



HOUSE OF LORDS

Select Committee on the Constitution

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Baroness Smith of Malvern
Department for Education
20 Great Smith Street
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By email

30 October 2024

Dear Baroness Smith,

Institute for Apprenticeships and Technical Education (Transfer of Functions etc) Bill

I write on behalf of the Constitution Committee to express concerns about the Institute for Apprenticeships and Technical Education (Transfer of Functions etc) Bill.

Clause 9 is a Henry VIII power which allows the Secretary of State to make consequential amendments by regulation. Although we recognise that the power in clause 9 is limited to making consequential amendments additional to those listed in Schedule 1 and Schedule 3 to the Bill, and that amendments to primary legislation will be subject to the affirmative procedure, we would welcome your responses to two points of concern.

First, clause 9 enables the Secretary of State to amend or repeal provisions made by any Act passed before the end of the Parliamentary session in which the Bill is passed.¹ We would welcome clarification as to why this power to amend bills later in the same Parliamentary session is necessary, given that the Government, and indeed Parliament, is in a position to ensure that future draft legislation is compatible with the Bill.

Second, we are concerned that the Government's Delegated Powers Memorandum describes clause 9 as a 'standard power' necessary because "it is possible that not all of the

¹ [Institute for Apprenticeships and Technical Education](#) (Transfer of Functions etc) Bill [HL], clause 9(2)(b) [Bill 38 (2024-25)]

necessary consequential amendments have been identified in the Bill's preparation".² We have consistently argued that "Henry VIII clauses are 'a departure from constitutional principle'", which "should be contemplated only where a full and clear explanation and justification is provided."³ A Henry VIII power should never be justified as a 'standard' clause. Given this, we invite the Minister to provide further justification as to why a Henry VIII power is necessary in this case.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Drake', written in a cursive style.

Baroness Drake CBE
Chair of the Constitution Committee

² [Delegated Powers Memorandum to the Institute for Apprenticeships and Technical Education \(Transfer of Functions etc\) Bill \[HL\]](#), para 22 [Bill 38 (2024-25)-DPM]

³ For instance: Constitution Committee, [The Legislative Process: The Delegation of Powers](#) (16th Report, Session 2017-19, HL Paper 225), para 67