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## Delegated Powers and Law Reform Committee

# Health Bill (UK Parliament legislation) - delegated powers exercisable within devolved competence, with reference to LCM-S7-6a.

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# Delegated Powers and Law Reform Committee

To consider and report on the following —
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**
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Scottish Green Party



**Colm Merrick**
Scottish National Party



**Paul Sweeney**
Scottish Labour



**Kim Schmulian**
Reform UK

# Introduction

1. This report considers the delegated powers that are exercisable within devolved competence in the Health Bill ("the Bill").

2. The Scottish Government lodged a Supplementary Legislative Consent Memorandum ("SLCM") on 4 November 2026, stating that the Bill makes provision applying to Scotland for purposes within the legislative competence of the Scottish Parliament and alters the executive competence of the Scottish Ministers.

3. The SLCM is being considered under the terms of the Committee's wider remit under Rule 6.11.1(b) of the Standing Orders, which provides that the remit of the Committee includes considering and reporting on proposed powers to make subordinate legislation in particular Bills or other proposed legislation. This definition encompasses powers to make subordinate legislation in UK Bills, where exercisable within devolved competence.

4. The lead Committee for the SLCM is the Health, Care and Sport Committee.

# The Bill

5. The Bill was introduced by the UK Government in the House of Commons on 14 May 2026 and is currently at Committee stage in the House of Lords. The Bill therefore remains subject to amendment.

6. The purpose of the Bill is to provide the legislative framework for the abolition of NHS England and to implement a number of reforms arising from the UK Government's 10 Year Health Plan and the Dash Review of patient safety. The Bill includes provision to:

   - establish a Single Patient Record for patients in England and Wales;
   - abolish NHS England and transfer its functions to the Secretary of State or Integrated Care Boards;
   - implement recommendations relating to the Health Services Safety Investigation Body and Healthwatch England; and
   - reform governance arrangements within the health and social care system in England.

7. The Bill largely relates to England. However, the UK Government has sought the Parliament's consent in relation to a number of provisions which either amend legislation that extends to Scotland or enable arrangement to be made involving Scottish Ministers and Scottish health bodies.

8. The Scottish Government stated in its initial legislative consent memorandum ("LCM") that the clauses it believes engage the consent process relate to health and social care and are therefore within the legislative competence of the Parliament. At that time, it had not reached a view on whether to recommend consent to the relevant provisions. Since then, agreement has been reached with the UK Government and certain amendments to the Bill, which the Scottish Government states has enabled it to now recommend that the Parliament gives its consent to the relevant provisions.

# Delegated Powers

9. The UK Government has published a Delegated Powers Memorandum ("DPM") and a supplementary Delegated Powers Memorandum ("sDPM") to accompany the Bill. They explain the purpose of each delegated power, why the UK Government considers delegation appropriate, and the parliamentary procedure selected.

10. As is standard practice for UK Bills, the Scottish Government has not published a delegated powers memorandum. Its position on the relevant provisions is set out in the LCM and the SLCM.

# Review of relevant powers

**Review of relevant powers**

**Clause 85: Power to make consequential provision**

**Power conferred on: Secretary of State**

**Power exercised by: Regulations**

**Parliamentary Procedure: Affirmative where amending, repealing or revoking primary legislation; otherwise negative**

**Provision**

11. Regulations that make consequential provision may amend, repeal, or revoke provision made by primary legislation (including Acts or Measures of Senedd Cymru, Acts of the Scottish Parliament or Northern Ireland legislation) passed before, or later in the same session of Parliament as this Bill (including provision made by this Bill), and any provision made under such legislation.

12. This power may only be exercised to make provision that is consequential on this Bill.

13. As is standard for consequential powers, its exercise will be subject to the affirmative procedure where amending, repealing or revoking primary legislation, and otherwise negative procedure will apply.

Committee consideration

14. The regulation-making power includes the ability to make consequential amendments to primary legislation. The UK Government explains in its DPM that this is considered necessary in light of the scope and breadth of the Bill, and the extensive interrelationship between healthcare legislation and other enactments. In particular, bodies and concepts established or defined in healthcare legislation may be referenced across the wider statute book, increasing the likelihood that further amendments to primary legislation will be required to ensure the legislation operates coherently.

15. The Scottish Government notes that the power may be used to amend Acts of the Scottish Parliament. It also considers that the power could be exercised to make provision consequential on other provisions of the Bill that themselves require the consent of the Scottish Parliament. On that basis, the Scottish Government considers that the delegation of this power engages the legislative competence of the Scottish Parliament and therefore requires consent.

16. The Committee considers that the power is confined to making provision that is consequential on the Bill. Therefore, our view is that it is unlikely that, given the stated purpose of the Bill, the power could be used to make substantive provision within devolved competence. However, given that the Bill enables the Secretary of State to enter into arrangements with the Scottish Ministers to exercise, on their behalf, functions in relation to the education and training of people to meet the

workforce needs of the health service, there is a remote possibility that the consequential power could be used to give effect to such arrangements. Such provision could be within the legislative competence of the Scottish Parliament.

17. The Committee notes that the power is conferred on the Secretary of State and is capable of being exercised within devolved competence. However in terms of its scope, this is a standard power to make provision consequential on the Bill. If the Parliament is content to give its consent for the substantive provisions in the Bill, it would be reasonable and appropriate for it also to consent to the Secretary of State taking standard ancillary powers to give it full effect. As such, the Committee is content with the power in principle and with the choice of parliamentary procedure, which is again standard for consequential powers.

18. **The Committee is content with the power in principle. It is also content that the power is subject to the affirmative procedure when amending or repealing primary legislation, and otherwise that the negative procedure will apply.**

