

Ms Lyn Brown MP
House of Commons
London
SW1A 0AA

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PSYCHOACTIVE SUBSTANCES BILL: GOVERNMENT AMENDMENTS FOR COMMONS REPORT STAGE

I am writing to let you have details of the largely technical Government amendments for Report stage which I have tabled today (copy attached).

Exempted activities (amendment to Schedule 2)

You will recall that in Committee an amendment was agreed to insert what is now Schedule 2 to the Bill which, amongst other things, exempts research activity from the scope of the offences in clauses 4 to 9 of the Bill. The exemption for research covers “approved scientific research”, namely research carried out by a person who has approval from a relevant ethics review body to carry out that research. The definition of a relevant ethics review body includes a body appointed by a “relevant NHS body” for the purpose of assessing the ethics of research involving individuals. The definition of a relevant NHS body in Northern Ireland draws on the list of health and social care bodies specified in section 1(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009. That list comprises the following bodies:

- a) The Regional Health and Social Care Board;
- b) The Regional Agency for Public Health and Social Well-being;
- c) The Regional Business Services Organisation;
- d) Health and Social Care Trusts;
- e) Special agencies;

- f) The Patient and Client Council; and
- g) The Regulation and Quality Improvement Authority (RQIA).

The Northern Ireland Department of Health, Social Services and Public Safety has advised that special agencies, the Patient and Client Council and RQIA do not have a role in relation to research ethics committees, accordingly the amendment to Schedule 2 excludes them from the definition of a relevant NHS body.

Nature of proceedings under sections 19 and 29 (amendments to clause 32)

Clause 32 provides that proceedings under clauses 19 or 29 in respect of the making of a prohibition order on conviction or the variation on conviction of a prohibition order or premises order are civil proceedings to which the civil standard of proof applies; however subsection (7) provides that the criminal procedure rules would apply to proceedings in the Crown Court in England and Wales. The third amendment to clause 32 would delete subsection (7) on the basis that the criminal procedure rules would apply in such cases without the need for such express provision. Subsection (5) of clause 31 enables the High Court in Scotland to make an Act of Adjourn (the legal name given to the rules regulating criminal procedure in Scotland) in relation to proceedings before the sheriff under clauses 19 or 29. The amendment to clause 32(5) would extend this provision so that an Act of Adjourn could also be made in relation to proceedings before the High Court of Justiciary or the Sheriff Appeal Court. The amendment also extends the list of proceedings in respect of which an Act of Adjourn may be made so that it also covers specified proceedings under clauses 28, 30 and 31. Finally, the amendment to clause 32(1) simply ensures that the language used there is consistent with that used in clauses 33(5) and 34(5).

Extent (amendment to clause 62)

This amendment enables the amendments to the Armed Forces Act 2006, made by paragraph 7 of Schedule 5 to the Bill, to be extended, with or without modifications, to any of the Channel Islands or to apply to the Isle of Man or a British overseas territory with modifications. This reflects the extent provisions of the Armed Forces Act 2006 as provided for in section 384 of that Act.

Application of the Regulatory Enforcement and Sanctions Act 2008 (amendment to Schedule 5)

In Committee, the Bill was amended to repeal the Intoxicating Substances (Supply) Act 1985 (the 1985 Act) (see now paragraph 1 of Schedule 5). The 1985 Act is one of those currently listed in Schedule 3 to the Regulatory Enforcement and Sanctions Act 2008 (the 2008 Act) which specifies enactments for the purpose of the Secretary of State's and Welsh Ministers' functions under Part 1 of that Act. Those functions relate to the provision of guidance to local authorities about the exercise of their regulatory functions under the enactments listed in Schedule 3. The purpose of these provisions is to support local authorities in carrying out their regulatory functions in a manner that is effective, does not give rise to unnecessary burdens and that complies with the principles of good regulation, namely that regulatory activities should be carried out in a way which is transparent, accountable, proportionate, and consistent and should be targeted only at cases in which action is needed. The amendment to Schedule 5 to the Bill adds the Psychoactive Substances Bill to the list of enactments in Schedule 3 to the 2008 Act.

I am copying this letter to the members of the Public Bill Committee, Lord Rosser, Lord Paddick, Baroness Hamwee, Baroness Meacher and Lord Howarth of Newport. I am also placing a copy in the library of the House and on the Bill page of the Home Office website.

Rt Hon Mike Penning MP