



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Neil Grey MSP

Cabinet Secretary for Health and Social Care

14 January 2026

Dear Neil,

The Scotland Act 1998 (Modification of Schedule 5) Order 2026 (Draft SI)

The Delegated Powers and Law Reform Committee considered the above draft Order at its meeting on 13 January 2026 and agreed to write to the lead committee and Scottish Government in relation to it.

The Committee agreed that none of the technical or legal reporting grounds considered by the Committee (as set out at Rule 6.11.1 of Standing Orders) were engaged by the draft instrument.

However, the Committee noted that, as per [your letter to the Health, Social Care and Sport Committee](#) on 16 December 2025, it is anticipated that there will be a need for a separate section 104 Order related to the Assisted Dying for Terminally Ill Adults (Scotland) Bill in the UK Parliament to cover aspects not covered by this draft section 30 Order, should that Bill pass.

A section 104 Order enables UK Ministers to make provision that they consider is necessary or expedient in consequence of Scottish Parliament legislation, including by amending reserved UK legislation. Such orders are subject to parliamentary procedure only at Westminster, meaning the Scottish Parliament has no formal role in their scrutiny. Such Orders are the responsibility of UK Ministers.

As such, the Committee agreed to ask:

1. What factors are being taken into account in the choice of solution to the legislative competence issues the Scottish Government sees in the Bill, and, in particular, why are only some of the legislative competence issues the Scottish Government sees in the Bill being addressed by the section 30 Order, while others are being left to a section 104 Order, which this Parliament can't formally scrutinise?
2. Are there other possible solutions that would involve greater scrutiny in the Scottish Parliament?
3. What consideration is being given to those?

Contact: Delegated Powers and Law Reform Committee, The Scottish Parliament, Edinburgh, EH99 1SP.

Email: dplr.committee@parliament.scot.

We welcome calls through Relay UK and in BSL through Contact Scotland BSL.

4. How does the Scottish Government propose to keep the Scottish Parliament as involved and as informed as possible as these matters are further considered, including in relation to a section 104 Order process?

The Committee requests a **response by Monday 19 January 2026**. We request that you copy your response to the Health, Social Care and Sport Committee, which the Committee is writing to in similar terms, as well as the Constitution, Europe, External Affairs and Culture Committee and Minister for Parliamentary Business, who will receive copy correspondence of this letter for information.

Yours sincerely,



Stuart McMillan MSP
Convenor