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Convener
Delegated Powers and Law Reform Committee
The Scottish Parliament
Edinburgh
EH99 1SP

6 February 2026

Medical Training (Prioritisation) Bill LCM

Dear Convener,

Thank you for your letter of 3 February regarding the Legislative Consent Memorandum in relation to the UK Government's Medical Training (Prioritisation) Bill.

I have provided responses below to the committee's questions on the clauses which confer powers on UK Ministers and which may be exercised within devolved competence.

These clauses are:

- Clause 3(1)(d): Specialty training programmes: offers made from 2027 onwards;
- Clause 3(2)(d): Specialty training programmes: offers made from 2027 onwards;
- Clause 4(6): "UK medical graduate" and "the priority group"; and
- Clause 5(4)(d): "UK Foundation Programme", "UK Specialty Programme" etc.

1. Why it is considered appropriate for the power to be exercisable by the Secretary of State within legislative competence?

Health workforce planning and medical training are devolved matters, with each nation's government responsible for their own medical training programmes. However, operationally, the process of recruitment and allocation of foundation and specialty training places is undertaken on a UK-wide basis by NHS England (a Non-Departmental Public Body of the UK Government), on behalf of all 4 nations. It was, therefore, deemed that in this narrow area it would be pragmatic and practical to allow the Secretary of State to exercise powers on a UK-wide basis in this area of devolved competence.

Negotiations between the UK Government and Devolved Governments secured changes that mean that the Scottish Ministers must consent to the Secretary of State exercising the regulation-

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making powers at clauses 3(1)(d), 3(2)(d), and 5(4)(d) in relation to medical training programmes in Scotland. This provides a safeguard for the use of these powers as it will ensure that regulations can't be made which don't implement Scottish Government policy.

Scottish Ministers will hold concurrent powers as regards the regulation-making powers at clauses 3(1)(d), 3(2)(d), 4(6) and 5(4)(d) in relation to medical training programmes in Scotland. This means that the Scottish Ministers also have the ability to legislate in this area and, if necessary or desirable, take a different approach for Scotland.

The Scottish Government's view is that these concurrent powers and consent mechanisms strike the right balance by ensuring that the devolution settlement is respected whilst enabling UK regulations to be made, reflecting the operational practicalities.

The Scottish Government intends to inform the Scottish Parliament if the consent of Scottish Ministers is sought to bring forward a statutory instrument under clauses 3(1)(d), 3(2)(d) or 5(4)(d) and upon notification of the UK Government's intention to use the power in clause 4(6).

2. How decisions will be made regarding which authority will exercise the power?

As the process of recruitment and allocation of foundation and specialty training places is undertaken on a UK-wide basis it is envisaged that, on a practical level, this power will generally be exercised on a UK-wide basis. This would be taken through existing 4-nations policy forums on matters relating to UK-wide medical recruitment. The Scottish Government reserves the right to use this power if it is deemed necessary.

3. In addition, in relation to clause 4(6), the Committee notes this is the only devolved power in the Bill that is not subject to a requirement for the Scottish Ministers' consent when exercised by the Secretary of State. The Committee therefore asks:

What consideration has been given to requiring the consent of the Scottish Ministers before the power may be exercised by the Secretary of State within legislative competence

The power contained in clause 4(6) allows an appropriate authority, i.e. the Secretary of State, or in relation to medical training programmes in Scotland, the Scottish Ministers, to amend the list of countries at clause 4(4), if required to reflect an international agreement to which the UK is party to. The effect of any such amendment would be change which international medical graduate applicants – in accordance with the UK Government's international obligations – would be given priority to.

The Scottish Government believes that holding a concurrent power at clause 4(6) is sufficient to respect the devolution settlement and that a consent mechanism is not required. This is because the power at clause 4(6) relates to the implementation of the UK Government's international obligations.

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I hope the Committee finds this information helpful. As you will be aware, this Bill has been introduced in the UK Parliament as emergency legislation subject to an expedited timescale. The Bill is currently at the Committee Stage in the House of Lords, and it is intended that it will receive Royal Assent by 5 March 2026 to allow prioritisation to apply to the recruitment of the medical training posts starting in August 2026. Therefore, legislative consent from the Scottish Parliament is anticipated to be required by 13 February 2026.

I am copying the Health, Social Care and Sport Committee ahead of their evidence session on the Bill on 10 February 2026.



NEIL GRAY MSP

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