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Delegated Powers and Law Reform Committee Comataidh Cumhachdan Tiomnaichte is Ath-leasachadh Lagh

Transvaginal Mesh Removal (Cost Reimbursement) (Scotland) Bill: Stage 1



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Textphone: 0800 092 7100
Email: sp.info@parliament.scot

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Delegated Powers and Law Reform Committee

The remit of the Delegated Powers and Law Reform Committee is 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; and

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

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



dplr.committee@parliament.scot



0131 348 5212

Committee Membership



Stuart McMillan
Scottish National Party



Bill Kidd
Scottish National Party



Convener
Graham Simpson
Scottish Conservative
and Unionist Party



Craig Hoy
Scottish Conservative
and Unionist Party



Paul Sweeney
Scottish Labour

Introduction

1. At its meeting on 28 September 2021, the Delegated Powers and Law Reform Committee considered the delegated powers contained in the Transvaginal Mesh Removal (Cost Reimbursement) (Scotland) Bill (“the Bill”) at Stage 1.ⁱ
2. The Committee submits this report to the lead Committee for the Bill under Rule 9.6.2 of Standing Orders.

ⁱ The Bill as introduced is available [here](#)

Overview of the Bill

3. This Scottish Government Bill was introduced by the Cabinet Secretary for Health and Social Care, Humza Yousaf MSP, on 23 June 2021. The lead committee is the Health, Social Care & Sport Committee.
4. The Bill confers power for the Scottish Ministers to make payments (via a scheme) reimbursing certain costs in relation to privately arranged surgery to remove transvaginal mesh.
5. The Explanatory Notes accompanying the Bill explain that transvaginal mesh was used to alleviate symptoms of stress urinary incontinence and pelvic organ prolapse in Scotland until such use was halted in 2018. In some cases, complications associated with the use of transvaginal mesh may lead to a need to remove the mesh. The notes further explain that although removal surgery is available via the NHS in Scotland, a number of mesh recipients have arranged removal surgery privatelyⁱⁱ. Further explanation of the reasons for this are provided in the Policy Memorandum for the Billⁱⁱⁱ.
6. The Bill has five sections. It makes provisions as follows:
 - Section 1 empowers the Scottish Ministers to reimburse relevant persons for costs relating to transvaginal mesh removal surgery by putting in place a scheme for the making of such reimbursement payments. Section 1 defines “mesh removal surgery” and sets the criteria for mesh removal surgery which qualifies for reimbursement. The provision also sets out what reimbursable costs are incurred in relation to qualifying mesh removal surgery.
 - Section 2 makes further provision about the scheme of reimbursement payments. This includes provision on application and applicant requirements and review processes.
 - Section 3 confers power on the Scottish Ministers to make ancillary provision in relation to the Bill.
 - Section 4 provides for commencement, and Section 5 sets out the short title of this Bill.

ii Explanatory notes accompanying the Bill are available [here](#)

iii Policy Memorandum can be viewed [here](#)

Delegated Powers

7. The Bill confers two powers to make subordinate legislation on the Scottish Ministers. The Scottish Government has prepared a Delegated Powers Memorandum which sets out the reasons for taking the delegated powers in the Bill and the parliamentary scrutiny procedure that has been chosen.^{iv}
8. The Committee considered each of the two delegated powers in the Bill. It determined that it did not need to draw the attention of the Parliament to the delegated powers in either of the following provisions:
 - Section 1(1) – Power for Scottish Ministers to reimburse costs relating to the removal of transvaginal mesh; and
 - Section 3(1) – Power to make ancillary provision in relation to the Bill.

9. **The Committee is therefore content with the delegated powers provisions contained in the Bill.**

^{iv} The Delegated Powers Memorandum is available [here](#)

