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Clare Haughey MSP
Convener
Health, Social Care and Sport Committee
Scottish Parliament
Edinburgh
EH99 1SP

4 February 2026

Dear Clare,

ASSISTED DYING FOR TERMINALLY ILL ADULTS (SCOTLAND) BILL – SCOTTISH GOVERNMENT STAGE 3 HANDLING

I am writing to outline the approach that the Scottish Government intends to take to Stage 3 handling of Liam McArthur MSP's Assisted Dying for Terminally Ill Adults (Scotland) Bill.

Section 30 Order

As you are aware, a section 30 Order was laid in the Scottish and UK Parliaments on 17 December 2025, and is going through the usual Parliamentary processes.

As I outlined to the Committee, when I gave evidence on 20 January 2026, whilst the section 30 Order makes the necessary provision for the Scottish Parliament to legislate on the identification and regulation of substances and devices, the Bill itself only includes provision for the identification of substances, in section 15(8). That provision is not in accordance with the terms of the section 30 Order, which requires agreement of the Secretary of State. As such, amendments to the Bill would be needed to address this point and, on the basis this is needed from a policy perspective, to include provision for the identification of devices (mention of which was introduced into the Bill at Stage 2), as well as for the regulation of both substances and devices.

With that in mind, it has been agreed that the Scottish Government will prepare and lodge amendments that are required in consequence of the section 30 Order.

Remaining Provisions Outside of Legislative Competence

As I noted in my previous letter, in December 2025, there are other aspects of the Bill that raise issues of legislative competence, which require further consideration by the Scottish Government and the UK Government. These discussions are still ongoing, but are focussed on the following:

- provisions in relation to regulation of professions involved in assisted dying, which may relate to the G2 reservation (regulation of health professions); and
- provisions in relation to employment protections for people who refuse to be involved in assisted dying, which may relate to the H1 reservation (employment and industrial relations), and potentially the G2 reservation.

It is likely that some, if not all, of the relevant provisions will need to be handled through a section 104 Order which, as outlined previously, will mean that they need to be removed from the Bill to be dealt with in that way. However, consideration is being given to whether it might, in some cases, be possible to amend the provisions to limit the scope of the powers so that they can be more clearly understood to be for purposes that are within the legislative competence of the Scottish Parliament.

Further to provisions discussed previously, you may wish to note that section 15(1A) of the Bill, which was added by Stage 2 amendment, is also now under discussion, as it is considered that it may relate to the J4 medicines reservation. However, it is felt that, in addition to potential legislative competence issues, there may be wider issues with the workability of this provision, which mean that it may not be practical to implement. With that in mind, it seems that this provision would not be included in any proposals for a section 104 order, and may simply require to be removed from the Bill.

Regardless of the approach that needs to be taken on the above points, it has been agreed that the Scottish Government will prepare the necessary amendments to try to resolve the remaining legislative competence issues. However, these will be given to Mr McArthur, as the Member in Charge, for lodging, should he wish to do so. This approach is considered to be consistent with our position of neutrality on the Bill.

Technical and Practical Amendments

It has been agreed that the Scottish Government will prepare amendments to address technical and practical inconsistencies in the Bill, insofar as they do not stray into ethical issues. These amendments would also be provided to Mr McArthur for lodging, should he wish to do so.

Financial Critique

The Scottish Government will, in the coming weeks, provide the Committee with a brief critique of the updated Financial Memorandum, which Mr McArthur submitted in December 2025.

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

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You may wish to note that I have written to Mr McArthur in similar terms, and that I have copied this letter to the Conveners of the Finance Committee and the Delegated Powers and Law Reform Committee, for their information.

I hope that you find this information helpful.

Yours sincerely,



NEIL GRAY

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