

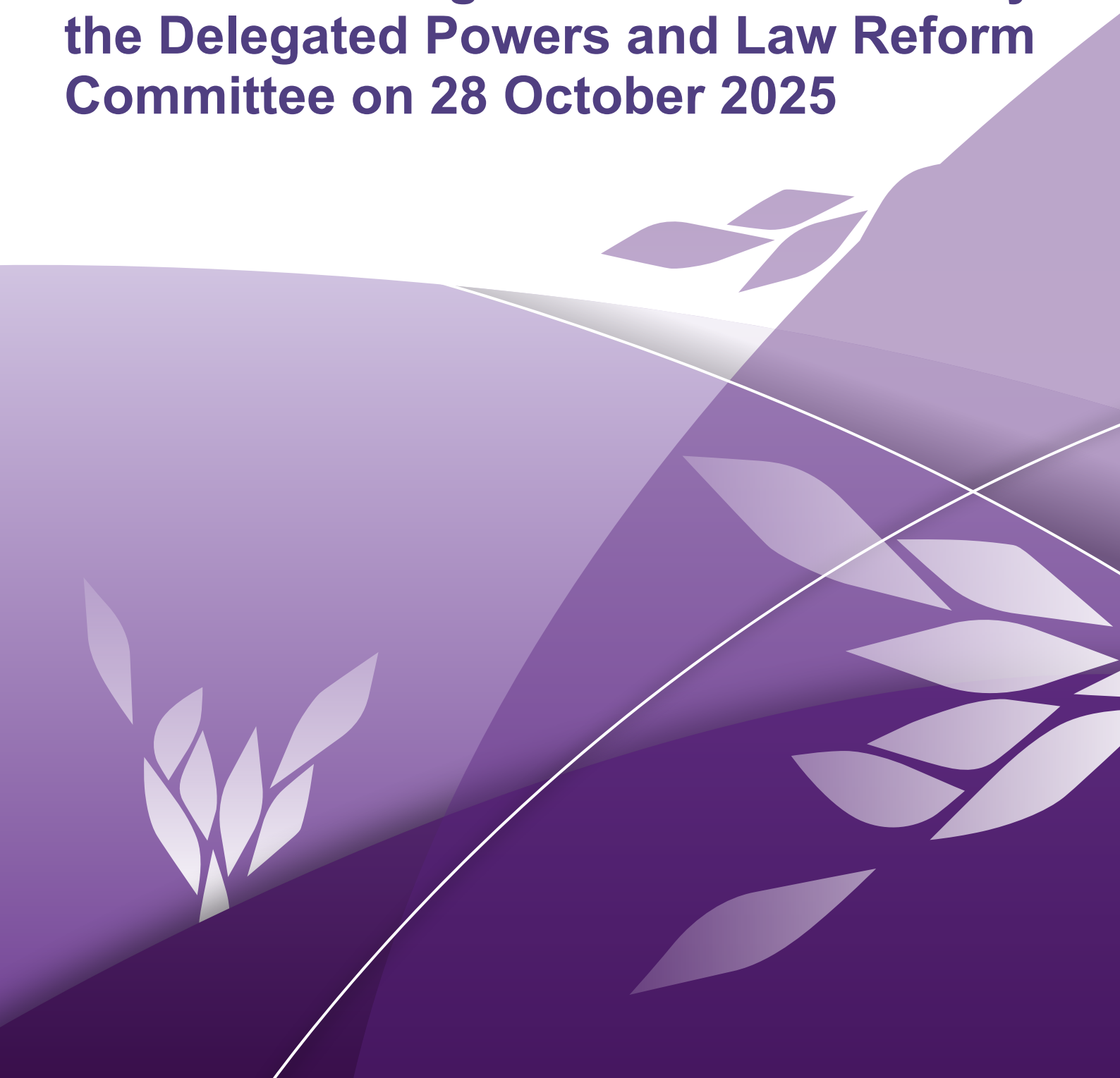


The Scottish Parliament  
Pàrlamaid na h-Alba

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## **Delegated Powers and Law Reform Committee**

# **Subordinate Legislation considered by the Delegated Powers and Law Reform Committee on 28 October 2025**



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# Delegated Powers and Law Reform Committee

To consider and report on the following (and any additional matter added under Rule 6.1.5A)—

(a) any—

(i) subordinate legislation laid before the Parliament or requiring the consent of the Parliament under section 9 of the Public Bodies Act 2011;

(ii) [deleted]

(iii) pension or grants motion as described in Rule 8.11A.1; and, in particular, to determine whether the attention of the Parliament should be drawn to any of the matters mentioned in Rule 10.3.1;

(b) proposed powers to make subordinate legislation in particular Bills or other proposed legislation;

(c) general questions relating to powers to make subordinate legislation;

(d) whether any proposed delegated powers in particular Bills or other legislation should be expressed as a power to make subordinate legislation;

(e) any failure to lay an instrument in accordance with section 28(2), 30(2) or 31 of the 2010 Act;

(f) proposed changes to the procedure to which subordinate legislation laid before the Parliament is subject;

(g) any Scottish Law Commission Bill as defined in Rule 9.17A.1;

(h) any draft proposal for a Scottish Law Commission Bill as defined in that Rule; and

(i) any Consolidation Bill as defined in Rule 9.18.1 referred to it in accordance with Rule 9.18.3.

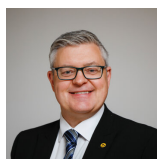


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# Committee Membership



**Convener**  
**Stuart McMillan**  
Scottish National Party



**Deputy Convener**  
**Bill Kidd**  
Scottish National Party



**Katy Clark**  
Scottish Labour



**Roz McCall**  
Scottish Conservative  
and Unionist Party



**Jeremy Balfour**  
Independent

# Introduction

1. At its meeting on 28 October 2025<sup>i</sup>, the Committee considered the following instrument under its remit and agreed to draw it to the attention of the Parliament:
  - National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2025 (SSI 2025/280).
2. The Committee's recommendations in relation to this instrument are set out in the next section of this report.
3. The Committee also determined that, in terms of its remit, it did not need to draw the Parliament's attention to the instruments and document at the end of the report.

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<sup>i</sup> Katy Clark MSP submitted apologies for this meeting.

# Scrutiny of instruments under the Committee's remit: instruments drawn to the attention of the Parliament

## National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2025 (SSI 2025/280)

4. This instrument creates an exemption from NHS charges for people who come for medical treatment in Scotland under the Gaza medical evacuation scheme. It also exempts people who are authorised to accompany them, if the need for treatment arose during the visit.
5. The instrument amends [the National Health Service \(Charges to Overseas Visitors\) \(Scotland\) Regulations 1989](#) to insert the new exemption. Without the exemption, Health Boards would be obliged to charge the evacuees for providing treatment.
6. The instrument requires that any charges for NHS services which were billed to, or paid by, evacuees in the period from 15 September to 8 October 2025 must be cancelled or refunded.
7. The [Policy Note](#) states that the medical evacuations are being organised by the UK Government in cooperation with the World Health Organisation, and that the Scottish Government has committed to providing medical support for up to 20 children from Gaza.
8. The instrument was laid on 7 October and came into force the next day on 8 October. Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 (the "2010 Act") requires that a negative instrument must be laid before the Scottish Parliament at least 28 days before it comes into force. This instrument breached that rule.
9. A failure to comply with the 28 day rule does not affect the validity of the instrument, but the Scottish Government is required by section 31(1) of the 2010 Act to explain to the Presiding Officer why the laying requirements have not been complied with.
10. The Scottish Government's explanation was, in summary, that the instrument is being brought into force now in order to provide clarity to those who are responsible for making and recovering charges from overseas visitors, and to provide assurance to those in Scotland under the Gaza Medical Evacuation operation that no children under that operation or their accompanying persons will be charged for NHS services.
11. The full version of the letter to the Presiding Officer setting out the reasons for failing to comply with the 2010 Act's laying requirements can be found in the annexe of this report.
12. The lead committee for this instrument is the Health, Social Care and Sport Committee.

13. **The Committee draws the instrument to the attention of the Parliament under reporting ground (j) - for a failure to lay the instrument in accordance with section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010.**
14. **The Committee is satisfied with the reasons given for the failure to comply with the laying requirements.**



# No points raised

15. At its meeting on 28 October 2025, the Committee considered the following instruments and document under its remit and agreed not to draw them to the attention of the Parliament.

## Criminal Justice Committee

Sexual Offences Act 2003 (Notification Requirements) (Scotland) Amendment Regulations 2025 (SSI 2025/Draft)

## Education, Children and Young People Committee

Qualifications Scotland (Appointment of Initial Members) Regulations 2025 (SSI 2025/278)

## Net Zero, Energy and Transport Committee

Proposed Draft Order: The Public Services Reform (Scottish Water) Order 2026 (SG/2025/238)

# Annexe

Letter from the Scottish Government to the Presiding Officer, sent as required by section 31(1) of the Interpretation and Legislative Reform (Scotland) Act 2010 to explain why the laying requirements have not been complied with in the case of SSI 2025/280.

Dear Presiding Officer,

## **THE NATIONAL HEALTH SERVICE (CHARGES TO OVERSEAS VISITORS) (SCOTLAND) AMENDMENT REGULATIONS 2025**

The National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2025, SSI 2025/280 were made by the Scottish Ministers under sections 98 and 105(7) of the National Health Service (Scotland) Act 1978 on 7th October 2025. The instrument is being laid before the Scottish Parliament today, 7th October 2025, and comes into force on 8th October 2025.

Section 28(2) of the Interpretation and Legislative Reform (Scotland) Act 2010 sets out that a negative SSI must be laid before the Scottish Parliament at least 28 days before the instrument comes into force. On this occasion, this has not been complied with and to meet the requirements of section 31(3) that Act, this letter explains why.

This amending instrument is necessary to ensure that children receiving NHS treatment in Scotland via the Gaza Medical Evacuation operation, announced by the Prime Minister on 25th July 2025, can receive NHS treatment at no charge. The instrument will also allow the children's accompanying persons, such as a parent/guardian and siblings, to receive NHS treatment, the need for which arose during their visit to the UK, at no charge. Without this amendment, children and their accompanying persons would be chargeable, under the current provisions in the NHS (Charges to Overseas Visitors) (Scotland) Regulations 1989, for certain healthcare services provided by NHS Scotland. This would not be in keeping with the overarching principle of the Gaza Medical Evacuations as a publicly funded humanitarian mission, nor the Scottish Government's commitment to provide medical support for up to 20 children from Gaza, confirmed by the First Minister in a statement about the situation in Gaza to the Scottish Parliament on 3rd September 2025.

This instrument introduces a new regulation 4D into the 1989 Regulations, which creates an exemption from charges for persons who have been permitted to enter the UK for NHS treatment via the Gaza Medical Evacuations, as well as an exemption for their accompanying persons from charges for treatment, the need for which arose during their visit.

We are bringing these provisions into force now to provide clarity to those who are responsible for making and recovering charges from overseas visitors, and to provide assurance to those in Scotland under the Gaza Medical Evacuation operation that no children under that operation or their accompanying persons will be charged for NHS services.

A copy of this letter goes to Stuart McMillan, Convenor of the Delegated Powers and Law Reform Committee, and Clare Haughey, Convenor of the Health, Social Care and Sport Committee.

**JOHN CAMERON**

## Healthcare Quality and Improvement Division

