

Parliamentary Bureau - Legislative Consent Memorandum

Introduction

- Under Rule 9B.3.5, the Parliamentary Bureau is required to refer any legislative consent memorandum (LCM) that has been lodged with the Parliament to the committee within whose remit the subject matter of the relevant provision falls.

The Medical Training (Prioritisation) Bill

- An LCM was lodged by Neil Gray MSP, Cabinet Secretary for Health and Social Care, on 21 January 2026, under Rule 9B.3.1(a) of the Parliament's Standing Orders.
- The Bill makes provision for a scheme of prioritisation in relation to the allocation of medical training places, which would apply to all Foundation, and specialty recruitment, processes across the UK.
- For UK Foundation Programme posts, the Bill establishes prioritisation of UK medical graduates or persons in the priority group (graduates from institutions in Ireland or from some countries with whom existing agreements require the recognition of qualifications and parity in access to the profession).
- For specialty training posts, the Bill establishes prioritisation of UK medical graduates, persons in the priority group, and individuals who have completed, or are currently undertaking, the UK Foundation Programme or other relevant qualifying UK programme. For offers made in 2026, it will also include prioritising individuals with certain specified immigration statuses, as a proxy to capture applicants who have significant experience working in the NHS in England, Scotland or Wales or in health and social care in Northern Ireland. For posts starting from 2027 onwards, the immigration status category will not apply automatically but it will be possible to make regulations to specify any additional groups who will be prioritised. This will enable regulations to be made with the intent of capturing those persons with significant experience working as a doctor in the NHS in England, Scotland or Wales or in health and social care in Northern Ireland within the group that should be prioritised.
- The Bill contains 8 clauses, in relation to all of which the Scottish and UK governments are in agreement that legislative consent is required. According to the LCM, clauses 1 to 3 and 8 of the Bill relate to the devolved area of health (specifically, health workforce planning and medical education) and therefore apply to Scotland for a purpose within the legislative competence of the Scottish Parliament. Clauses 4 and 5 are interpretation provisions but enable the making of regulations, which apply to a relevant "appropriate authority" – which is defined to be the Scottish Ministers in relation to medical training programmes in Scotland. Such regulations are to be made by Scottish Statutory Instrument. As such, these provisions alter the executive competence of the Scottish Ministers and require legislative consent. The remaining clauses (6 and 7) contain

provisions related to: enabling the making by the Scottish Ministers of consequential, incidental, supplementary, transitional and savings provision by regulations; and procedural requirements applicable to the regulation-making powers in the Bill.

7. The LCM contains a recommendation that the Parliament consents to the relevant provisions of the Bill. The recommendation is made on the basis of the Scottish Government's support for the policy intentions of the Bill, and its view that the regulation-making powers set out in the Bill ensure that the devolution settlement is respected.
8. The LCM states that the Bill has been introduced as emergency legislation, subject to an expedited timescale. It is intended that the legislation receives Royal Assent by 5 March 2026 to allow prioritisation to be implemented for recruitment rounds that are currently live and would affect those receiving offers for training posts starting in August 2026. Therefore, according to the current indicative timetable, legislative consent from the Scottish Parliament is anticipated to be required by 13 February 2026 at the latest.

Designation of lead committee

9. The LCM engages the remit of the Health, Social Care and Sport Committee, whose remit is to consider and report on matters falling within the responsibility of the Cabinet Secretary for Health and Social Care. The Cabinet Secretary is responsible for, among other things, workforce, training, planning and pay in the health sector.
10. Given the Bill's focus on health workforce planning and medical education, it is considered that the Health, Social Care and Sport Committee is the sole subject committee expected to have an interest in this LCM.
11. The Delegated Powers and Law Reform Committee must also consider, and may report to the lead committee on, the LCM in relation to any powers conferred on the Scottish Ministers to make subordinate legislation.

Recommendation

12. The Bureau is invited to refer the LCM on the Medical Training (Prioritisation) Bill to the Health, Social Care and Sport Committee as lead committee.

The Children's Wellbeing and Schools Bill - Supplementary Legislative Consent Memorandum

13. An LCM was lodged by Jenny Gilruth MSP, Cabinet Secretary for Education and Skills, on 12 June 2025, under Rule 9B.3.1(c) of the Parliament's Standing Orders. The initial LCM dealt with provisions in the Bill relating to child employment and community-based and secure accommodation, which fall within the legislative competence of the Scottish Parliament and alter the executive competence of the Scottish Ministers.

14. The initial LCM recommended consent to the relevant provisions of the Bill and a [motion on legislative consent](#) was agreed by the Parliament on 26 June 2025.
15. This supplementary LCM was lodged by the Cabinet Secretary for Education and Skills on 21 January 2026, following the tabling of an amendment to the Bill on 7 January 2026 by the UK Government.
16. The relevant amendment inserts a new clause after clause 64, which confers a power on the Scottish Ministers to make provision that is consequential on clause 11 of the Bill (use of accommodation for deprivation of liberty) insofar as this would be within the legislative competence of the Scottish Parliament, should this be required in the future. The amendment alters the executive competence of the Scottish Ministers and therefore requires legislative consent.
17. The supplementary LCM recommends that the Parliament consent to this new clause.

Parliamentary consideration

18. The LCM engages the remit of the Education, Children and Young People Committee, which considered and reported on the initial LCM. The Committee's remit includes to consider and report on matters falling within the responsibility of the Cabinet Secretary for Education and Skills. The Cabinet Secretary is supported by the Minister for Children, Young People and The Promise, who is responsible for (among other things) children's rights and looked after children.
19. The Bill is currently at Report Stage in the House of Lords (the Second House). Report Stage is the Bill's final amending stage in the UK Parliament, and commenced on 14 January and is expected to continue until 3 February 2026. The Scottish Government has indicated that it hopes to conclude the legislative consent process on this Bill by 3 February 2026. Therefore, as the Bill is at an advanced stage in its passage through the UK Parliament, it is considered that the lead committee would be unable to consider and report on the supplementary LCM prior to the conclusion of the final amending stage in the House of Lords.
20. The Education, Children and Young People Committee is aware of the supplementary LCM and has considered whether it is feasible to consider and report on its contents at an expedited pace. Given the limited scope of the supplementary LCM and the relatively minor nature of the amendment that it covers, the Committee is content to bypass consideration of the supplementary LCM as the presumed lead committee.
21. The Delegated Powers and Law Reform (DPLR) Committee considered the initial LCM in relation to powers to make subordinate legislation within devolved competence in the Bill. As the provision covered in the supplementary LCM relates to a power conferred on the Scottish Ministers to make (in this case, consequential) subordinate legislation, it would appear that the DPLR Committee is required to consider the supplementary LCM under Rule 9B.3.6 of Standing Orders.

22. For the same reasons set out above in relation to limited time available and the relatively minor scope of the supplementary LCM, the convener of the DPLR Committee has confirmed that he is also content for Rule 9B.3.6 of Standing Orders to be suspended so that the Committee does not have to consider the supplementary LCM.

23. A draft motion to suspend Rules 9B.3.5 and 9B.3.6 of Standing Orders, which would allow a motion on legislative consent to go directly to the Chamber without being considered or reported on by the lead committee, or considered by the DPLR Committee, is set out below.

Recommendation

24. The Bureau is invited to consider recommending to the Parliament by motion that Rules 9B.3.5 and 9B.3.6 of Standing Orders be suspended for the purposes of consideration of the supplementary LCM on the Children's Wellbeing and Schools Bill.

25. A draft motion is provided below:

“That the Parliament agrees that, for the purposes of consideration of the supplementary legislative consent memorandum on the Children’s Wellbeing and Schools Bill, Rules 9B.3.5 and 9B.3.6 of Standing Orders are suspended.”

Parliamentary Business Team
January 2026