



The Scottish Parliament  
Pàrlamaid na h-Alba

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# **Delegated Powers and Law Reform Committee Comataidh Cumhachdan Tiomnaichte is Ath-leasachadh Lagh**

## **Delegated Powers in the Ecocide (Scotland) Bill at Stage 1**



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# Delegated Powers and Law Reform Committee

The remit of the Delegated Powers and Law Reform Committee is to consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any—

(i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act;

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject;

(g) any Scottish Law Commission Bill as defined in Rule 9.17A.1; and

(h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule.

(i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.



[dplr.committee@parliament.scot](mailto:dplr.committee@parliament.scot)



0131 348 5212

# Committee Membership



**Stuart McMillan**  
Scottish National Party



**Bill Kidd**  
Scottish National Party



**Jeremy Balfour**  
Independent



**Roz McCall**  
Scottish Conservative  
and Unionist Party



**Katy Clark**  
Scottish Labour

# Overview of the Bill

1. This Member's Bill was introduced on 29 May 2025 by Monica Lennon MSP. The lead committee is the Net Zero, Energy and Transport Committee.
2. The primary aim of the Bill is to prevent mass environmental damage and destruction occurring in Scotland. The Bill proposes to achieve this by creating a new statutory offence of "ecocide," which is to be punishable by imprisonment for up to 20 years and an unlimited fine.

# Delegated Powers

3. The Bill contains three provisions which create new delegated powers. The Member has prepared a [Delegated Powers Memorandum](#) (“DPM”) which sets out all the delegated powers in the Bill and explains the reasons for taking the powers and the choice of procedure.

# Review of relevant powers

## Section 10(4): Power to modify the list of persons that must be consulted by the Scottish Ministers in preparing the report on the operation of the Act

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative**

Provision

4. Section 10 requires the Scottish Ministers to prepare and publish a report on the operation of the Act six months after the end of the five-year period following the commencement of section 1 (offence of ecocide). A copy of the report must be laid before the Scottish Parliament.
5. Subsection (3) stipulates that, in preparing the report, the Scottish Ministers must consult the bodies listed in that subsection and any other persons they consider appropriate. A draft of the report must be shared with these consultees, and Ministers must consider any representations made.
6. Subsection (4) empowers the Scottish Ministers to make regulations to modify the list of mandatory consultees.

Committee consideration

7. The Committee [wrote to the Member in charge](#) of the Bill to ask why it is considered necessary to take a power to amend the list of mandatory consultees, given that there will be only one consultation, and Ministers already have discretion to consult additional persons.
8. [In response, the Member explains](#) that the power seeks to provide flexibility on the basis that it will be several years before the report is produced and there may be changes in the regulatory landscape and thus relevant consultees during that period. In addition to specifying additional consultees, the power would also allow Ministers to remove any of the statutory consultees or amend the description as needed.
9. In light of the Member's response, the Committee is content with the power and the applicable parliamentary procedure.

**10. The Committee finds the power acceptable in principle and is content that it is subject to the affirmative procedure.**

**Power conferred on: Scottish Ministers**

**Power exercisable by: Regulations made by Scottish statutory instrument**

**Parliamentary procedure: Affirmative if making textual amendments to an Act, but otherwise negative**

## Provision

11. Section 11 enables the Scottish Ministers by regulations to make any incidental, supplementary, consequential, transitional, transitory or savings provision they consider appropriate for the purposes of, in connection with or for giving full effect to the Bill, as enacted.

## Committee consideration

12. This power is drafted in similar terms to the ancillary powers which are taken in most Bills. Its extent is restricted, as it can only be used to give full effect to the Bill as enacted. The power allows the Scottish Ministers to address any ancillary issues that may arise. Without such a power, any changes would require primary legislation, which would be an inefficient use of the Parliament's time and the Scottish Government's resources.
13. The affirmative procedure applies where the power is exercised to make regulations that amend primary legislation, otherwise the negative procedure applies.

- 14. The Committee finds the power acceptable in principle and is content that it is subject to the negative procedure unless amending primary legislation when it will be subject to the affirmative procedure.**

## Section 12: Commencement

### Power conferred on: Scottish Ministers

### Power exercisable by: Regulations made by Scottish statutory instrument

### Parliamentary procedure: Laid, no procedure

## Provision

15. Sections 11, 12 and 13 (Final Provisions) will come into force on the day after Royal Assent. Section 12(2) allows the Scottish Ministers to bring the other provisions of the into force on such days as they may appoint. Such regulations may include transitional, transitory, or saving provision and make different provision for different purposes. In accordance with normal practice, the commencement regulations will be laid before the Parliament but will not be subject to any further procedure.

## Committee consideration

16. This is a standard commencement power, with which the Committee is content.

- 17. The Committee finds the power acceptable in principle and is content that it will not be subject to any parliamentary procedure.**

