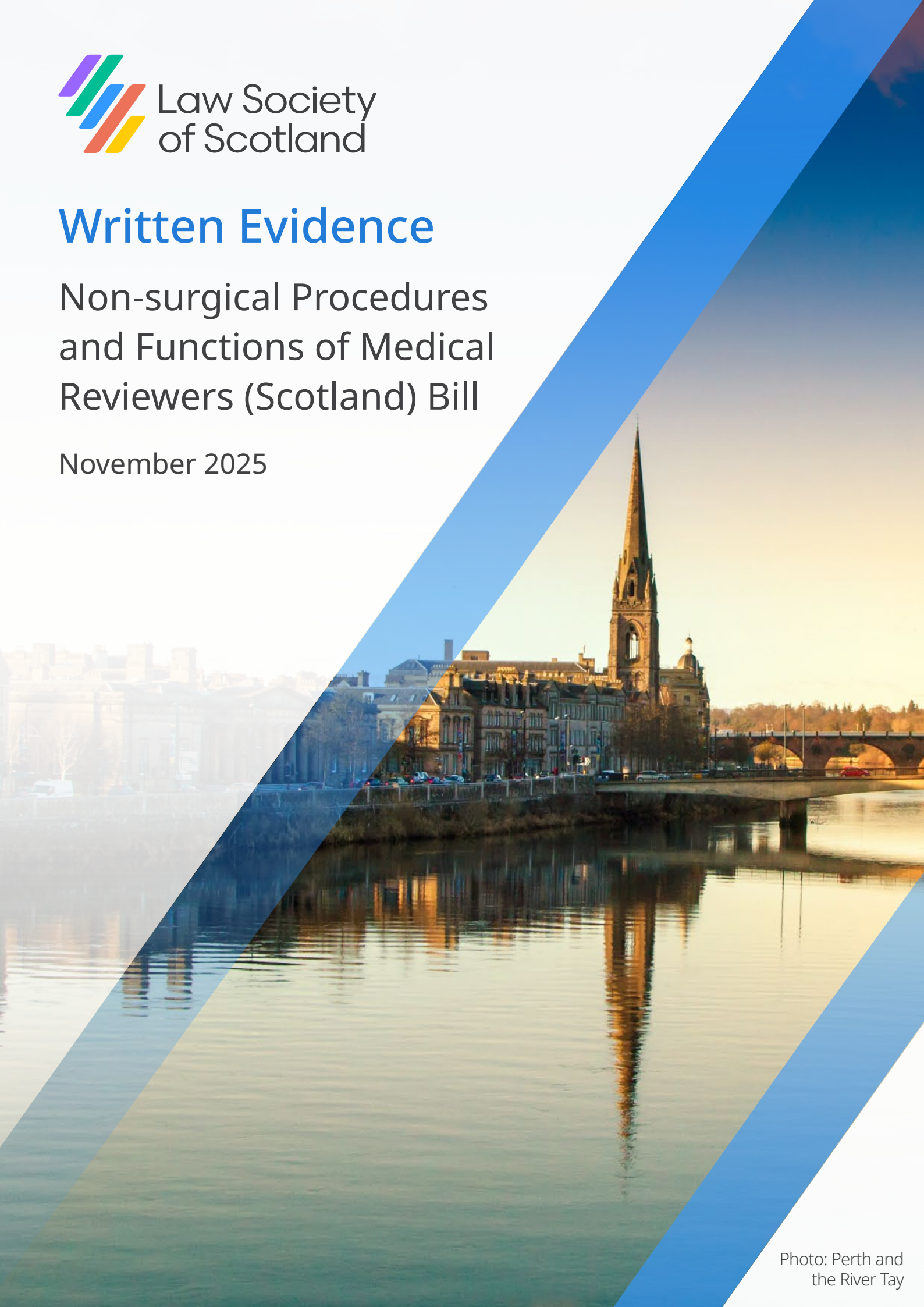


Written Evidence

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

November 2025



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Introduction

The Law Society of Scotland is the professional body for over 13,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

We welcome the opportunity to consider and respond to the Health, Social Care and Sport Committee of the Scottish Parliament's call for views on the Non-surgical Procedures and Functions of Medical Reviewers (Scotland) Bill ("the Bill")¹. We have the following comments to put forward for consideration.

Our comments will primarily address the impact of the proposed provisions that intersect with the field of criminal law.

Questions in the call for views

Part 1 of the Bill: Non-surgical procedures

1. In your view, what impact will the Bill have on:

- a) People wishing to access non-surgical procedures detailed in Schedule 1?
- b) The level of risk to people who wish to access these procedures?
- c) Local businesses and individual practitioners?
- d) Organisations and staff who currently operate within a premises that meets the definition of permitted premises?

We do not have any views on this question

2. What are your views on inspection, offences and enforcement powers set out in the Bill? For example, do you think they are fair and appropriate?

The Bill introduces two offences related to the provision of non-surgical procedures.

For the purpose of the Bill, Schedule 1 specifies the kind of procedures that are considered non-surgical. All of them pierce or penetrate the skin of a person using, for instance, needles, chemicals, medicines, heat, cold, light, laser, sound or electricity. The definition of non-surgical procedures excludes those provided by, or on behalf of, healthcare providers for the purposes of preventing, diagnosing,

¹ Non-surgical Procedures and Functions of Medical Reviewers (Scotland) Bill ([parliament.scot](https://www.parliament.scot))

or treating illness, as well as those procedures for which a licence is required under section 44(1)(b) of the Civic Government (Scotland) Act 1982.

Section 2(1) introduces the offence of providing a non-surgical procedure to a person under the age of 18. Section 2(2) contains a statutory defence of reasonable belief that the client was aged 18 or over, when the person charged had taken reasonable steps to establish the client's age before providing the procedure.

According to the Policy Memorandum, the Scottish Government collected evidence from healthcare stakeholders that indicates that non-surgical procedures, as defined in the Bill, are not suitable for "young developing bodies". In addition, the evidence collected also showed that those types of procedures carry serious psychological and physical risks that should be taken only by adults². Section 3(1) introduces the offence of providing a non-surgical procedure outwith permitted premises.

Permitted premises are defined in Section 4 as premises of independent hospitals and clinics registered with Healthcare Improvement Scotland (HIS), that conduct procedures provided or managed by the healthcare practitioners defined in subsection 3. The definition of permitted premises also includes mobile surgery premises where dental services are provided according to section 25 of the National Health Service (Scotland) Act 1978, primary medical service units and general medical services premises according to sections 17C and 17J of the 1978 Act, respectively.

Section 3(2) provides a statutory defence where the person charged reasonably believed that the procedure was conducted on permitted premises.

We consider that any new statutory offence should be defined clearly. The two offences introduced in the Bill rely on the definition of non-surgical procedures, which provides a statutory list of procedures included in this category. We note that Section 1(5) empowers the Scottish Ministers to modify, by regulation, the list of non-surgical procedures, thereby altering the behaviours encompassed by the proposed offences.

We consider the definition provided in Section 1(1) should be considered carefully. While Section 1(1)(a) provides a definition of non-surgical procedure and a list of procedures that are included in such definition, we are concerned that the list mentioned can be modified by regulations without any type of consultation or guidance.

Given the breadth of the definition in Section 1(1a)(i), we are concerned that Scottish Ministers may expand the list in Schedule 1 with limited parliamentary scrutiny.

² [Non-surgical Cosmetic Procedures and Functions of Medical Reviewers \(Scotland\) Bill. Policy Memorandum \(parliament.scot\)](#). Para. 18

It is essential that the scope of any criminal offences is clearly defined and widely publicised, ensuring that the general public understands what is prohibited and can adjust their behaviour accordingly.

3. Do you have any further comments about Part 1 of the Bill?

We note that Section 7 provides enforcement powers to persons authorised by HIS. As such, HIS's authorised persons may enter and search any premises and seize items under warrant, where there is a reasonable belief that any of the new proposed offences is being or has been committed.

The Policy Memorandum indicates that, at the moment, HIS has the statutory power to inspect any premises where independent health care services are provided³. The Bill extends those existing powers.

We have concerns regarding the enforcement powers conferred by Section 7. Specifically, we question if authorised persons from HIS have the appropriate expertise for conducting such action. Furthermore, we are uncertain whether granting such powers to HIS authorised persons is consistent with other statutory frameworks.

We also note that Section 10 provides for warrants granted under Section 9 to remain in force indefinitely. We are not persuaded that this provision is proportionate, and we would welcome further clarification as to why time-limited warrants are deemed inappropriate.

Section 11 introduces the offence of obstructing an authorised person from HIS. We would welcome clarification as to whether, for the commission of this offence, it is necessary for the individual to be aware that the authorised person has the authority to undertake the relevant procedure (such as by the warrant itself being exhibited). That seems to us to be a necessary precondition.

Part 2 of the Bill: Certification of death and authorisation of cremation

1. What are your views on the Bill's amendments to the two following aspects of the Certification of Death (Scotland) Act 2011:

- e) To extend the circumstances in which an interested person can request a review of a Medical Certificate of Cause of Death (MCCD) and to extend the power of medical reviewers to reject an application.
- f) To remove the requirement for a medical reviewer to authorise cremation of a person's body in Scotland where that person has died outwith Scotland but within the United Kingdom.

³ Ibid, para. 20.

2. Do you have any further comments about Part 2 of the Bill?

We do not have any views on Part 2 of the Bill



For further information, please contact:

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