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The Baroness Drake CBE
Chair, House of Lords Select Committee on the
Constitution
House of Lords
London SW1A 0PW

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Dear Baroness Drake CBE,

Thank you for your letter regarding delegated powers in the Football Governance Bill.

I would first like to take this opportunity to reassure the Constitution Committee that great consideration has been given to the powers this Bill would delegate, particularly the powers to amend primary legislation. As was set out in the Delegated Powers Memorandum accompanying the Bill, it is the government's view that the right balance has been struck between the need for parliamentary scrutiny and the need to be able to react quickly to make what are often technical amendments by secondary legislation.

The Henry VIII power in clause 97 permits the Secretary of State to make amendments that are consequential on this Bill, both to Acts passed before this Bill and those passed later in the same session of Parliament. In short, it is merely a way to correct the statute book when it is identified that there is a gap in legislation consequential on this Bill. As such, its scope is well defined and it will be construed narrowly and strictly.

As set out in paragraph 201 of the Delegated Powers Memorandum, the Government's aim is to identify any additional consequential amendments to primary legislation prior to the Bill becoming an Act. Indeed, some consequential amendments have already been identified in Schedule 12 of the Bill.

However, it is possible that some have been missed, and others may only just be in legislation making its way through Parliament at the same time as this Bill. While we ideally agree this would take place it is not necessarily always feasible to coordinate that level of detail across all Government Bills. This would require precisely timing the order they finish passage in, for example. For this reason we feel it is necessary for this power to extend to other Acts passed in the same parliamentary session.



Clause 87 enables the Secretary of State to make regulations conferring functions on a public authority relating to the disclosure of information to the Independent Football Regulator, a trustee appointed by an order under clause 43 or an expert reporter appointed under clause 66. In conferring these functions, the Secretary of State can amend, repeal and revoke provision made by or under primary legislation for the purpose of enabling other public authorities to share information with the IFR or other listed persons.

The power, as set out, will enable the IFR to access the information it needs to be effective as the regulatory landscape settles by ensuring that public bodies are able to share the information they hold with the IFR. However, such a provision would also future-proof the Bill should, for example, there be the creation of new public bodies which the IFR needs information gateways with.

Similarly to the power in clause 97 this is also a highly restricted Henry VIII power. It can only be used for the purpose of facilitating the exercise of the functions that persons under subsection (2) have under, or by virtue of, this Bill. For example, this means the power could only be used to enable a public authority to share information with an expert reporter should it be needed for the purposes of enabling the expert reporter to prepare a report for the IFR.

In short, the use of heavily constrained Henry VIII powers enabling the Secretary of State to quickly resolve these issues in future is, in the government's view, entirely appropriate. This is especially true given both delegated powers, when amending primary legislation, are subject to parliamentary scrutiny through the affirmative procedure.

I'd like to close by referencing the Eighth Report of the Delegated Powers and Regulatory Reform Committee (DPRRC) on the Football Governance Bill which did not raise an issue with either of these provisions.

I hope you find these explanations satisfactory.

With best wishes,



Baroness Twycross
Minister for Gambling