



House of Commons

Wednesday 20 January 2016

CONSIDERATION OF BILL (REPORT STAGE)

New Amendments handed in are marked thus ★

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

PSYCHOACTIVE SUBSTANCES BILL [*LORDS*], AS AMENDED

NOTE

This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in the order in which they relate to the Bill.

NEW CLAUSES

Lyn Brown
Andrew Gwynne
Andy Burnham
Sue Hayman

NC1

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—
“(gi) 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.”

Psychoactive Substances Bill [Lords], continued

- (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, health education (“PSHE”) shall comprise—
- (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 headteacher 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,
 - (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 headteacher 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 new psychoactive substances, a foundation subject in the national curriculum.

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

Lyn Brown
 Andrew Gwynne
 John Woodcock
 Andy Burnham
 Sue Hayman

NC2

To move the following Clause—

“Breach of a premises notice

- (1) A senior officer or a local authority may issue a notice requiring a premises to cease trading if conditions A, B and C are met.
- (2) Condition A is that the premises 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 premises 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 compel a premises to stop trading while it applies for a premises order.

Dr Poulter
 Mr Peter Lilley
 Norman Lamb

NC3

To move the following Clause—

“Control of cannabis

- (1) Within six months of the passing of this Act, the Secretary of State shall consult the Advisory Council on the Misuse of Drugs pursuant to the Misuse of Drugs Act 1971 with regard to the use of her powers to make regulations under sections 7, 10, 22 and 31 of that Act to—
 - (a) delete from Schedule 1 to the Misuse of Drugs Regulations 2001 the substances listed in subsection (2), and
 - (b) add those substances to Schedule 2 to the 2001 Regulations.
- (2) The substances referred to in subsection (1) are—
 - (a) cannabis, and

Psychoactive Substances Bill [Lords], continued

(b) cannabis resin.”

Member's explanatory statement

The intention of this amendment is to re-scheduling Cannabis from a Schedule 1 drug to a Schedule 2 drug for the purposes of promoting research into its medical use.

Norman Lamb

NC4

To move the following Clause—

“Referral to Advisory Council on the Misuse of Drugs

- (1) The Ministers shall refer to the Advisory Council on the Misuse of Drugs (ACMD) any substance which is, or may be, a psychoactive substance.
 - (2) The ACMD shall advise the Ministers whether the substance is, or appears to the ACMD likely to be, misused and of which the misuse is having, or appears to the ACMD to be capable of having, harmful effects sufficient to constitute a social problem.
 - (3) For the purposes of this section, “the Ministers” has the same meaning as in section 1(4) of the Misuse of Drugs Act 1971 (The Advisory Council on the Misuse of Drugs).”
-

Norman Lamb

NC5

To move the following Clause—

“Review of the Misuse of Drugs Act 1971

- (1) The Secretary of State shall commission an independent evidence-based review of—
 - (a) the effectiveness of the Misuse of Drugs Act 1971 in reducing the harm caused by the misuse of drugs, including social problems connected with their misuse, and
 - (b) the implementation of the Act.
 - (2) The Secretary of State shall lay a copy of a report of the review before both Houses of Parliament within one year of the passing of this Act.”
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Psychoactive Substances Bill [*Lords*], *continued*

Norman Lamb

NC6

To move the following Clause—

“Possession of controlled drugs

- (1) The Misuse of Drugs Act 1971 is amended as follows.
- (2) Omit section 5(1) and (2).
- (3) After section 5 insert—

“5A Measures in respect of possession of controlled drugs for personal use

- (1) Where a person is detained on suspicion of having committed an arrestable offence and is found to be in possession of a controlled drug, falling within Schedule 2 (Class A drugs) in circumstances which do not constitute an offence under section 3 (restriction of importation and exportation of controlled drugs) or section 4 (restriction of production and supply of controlled drugs), a senior officer or a local authority may require the person to attend a drug treatment programme or drug awareness programme.
 - (2) The Secretary of State shall by regulations define “drug treatment programme” and “drug awareness programme” for the purposes of this Act.
 - (3) Regulations made under this section must be made by statutory instrument.
 - (4) A statutory instrument under this section may not be made unless a draft of the instrument has been laid before, and approved by resolution of, both Houses of Parliament.””
-

Norman Lamb

23

Clause 1, page 1, line 3, after “about” insert “reviewing the Misuse of Drugs Act 1971 and”

Norman Lamb

24

Clause 1, page 1, line 11, at end insert—

“(6A) Section [Control of Cannabis] provides for legal possession and supply of cannabis prescribed by a doctor.”

Norman Lamb

18

Clause 2, page 1, line 14, after “any” insert “novel”

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

Norman Lamb

19

- Clause 2, page 1, line 15, leave out paragraph (a) and insert—
- “(a) in the opinion of the Advisory Council on the Misuse of Drugs is capable of producing a psychoactive effect in a person who consumes it, and
 - (aa) is, or appears to the Advisory Council on the Misuse of Drugs likely to be, misused and of which the misuse is having, or appears to them capable of having, harmful effects sufficient to constitute a social problem, and”

Stuart C. McDonald
Anne McLaughlin
Owen Thompson

12

- Clause 2, page 1, line 16, leave out “and” and insert—
- “(aa) is not prohibited by the United Nations Drug Conventions of 1961 and 1971, or by the Misuse of Drugs Act 1971, but which may pose a public health threat comparable to that posed by substances listed in these conventions, and”

Member’s explanatory statement

This amendment to the definition includes part of the alternative definition of psychoactive substances proposed to the Home Affairs Select Committee by the Advisory Council on the Misuse of Drugs.

Norman Lamb

20

- Clause 3, page 2, line 12, at end insert—
- “(2A) The Advisory Council on the Misuse of Drugs shall propose to the Secretary of State the amendment of Schedule 1 for the purposes of subsection (2)(a) if they consider that a substance does not have, or is not capable of having, harmful effects sufficient to constitute a social problem.”
-

Norman Lamb

21

- Clause 5, page 3, line 9, at end insert—
- “(2A) It shall be a defence that the person did not supply the substance for gain (whether direct or indirect).”

Stuart C. McDonald
Anne McLaughlin
Owen Thompson

13

- Clause 5, page 3, line 15, at end insert—
- “(5) It is not an offence under this section for a person (“A”) to supply a psychoactive substance to person (“B”), where A and B are known to each other and such

Psychoactive Substances Bill [Lords], continued

supply is part of an agreement to obtain psychoactive substances for either A's, B's or both's own consumption and the supply does not profit person A."

Member's explanatory statement

This amendment avoid one person being criminalised when as part of a group, he is responsible for obtaining psychoactive substances for the group where, in effect, each person in the group is purchasing for their own consumption.

Kit Malthouse
Mrs Anne-Marie Trevelyan
Tom Tugendhat
Dr Tania Mathias
Victoria Prentis
Mike Wood

Simon Hoare
Kelly Tolhurst

James Cleverly
Chris Green

Craig Williams
Royston Smith

Clause 6, page 3, line 19, leave out "or C" and insert ", C, D or E"

2

Kit Malthouse
Mrs Anne-Marie Trevelyan
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Dr Tania Mathias
Victoria Prentis
Mike Wood

Simon Hoare
Kelly Tolhurst

James Cleverly
Chris Green

Craig Williams
Royston Smith

Clause 6, page 4, line 7, at end insert—

“(9A) Condition D is that the offence was committed on or within 100 metres of a children’s home.

(9B) For the purposes of section (9A) “children’s home” has the same meaning as in section 1 of the Care Standards Act 2000.

(9C) Condition E is that the offender supplied a psychoactive substance to any persons who were under the age 18 when the offence was committed.”

3

Stuart C. McDonald
Anne McLaughlin
Owen Thompson

Clause 8, page 4, line 38, leave out paragraph (i)

Member's explanatory statement

This amendment seeks to exclude from criminalisation those who order psychoactive substances over the internet for personal consumption.

14

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

Norman Lamb

22

Clause 8, page 5, line 19, at end insert—

“(5A) It shall be a defence that the person imported the substance for his own consumption.”

Stuart C. McDonald
Anne McLaughlin
Owen Thompson

16

Page 5, line 20, leave out clause 9

Member’s explanatory statement

This amendment would remove the specific offence of possession of a psychoactive substance in a custodial institution, while leaving in place the provisions that other offences—including possession with intent to supply—are aggravated if taking place in such institutions.

Stuart C. McDonald
Anne McLaughlin
Owen Thompson

17

Clause 10, page 6, line 5, leave out subsection (2)

Member’s explanatory statement

This amendment seeks to remove the sentencing provisions associated with the offence in clause 9.

Stuart C. McDonald
Anne McLaughlin
Owen Thompson

15

Clause 10, page 6, line 22, at end insert—

“(3) In sentencing, the court shall take account of the relative harm associated with the psychoactive substance that was the subject of the offence.”

Member’s explanatory statement

This amendment seeks to ensure that sentencing is commensurate with the potential harm done by the substance involved.

Secretary Theresa May

6

Clause 32, page 21, line 3, leave out “arising by virtue of” and insert “under”

Member’s explanatory statement

This is a drafting amendment to ensure that the language in clause 32(1) mirrors that in clauses 33(5) and 34(5).

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

Secretary Theresa May

7

Clause 32, page 21, line 11, leave out subsection (5) and insert—

- “() An Act of Adjournal under section 305 of the Criminal Procedure (Scotland) Act 1995 (Acts of Adjournal) may be made in relation to proceedings before the High Court of Justiciary, the sheriff or the Sheriff Appeal Court—
- (a) arising by virtue of section 19 or 29;
 - (b) under section 28, where the application relates to a prohibition order made under section 19;
 - (c) under section 30(5);
 - (d) under subsection (1) of section 31, where the relevant order (as defined in subsection (3) of that section) was made under section 19;
 - (e) under section 31(7).”

Member’s explanatory statement

This amendment enables the High Court of Justiciary in Scotland to make an Act of Adjournal (criminal procedure rules) in relation to specified civil proceedings under clauses 19, 28, 29, 30 and 31 before the High Court of Justiciary, the sheriff or the Sheriff Appeal Court.

Secretary Theresa May

8

Clause 32, page 21, line 23, leave out subsection (7)

Member’s explanatory statement

This amendment deletes clause 32(7), which provides that the criminal procedure rules would apply to proceedings under clauses 19 and 29 in the Crown Court in England and Wales. Such rules would apply in any event; accordingly express provision to this end is not required.

Lyn Brown
 Andrew Gwynne
 Andy Burnham
 Sue Hayman

4

Clause 58, page 36, line 25, at end insert—

- “(2A) The report must inform Parliament on progress made in improving education and awareness 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.

Secretary Theresa May

9

Clause 62, page 38, line 33, at end insert—

- “() The power under section 384(1) of the Armed Forces Act 2006 (“the 2006 Act”) may be exercised so as to extend to any of the Channel Islands (with or without modifications) any amendment or repeal made by or under this Act of any part of the 2006 Act.

Psychoactive Substances Bill [Lords], continued

- () The power under section 384(2) of the 2006 Act may be exercised so as to modify any provision of that Act as amended by or under this Act as it extends to the Isle of Man or a British overseas territory.”

Member’s explanatory statement

This amendment enables the amendments to the Armed Forces Act 2006 made by paragraph 7 of Schedule 5 to the Bill to be extended, with or without modifications, to any of the Channel Islands and provides power to modify that Act, as amended by the Bill, as it extends to the Isle of Man or a British overseas territory.

Norman Lamb

25

Schedule 1, page 40, line 5, at end insert “except to the extent necessary to give effect to section (Possession of controlled drugs).”

Mrs Cheryl Gillan

1

Schedule 1, page 41, line 12, at end insert—

“Racetams

- 8 Pramiracetam
- 9 Oxiracetam
- 10 N-phenylacetyl-L-prolylglycine ethyl ester
- 11 Phenylpiracetam
- 12 Nefiracetam

Cholinergics

- 13 L-Alpha glycerylphosphorylcholine
- 14 Citicoline
- 15 Meclofenoxate

Miscellaneous

- 16 L-Theanine
- 17 Oxitriptan
- 18 Tongkat Ali
- 19 Resveratol
- 20 Trans-resveratol
- 21 Sulbutiamine”

Member’s explanatory statement

This amendment exempts a number of substances from scope of the regulation regime introduced in the Psychoactive Substances Bill. The substances in this amendment are commonly used to improve individuals’ cognitive performance and have been found to have positive effects in a number of academic studies.

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

Lyn Brown
 Andrew Gwynne
 Stuart C. McDonald
 Anne McLaughlin
 Owen Thompson
 Norman Lamb

Andy Burnham

Sue Hayman

5

Schedule 1, page 41, line 12, at end insert—

“Miscellaneous

8 Alkyl nitrites”

Member’s explanatory statement

This would exempt “poppers” from the Bill, as recommended by the Home Affairs Select Committee.

Secretary Theresa May

10

Schedule 2, page 42, line 36, leave out “as defined by” and insert “falling within paragraphs (a) to (d) of”

Member’s explanatory statement

This amendment amends the definition of a “relevant NHS body” in Northern Ireland for the purposes of the exemption for research activities provided for in Schedule 2. The amendment excludes special agencies, the Patient and Client Council and the Regulation and Quality Improvement Authority from the scope of the definition.

Secretary Theresa May

11

Schedule 5, page 57, line 2, at end insert—

“Regulatory Enforcement and Sanctions Act 2008

In Schedule 3 to the Regulatory Enforcement and Sanctions Act 2008 (enactments specified for the purposes of Part 1 of that Act), at the appropriate place insert—

“Psychoactive Substances Act 2016”.

Member’s explanatory statement

This amendment adds the Psychoactive Substances Act to the list of enactments in Schedule 3 to the Regulatory Enforcement and Sanctions Act 2008 (which specifies enactments for the purpose of the Secretary of State’s and Welsh Ministers’ functions under Part 1 of that Act).

Psychoactive Substances Bill [Lords], *continued*

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.

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.
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