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Pàrlamaid na h-Alba

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

## **Patient Safety Commissioner for Scotland Bill: Stage 1**



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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.



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# Committee Membership



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**Paul Sweeney**  
Scottish Labour



**Oliver Mundell**  
Scottish Conservative  
and Unionist Party



**Jeremy Balfour**  
Scottish Conservative  
and Unionist Party

# Introduction

1. At its meeting on 15 November 2022, the Delegated Powers and Law Reform Committee considered the delegated powers contained in the [Patient Safety Commissioner for Scotland Bill](#) (“the Bill”) at Stage 1.
2. The Committee submits this report to the lead Committee for the Bill under Rule 9.6.2 of Standing Orders.

# Overview of the Bill

3. The Scottish Government Bill was introduced by the Cabinet Secretary for Health and Social Care on 6 October 2022. The lead committee is the Health, Social Care and Sport Committee.
4. An independent review into how the healthcare system in England responded to reports about harmful side effects from the use of medicines and medical devices began in February 2018. The [Cumberledge Report](#), although focused on England, was recognised by healthcare practitioners to apply to all four UK nations, made a number of recommendations to improve healthcare, including the appointment of a Patient Safety Commissioner. This review followed a number of instances where patients raised concerns about the safety of medical interventions which were not heeded by healthcare professionals, resulting in harm. Examples included transvaginal mesh used for organ prolapse and sodium valproate to treat epilepsy in women capable of childbearing, both of which resulted in patients suffering harm as a result of these treatments and damaged trust in the healthcare system.
5. The Bill is intended to implement the recommendations from the Cumberledge report in Scotland with it establishing a new Patient Safety Commissioner for Scotland to promote and improve patient safety across healthcare in Scotland, to advocate for systematic improvement in the safety of health care and promote the importance of the views of patients and other members of the public in relation to the safety of health care. The remit of the Patient Safety Commissioner will cover all aspects of the safety of health care in Scotland. In carrying out this function, the Patient Safety Commissioner will produce a statement of principles, set up an advisory group, carry out formal investigations, prepare and publicise a strategic plan to be reviewed regularly as well as complying with reporting and accounting requirements.
6. The Bill contains 25 sections and 2 schedules:
  - Section 1 establishes the office of the Patient Safety Commissioner for Scotland, supplemented by the specific requirements outlined in schedule 1, with the principles and functions of the office being outlined in sections 2-4.
  - Sections 5-7 provide for strategic planning in relation to the office.
  - Sections 8-11 outline the process for the Patient Safety Commissioner when conducting formal investigations and the reporting requirements relating to those investigations.
  - Sections 12-15 detail what powers the Patient Safety Commissioner has to gather and use information when carrying out their functions.

# Delegated Powers

7. The Bill confers three powers to make subordinate legislation on the Scottish Ministers.
  8. The Scottish Government has prepared a [Delegated Powers Memorandum](#) (“DPM”) which sets out its reasons for taking the delegated powers in the Bill and for the procedure chosen.
  9. The Committee considered each of the delegated powers in the Bill at its meeting on 15 November. It determined that it did not need to draw the attention of the Parliament to the delegated powers in any of the three provisions:
    - Section 22 - Ancillary provision
    - Section 24(2) - Commencement
    - Paragraph 21(2), Schedule 1 - Accounts and audit
10. **The Committee is therefore content with the delegated powers provisions contained in the Bill.**



