



The Scottish Parliament
Pàrlamaid na h-Alba

Delegated Powers and Law Reform Committee

Neil Gray MSP

Cabinet Secretary for Health and Social Care

29 October 2025

Dear Cabinet Secretary,

Non-surgical Procedures and Functions of Medical Reviewers (Scotland) Bill

The Delegated Powers and Law Reform Committee considered that above Bill at its meeting on 28 October 2025 and agreed to write to the Scottish Government in relation to the power contained in **section 5: Power to make further provision about non-surgical procedures**.

Section 5 allows the Scottish Ministers to impose further restrictions and requirements in relation to the provision of non-surgical procedures. Such regulations may include:

- imposing different restrictions and requirements by reference to categories of non-surgical procedure as specified in the regulations;
- specifying persons or descriptions of persons who may provide or supervise the provision of a non-surgical procedure;
- specifying requirements about the training or qualifications of persons who may provide or supervise the provision of a non-surgical procedure;
- creating an offence in connection with a contravention of a restriction, or failure to comply with a requirement, imposed by virtue of the regulations; or
- conferring functions relating to the enforcement of provisions made under the regulations.

Section 5 also allows any regulations made under the power to modify any enactment (including the Bill).

The Policy Memorandum explains that several aspects of these procedures raise safety concerns, including that the procedures may be performed by a wide range of practitioners with varying levels of qualification, using products of differing quality, and in a variety of settings. However, the Bill focuses solely on regulating the locations where these procedures may take place, and does not address other safety-related factors, such as who is permitted to perform them or what products may be used.

The Committee notes the Scottish Government's explanation that key aspects of regulatory scheme have not been placed on the face of the Bill because the Scottish

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Government has not yet reached a settled view on the effect of the United Kingdom Internal Market Act 2020 (UKIMA) on such provisions.

Whilst acknowledging this context, the Committee observes that the effect is that the Bill contains almost no substantive provision on the core regulatory scheme beyond what type of premises these procedures may be performed in. The Bill leaves fundamental policy choices—such as who may lawfully perform procedures, what qualifications are required, and the circumstances in which offences may be committed—to be set out entirely in future regulations. This represents a departure from the usual legislative approach whereby primary legislation establishes the core policy framework and delegated legislation fills in technical or administrative detail.

Furthermore, section 5(2)(a) confers power to “modify any enactment (including this Act)” without limitation to consequential or incidental amendments. This power, in combination with the breadth of the enabling provision in section 5(1), would allow the Scottish Ministers to make significant policy changes to primary legislation subject only to the affirmative procedure and without the opportunity for amendment, as would be the case if such provision were to be contained in a Bill.

As such, the Committee asks the Scottish Government for further information on the following areas:

1. Rationale for introducing the Bill before UKIMA position is resolved:

Why does the Scottish Government consider it appropriate to seek a wide delegated power now, rather than await clarity on UKIMA and bring forward a more complete scheme in primary legislation?

2. Breadth of the enabling power in section 5(1):

Section 5(1) allows Ministers to impose any “further restrictions and requirements” in relation to non-surgical procedures without limitation or guiding principles (for example for the purposes of protecting public health). Why is it considered appropriate to confer such an open-ended power without statutory criteria or purposes to guide or constrain its use?

3. Henry VIII power in section 5(2)(a):

Section 5(2)(a) permits Ministers to modify any enactment, including the Bill itself, without restriction to consequential or incidental amendments.

**Why is such a broad Henry VIII power considered necessary?
Would the Scottish Government consider restricting this power to consequential, transitional or supplementary amendments only?**

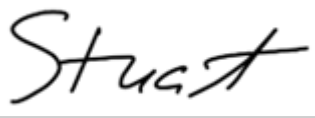
4. Safeguards and scrutiny:

Given that the power enables Ministers to make significant policy choices and create criminal offences, does the Government consider that any additional safeguards (for example, consultation

**requirements or enhanced/super-affirmative procedure)
are appropriate? If not, why not?**

The Committee requests a response by **Friday 7 November**.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stuart', enclosed within a thin black rectangular border.

**Stuart McMillan MSP
Convener**