



Department
of Health &
Social Care

*From Baroness Merron
Parliamentary Under-Secretary of State for
Patient Safety, Women's Health and Mental Health*

*39 Victoria Street
London
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18 December 2024

Dear Jeannie,

Thank you for your letter 4th December 2024 regarding the Mental Health Bill.

I would like to thank you for your kind words on the approach taken with regards to the preparation and pre-legislative scrutiny of the Bill. We are grateful to members of the former Joint Committee on the draft Mental Health Bill for their rigorous scrutiny of the draft Bill and constructive recommendations.

Your letter asks for an explanation as to why the consequential amendment power in clause 51 extends to amendments to legislation passed “later in the same session of Parliament” as the Bill.

The power to amend future Acts in the same Session is included because, at the time at which a Bill is introduced, one cannot be sure what interactions there may be with other Bills introduced in the same Session or in what order they will reach the statute book. For example, a Bill introduced at the beginning of a Session cannot take account of a Bill introduced later in the Session; and it might not make sense to draft the Bill introduced later in the Session in a way that takes account of the earlier one as it may not be known which will be enacted first or the sequencing of commencement. We therefore do not think that the Government can be sure that future legislation in the same Session is drafted in a way that is compatible with the Bill.

Extending a consequential amendment power to future Acts in the same session is a long-established technique to address inherent uncertainty about the order in which Bills in a Session will reach the statute book. It is not a recent innovation. For example, in 2006 there were 13 Acts that included general consequential amendment powers, of which 7 included power to amend future Acts in the same Session, 2 included other powers to amend future legislation and only 4 included no express power to amend future legislation (there may, of course, be contexts where such a power would be implied).

In the case of the Mental Health Bill the Government has made every effort to identify all of the consequential amendments that are necessary and to include them on the face of the Bill. However, the Bill makes extensive and complex changes to the law relating to mental health and it is possible that we will identify further consequential changes that are needed.

A power to make consequential provision is relatively narrow, being inherently limited by the fact that the provision must be consequential on the other provisions of the Act. The

provision made under it must therefore be consistent with the Act and deal with the consequences that naturally flow from it. The power to amend future Acts in the same Session needs to be considered in that light.

I hope this letter provides clarification on the points raised in your letter.

All good wishes

A handwritten signature in dark ink, appearing to read 'Gillian', with a stylized flourish underneath.

BARONESS MERRON