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# Consumer Scotland Bill - consideration prior to Stage 3

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The Bill would establish an organisation called Consumer Scotland. It is intended that this body will take a strategic view of consumer issues in Scotland and advocate for their resolution.



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# Contents

<b>About this briefing</b>	<b>3</b>
<b>About the Bill</b>	<b>4</b>
<b>Consideration at Stage 1</b>	<b>5</b>
<b>Consideration at Stage 2</b>	<b>6</b>
Ensuring that Consumer Scotland collaborates	6
Defining vulnerable consumers	7
Protecting small businesses	8
Environmental and wellbeing concerns	9
Product recall	10
<b>Bibliography</b>	<b>12</b>

# About this briefing

This briefing looks at parliamentary consideration of the Consumer Scotland Bill prior to Stage 3.

The Bill would establish **Consumer Scotland** as the body with responsibility for identifying and advocating on consumer issues in Scotland. It is expected to work with existing consumer organisations.

The Bill would also create a **consumer duty** applying to certain public bodies. It is intended that this would enable consumer issues to be taken into consideration at an early stage of policy development.

The main issues going into Stage 3 are:

- how to incorporate wellbeing and environmental concerns into the work of Consumer Scotland
- how Consumer Scotland should work to improve the product recall process.

# About the Bill

## Key dates and documents

The Consumer Scotland Bill is a Scottish Government bill. It was introduced in the Scottish Parliament on 5 June 2019.

The [Bill and related documents are available on the Consumer Scotland Bill page](#) on the Scottish Parliament's website.

The [SPICe bill briefing](#) <sup>1</sup> provides more detailed information on the Bill's provisions and the context for consumer policy in Scotland.

The Economy, Energy and Fair Work Committee (the "Economy Committee") was designated as lead committee for Stage 1 and Stage 2 scrutiny of the Bill. [Details of this work can be found on its webpages.](#)

## What the bill does

The Bill would create an organisation called Consumer Scotland with the main purposes of providing advocacy and advice on consumer issues. It would have the following overarching aims:

- reducing harm to consumers
- increasing confidence among consumers
- increasing the extent to which consumer matters are taken into account by public bodies in Scotland, and
- (as amended at Stage 2) otherwise advancing inclusion, fairness and prosperity in Scotland.

The Bill would also create a **consumer duty** - a requirement for certain public bodies to consider the impact of their decisions on consumers. The legislation is enabling - so the practical operation of the duty is still to be worked out.

# Consideration at Stage 1

The Economy Committee was responsible for Stage 1 scrutiny of the bill. It held four oral evidence sessions:

- [1 October 2019](#) - with providers of consumer advice and redress
- [29 October 2019](#) - with Citizens Advice Scotland, followed by a selection of advice agencies
- [5 November 2019](#) - with trading standards organisations, followed by academics and other experts
- [12 November 2019](#) - with the Minister for Business, Fair Work and Skills.

The Committee published its [Stage 1 report](#)<sup>2</sup> on 28 December 2019.

The [Scottish Government responded](#)<sup>3</sup> on 15 January 2020.

## **The Stage 1 debate highlighted concerns about what Consumer Scotland would do in practice**

The Stage 1 debate took place on [23 January 2020](#). Members from all sides of the chamber supported the Bill. However, they discussed the need for more clarity about the role of Consumer Scotland. It was noted that many public and third sector organisations already worked on consumer issues. It was stressed that Consumer Scotland must add value to what was already being done.

There was particular concern about the impact Consumer Scotland might have on the work of the Citizens Advice service. National co-ordinating body Citizens Advice Scotland stood to lose funding for its consumer advocacy work as a direct result of the creation of the new body.

Members also highlighted concerns about the way the Bill handled the definition of consumer; the definition of vulnerable consumer and the treatment of environmental concerns. Better support for product recall initiatives was also a repeated refrain.

MSPs unanimously supported the general principles of the Bill.

# Consideration at Stage 2

The Economy Committee considered the Bill at Stage 2 on [25 February 2020](#).

This briefing does not attempt to deal with all of the amendments lodged. Instead, it discusses the main issues associated with the Bill, and how they have progressed through Stage 1 and Stage 2 consideration.

The main issues have been:

- [how to ensure Consumer Scotland works collaboratively with the wide range of stakeholders with an interest in consumer issues](#)
- [how to define vulnerable consumers](#)
- [whether the activities of Consumer Scotland should cover small businesses](#)
- [how to ensure the work of Consumer Scotland takes into account environmental and wellbeing concerns](#)
- [how Consumer Scotland could be utilised to improve product recall initiatives.](#)

## Ensuring that Consumer Scotland collaborates

**Many of the people and organisations which gave their views to the Economy Committee at Stage 1 were unsure about what Consumer Scotland would do in practice**

There are a wide range of stakeholders involved in consumer issues. These include advice providers and campaigning groups, such as the Citizens Advice service and Which? They also include regulators and enforcers, such as the Scottish Legal Complaints Commission and trading standards officers.

The [Scottish Government wrote to the Economy Committee](#) <sup>4</sup> in advance of Stage 2 to provide more information about its view of Consumer Scotland's role.

The Bill as introduced would include a requirement (at section 6) that Consumer Scotland:

- has regard to the activities of other public bodies with similar functions; and
- works collaboratively with others where appropriate.

### Stage 1 consideration

The Economy Committee's Stage 1 Report recommended that the duty to have regard to the activities of other bodies was extended beyond public bodies to include third sector organisations. The Scottish Government accepted this recommendation in its response and agreed to bring forward amendments to reflect this.

### Stage 2 amendments

Purpose of amendment	Result
Scottish Government <b>amendment 8</b> would give the Scottish Government powers to specify particular bodies in regulations. Consumer Scotland would have to have regard to the activities of these named organisations.	This amendment was agreed to.
Scottish Government <b>amendment 9</b> would amend the Bill to remove the requirement for Consumer Scotland only to have regard to the activities of public bodies. Instead it would be able to consider the activities of any "persons" with similar activities - including charities, private sector organisations and office holders.	This amendment was agreed to.
<b>Amendment 38</b> , in the name of Jackie Baillie MSP, would require Consumer Scotland to report on its collaboration duty after each investigation. The Bill would require such a report to include how it had regard to the activities of other organisations in carrying out the investigation.	This amendment was agreed to.
<b>Amendment 39</b> , in the name of Jackie Baillie MSP, would require Consumer Scotland to include information about its collaboration duty in its annual report. It would need to set out how, in its activities during the year, it had had regard to the activities of other organisations.	This amendment was agreed to.

## Defining vulnerable consumers

### Stakeholders emphasised that vulnerability depends on the consumer's situation rather than their characteristics

Section 6 of the Bill would require Consumer Scotland to have specific regard to the interests of vulnerable consumers. What constitutes a vulnerable consumer is defined using a non-exhaustive list of characteristics, including disability or living in a remote area.

Many of those who provided views to the Economy Committee stressed that vulnerability depended on context rather than characteristics. Most consumers would be vulnerable at some point in their lives (for example, after bereavement). For many, that vulnerability would not be long-term.

### Stage 1 consideration

The Economy Committee's Stage 1 Report recommended that the Scottish Government reconsidered the definition of vulnerable consumer in terms of context. The Scottish Government agreed to look at this in advance of Stage 2.

### Stage 2 consideration

Purpose of amendment	Result
<b>Amendment 25</b> , in the name of Andy Wightman MSP, would amend the definition to focus on consumers experiencing vulnerability, with a non-exhaustive list of examples.	This amendment was withdrawn.
Scottish Government <b>amendment 10</b> would change the definition to focus on consumers who have fewer options, or face more harm, than typical consumers.	This amendment was agreed to. The Committee preferred this amendment on the basis that it captured the context of vulnerability and was not restricted to consumers as individuals.
<b>Amendment 2</b> , in the name of Jackie Baillie MSP, would change the definition in a similar way to the Scottish Government amendment.	This amendment was withdrawn.
<b>Amendment 40</b> , in the name of Jackie Baillie MSP, would require Consumer Scotland, when preparing its consumer welfare report, to show how it had worked with vulnerable consumers. Specifically, it would have to show how its membership was representative of vulnerable consumers and how it had had regard to the views of vulnerable consumers.	<p>This amendment was withdrawn. It was agreed that it was a matter for Scottish Ministers rather than Consumer Scotland to ensure that membership was representative of vulnerable consumers.</p> <p>The Minister agreed to work with Ms Baillie ahead of Stage 3 to look at how a representative membership and a reporting requirement on vulnerable consumers could be implemented.</p>

## Protecting small businesses

**There was concern that small businesses experienced many of the same issues as individual consumers, yet Consumer Scotland would not be able to work on these**

The Economy Committee heard evidence that small businesses often face the same difficulties as individual consumers. For example, they may lack information to make an informed decision or may find it difficult to enforce their rights.

However, there were differing views as to how to define small business in this context. Consumer Scotland would have limited resources. There was therefore some concern that covering small businesses could divert resources from work on issues which affected consumers as individuals.

### Stage 1 consideration

The Economy Committee's Stage 1 Report recommended that the Scottish Government amend the Bill at Stage 2 to cover small businesses. The Scottish Government committed, in its response, to further discussions with stakeholders to take account of this issue.

### Stage 2 consideration

Purpose of amendment	Result
Scottish Government <b>amendment 14</b> would extend the definition of consumer to include small businesses when purchasing goods or services. The Minister had deliberately sought not to define small business to maintain flexibility for Consumer Scotland.	This amendment was agreed to. It was noted that this would result in the Bill's consumer duty also covering small businesses.
<b>Amendment 3</b> , in the name of Jackie Baillie MSP, would extend the definition of consumer to include businesses with a headcount of fewer than 10. Ms Baillie sought to cover only micro-businesses to ensure Consumer Scotland's focus on individual consumer issues could be maintained.	This amendment was pre-empted.

## Environmental and wellbeing concerns

**There were calls for the Bill to be improved by incorporating environmental and wellbeing perspectives, rather than focusing on a consumption-led view of the consumer**

A group of academics submitted evidence to the Economy Committee about the risks of looking at consumer issues purely from a purchasing and consumption model. They noted that consumption was a key driver of environmental harm, which also caused collective consumer harm in the longer term.

They noted that the Scottish Government's [National Performance Framework](#) looked at improved wellbeing. They suggested incorporating this focus into the functions of Consumer Scotland, as well as looking at how its activities could address environmental harm.

### **Stage 1 consideration**

The Economy Committee's Stage 1 report recommended that the Scottish Government considered how the wellbeing agenda could be more closely incorporated into the work of Consumer Scotland. The Scottish Government response committed to exploring this further.

### **Stage 2 consideration**

Purpose of amendment	Result
<p>Andy Wightman MSP tabled a range of amendments designed to move Consumer Scotland's focus away from individual consumers:</p> <ul style="list-style-type: none"> <li>• <b>amendment 20</b> would define consumer interests broadly, including community consumer interests</li> <li>• <b>amendment 21</b> would extend Consumer Scotland's coverage beyond business transactions</li> <li>• <b>amendment 22</b> would give Consumer Scotland the function of promoting the reduction in consumption of natural resources</li> <li>• <b>amendment 23</b> would give Consumer Scotland the function of advancing wellbeing</li> <li>• <b>amendment 28</b> would require a report on the environmental impact of consumer activity</li> <li>• <b>amendment 29</b> would refocus the consumer duty on promoting wellbeing</li> </ul>	<p>These amendments were all withdrawn or not moved. There were various concerns about the unintended consequences of the proposals. However, the Minister supported the view that the Bill could do more to explicitly address environmental issues. He agreed to work with Mr Wightman on alternative amendments in advance of Stage 3.</p>
<p><b>Amendment 27</b>, in the name of Andy Wightman MSP, would require Consumer Scotland to consider the environmental impact of the actions of consumers.</p>	<p>This amendment was agreed to.</p>
<p><b>Amendments 32 and 34</b>, in the name of Andy Wightman MSP, would extend the use of goods covered in the Bill to include reusing, sharing, recycling and disposing of.</p>	<p>The Minister argued that these matters were already covered by the Bill. He agreed to discuss this issue with Mr Wightman in advance of Stage 3. The amendment was pre-empted.</p>
<p>Scottish Government <b>amendment 4</b> would give Consumer Scotland the additional function of advancing inclusion, fairness and prosperity in Scotland.</p>	<p>This amendment was agreed to.</p>

## Product recall

### Consumer Scotland should work to improve the effectiveness of the product recall process

Stakeholders highlighted a number of issues that should be priorities for Consumer Scotland, including quality assurance of advice, alternative dispute resolution and preventative work.

The Economy Committee heard evidence that current product recall initiatives were not very successful. Manufacturers often do not have customer contact details and customers may not engage with communications. Consumer Scotland could have a role in improving this process.

## Stage 1 consideration

The Economy Committee's Stage 1 Report recommended that Consumer Scotland should have a duty to co-ordinate and disseminate information on major product recalls. In its response, the Scottish Government re-iterated its view that Consumer Scotland should set its own priorities.

## Stage 2 consideration

Purpose of amendment	Result
<p><b>Amendment 37</b>, in the name of Jackie Baillie MSP, would require Consumer Scotland to: maintain a product recall database; publish product recall information; and provide advice and information to consumers on this issue.</p>	<p>This amendment was withdrawn. The Minister raised concerns about duplication of activity with other organisations that held databases or provided advice. He also argued that the Scottish Government's amendments were wider in scope.</p>
<p>Scottish Government <b>amendments 5 to 7</b> would empower Consumer Scotland to secure advice and information on major product recalls, including where manufacturers offer corrective measures.</p>	<p>The Minister agreed not to move these amendments. Instead, he committed to discussions with Ms Baillie in advance of Stage 3 to address this issue.</p>

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