

MEDICAL TRAINING (PRIORITY) BILL

Memorandum from the Department of Health and Social Care to the Delegated Powers and Regulatory Reform Committee

A. INTRODUCTION

1. This memorandum has been prepared for the Delegated Powers and Regulatory Reform Committee to assist with its scrutiny of the Medical Training (Priority) Bill (“the Bill”). The Bill was introduced in the House of Lords on 28 January 2026. This memorandum identifies the provisions of the Bill that confer powers to make delegated legislation. It explains in each case why the power has been taken and explains the nature of, and the reason for, the procedure selected.

B. PURPOSE AND EFFECT OF THE BILL

2. The Bill aims to implement the government’s commitment set out in the 10 Year Health Plan for England to introduce a system of prioritisation for allocation of medical training places. The policy intent is to allow for the following:
 - For medical foundation training, the prioritisation of graduates of UK medical schools and Republic of Ireland medical schools;
 - For medical specialty training posts starting in 2026, prioritisation at offer stage of graduates of UK medical schools and Republic of Ireland medical schools, those who completed foundation training or a relevant earlier stage of training in the UK, and those with certain immigration status;
 - For medical specialty training posts starting in 2027 onwards, prioritisation at interview and offer stage of graduates of UK medical schools and Republic of Ireland medical schools, people who have completed the UK foundation programme or other relevant previous stage of training in the UK, and those in groups specified by regulations who are likely to have significant experience of working as a doctor in the National Health Service in England, Wales or Scotland or Health and Social Care in Northern Ireland, or by reference to immigration status; and
 - For foundation and specialty training, prioritisation of other international medical graduates to reflect international agreements. This currently applies to graduates from institutions in Iceland, Norway, Liechtenstein and Switzerland.

C. DELEGATED POWERS

3. The Bill includes 6 delegated powers, 1 of which is a Henry VIII power. The Henry VIII power is to enable the Secretary of State and the Devolved Governments to amend the list of countries whose medical graduates will be prioritised. The delegated powers are as follows:
 - I. **Clause 3(1)(d): Specialty training programmes: offers made from 2027 onwards:** This delegated power allows the appropriate authority (either the Secretary of State, Scottish Ministers, Welsh Ministers, or the Department of Health in Northern Ireland) to set out in regulations the description of persons

who are likely to have significant experience working as a doctor in the NHS in GB or in Health and Social Care in NI or by reference to their immigration status. The purpose of the regulations is to set out who should be prioritised for interviews, in addition to the criteria that will apply from 2027 set out on the face of the Bill.

II. **Clause 3(2)(d): Specialty training programmes: offers made from 2027 onwards:** This delegated power allows the appropriate authority to set out in regulations the description of persons who are likely to have significant experience working as a doctor in the NHS in GB or in Health and Social Care in NI or by reference to their immigration status. The purpose of the regulations is to set out who should be prioritised when deciding offers of places, in addition to the criteria that will apply from 2027 set out on the face of the Bill.

III. **Clause 4(6): “UK medical graduate” and “the priority group”:** The delegated power at clause 4(6) allows the appropriate authority to amend the list set out in clause 4(4) of the Bill of the countries whose medical graduates will be prioritised, to reflect any future international agreement to which the United Kingdom is a party. This is a Henry VIII power.

IV. **Clause 5(4)(d): “UK Foundation Programme”, “UK Specialty Programme” etc:** Clause 5(4)(d) allows the appropriate authority to set out in regulations a programme which does not amount to a “UK Specialty Programme” for the purposes of the Bill.

V. **Clause 8(2): Extent, commencement and short title:** Clause 8(2) allows the Bill to be commenced on such day or days as the Secretary of State may by regulations appoint.

VI. **Clause 8(3): Extent, commencement and short title:** Clause 8(3) allows the Secretary of State to make by regulations transitional or saving provision in connection with the coming into force of any provision in the Bill.

Clause 3(1)(d): Specialty training programmes: offers made from 2027 onwards

Power conferred on: The appropriate authority, meaning the Secretary of State, Welsh Ministers, Scottish Ministers, or the Department of Health in Northern Ireland

Power exercised by: Regulations made by Statutory Instrument, Welsh Statutory Instrument, Scottish Statutory Instrument, or Statutory Rule

Parliamentary Procedure: Negative

Context and Purpose

4. Clause 3 sets out that those with responsibility for deciding which applicants progress to interview, on a UK specialty training programme from 2027 onwards, must prioritise those who are:

- UK medical graduates;
- persons in the priority group;
- persons who have completed the relevant qualifying UK programme; or
- persons of a description set out in regulations made by the appropriate authority

5. The delegated power in clause 3(1)(d) allows the appropriate authority to, by regulations, describe the persons who should be prioritised by virtue of the fourth bullet point above.
6. Subsection 3 sets out that these regulations may only set criteria for what is deemed to be a likely indicator of persons that have significant experience of working as a doctor in the NHS in England Wales, or Scotland, or in Health and Social Care in Northern Ireland, or by reference to their immigration status.

Justification for taking the power

7. Giving the appropriate authority the ability to define this group of persons provides the necessary flexibility to define what constitutes 'significant NHS experience' from 2027 onwards to best meet the policy aim here.
8. The operational constraints of this year's application process mean that, for training posts starting in 2026, immigration status is being used as a proxy to capture applicants who have significant experience working in the NHS or health services in the other UK nations.
9. A delegated power is necessary for posts starting in 2027 so that the appropriate authority can change this definition for subsequent years. This is a narrow power relating only to what is deemed to be a likely indicator of significant NHS or HSCNI experience or immigration status, and regulations will be informed by engagement with stakeholders and real-time monitoring of workforce dynamics to ensure the definition best reflects the needs of the NHS and the policy aim.

Justification for the procedure

10. Regulations made using this delegated power will be subject to the negative procedure. The Bill sets out on its face the groups of people which are to be prioritised. As the delegated power is limited to adding to this list by reference to significant NHS or HSCNI experience or immigration status, the negative procedure is considered an appropriate level of scrutiny.

Clause 3(2)(d): Specialty training programmes: offers made from 2027 onwards

Power conferred on: The appropriate authority, meaning the Secretary of State, Welsh Ministers, Scottish Ministers, or the Department of Health in Northern Ireland

Power exercised by: Regulations made by Statutory Instrument, Welsh Statutory Instrument, Scottish Statutory Instrument, or Statutory Rule

Parliamentary Procedure: Negative

Context and Purpose

11. Clause 3 sets out that those with responsibility for deciding which applicants progress to offer places to, on a UK specialty training programme from 2027 onwards, must prioritise those who are:

- UK medical graduates;
- persons in the priority group;
- persons who have completed the relevant qualifying UK programme; or
- persons of a description set out in regulations made by the Secretary of State.

12. The delegated power in clause 3(2)(d) allows the appropriate authority to, by regulations, describe the persons who should be prioritised by virtue of the fourth bullet point above.

13. Subsection 3 sets out that these regulations may only set criteria for what is deemed to be a likely indicator of persons that have significant experience of working as a doctor in the NHS in England Wales, or Scotland, or in Health and Social Care in Northern Ireland, or by reference to their immigration status.

Justification for taking the power

14. Giving the appropriate authority the ability to define this group of persons provides the necessary flexibility to define what is deemed to be a likely indicator of significant NHS or HSCNI experience, or by reference to immigration status, from 2027 onwards to best meet the policy aim here.

15. The operational constraints of this year's application process mean that information on the work experience of applicants is not held in a way that enables prioritisation against a minimum level of NHS experience. For training posts starting in 2026, immigration status is therefore being used as a proxy to capture applicants who have significant experience working in the NHS or health services in the other UK nations.

16. A delegated power is necessary for posts starting in 2027 so that the appropriate authority can change this definition for subsequent years. This is a narrow power relating only to what is deemed to be a likely indicator of significant NHS or HSCNI experience or immigration status, and regulations will be informed by engagement with stakeholders and real-time monitoring of workforce dynamics to ensure the definition best reflects the needs of the NHS and the policy aim.

Justification for the procedure

17. Regulations made using this delegated power will be subject to the negative procedure. The Bill sets out on its face the groups of people which are to be prioritised. As the delegated power is limited to adding to this list by reference to significant NHS or HSCNI experience working as a doctor or immigration status, the negative procedure is considered an appropriate level of scrutiny.

Clause 4(6): “UK medical graduate” and “the priority group”

Power conferred on: The appropriate authority, meaning the Secretary of State, Welsh Ministers, Scottish Ministers, or the Department of Health in Northern Ireland

Power exercised by: Regulations made by Statutory Instrument, Welsh Statutory Instrument, Scottish Statutory Instrument, or Statutory Rule

Parliamentary Procedure: Affirmative

Context and Purpose

18. Clause 4(6) provides that the appropriate authority may by regulations amend the list of countries whose graduates will be prioritised in clause 4(4), to reflect an international agreement to which the United Kingdom is a party. This is a Henry VIII power. The current list of countries whose graduates will be prioritised at clause 4(4), are Iceland, Liechtenstein, Norway and Switzerland. The UK has entered a free trade agreement ('FTA') with Iceland, the Principality of Liechtenstein and the Kingdom of Norway.¹ In Chapter 12 of that agreement specific provision is made for mutual recognition of professional qualifications and offering no less favourable treatment in access to the regulated profession. The UK has also entered a mutual recognition agreement ('MRA') with Switzerland which makes similar provision.²

Justification for taking the power

19. A delegated power is required to ensure that the appropriate authority can update the list of countries whose graduates should be prioritised. This will ensure that the Bill is reflective of any future UK trade agreements which include the recognition of professional qualifications between nations, and which agree to providing equal access to the profession. A Henry VIII power which enables the Bill to be amended to reflect such trade agreements is therefore considered necessary to ensure the UK's compliance with its international obligations.

Justification for the procedure

20. Regulations made using this delegated power will be considered using the affirmative procedure. The affirmative procedure is considered appropriate as the regulations would amend primary legislation and therefore it is reasonable that they are considered and voted on by the appropriate devolved legislature.

Clause 5(4): "UK Foundation programme", "UK speciality programme" etc

Power conferred on: The appropriate authority, meaning the Secretary of State, Welsh Ministers, Scottish Ministers, or the Department of Health in Northern Ireland

Power exercised by: Regulations made by Statutory Instrument, Welsh Statutory Instrument, Scottish Statutory Instrument, or Statutory Rule

Parliamentary Procedure: Negative

Context and Purpose

¹ [Free Trade Agreement between Iceland, the Principality of Liechtenstein and the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland \[MS No.3/2021\] - GOV.UK](#)

² [Agreement between the Swiss Confederation \(Switzerland\) and the UK on the Recognition of Professional Qualifications - GOV.UK](#)

21. Clause 5 defines terms which are used in sections 1 to 3 of the Bill. Subsection 4 defines a 'UK specialty programme' as a programme of training required for or leading towards the award of a certificate of completion of training under section 34L of the Medical Act 1983 but does not include:

- the UK Foundation Programme;
- a specialty training programme in the area of public health;
- any programme for which the majority of training takes place outside the United Kingdom; or
- a programme described or specified in regulations made by the appropriate authority.

22. The delegated power above allows the appropriate authority to, by regulations, specify programmes which would not count as a UK specialty programme for the purposes of the Bill; and therefore, prioritisation would not apply to such programmes.

Justification for taking the power

23. Giving the appropriate authority the ability to remove programmes from being considered UK specialty programmes for the purposes of this Bill will give the necessary flexibility to respond to future changes in recruitment, training and workforce needs. For example, if the number of applications for places on a specific training programme was to decrease in the future, the delegated power would allow Ministers to continue to ensure that there are reasonable levels of competition for places whilst balancing the need to prioritise UK graduates and others specified in the Bill.

Justification for the procedure

24. Regulations made using this delegated power will be subject to the negative procedure. The negative procedure is considered an appropriate level of scrutiny due to the limited scope of the power.

Clause 8(2): Extent, commencement and short title

Power conferred on: Secretary of State

Power exercised by: Regulations made by Statutory Instrument

Parliamentary Procedure: No procedure

Context and Purpose

25. Clause 8 sets out the extent, commencement and short title of the Bill. Sub section (2) provides that the Act may come into force on such day or days as the Secretary of State may by regulations appoint.

Justification for taking the power

26. Providing the Secretary of State with the power to commence provisions in the Bill by regulations will allow them to be brought in at the appropriate time and before deadlines for upcoming recruitment to training programmes.

Justification for the procedure

27. As is usual with commencement powers, regulations made under this clause are not subject to any parliamentary procedure as Parliament will have considered and approved the principle of the measures that are being commenced.

Clause 8(3): Extent, commencement and short title

Power conferred on: Secretary of State

Power exercised by: Regulations made by Statutory Instrument

Parliamentary Procedure: No procedure

Context and Purpose

28. Clause 8 sets out the extent, commencement and short title of the Bill. Sub section (3) allows the Secretary to make transitional or saving provision in connection with the coming into force of any provision of this Act.

Justification for taking the power

29. Providing a power to make transitional or saving provision in connection with the coming into force of any provision of an Act is a standard provision in legislation which is necessary to ensure that the provisions in the Bill can be implemented and operate effectively.

Justification for the procedure

30. As is usual with a power to make transitional or saving provision in connection with the coming into force of the provisions of a Bill, regulations made under this clause are not subject to any Parliamentary procedure.

Department of Health and Social Care

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