



House of Commons

NOTICES OF AMENDMENTS

given up to and including

Tuesday 27 October 2015

New Amendments handed in are marked thus ★

☆ *Amendments which will comply with the required notice period at their next appearance*

PUBLIC BILL COMMITTEE

PSYCHOACTIVE SUBSTANCES BILL [*LORDS*]

NOTE

This document includes all amendments tabled to date, and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Order of the Committee [27 October].

Mike Penning

12

Clause **11**, page **6**, line **16**, leave out “regulations under section 10.” and insert “section (*Exceptions to offences*).”

Member’s explanatory statement

This amendment is consequential on amendment 11 and NC3.

Mike Penning

13

Clause **23**, page **14**, line **34**, leave out from beginning to “except” in line 35 and insert “in a case where the prohibition order or the premises order imposing the access prohibition was made by a court in England and Wales or Northern Ireland, the court that made the order,”

Member’s explanatory statement

This amendment is consequential on amendment 14.

 Psychoactive Substances Bill [*Lords*], *continued*

Mike Penning

14

Clause 23, page 14, line 42, at end insert—

“() in a case where the prohibition order or the premises order imposing the access prohibition was made by a court in Scotland, the sheriff.”

Member’s explanatory statement

Clause 23 enables a law enforcement agency to apply to the court for the reimbursement of costs incurred in relation to premises subject to an access prohibition. This amendment provides that, in Scotland, the relevant court is the sheriff.

Mike Penning

15

Clause 27, page 17, line 3, leave out paragraph (b) and insert—

“(b) where—

(i) the order was made under section 18 on an appeal in relation to a person’s conviction or sentence for an offence, or

(ii) the order was made by a court under that section against a person committed or remitted to that court for sentencing for an offence, the court by or before which the person was convicted (but see subsection (6A));”

Member’s explanatory statement

This amendment provides that, where a prohibition order was made following conviction, an application to vary or discharge that order should be made to the court that convicted the offender rather than (if different) the court that sentenced the offender or heard the appeal against the conviction or sentence.

Mike Penning

16

Clause 27, page 17, line 8, at end insert—

“(6A) Where the person mentioned in subsection (6)(b)—

(a) was convicted by a youth court, but

(b) is aged 18 or over at the time of the application,

the reference in subsection (6)(b) to the court by or before which the person was convicted is to be read as a reference to a magistrates’ court or, in Northern Ireland, a court of summary jurisdiction.”

Member’s explanatory statement

This amendment provides that, where a prohibition order was made in the youth court following conviction and the offender has turned 18, an application to vary or discharge that order should be made, in England and Wales, to a magistrates’ court or, in Northern Ireland, to a court of summary jurisdiction.

Mike Penning

17

Clause 35, page 22, line 5, leave out “8” and insert “(Possession of a psychoactive substance in a custodial institution)”

Member’s explanatory statement

This amendment is consequential on NC2.

 Psychoactive Substances Bill [*Lords*], *continued*

Mike Penning

18

Clause 35, page 22, line 21, leave out “8” and insert “(Possession of a psychoactive substance in a custodial institution)”

Member’s explanatory statement

This amendment is consequential on NC2.

Mike Penning

19

Clause 38, page 24, leave out lines 1 to 4 and insert—

- “() a warrant that relates only to premises specified in the warrant (a “specific-premises warrant”), or
- () in the case of a warrant issued in England and Wales or Northern Ireland, a warrant that relates to any premises occupied or controlled by a person specified in the warrant (an “all-premises warrant”).”

Member’s explanatory statement

The effect of this amendment is that it will not be possible to apply under clause 38 for an all-premises warrant in Scotland.

Mike Penning

20

Clause 39, page 24, line 23, at end insert—

- “() An application for a search warrant may be made without notice being given to persons who might be affected by the warrant.
- () The application must be supported—
 - (a) in England and Wales, by an information in writing;
 - (b) in Scotland, by evidence on oath;
 - (c) in Northern Ireland, by a complaint on oath.
- () A person applying for a search warrant must answer on oath any question that the justice hearing the application asks the person.
In the case of an application made by a procurator fiscal, that requirement may be met by a relevant enforcement officer.”

Member’s explanatory statement

This amendment is consequential on amendment 21 and imports into clause 39 the provisions in paragraph 1 of Schedule 2 which relate to applications for search warrants.

Mike Penning

21

Clause 39, page 24, line 32, leave out “search warrants.” and insert “—

- (a) applications for search warrants made in England and Wales or Northern Ireland, and
- (b) search warrants issued in England and Wales or Northern Ireland.”

Member’s explanatory statement

This amendment limits the application of Schedule 2, which makes provision about applications for and the execution of search warrants, to England and Wales and Northern Ireland.

 Psychoactive Substances Bill [*Lords*], *continued*

Mike Penning

22

Clause 39, page 24, line 33, after “warrant” insert “issued in England and Wales or Northern Ireland”

Member’s explanatory statement

This amendment is consequential on amendment 21 and limits the application of clause 39(5), which provides that an entry on or search of premises under a search warrant is unlawful unless it complies with the provisions of Part 2 of Schedule 2, to England and Wales and Northern Ireland.

Mike Penning

23

Schedule 2, page 39, line 25, at end insert—

“PART A1

APPLICATION OF THIS SCHEDULE

This Schedule applies to—

- (a) applications for search warrants made in England and Wales or Northern Ireland, and
- (b) search warrants issued in England and Wales or Northern Ireland.”

Member’s explanatory statement

This amendment is consequential on amendment 21.

Mike Penning

24

Schedule 2, page 39, line 29, leave out paragraph 1

Member’s explanatory statement

This amendment is consequential on amendments 20 and 21.

Mike Penning

25

Schedule 2, page 42, line 27, leave out “issued in England and Wales or Northern Ireland”

Member’s explanatory statement

This amendment is consequential on amendment 21.

Mike Penning

26

Clause 42, page 26, line 9, leave out “8” and insert “(Possession of a psychoactive substance in a custodial institution)”

Member’s explanatory statement

This amendment is consequential on NC2.

Psychoactive Substances Bill [Lords], continued

Mike Penning

27

Clause 47, page 28, line 37, leave out subsection (5)

Member's explanatory statement

This amendment omits clause 47(5), which enables proceedings for an offence under clause 47 to be taken in any part of the UK.

Mike Penning

28

Clause 49, page 29, line 28, leave out “regulations under section 10” and insert “section (*Exceptions to offences*)”**Member's explanatory statement**

This amendment is consequential on amendment 11 and NC3.

Mike Penning

29

Clause 50, page 31, line 12, leave out “regulations under section 10” and insert “section (*Exceptions to offences*)”**Member's explanatory statement**

This amendment is consequential on amendment 11 and NC3.

Mike Penning

30

Clause 53, page 32, line 43, leave out “8” and insert “(*Possession of a psychoactive substance in a custodial institution*)”**Member's explanatory statement**

This amendment is consequential on NC2.

Mike Penning

31

Clause 53, page 33, line 2, leave out second “or” and insert “except where paragraph (b) or (c) applies;”

Member's explanatory statement

This amendment is consequential on amendment 32.

Mike Penning

32

Clause 53, page 33, line 4, at end insert—

“(c) if the person is remitted to the High Court of Justiciary to be dealt with for that offence, the High Court of Justiciary.”

Member's explanatory statement

Clause 53 provides for the relevant court to make a forfeiture order following the conviction of a person for an offence under any of clauses 4 to 8 and 25. Where, in Scotland, a case is remitted to

Psychoactive Substances Bill [Lords], continued

the High Court of Justiciary for sentencing, this amendment provides for that court to make a forfeiture order.

Mike Penning

33

Clause 53, page 33, line 26, leave out “8” and insert “(Possession of a psychoactive substance in a custodial institution)”
Member’s explanatory statement
This amendment is consequential on NC2.

Mike Penning

34

Clause 53, page 33, line 28, leave out “8” and insert “(Possession of a psychoactive substance in a custodial institution)”
Member’s explanatory statement
This amendment is consequential on NC2.

Mike Penning

35

Clause 53, page 33, line 30, leave out “8” and insert “(Possession of a psychoactive substance in a custodial institution)”
Member’s explanatory statement
This amendment is consequential on NC2.

Mike Penning

36

Clause 53, page 33, line 32, leave out “8” and insert “(Possession of a psychoactive substance in a custodial institution)”
Member’s explanatory statement
This amendment is consequential on NC2.

Mike Penning

37

Clause 54, page 34, line 9, leave out “regulations under section 10.” and insert “section (Exceptions to offences).”
Member’s explanatory statement
This amendment is consequential on amendment 11 and NC3.

Lyn Brown
 Andrew Gwynne
 Grahame Morris

☆ Clause 57, page 53, line 2, at end insert—

Psychoactive Substances Bill [Lords], continued

“(2A) The report must inform Parliament on progress made in improving the reach and quality of education about new psychoactive substances.”

Member’s explanatory statement

This amendment requires the Secretary of State to include a section on progress in NPS education in their statutory review.

Mike Penning

38

Clause 58, page 36, line 23, after “Court” insert “, other than the reference in section 30(1) in relation to a prohibition order made under section 18,”

Member’s explanatory statement

This amendment disappplies the transitional provision in clause 58(5) in relation to appeals under clause 30(1) about variation and discharge in relation to prohibition orders made under clause 18.

Mike Penning

39

Schedule 4, page 48, line 16, at end insert—

“Intoxicating Substances (Supply) Act 1985

- (1) The Intoxicating Substances (Supply) Act 1985 is repealed.
- (2) In consequence of the repeal made by sub-paragraph (1), in Schedules 3 and 6 to the Regulatory Enforcement and Sanctions Act 2008, omit the entry relating to the Intoxicating Substances (Supply) Act 1985.”

Member’s explanatory statement

This amendment repeals the Intoxicating Substances (Supply) Act 1985.

Mr David Burrowes

42

Schedule 4, page 48, line 16, at end insert—

“Misuse of Drugs Act 1971

- (1) The Misuse of Drugs Act 1971 is amended as follows—
- (2) In section 4A (Aggravation of offence of supply of controlled drug) after subsection (4) insert—
 - “(4A) The third condition is that the offence was committed on any premises intended to locate any vulnerable child or in the vicinity of said premises;
 - (4B) in this section “vulnerable child” means any person aged under 18 who is not living with their parents or carers and is
 - (a) accommodated in residential care under section 17, section 20, section 25 or section 31 of The Children Act 1989, or,
 - (b) accommodated in a multi-occupant dwelling under part 7 of the Housing Act 1996.
 - (4C) The Secretary of State may by order made by statutory instrument specify the circumstances in which a court must take into account Condition C;

Psychoactive Substances Bill [Lords], continued

- (4D) The fourth condition is that the offender supplies a controlled drug to any persons under the age of 18.””

NEW CLAUSES

Mike Penning

NC2

To move the following Clause—

“Possession of a psychoactive substance in a custodial institution

- (1) A person commits an offence if—
 - (a) the person is in possession of a psychoactive substance in a custodial institution,
 - (b) the person knows or suspects that the substance is a psychoactive substance, and
 - (c) the person intends to consume the psychoactive substance for its psychoactive effects.
- (2) In this section “custodial institution” has the same meaning as in section 6.
- (3) This section is subject to section (*Exceptions to offences*) (exceptions to offences).”

Member’s explanatory statement

This new clause provides for a new offence of possession of a psychoactive substance in a custodial institution.

Mike Penning

NC3

To move the following Clause—

“Exceptions to offences

- (1) It is not an offence under this Act for a person to carry on any activity listed in subsection (3) if, in the circumstances in which it is carried on by that person, the activity is an exempted activity.
- (2) In this section “exempted activity” means an activity listed in Schedule (*Exempted activities*).
- (3) The activities referred to in subsection (1) are—
 - (a) producing a psychoactive substance;
 - (b) supplying such a substance;
 - (c) offering to supply such a substance;
 - (d) possessing such a substance with intent to supply it;
 - (e) importing or exporting such a substance;
 - (f) possessing such a substance in a custodial institution (within the meaning of section (*Possession of a psychoactive substance in a custodial institution*)).
- (4) The Secretary of State may by regulations amend Schedule (*Exempted activities*) in order to—

Psychoactive Substances Bill [Lords], continued

- (a) add or vary any description of activity;
- (b) remove any description of activity added under paragraph (a).
- (5) Before making any regulations under this section the Secretary of State must consult—
 - (a) the Advisory Council on the Misuse of Drugs, and
 - (b) such other persons as the Secretary of State considers appropriate.
- (6) The power to make regulations under this section is exercisable by statutory instrument.
- (7) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

Member’s explanatory statement

The new clause inserted by this amendment (which will replace clause 10) provides that it is not an offence under clauses 4 to 8, or the offence under the new clause inserted by NC2, for a person to carry on an “exempted activity” listed in the new Schedule inserted by NS1. The new clause also provides a power to add or vary any description of activity specified in the new Schedule.

John Woodcock
Lyn Brown

NC1

To move the following Clause—

“Breach of a premises notice

- (1) A senior officer or a local authority may issue a notice requiring a premise to cease trading if conditions A, B and C are met.
- (2) Condition A is that the premise has been issued a premises notice under section 13 of this Act.
- (3) Condition B is that in the view of the senior officer or a local authority that issued the premises notice, the terms of that notice are not being complied with.
- (4) Condition C is that the senior officer or local authority has made an application to an appropriate court for a premises order under section 19 of this Act.
- (5) A notice issued to a premise under subsection 1 shall cease to have effect when a court has considered an application for a premises order in respect of that premise.
- (6) In a case where a court has decided not to issue a premises order to a premise that has been subject to a notice under this section, the court may order the local authority or the senior officer’s organisation to pay compensation to the owner of the premises in respect of income lost due to the suspension in trading.
- (7) For the meaning of “senior officer”, see section 12(7).”

Member’s explanatory statement

This new clause’s intention is to allow a senior officer or local authority to comply a premises to stop trading while it applies for a premises order.

Psychoactive Substances Bill [Lords], continued

Lyn Brown
 Andrew Gwynne
 Grahame Morris

NC4

☆ To move the following Clause—

“New Psychoactive Substances—Prevention and Education

- (1) In section 84(3) of the Education Act 2002 (curriculum foundation subjects for the first, second and third key stages), after paragraph (g) there is inserted—
 “(ga) personal, social and health education.”
- (2) In section 85(4) of the Education Act 2002 (curriculum foundation subjects for the fourth key stage), at the end there is inserted “, and
 (d) personal, social and health education.”
- (3) In section 74(1) of the Education and Inspections Act 2006, which (when brought into force) will substitute a new section 85 in the Education Act 2002, in subsection (4) of that substituted section (foundation subjects for the fourth key stage), at the end there is inserted “, and
 (d) personal, social and health education.”
- (4) Before section 86 of the Education Act 2002 there is inserted—

“85B Personal, social and health education

- (1) For the purposes of this Part, personal, social and health education (“PSHE”) must include, but shall not be limited to—
 - (a) education about alcohol and tobacco; illegal recreational drugs and new psychoactive substances;
 - (b) education about emotional health and well-being and how this can be impacted by psychoactive substances;
 - (c) education about individual safety, including risk taking behaviour.
- (2) The National Curriculum for England is not required to specify attainment targets or assessment arrangements for PSHE (and section 84(1) has effect accordingly).
- (3) The Secretary of State for Education shall set out guidance to schools and colleges to ensure that a coherent approach to personal, social, health and economic education is developed, including between primary and secondary schools.
- (4) It is the duty of the governing body and head teacher of any school in which PSHE is provided in pursuance of this Part to secure that guidance issued under subsection (3) is followed and principles set out in subsections (5) to (6) are complied with.
- (5) The first principle is that information presented in the course of providing PSHE should be accurate and balanced.
- (6) The second principle is that PSHE should be taught in a way that—
 - (a) is appropriate to the ages of the pupils concerned and to their religious and cultural backgrounds, and also
 - (b) reflects a reasonable range of religious, cultural and other perspectives.
- (7) The third principle is that PSHE should be taught in a way that—
 - (a) endeavours to promote equality,

Psychoactive Substances Bill [Lords], continued

- (b) encourages acceptance of diversity, and
 - (c) emphasises the importance of both rights and responsibilities.
- (8) In the exercise of their functions under this Part so far as relating to PSHE, a local authority, governing body or head teacher shall have regard to any guidance issued from time to time by the Secretary of State.””

Member’s explanatory statement

This would amend the Education Act to make PHSE, with drugs education including on New Psychoactive Substances, a foundation subject in the national curriculum.

NEW SCHEDULE

Mike Penning

NS1

To move the following Schedule—

“EXEMPTED ACTIVITIES*Healthcare-related activities*

- 1 Any activity carried on by a person who is a health care professional and is acting in the course of his or her profession.
In this paragraph “health care professional” has the same meaning as in the Human Medicines Regulations 2012 (S.I. 2012/1916) (see regulation 8 of those Regulations).
- 2 Any activity carried on for the purpose of, or in connection with—
- (a) the supply to, or the consumption by, any person of a substance prescribed for that person by a health care professional acting in the course of his or her profession, or
 - (b) the supply to, or the consumption by, any person of a substance in accordance with the directions of a health care professional acting in the course of his or her profession.
- In this paragraph “health care professional” has the same meaning as in the Human Medicines Regulations 2012 (see regulation 8 of those Regulations).
- 3 Any activity carried on in respect of an active substance by a person who—
- (a) is registered in accordance with regulation 45N of the Human Medicines Regulations 2012, or
 - (b) is exempt from any requirement to be so registered by virtue of regulation 45M(2) or (3) of those Regulations.
- In this paragraph “active substance” has the same meaning as in the Human Medicines Regulations 2012 (see regulation 8 of those Regulations).

Research

- 4 Any activity carried on in the course of, or in connection with, approved scientific research.
In this paragraph—
“approved scientific research” means scientific research carried out by a person who has approval from a relevant ethics review body to carry out that research;

Psychoactive Substances Bill [Lords], continued

“relevant ethics review body” means—

- (a) a research ethics committee recognised or established by the Health Research Authority under Chapter 2 of Part 3 of the Care Act 2014, or
- (b) a body appointed by any of the following for the purpose of assessing the ethics of research involving individuals—
 - (i) the Secretary of State, the Scottish Ministers, the Welsh Ministers, or a Northern Ireland department;
 - (ii) a relevant NHS body;
 - (iii) a body that is a Research Council for the purposes of the Science and Technology Act 1965;
 - (iv) an institution that is a research institution for the purposes of Chapter 4A of Part 7 of the Income Tax (Earnings and Pensions) Act 2003 (see section 457 of that Act);
 - (v) a charity which has as its charitable purpose (or one of its charitable purposes) the advancement of health or the saving of lives;

“charity” means—

- (a) a charity as defined by section 1(1) of the Charities Act 2011,
- (b) a body entered in the Scottish Charity Register, or
- (c) a charity as defined by section 1(1) of the Charities Act (Northern Ireland) 2008;

“relevant NHS body” means—

- (a) an NHS trust or NHS foundation trust in England,
- (b) an NHS trust or Local Health Board in Wales,
- (c) a Health Board or Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978,
- (d) the Common Services Agency for the Scottish Health Service, or
- (e) any of the health and social care bodies in Northern Ireland, as defined by section 1(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.”

Member’s explanatory statement

The new Schedule inserted by this amendment lists exempted activities for the purpose of the Bill. These include activities carried out by health care professionals acting in that capacity and approved research activities.

ORDER OF THE HOUSE [19 OCTOBER 2015]

That the following provisions shall apply to the Psychoactive Substances Bill [Lords]:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Thursday 29 October 2015.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Psychoactive Substances Bill [Lords], continued

Consideration and Third Reading

4. Proceedings on Consideration shall (so far as not previously concluded) be brought to a conclusion three hours after the commencement of the proceedings.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion four hours after the commencement of proceedings on Consideration.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and Third Reading.

Other proceedings

7. Any other proceedings on the Bill (including any proceedings on consideration of any message from the Lords) may be programmed.

ORDER OF THE COMMITTEE [27 OCTOBER 2015]

That—

- (1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 27 October) meet—
 - (a) at 2.00 pm on Tuesday 27 October;
 - (b) at 11.30am and 2.00 pm on Thursday 29 October,
- (2) the proceedings shall be taken in the following order: Clauses 1 to 3; Schedule 1; Clauses 4 to 39; Schedule 2; Clauses 40 to 56; Schedule 3; Clauses 57 to 59; Schedule 4; Clauses 60 to 62; new Clauses; new Schedules; remaining proceedings on the Bill;
- (3) the proceedings on the Bill shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 29 October.

NOTICES WITHDRAWN

The following Notices were withdrawn on 26 October: