; and the interaction of the Bill with the Equality Act 2010.

The letter sparked a response from those in support and in opposition to the Bill.

The Cabinet Secretary [responded on](#) 29 November 2022 and concluded that the issues had already been carefully considered, that the Bill was amended at Stage 2, and further amendments would be considered at Stage 3.

On 13 December 2022, Victor Madrigal-Borloz, the UN Independent Expert on Sexual Orientation and Gender Identity, wrote a [letter](#) restating his support for the Bill.

The Committee held an [additional meeting](#) on 19 December 2022 to hear from Reem Alsalem, as well as from Victor Madrigal-Borloz, who had previously given evidence to the Committee on 21 June 2022.

### ***Court ruling on the revised guidance of the Gender Representation on Public Boards (Scotland) Act 2018***

On 13 December 2022 the [Court of Session ruled on the revised statutory guidance of the Gender Representation on Public Boards \(Scotland\) Act 2018](#). It concerned guidance on the definition of ‘woman’ under the Act.

Lady Haldane said that this petition was concerned with whether or not, as a matter of law, the definition of ‘woman’ in the Equality Act 2010 included those holding a GRC stating that their acquired gender, and thus their sex, is female.

“ I conclude that in this context, which is the meaning of sex for the purposes of the 2010 Act, “sex” is not limited to biological or birth sex, but includes those in possession of a GRC obtained in accordance with the 2004 Act stating their acquired gender, and thus their sex. Such a conclusion does not offend against, or give rise to any conflict with, legislation where it is clear that “sex” means biological sex.”

As such, the Scottish Government's guidance on the 2018 Act was ruled to be lawful.

The petitioners, For Women Scotland, appealed this ruling. The ruling issued by Lady Dorrian on [1 November 2023](#) found that:

“ A person with a GRC in the female gender comes within the definition of ‘woman’ for the purposes of section 11 of the EA, and the guidance issued in respect of the 2018 Act is lawful. The reclaiming motion is refused.”

On [16 February 2024](#), For Women Scotland were granted permission to appeal this ruling to the UK Supreme Court.

### ***Further correspondence from the Scottish Government on the Bill***

Ahead of Stage 3, the Cabinet Secretary wrote to:

- Pam Duncan-Glancy MSP, copied to the Committee, with [further information](#) on the

announcement made at Stage 2 to introduce regulations to amend the sex offender notification requirements

- all MSPs on [9 December 2022](#), aiming to provide clarity on specific issues, including the process for GRC applications under the Bill, the amendments agreed at Stage 2, the proposed changes to sex offender notification requirements, and the definition of 'acquired gender' under the Bill
- the Committee on [12 December 2022](#). This outlined an intention to lodge an amendment at Stage 3 to remove the provision on asylum seekers from the Bill, agreed at Stage 2, to ensure its competence and that the aims of the Bill as a whole are not compromised. The Cabinet Secretary said, "I had also highlighted this matter in correspondence to UK Ministers."

### Stage 3

There were over 150 amendments at Stage 3, divided into 19 Groups. Amendments on the Bill were debated and considered on:

- [Tuesday 20 December 2022 Groups 1-9](#)
- [Wednesday 21 December 2022 Groups 10-19](#)

The amendments were considered over two days at late night sittings. This was because of the level of interest in the Bill and the number of MSPs wishing to debate in each Group. Additional factors extended the timing, including:

- several points of order being raised, for example, on the impact of late sitting on those who are disabled or have caring responsibilities
- protests from the public gallery, requiring suspension of business
- Opposition Members pushing amendments to a vote that the original Member had chosen not to move to a vote, thereby requiring a vote on almost all amendments.

The lengthiest debates were as follows (timings are approximate):

- Group 1 (2 hours) on applications by 16 and 17 year olds
- Group 2 (2 hours) on applications with criminal charges or convictions
- Group 13 (3 hours) on interaction with the Equality Act 2010, the concept of sex and single-sex services
- Group 16 (2 hours) on the operation and impact of the Act

### Amendments

#### Group 1: Applications by 16 and 17 year olds

Amendment 6 (Rachael Hamilton MSP) was aimed at maintaining the minimum age for a GRC at 18. The debate went over arguments raised during Stage 1 and 2; whether 16- and 17-year-olds are mature enough to make such decisions. This amendment was disagreed to: For 37, Against 87, Abstentions 0.

A range of amendments were aimed at ensuring that 16 and 17 year old applicants understand the implications of obtaining a GRC, with additional steps in the process, and to confirm with the Registrar General that they have done so.

Amendment 99 (Christine Grahame MSP, but Jamie Greene MSP spoke on her behalf) was the only amendment agreed to in this group. It followed an amendment at Stage 2 requiring 16 and 17 year olds to confirm with the Registrar General that they had discussed the implications of obtaining a GRC with a person who has a role in giving guidance, advice or support to young people. Amendment 99 would require 16 and 17 year olds to confirm with the Registrar General what role the individual had, or how they knew the applicant.

This amendment was agreed to: For 103, Against 23, Abstentions 1.

## **Group 2: Applications with criminal charges or convictions**

The overall aims of each of the key amendments in this Group were to provide for additional safeguards in the process for obtaining a GRC, where an applicant is charged or convicted of sexual offences. Members who lodged amendments in this group or who spoke in the debate on this group reiterated the point that these amendments are about preventing abusive or predatory men from exploiting the process to obtain a GRC, and not trans people.

Questions were also raised about the available international evidence on whether predatory and abusive men sought to obtain legal gender recognition to carry out their behaviour. While there was no collated and analysed evidence, Ash Regan MSP referred to Reem Alsalem, the UN Special Rapporteur on violence against women and girls, who said that the evidence is certainly there.

Russell Findlay MSP lodged 9 amendments which were similar to his amendments lodged at Stage 2, but with changes to take account of comments from the Scottish Government. Amendment 18 would only allow someone to apply for a GRC if they are not on the sex offenders register (Disagreed: For 59, Against 64, Abstentions 2). To address concerns at Stage 2 that this might be incompatible with ECHR, amendment 50 provided for a GRC applicant on the sex offender register to bring their case to a sheriff to make a decision (Disagreed: For 62, Against 64, Abstentions 0).

Michelle Thomson MSP's amendment 39 would prevent anyone who was charged with rape or another sexual offence from being able to seek a GRC until after the case against them has been disposed of, whether by acquittal or conviction. It would pause the application process until any court case had been resolved. This amendment was disagreed: For 61, Against 61, Abstentions 0. The Deputy Presiding Officer had the casting vote, "In line with the approach adopted by all my predecessors, I will cast it against the amendment."

Gillian Martin MSP referred to the Scottish Government commitment at Stage 2, that before the Bill was implemented, it would amend the notification requirements for those on the sex offenders register to include having made an application for a GRC.

However, Gillian Martin MSP wanted to address the question of risk through amendment 40. This would provide the ability for the chief constable to notify the sheriff after a risk assessment was carried out on applicants who were on the sex offenders register. Should that risk be unacceptable, Police Scotland would apply for a sexual harm prevention order or a sexual offences prevention order, which would prevent the applicant from obtaining a

GRC. Amendment 40 was agreed: For 121, Against 0, Abstentions 0.

The Cabinet Secretary supported Gillian Martin's amendments. In addition to plans to introduce regulations to amend the sex offender notification requirements so that people who were on the register were required to notify the police with details if they apply for a GRC, the Cabinet Secretary said these amendments would further strengthen the risk-based approach.

The Cabinet Secretary sympathised with the aims of Michelle Thomson's amendment, but said the Scottish Government considered there was a significant risk that it would be incompatible with the ECHR, and therefore, outwith legislative competence. Similarly, Russell Findlay's amendments were considered incompatible with the ECHR.

### **Group 3: Meaning of 'ordinarily resident'**

There was only one amendment in this group (19), lodged by the Cabinet Secretary. It would remove wording added at Stage 2 to include asylum seekers in the definition of 'ordinarily resident' in Scotland.

While the Cabinet Secretary was sympathetic to the issue, she set out the Scottish Government's concern that asylum and immigration are reserved matters.

There was some debate about whether the inclusion of asylum seekers could lead to a court challenge on the whole Bill or on the specific provision. However, the Cabinet Secretary said, "I do not believe that a bill's being challenged would be a good outcome, because it would delay the passing of legislation." Amendment 19 was agreed: For 76, Against 27, Abstentions 23.

### **Group 4: Support and information for applicants and potential applicants**

Three amendments were lodged by Sarah Boyack MSP. The aim was to require Scottish Ministers to ensure that any individual who was considering applying for a GRC was able to access information and obtain support, where required, to make that decision.

The Cabinet Secretary assured Members that support and information will be available to those making an application.

The amendments were disagreed to.

### **Group 5: Grounds on which the application is to be granted: medical evidence and time living in the acquired gender**

The amendments in this group sought to introduce a medical diagnosis of gender dysphoria or the requirement of medical evidence into the GRC process. There were also amendments to retain the minimum time an applicant must live in their acquired gender to at least two years.

The point was raised that these amendments would go against the intention of the Bill.

The Cabinet Secretary said that at Stage 1, the majority agreed to the Bill's general principles, which "is the establishment of an administrative process that is based on self-declaration".

There was also some debate on what happens when someone from Scotland received a GRC under the new process, and then moved to another part of the UK or elsewhere, and

vice versa.

On the cross-border issues, the Cabinet Secretary said these would be discussed in Group 14:

"However, I would just make the point that that is not really within our gift. If other jurisdictions decide not to recognise Scottish GRCs, for example, that is outwith our control, but I am sure that we will get into a wider discussion about that when we get further with the groups."

Amendments in this group were all disagreed to.

### **Group 6: Minor and technical**

These were two minor amendments from the Cabinet Secretary, to move the word 'and' to its correct position. However, there was still a division, requiring a vote. Amendments were agreed to.

### **Group 7: Statutory declarations: formalities and supporting evidence**

Amendments in this group sought to address concerns regarding the process of statutory declaration for obtaining a GRC.

For example, removing 'councillors' from the category of people who can be a witness to a statutory declaration, and requiring an application to be countersigned by someone known to the applicant. A group of amendments sought to require an applicant to provide two pieces of evidence of living in the acquired gender, such as a form of ID or a bank statement, which included the applicant's gender marker. None of these amendments were agreed to.

The Cabinet Secretary proposed amendments that would require a GRC applicant to provide two forms of ID. This would reflect existing guidance by the Law Society of Scotland that a notary public must be satisfied as to the identity of the applicant when the applicant is making a statutory declaration. The amendments sought to provide additional assurance by placing the requirement in the Bill. These amendments were agreed to.

### **Group 8: Background checks for applicants**

Russell Findlay MSP's amendments sought to require that all GRC applicants be subject to disclosure checks by Disclosure Scotland. This would mean that all applicants would have to disclose criminal convictions. The Cabinet Secretary said that the purpose of Disclosure Scotland is to help employers make safer recruitment decisions, to prevent unsuitable people from working with vulnerable groups.

Ruth Maguire MSP's amendments sought to prevent a person with a history of domestic abuse from obtaining a GRC, without undergoing further scrutiny, to ensure that GRC holders could not take advantage of a change of identity. The Cabinet Secretary said these would require the Registrar General to contact Police Scotland about every applicant to determine whether they have a history of domestic abuse.

The amendments in this group were all disagreed to.

### **Group 9: Applications by adults with incapacity**

Ruth Maguire MSP had two amendments in this group focusing on vulnerable adults.

One amendment would require the Register General to confirm whether a GRC applicant was subject to a guardianship order or had a registered welfare power of attorney, and if so, consider whether the applicant understood the effect of obtaining a GRC.

A second amendment would require the Registrar General to have regard to the Adults with Incapacity (Scotland) Act 2000, communicated in an inclusive way, and to advance equality and non-discrimination.

The amendments were disagreed to.

### **Group 10: Certificates obtained by fraud**

Jamie Greene MSP's amendments in this group were aimed at addressing GRCs obtained by fraud.

Amendment 108 set out that a fraudulent application is one where the applicant knowingly made a false declaration or included false information.

Amendment 114 would create an aggravation when a crime was committed using a fraudulently obtained certificate:

"It means that, if someone has a GRC and commits an offence that can be linked to the acquisition of their GRC, that offence would be considered to have an aggravating factor. That would result in a harsher sentence and punishment for those who use the GRC process to commit an offence."

Amendment 115 would provide for automatic revocation of a GRC if there was such a crime.

Each of these amendments was agreed to.

### **Group 11: Late application for review of Registrar General decision**

Jamie Greene MSP had one amendment in this group.

Under the Bill, an individual who had their GRC application refused could appeal that decision within 40 days. The Registrar General could consider the appeal after that time period but was not required to do so.

Amendment 109 would provide that the Registrar General must comply with the request if satisfied that the applicant had a 'good reason for not making it sooner.'

The Cabinet Secretary supported this amendment and confirmed that the National Records of Scotland would produce guidance "which the Registrar General will apply to individual circumstances using their judgment."

The amendment was agreed to: For 116, Against 4, Abstentions 5.

### **Group 12: Manifestly unfounded application to sheriff to revoke certificate**

Pam Duncan-Glancy MSP had one amendment in this group.

The Bill provided that a person with genuine interest could apply to the sheriff to revoke a GRC on grounds including that the application was fraudulent or that the applicant was incapable of understanding the effect of it.

Amendment 51 would provide that the sheriff had jurisdiction to determine whether such a claim was "manifestly unfounded". This would address concerns that some might apply to have a GRC revoked, with malicious intent.

The Cabinet Secretary was sympathetic towards the reasons for the amendment and had considered how they might be addressed after Stage 2. However, the Cabinet Secretary did not support the amendment because "existing mechanisms already allow the courts to dismiss groundless applications in the most efficient manner." Reference was also made to amendments in group 15, on requirements to review the Bill, which include a requirement to review the provision allowing applications to be made to the sheriff.

Amendment 51 was disagreed: For 26, Against 98, Abstentions 0.

### **Group 13: Interaction with the Equality Act 2010, the concept of sex, and single-sex services**

Debate on this group was delayed after Rachael Hamilton MSP sought to lodge a [manuscript amendment](#) (a late amendment). The aim was to leave out section 15a, added at Stage 2, which provided that 'For the avoidance of doubt, nothing in this Act modifies the Equality Act 2010'.

It followed the Court of Session ruling on 13 December 2022 (see above), that 'sex' in the Equality Act was not limited to biological sex but included those who had legally changed their sex with a GRC.

It was argued that the deadline for Stage 3 amendments was 12pm 13 December 2022, and Parliament had not been able to lodge amendments following the ruling.

After an hour of consideration, the Presiding Officer said:

“ Although I accept that this amendment could not have been lodged before the deadline, a manuscript amendment could equally have been lodged at any time ahead of today’s proceedings after the judgment was given last Tuesday. Seeking to lodge the amendment today gives no notice to members, and on that basis I do not intend to let it be taken.”

On the Court of Session ruling, the Cabinet Secretary said that the Scottish Government's position had always been consistent with that of the Equality and Human Rights Commission (EHRC). Nothing had changed with this ruling and that "it is the status quo".

There were 20 amendments in this group, in the names of Jackie Baillie MSP, Ash Regan MSP, Pauline McNeill MSP, Claire Baker MSP, Rachael Hamilton MSP, Pam Gosal MSP, Sue Webber MSP, Jamie Greene MSP and the Cabinet Secretary.

These were aimed at providing clarity on existing protections and exceptions in the Equality Act. For example:

For Scottish Ministers to publish guidance on:

- the operation of the Act in terms of the operation of single-sex services
- the effect of having a GRC and how this would impact on rights in the Equality Act
- how the Act would impact on the occupational exceptions in the Equality Act.

For Scottish Ministers to report on:

- the impact of the Act on self-exclusion from single-sex services
- the impact of the Act on funding of single-sex services
- a review of the impact of this Act on the Equality Act 2010.

That nothing in this Act affects:

- the definitions of 'sex', 'man' and 'woman' in the Equality Act
- the requirement to collect data on sex.

The Cabinet Secretary said that she could not support any amendments in this group, apart from her own. The arguments made included:

- It was for the EHRC, a reserved body, in terms of its statutory functions, to provide guidance on the effects of the Equality Act 2010. However, the Scottish Government would work with the EHRC should it wish to update its guidance once the Bill has passed.
- The Bill did not modify the Equality Act 2010, and therefore many of these amendments would cause confusion.
- Trans women with or without a GRC could be excluded from single-sex services, where it is "a proportionate means of achieving a legitimate aim." This exception in the Equality Act 2010 was not changed by the Bill or by the Court of Session ruling.

None of these amendments were agreed to.

The Cabinet Secretary's amendment 54 would place a duty on Scottish Ministers to publish guidance on the operation of the Act and was made in response to requests from Members. The guidance would be prepared in consultation with equality and human rights organisations.

Amendment 54 was agreed: For 94, Against 31, Abstentions 0.

#### **Group 14: Copying of certificates to other Registrars General**

There was one amendment in this group, in the name of the Cabinet Secretary.

Section 12 of the Bill required copies of GRCs to be given to other registrars general in the UK so that they could update register entries as required.

Amendment 55 would remove section 12. This was to future proof against the possibility that the UK Government decided not to update English and Welsh birth certificates because of a GRC that has been issued in Scotland.

It would be for the UK and Northern Irish Governments to decide whether to update register entries. The Cabinet Secretary said that provision for sharing GRCs could still be made in a section 104 order, and that in a meeting with the UK Minister for Women and Equalities, Kemi Badenoch MP, it was agreed to "continue to work together constructively on those matters."

Amendment 55 was agreed: For 119, Against 3, Abstentions 4.

### **Group 15: Review of Act**

There were 24 amendments in this group.

Most of these were in the name of Jackie Baillie MSP. However, they were the result of Members across the chamber working with the Scottish Government to create a single provision to review the Act.

A range of amendments had been agreed at Stage 2 on reviewing the Act, but these amendments sought to bring them together in an overarching provision.

The review of the Act, undertaken three years after it was in force, would now include:

- the impact on trans people of the reflection period and time period for living in the acquired gender
- the impact of provisions for trans people aged 16 and 17 relating to guidance
- impact on the number of trans women residing in men and women's prisons, and trans men residing in men and women's prison
- impact on gender identity healthcare
- whether any amendments were appropriate, in particular, those related to the gender recognition of non-binary people.

All of Jackie Baillie MSP's amendments were agreed to.

### **Group 16: Operation and impact of the Act**

There were 11 amendments in this group.

John Mason MSP's amendment would state that nothing in the Act would affect Scottish Ministers' functions in relation to prisons or prisoners.

Pam Gosal MSP's amendment would require Scottish Ministers to report on the impact of the Act on patients where knowledge of the medical professional's biological sex is required, on religious grounds.

Brian Whittle MSP's amendments would require Scottish Ministers to report on the:

- participation of trans people in sport to provide guidance on sport to governing bodies and teachers
- impact of this Act on the safety of competitors in sport
- impact of this Act on the safety of patients in healthcare, which included the importance of a patient's biological sex being known before any treatment, and inclusion of the words 'mother' and 'female' in any NHS literature or care setting.

Jeremy Balfour MSP's amendments sought to provide that nothing in the Act altered the effect of Article 9 (Freedom of thought, conscience and religion) in the European Convention on Human Rights. It also sought to require Scottish Ministers to issue

guidance between the Act and Article 9.

Ash Regan MSP's amendment sought to provide that nothing in the Act altered the effect of Article 10 (Freedom of expression) in the European Convention on Human Rights. Ash Regan said, "We should all be free to express ourselves and, indeed, even to cause offence" and wanted "to ensure that nobody is compelled to speak about a holder of a GRC in a particular way simply because they hold a GRC."

Tess White MSP's amendments sought to place a duty on Scottish Ministers to report on the impact of the Act on women and girls.

The Cabinet Secretary said she could not support any of the amendments and responded that:

- the amendment on prisons was unclear and that the Scottish Prison Service had a policy in place regarding trans prisoners
- that the health service already made accommodations to respond to patient requests regarding the gender of the medical professional
- the Equality Act 2010 already contained exceptions regarding trans people and sport
- the amendments referencing the ECHR were unnecessary and would cause confusion, and that Acts of the Scottish Parliament could not alter the effect of the ECHR.

Nearly all amendments were disagreed, but Ash Regan's amendment 71 was agreed: For 64, Against 63, Abstentions 0.

### **Group 17: Gender identity healthcare**

There were three amendments in this group. These sought to require:

- research on the impact of the Act on gender identity healthcare outcomes (Pam Gosal MSP)
- a report on the availability of healthcare for trans people and waiting times (Jamie Greene MSP)
- a review on the impact of the Act on gender identity healthcare (Sarah Boyack MSP).

The Cabinet Secretary did not support these amendments and referred to the Scottish Government's strategic action framework for gender identity service improvement, published in December 2021. In short, the work sought by the amendments in this group was already ongoing and was also separate from the process of applying for a GRC. Further, the Scottish Government had supported an earlier amendment to review the impact of the Act on gender identity healthcare.

All amendments in this group were disagreed.

### **Group 18: Reporting**

There were six amendments in this group. They sought to expand the scope of the reporting duty which would require the Registrar General to report annually on the number of GRC applications and the number of GRCs granted.

Rachael Hamilton MSP's amendments sought to require the duty be undertaken every 6 months and to broaden the scope to include the number of applicants under 18.

Pam Duncan-Glancy MSP worked with the Scottish Government on a rejected Stage 2 amendment to broaden the scope of the reporting duty. This would require the publication of data on the number of applications for each type of GRC that were granted, rejected or withdrawn in the year, and a breakdown of application by type of application and by the gender of applicants.

Assurance was also sought that data originally included in the Stage 2 amendment would also be collected. This included data on the number of appeals to the sheriff and the grounds under which applications to the sheriff were received or granted, and the monitoring of applications from people in prisons.

The Cabinet Secretary did not support Rachael Hamilton's amendment because reporting every six months would be disproportionate. However, support was given to Pam Duncan-Glancy's amendments, as well as assurances that the additional information, collected from sources outwith the Registrar General, would be collected.

Pam Duncan-Glancy's amendments were all agreed.

### **Group 19: Data collection**

There were three amendments in this group.

Pam Gosal MSP's amendments sought to require the collection of data on the number of people who detransition, and for regulations to set out the collection of data on a person's acquired gender and gender at birth in order to monitor access to healthcare, and the operation of criminal justice systems.

Stephanie Callaghan MSP's amendment sought to require, via regulations, data to be collected in public sector settings such as schools, hospitals and prisons on biological sex and gender.

The Cabinet Secretary did not support the amendments in this group and referenced earlier amendments to the Registrar General's reporting duty. Further, the numbers on detransition were expected to be low, and there would be data protection considerations.

Amendments in this group were all disagreed.

### **Stage 3 debate**

The Stage 3 debate was held on [22 December 2022](#).

After a two-hour debate, the Bill was passed:

For 86, Against 39, Abstained 0, Did not vote 4.

### ***The Bill as passed***

#### ***Main amendments at Stage 3***

- 16-17 year olds to confirm with the Registrar General that they had discussed the application with an individual who has a role involving giving guidance, advice or support to young people.

- Where a chief constable made an application for a sexual harm prevention order, a sexual risk order or a sexual offences prevention order, this would prevent a person from making an application for a GRC. The chief constable must notify the Registrar General in these cases. Any application for a GRC in breach of such orders has no effect.
- Asylum seekers were not included in the definition of 'ordinarily resident' which had been added at Stage 2.
- When making a statutory declaration, an applicant to provide the person taking and receiving the declaration with two pieces of proof of their identity.
- The creation of an aggravator for offences, where the circumstances of the offence were proven to be connected to the fact that a person had fraudulently obtained a GRC.
- A court could revoke a GRC where an applicant had obtained the GRC fraudulently, or where an offence had been aggravated in connection with their GRC.
- Scottish Ministers were required to publish guidance on the operation of the Act.
- Scottish Ministers were required, after three years of the Act coming into force, to initiate a review of the Act. This must include the impact on trans people regarding the time periods, impact on trans people aged 16-17, impact on the placement of trans people in prisons, impact on health boards and public authorities, consideration of non-binary people.
- Statement that "For the avoidance of doubt, nothing in this Act alters the effect of Article 10 of the European Convention on Human Rights and the rights and protections that it affords." Article 10 concerns Freedom of Expression.
- Broadened the scope of the reporting duty on the Registrar General to report the number of applications for GRCs made, the number granted, rejected or withdrawn, the type of GRC granted, on an annual basis.

### Section 35 Order

However, the Bill has not received Royal Assent.

The UK Government announced on [Monday 16 January 2023](#) that it would use powers under section 35 of the Scotland Act 1998 to prohibit the Presiding Officer from submitting the Bill for Royal Assent.

On Tuesday 17 January 2023, the Secretary of State for Scotland, Alister Jack MP, made an order under [section 35 of the Scotland Act 1998](#).

- [Oral statement](#)- made in the House of Commons
- [Statement of reasons related to the use of section 35 of the Scotland Act 1998](#)
- [The Gender Recognition Reform \(Scotland\) Bill \(Prohibition on Submission for Royal Assent\) Order 2023](#) The Order was laid on 17 January and came into force on 18 January 2023.

A [SPICe blog](#) (17 January 2023) explains section 35 of the Scotland Act 1998.

This is the first time this power has been used.

On 12 April 2023, the Scottish Government [announced](#) it would lodge a petition for judicial review on the Secretary of State for Scotland's use of Section 35.

The hearing was held at the Court of Session on [19 and 20 September 2023](#) and was livestreamed.

The Court of Session delivered its [judgment](#) on 8 December 2023. Lady Haldane ruled that “the challenge to the Order pronounced under section 35 of the 1998 Act, laid on 17 January 2023, fails” while recognising “the novelty and complexity of the arguments”. A [SPICe blog](#) (13 December 2023) provides background on the ruling.

On 20 December 2023, a year after the Bill passed, the Scottish Government [announced](#) it would not appeal the judgment. The ruling means that the Bill cannot proceed to Royal Assent and be enacted. The Cabinet Secretary made a statement that said the Scottish Government would be willing to work together with the current UK Government or future UK Government to lift Section 35 and make progress on the Bill.

# Hunting with Dogs (Scotland) Bill

Bill Number: SP Bill 12

Introduced on: 24 February 2022

Introduced by: Màiri McAllan (Government Bill)

Passed: 24 January 2023

Royal Assent: 7 March 2023

## Passage of the Bill

The Hunting with Dogs (Scotland) Bill (“the Bill”) was introduced in the Scottish Parliament on 24 February 2022. The Bill was referred to the Rural Affairs, Islands and Natural Environment Committee (“the Committee”) as lead committee for consideration.

The Committee began taking oral evidence on the Bill in June 2022 and took evidence at five meetings: [1 June](#); [8 June](#); [15 June](#); [22 June](#); and [29 June](#) .

The Committee published its [Stage 1 report](#) on the Bill on 27 September 2022. The Committee held an additional set of evidence sessions in November 2022 prior to the start of Stage 2. The evidence sessions took place on: [16 November](#), [23 November](#), and [30 November](#). The Bill completed [Stage 2 consideration](#) on 14 December 2022 and [Stage 3 consideration](#) on 24 January 2023.

## Purpose and objectives of the Bill

The Bill repeals the existing Protection of Wild Mammals (Scotland) Act 2002 (‘the 2002 Act’), and makes similar, but amended provision to regulate hunting with dogs. The Bill follows [a review by Lord Bonyon \(known as ‘the Bonyon Review’\)](#) , which assessed “the operation of the 2002 Act to ascertain whether it is providing a sufficient level of protection for wild mammals, while at the same time allowing effective and humane control of animals, such as foxes, where necessary, and report”.

The Bill replaces the 2002 Act with similar provisions but amends some of the language and structure of those provisions. For example, the Bill provides for a similar offence of hunting using a dog and provides several exceptions to the offence. However, the exceptions provided for by the Bill are different to the exceptions in the 2002 Act in several ways, notably in that most exceptions in the new Bill permit only a maximum of two dogs to be used, unless a licence has been obtained. A licence can only be obtained under some, but not all, of the exceptions. The exception which permits the use of dogs below ground only permits the use of one dog.

## Provisions of the Bill

The Bill sets out the offence of hunting using a dog but provides for exceptions to the offence in certain circumstances. In the Bill as introduced, these were:

1. Section 3: Managing wild mammals above ground for the purpose of preventing

serious damage to livestock, woodland or crops, preventing the spread of disease, and protecting human health.

2. Section 5: To search for a fox below ground, or to flush a fox from below ground for the same purposes as above, in addition to the purpose of relieving the suffering of an injured or dependent fox.
3. Section 6: For falconry, game shooting or deer stalking.
4. Section 7: For environmental benefit, for the purpose of preserving, protecting or restoring a particular species or the diversity of animal or plant life, or for eradicating an invasive non-native species of wild mammal from an area.

The Bill set out a number of conditions which must be met when making use of the exceptions. Notably, a maximum of two dogs may be used under exceptions in Sections 3, 6 and 7. A maximum of one dog may be used under the exception in Section 5.

The Bill provides for licensing schemes to allow for more than two dogs to be used under the exceptions in Sections 3 and 7 where the relevant authority is satisfied that there is no other solution which would be effective in achieving the purpose.

The Bill makes trail hunting unlawful except when training dogs to follow an animal-based scent for a lawful purpose.

The Bill also amends the definition of a 'wild mammal'. The Bill does not exclude rabbits or rodents (except mice and rats) from the definition.

Finally, the Bill provides for deprivation orders where a horse or dog involved in committing the offence can be removed from a convicted person, and disqualification orders where a person can be prevented from a variety of activities involving a dog or horse for a period of time.

The Bill repeals the 2002 Act.

For detailed information on the changes proposed by the Bill as introduced, [see the SPICe briefing](#).

### **Parliamentary consideration**

Discussions at Stage 1 focussed on the changes made by the Bill that were not previously in the 2002 Act. In particular, the Committee discussed the inclusion of rabbits in the definition of a wild mammal, the limit on the number of dogs that may be used above and below ground, and the specifics of a future licensing scheme which would permit more than two dogs to be used under certain circumstances.

In its Stage 1 report, among other things, the RAINE Committee raised questions about section 6 of the bill – the exception for falconry, game shooting and deer stalking, in relation to the implications of the Bill for what is known as 'rough' or 'mixed' shooting. The Committee highlighted questions raised by some stakeholders about the implications of the two-dog limit for rough shooting and asked the Scottish Government to respond to those concerns.

During Stage 2 consideration, amendments were proposed on a number of issues. Those that were agreed to included, among other things:

- To specify the types of information that may be required as part of a licence application.
- To require that a licence granted require the deployment of a minimum number of guns.
- Providing that a licence may be granted for a maximum period of 14 days, which must fall within a period of six consecutive months. The Bill as introduced had provided that a licence may be granted for a maximum period of 14 days, which must be used within a specified 14-day period (The explanatory notes stated, for example, that a licence could allow the use of more than two dogs for any three days between 1st and 14th August. Those days would not need to be consecutive). In essence, the amendment extended the time-period within which licenced days must be used.
- Limiting the use of a dog below ground to search for or flush foxes only. The Bill as introduced provided that a dog could be used below ground to search for or flush a fox or mink.
- Providing that up to two dogs may be used to search for, stalk or flush a wild mammal which is believed to be injured with the intention of treating, capturing or killing it for the purpose of relieving its suffering.
- Providing that up to two dogs may be used to search for and retrieve a dead wild mammal.
- Providing that a constable may search a person without a warrant if they have reasonable grounds for suspecting that a person has or is committing an offence under the Act.

Those that were not agreed to included, among other things:

- Amendments variously to exclude rabbits, weasels, stoats, mink, polecats and ferrets from the definition of a 'wild mammal' (thereby allowing them to be hunted with a dog).
- To, on one hand, prohibit the use of dogs below ground, and on the other, to provide for the use of more than one dog under some circumstances.
- To permit the use of one dog below ground to search for a wider range of species.
- To provide for a wider range of purposes for using a dog below ground.
- To remove or restrict the exception for falconry, game shooting and deer stalking.
- To provide additional exceptions for rough shooting and gun dog field trials and permitting these activities to use more than two dogs.
- To restrict the use of the exception for managing wild mammals above ground using dogs e.g. to ensure that hunting is outwith the breeding season of the wild mammal being hunted.
- To remove the provision for licensing to permit the use of more than two dogs above ground.
- To grant a power to, by regulations, make provision for licence application fees.

- To require that a register be kept and made publicly available of the licences that have been issued.
- To remove the prohibition on trail hunting.
- To remove the provision to make a deprivation order for a horse

At Stage 3, among other things, amendments were made:

- requiring dogs being used below ground to be fitted with a tracking device, and requiring reasonable steps to be taken to avoid the dog being trapped below ground, and if it becomes trapped to rescue it as soon as possible. Amendments were also made stipulating that no steps should be taken to prevent the fox from being flushed.
- requiring the Scottish Ministers to review the licensing schemes established under Sections 4 and 8 of the bill, no later than 31 December 2028, and every five years thereafter.
- Conferring a power to modify the meaning of trail hunting.
- Ensuring the welfare of the dog or horse in relation to deprivation and disqualification orders.

# Miners' Strike (Scotland) (Pardons) Bill

Bill Number: SP Bill 5

Introduced on: 27 October 2021

Introduced by: Keith Brown MSP (Government Bill)

Passed: 16 June 2022

Royal Assent: 26 July 2022

## Passage of the Bill

The Bill was introduced on 27 October 2021. The Stage 1 debate took place on 31 March 2022. The Equalities, Human Rights and Civil Justice Committee considered the Bill at Stage 2 on 10 May 2022, and the Bill was passed by Parliament on 16 June 2022.

## Purpose and objectives of the Bill

The Bill pardons miners convicted of certain offences relating to the 1984-1985 miners' strike. The Bill largely follows [the recommendations of the Independent Review commissioned to investigate and report on this issue](#), albeit with some important changes to the qualifying criteria for the pardon.

## Provisions of the Bill

Section 1 of the Bill provides an automatic pardon for miners who were convicted of offences defined in section 2 of the Bill.

The pardon only applies to conduct between 12 March 1984 and 3 March 1985 (i.e. the period of the strike in Scotland) which either:

1. occurred while the miner was participating in a picket, demonstration or other similar gathering supporting the miners' strike (section 1(2)); or
2. occurred while the miner was travelling to participate in, or travelling from, a picket, demonstration or other similar gathering supporting the miners' strike, and was directly related to the miner's intended or actual participation in the picket, demonstration or other similar gathering (section 1(3)).

The offences covered by the Bill are:

- breach of the peace
- breach of bail conditions – Section 3 of the Bail etc. (Scotland) Act 1980
- obstructing police etc. – Section 41(1)(a) of the Police (Scotland) Act 1967.

## Parliamentary consideration

The Bill was amended at Stage 2 to broaden eligibility for a pardon to:

- “qualifying individuals” (parents, children and siblings of miners, and those in the same household as miners) rather than just miners; and to
- offences which occurred in the community rather than only in the context of “a picket, demonstration or other similar gathering”.

The Bill was also amended at Stage 2 so that the pardon covered the offence of theft when the conduct in question occurred because of economic hardship arising from participation in the miners’ strike. An additional Stage 2 amendment extended the scope of the pardon to conduct “opposing” the strike as well as conduct supporting it. An amendment to the definition of “sibling” was made at Stage 3.

# Moveable Transactions (Scotland) Bill

Bill Number: SP Bill 15

Introduced on: 25 May 2022

Introduced by: Keith Brown MSP (Government Bill)

Passed: 4 May 2023

Royal Assent: 13 June 2023

## Passage of the Bill

The Bill was introduced on 25 May 2022. The Delegated Powers and Law Reform Committee was designated lead committee for Bill scrutiny. It produced its [Stage 1 Report](#) on 2 December 2022.

The Stage 1 debate took place on [13 December 2022](#). Stage 2 amendments were considered on [21 March 2023](#). The Stage 3 debate took place on [4 May 2023](#).

## Purpose and objectives of the Bill

The purpose of the Bill was to reform the law dealing with the use of moveable property as security for credit. This is intended to help Scottish businesses access finance.

## Provisions of the Bill

The Bill reformed the law in relation to assignment of claims and pledging moveable property as security for a loan. Part 1 of the Bill dealt with assignment, including setting up a Register of Assignations. Part 2 of the Bill dealt with pledge, including setting up a Register of Statutory Pledges.

- **Assignment**

Assignment is the way in which ownership of a claim (usually a claim to be paid money) is transferred. Under the current law, ownership passes at the point the transfer is intimated to the debtor. This can be administratively burdensome for bulk transfers and makes it impossible to assign future claims, creating problems for Scottish businesses trying to access invoice financing.

The Bill changed the law so that a claim could be assigned either by intimation or by registration in a new Register of Assignations.

- **Pledge**

Pledge is the term for using physical moveable property as security for a loan. Currently the property in question has to be in the possession of the creditor, putting it out of use for the debtor. This makes it impractical for businesses to raise finance using pledge.

The Bill created a new type of pledge, which would not require delivery to the secured creditor. Instead, it would be registered in a new Register of Statutory Pledges. As well as

physical moveable property, it would be possible to create statutory pledges over intellectual property. It is also intended that the provisions will apply to financial instruments such as shares and bonds in the future.

### **Parliamentary consideration**

The proposals for the Moveable Transactions (Scotland) Bill came from the Scottish Law Commission. The Scottish Parliament has a special procedure for considering Scottish Law Commission bills which are not expected to generate substantial controversy. This allows the Delegated Powers and Law Reform Committee – rather than the relevant subject committee - to scrutinise the Bill.

The Moveable Transactions (Scotland) Bill was dealt with under this procedure.

The main issues highlighted during parliamentary consideration of the Bill were:

- **the risks to consumers of the reforms in the Bill** – money advice and consumer stakeholders were particularly concerned that applying the provisions dealing with statutory pledge to consumers could create a new market for predatory lending. The Scottish Government announced during the Stage 1 debate on the Bill that it would bring forward amendments at Stage 2 to exclude individuals who are consumers from the statutory pledge provisions. The amendments enable sole traders using business assets, and other individuals not acting as consumers to access statutory pledge.
- **the use of waiver of defence clauses in relation to individual consumers and sole traders** – waiver of defence clauses prevent a debtor from raising legitimate challenges to the obligation to pay once a claim has been assigned. There were concerns that consumers and sole traders could be unfairly disadvantaged by this practice. Several amendments at Stage 2 were not moved following assurances from the Minister that no concerns on this issue had been raised in his conversations with stakeholders.
- **accuracy of the registers created by the Bill** – the Stage 1 report highlighted concerns around out-of-date information relating to statutory pledges affecting the operation of that register, and the potential for inaccurate information about individuals to appear in the registers. However, it noted that, since detailed regulations covering the operation of the registers had not yet been produced, it was difficult to tell how they would operate in practice. No changes were made to the Bill to deal with these concerns.
- **reviewing operation of the Bill** – the Bill was amended at Stage 2 to require the Scottish Government to report on aspects of the operation of the legislation after three years. The purpose of the amendments was to ensure information on how the proposals were working in practice was available. Scottish Government changes at Stage 3 consolidated the amendments into a single reporting requirement, five years after the legislation comes into force. It specifically covers waiver of defence clauses and small businesses' experience of statutory pledge.

The Bill was passed unanimously.

# Non-Domestic Rates (Coronavirus) (Scotland) Bill

Bill Number: SP Bill 8

Introduced on: 14 December 2021

Introduced by: Kate Forbes, Cabinet Secretary for Finance and the Economy  
(Government Bill)

Passed: 21 June 2022

Royal Assent: 28 July 2022

## Passage of the Bill

The Local Government, Housing and Planning Committee scrutinised the Bill at Stage 1. It published its [Stage 1 report](#) on 20 April 2022.

The Stage 1 debate on the Bill took place on 28 April 2022.

The Local Government, Housing and Planning Committee [considered the Bill at Stage 2](#) on 24 May 2022.

Following the Stage 3 debate on 21 June 2022, the Bill was passed and received [Royal Assent](#) on 28 July 2022.

## Purpose and objectives of the Bill

This Bill proposed that no account should be taken of any matters relating to coronavirus when determining the net annual value or rateable value of a non-domestic property. This meant that, for any appeals lodged in respect of the rateable value of a property, a change in rateable value could not be considered on the grounds that the valuation of a property has been affected by the coronavirus pandemic with effect from 2 April 2020.

The Scottish Government was of the view that any impact on rental values arising from COVID-19 or COVID-19 restrictions formed part of general market conditions and therefore should be considered as part of a wider revaluation, the next of which was due to take effect on 1 April 2023, based on property values as at 1 April 2022.

More background and detail on the Bill can be found in the [SPICe blog on the Bill](#).

## Provisions of the Bill

Related secondary legislation had already been passed by the Scottish Parliament, which introduced similar measures with effect from 1 April 2021. The [Valuation and Rating \(Coronavirus\) \(Scotland\) Order 2021](#) (S.S.I. 2021/445) was laid in the Scottish Parliament on 22 September 2021 and came into force on 1 December 2021. This Order specified that the rateable value of properties in the 2017 valuation roll could not take account of any matter arising **on or after 1 April 2021** that is directly or indirectly attributable to

## COVID-19.

However, the secondary legislation (a Scottish Statutory Instrument) could only apply from 1 April 2021. For dates prior to 1 April 2021, primary legislation (an Act of the Scottish Parliament) was required. This Bill therefore made similar proposals to the secondary legislation, but covered the period from 2 April 2020.

The secondary legislation was scrutinised by the Scottish Parliament's Local Government, Housing and Planning Committee at three evidence sessions ([26 October 2021](#), [9 November 2021](#) and [16 November 2021](#)). A [report was published by the Committee](#) reflecting the outcome of its scrutiny.

The primary legislation applies for all dates from 2 April 2020, so effectively superseded the secondary legislation, which applied from 1 April 2021. As such, Section 4 of the Bill revoked the Valuation and Rating (Coronavirus) (Scotland) Order 2021 (S.S.I. 2021/445).

### **Parliamentary consideration**

The Local Government, Housing and Planning Committee published its [Stage 1 report](#) on 20 April 2022. As the Committee had given detailed scrutiny to the preceding [Valuation and Rating \(Coronavirus\) \(Scotland\) Order 2021](#), the Stage 1 report on the Bill largely reflected issues highlighted during the scrutiny of the secondary legislation (the Order) that remained of concern:

- extent of engagement and consultation
- principles of taxation, particularly concerns around ensuring “certainty” for taxpayers and “engagement”
- workload for assessors in dealing with appeals
- barnett Consequentials and targeting of any additional resources resulting from UK Government measures to support businesses.

The Committee considered the Bill at Stage 2 on 24 May 2022. Following the completion of Stage 2 an [amended version of the Bill was published](#). Amendments at this stage were very minor technical amendments.

At the [Stage 3 debate on 21 June 2022](#), there were no further amendments.

The Bill was passed following the Stage 3 debate and received Royal Assent on 28 July 2022.

# Scottish Local Government Elections (Candidacy Rights of Foreign Nationals) Bill

Bill Number: SP 11

Introduced on: 7 February 2022

Introduced by: John Swinney MSP, Deputy First Minister and Cabinet Secretary for COVID Recovery

Passed: 9 June 2022

Royal Assent: 19 July 2022

## Passage of the Bill

The [Scottish Local Government Elections \(Candidacy Rights of Foreign Nationals\) Bill](#) was introduced in Parliament on 9 June 2022. The Standards, Procedures and Public Appointments Committee was designated lead committee. Consideration of the Bill was to an expedited timetable given that the legislation was required to be in place before some of the relevant treaties could be ratified. The timetable for consideration of the Bill is available on the [Scottish Parliament website](#).

## Purpose and objectives of the Bill

The Bill proposed amendments to Scottish electoral law to allow nationals of certain countries to stand as candidates at local government elections in Scotland.

The Bill was needed to ensure that international treaty obligations entered into by the UK, which give certain foreign nationals (those from [Luxembourg](#), [Poland](#), [Portugal](#) and [Spain](#)) the right to stand as candidates at local government elections in Scotland, could be fulfilled.

Although the treaties are entered into on a UK basis, franchise rights (who can vote) and candidacy rights (who can stand for election) at both Scottish Parliament and local government elections in Scotland are devolved to the Scottish Parliament.

Foreign nationals legally resident in Scotland already have the right to vote in Scottish Parliament and local government elections in Scotland under the [Scottish Elections \(Franchise and Reform\) Act 2020](#) ["the 2020 Act"].

The 2020 Act also allows foreign nationals with indefinite leave to remain to stand as candidates at Scottish Parliament and local government elections in Scotland. Those with indefinite leave to remain includes EU nationals as well as nationals of Switzerland, Norway, Iceland and Liechtenstein) with settled and pre-settled status. In order to qualify for settled or pre-settled status, EU nationals had to apply by 30 June 2021 and had to have been resident in the UK by 31 December 2020 or be the family member of someone who started living in the UK by 31 December 2020.

This meant that residents of Luxembourg, Poland, Portugal and Spain with settled or pre-settled status would already be able to stand as candidates at Scottish Parliament and local government elections in Scotland. The 2020 Act would not, however, allow nationals of Luxembourg, Poland, Portugal and Spain to stand as candidates if they do not have settled or pre-settled status (i.e., if newly arrived or in all likelihood if they arrived in the UK after 31 December 2020).

The Bill therefore amended Scottish electoral law to allow nationals of Luxembourg, Poland, Portugal and Spain to stand as candidates at local government elections in Scotland. The Bill did not grant nationals of these countries candidacy rights for Scottish Parliament elections.

The Bill also provided Scottish Ministers with a power to amend the list of countries, the nationals of whom are able to stand at local government elections in Scotland, in case of future treaties being agreed or treaties ending.

A [full SPICe briefing for the Bill](#) is available.

### Parliamentary consideration

The Parliament's Standards Procedures and Public Appointments Committee supported the Bill. The Committee published [its stage 1 report](#) on 21 March 2022 concluding that the:

*“ Committee's scrutiny of the Bill did not highlight any significant concerns save for that relating to delegated powers mentioned at paragraph 34. On that basis, the Committee is content to recommend that the general principles of the Bill be agreed to. ”*

The delegated powers issue, highlighted by the lead Committee and the [Delegated Powers and Law Reform Committee](#), related to the discretionary power (rather than a duty) given to Ministers to remove countries from the list (the nationals of whom were being granted rights under the Bill). This, the Committees noted, could present a policy choice as to whether a country should remain on the list where this is no longer required under an international obligation.

In [a letter to the Delegated Powers and Law Reform Committee](#), George Adam MSP, Minister for Parliamentary Business stated that it was

*“ not the intention of the Scottish Ministers to create a policy choice as to whether a country should remain on the list where this is no longer required under an international obligation” but that the power as drafted was “intended to provide Ministers with a limited discretion in relation to the timing of removal...where the removal of a country from the list immediately after a treaty is terminated could cause disruption or unfairness, for example in the event of a treaty agreement ceasing to be in force during a local government election period. ”*

MSPs backed the Bill at stage 1. No amendments were lodged at stage 2 or stage 3.

# Transvaginal Mesh Removal (Cost Reimbursement) (Scotland) Bill

Bill Number: SP Bill 3

Introduced on: 23 June 2021

Introduced by: Scottish Government

Passed: 25 January 2022

Royal Assent: 3 March 2022

## Passage of the Bill

Once [the Bill was introduced on 23 June 2021](#), the lead committee, the Health Social Care and Sport Committee put out a [call for views](#) with a deadline of 13 October 2021. Three evidence sessions were held, with the final one in private. [The Stage 1 Report was published on 16 November 2021](#). MSPs [debated the purpose/ 'general principles' of the Bill on 24 November 2021](#).

The [Scottish Government responded to the Stage 1 Report on 22 November 2021](#).

[SPICe published a briefing on the Bill on 2 November 2021](#).

Stage 2, changes to detail, ended on 14 December 2021, and [the Bill as amended was published](#). The government published [Revised Explanatory Notes on 19 January 2022](#).

The Bill completed Stage 3 on 25 January 2022 with the [final Chamber debate](#); there were further amendments submitted, but no further amendments were agreed to following votes. The Bill was passed unanimously. Access [the Act as enacted](#).

## Purpose and objectives of the Bill

The Bill had a narrow purpose: to set up a scheme to reimburse women who had paid for private surgery, and associated expenses, over a specific time period, to remove transvaginal mesh from their body.

According to the Explanatory notes:

“ Transvaginal mesh was, until its use in Scotland was halted in 2018, often used to alleviate symptoms of stress urinary incontinence and pelvic organ prolapse. In some cases, complications associated with the use of transvaginal mesh may lead to a need to remove the mesh. Although removal surgery is available via the NHS in Scotland, a number of mesh recipients have, in recent years, chosen to arrange removal surgery privately. The Bill confers power for the Scottish Ministers to make payments (via a scheme) reimbursing certain costs incurred in relation to such privately-arranged surgery.”

The reimbursement was to cover the costs of surgery, and other ‘reasonable costs

incurred by that person and one other person who was supporting that person'. This was to include travel, accommodation and subsistence, and any other costs specified in the scheme.

Legislation was required ([see sections 19 – 21 of Policy Memorandum](#)) because there was no other statutory basis for authorisation of a reimbursement scheme that was in line with the Scottish Public Finance Manual. There was a pre-existing [Scottish Government Mesh Fund](#) which was open for two years, from 1 July 2020 till 30 June 2022. Successful applicants received a one-off payment of £1,000 to help pay for practical or emotional support.

## Provisions of the Bill

The Bill gave Ministers powers to reimburse costs related to the removal of transvaginal mesh through a dedicated scheme. Provisions about the scheme stated that the scheme could cover details on who could apply, how they could apply and time limits on applying.

[The text of the scheme itself was laid before the Scottish Parliament under section 2\(2\)\(a\) of the Act on 17 May 2022](#), and came into force on 6 June 2022.

The scheme was to be open for a limited time, and according to the published scheme, applications for reimbursement had to be sent prior to 6 December 2023. The [scheme was administered by NHS National Services Scotland \(NHS NSS\)](#). Alongside the establishment of the scheme, a national service was also established – the [Complex mesh surgical service](#) – hosted by Greater Glasgow and Clyde Health Board. Discussions about the service were heard during the parliamentary consideration of the Bill. This was unsurprising given the unique set of circumstances giving rise to the Bill in the first place. The service was to be the place where new women coming forward and seeking mesh removal surgery were to be referred. Once applications for reimbursement closed in December 2023, women would not be able to seek reimbursement for private treatment they arranged themselves.

A further complicating aspect was the [setting up of a contract by the Scottish Government with two of the surgeons who had carried out the private work](#), so allowing women who had not paid for surgery but who were seeking removal a wider choice of provider/ surgeon. [Access to this option is also administered by NHS National Services Scotland](#).

The Health, Social Care and Sport [Committee agreed to further scrutinise the complex mesh surgical service in 2023 and carried out a call for views and held a single evidence session on 2 May 2023](#).

## Parliamentary consideration

There was wide support for the Bill and its intention from the outset; to reimburse women who had sought private treatment to remove transvaginal mesh. The Scottish Government acknowledged in the Bill documents that many affected women had lost trust in the NHS in relation to mesh implants and felt that they had not been listened to for many years when they reported symptoms they felt were caused by the mesh implants.

One of the key issues raised was about eligibility. In the Bill as introduced, only women who were resident in Scotland when their removal surgery was carried out would be eligible. This would have excluded women who had been fitted with the devices in Scotland but had moved away, and been resident elsewhere when removal took place. They would be excluded even if they had moved back to Scotland following removal

surgery, when the scheme was open to others. The Bill was amended to include eligibility for these women.

Another source of concern for some women applied to those who were booked in for surgery at the time of consideration of the Bill. There was a proposal to set a cut-off date of 12 July 2021 for having had surgery, which was the date the Scottish Government announced the contracts being awarded for the option of private surgery. This would exclude the women who were in the sometimes long process of arranging surgery with an independent provider themselves (i.e. not via the NHS NSS route). In the Act, the wording was amended:

“ (3)Mesh removal surgery is “qualifying” mesh removal surgery if it was arranged—...  
...(c) before a date specified in the scheme, which could be no earlier than the day of Royal Assent”

Because the Bill itself lacked any detail about the scheme itself, the Scottish Government agreed to provide a draft of the scheme prior to Stage 2.

One of the issues with vaginal mesh implantation across the UK was the lack of data on who had mesh inserted and what mesh was used. This meant that it was impossible for the government to know how many women might be eligible for the scheme. Some might have been having symptoms which had never been associated with mesh or acknowledged as such. The government undertook to raise awareness via health boards and GPs.

As noted above scrutiny of the Bill included concerns about the ongoing and long-term support offered to women who had complications from insertion of transvaginal mesh. The Committee was keen to acknowledge and note that even after removal, which sometimes is not possible or only partial, new or a return of symptoms can arise.

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