



Cabinet Office

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Dear Lord Strathclyde,

I appreciate you taking the time to write following the recent evidence session with myself and Diggory Bailey. We valued the Committee's positive engagement in our work and welcomed the opportunity to discuss the inclusion and scrutiny of consequential amendment powers within Government Bills.

The Committee has requested further information and data, and I am pleased to set out how we are progressing with these requests below:

We note the Committee's particular concern about prospective consequential amendment powers, especially those extending beyond the end of the session in which a bill is passed.

To address this, we have compiled an analysis of different types of consequential amendment powers in Government Bills during the periods from 2010 to 2014 and from 2020 to 2024.

	% of Acts with consequential powers that mention future Acts in same session	% of Acts with consequential powers that mention future Acts whenever passed or made (so covering future sessions)	% of Acts with consequential powers that mention Acts but not future Acts
2020-2024	13.92%	5.15%	5.15%
2010-2014	11.84%	6.58%	7.24%

Diggory referred to potential circumstances where the use of consequential amendment powers may require a policy judgement. An example of that would be:

- (1) an Act abolishes an old statutory body and confers broadly corresponding functions on a new statutory body;
- (2) the old body has a statutory duty to notify the Secretary of State of certain matters as and when they arise;

- (3) the Act confers a more general duty on the new body to provide the Secretary of State with such information at such times as the Secretary of State may direct;
- (4) the Act contains a general power to make consequential amendments, including amendments to Acts.

Assuming that the Act itself did not address the old body's notification duty, it can be addressed using the consequential amendment power. The consequential amendment could be used in two different ways:

- (1) The first is to amend the notification duty so as to impose it on the new body.
- (2) The second is to repeal the notification duty on the basis that the more general duty on the new body to provide the Secretary of State with any information that the Secretary of State requires is sufficient to achieve the same policy objective.

Which option to adopt involves a policy decision but both options are likely to be in scope of the consequential amendment power.

As mentioned during the evidence session, Diggory and myself also presented evidence to the Scottish Parliament Delegated Powers and Law Reform Committee on their Inquiry into Framework Legislation and Henry VIII powers. I have included their published report as a separate attachment.

Finally, I wish to reiterate my appreciation for the opportunity to discuss the work of The Office of Parliamentary Counsel. The office remains, and always will be, committed to promoting good law and sessions like this one raise vital questions that contribute to that.

Best wishes,



Jessica deMounteney