



House of Commons

Friday 15 June 2018

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*

MENTAL HEALTH UNITS (USE OF FORCE) BILL, 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This document includes all amendments tabled to date and includes any withdrawn amendments at the end.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.

Mr Steve Reed

NC1

To move the following Clause—

“Independent investigation of deaths

- (1) A registered manager must within seven days of becoming aware of a death to which this section applies notify the Secretary of State in writing of that death.
- (2) This section applies to a death if—
 - (a) the death occurred during, or as a result of, the use of force on the deceased patient, and
 - (b) the use of force occurred at a mental health unit managed by the registered manager.
- (3) On being notified of a death, the Secretary of State must appoint an independent person—
 - (a) to investigate the circumstances of the death, and
 - (b) to prepare a report regarding that death.
- (4) A person appointed under this section must be independent of the NHS and of private providers of mental health services.
- (5) A person appointed under this section must provide a report within three months of that appointment.
- (6) The Secretary of State must within 14 days of receiving the report publish—

Mental Health Units (Use of Force) Bill, *continued*

- (a) the report, or
 - (b) a statement that a report under this section has been received.
- (7) The Secretary of State may only publish a statement under subsection (6)(b) if satisfied that the publication of the report would be contrary to the public interest, which includes causing prejudice to—
- (a) any potential or ongoing court proceedings,
 - (b) the conduct of a senior coroner’s investigation under Part 1 of the Coroners and Justice Act 2009.
- (8) A statement published under subsection (6)(b) must include—
- (a) the name and date of birth of the deceased,
 - (b) the date and place of the death,
 - (c) the place at which the use of force occurred, if different from the place of the death,
 - (d) the identity of the registered manager in relation to the mental health unit, and
 - (e) how the publication of the report would, in the opinion of the Secretary of State, be contrary to the public interest.
- (9) The Secretary of State must publish the report as soon as practicable upon the conclusion of the proceedings or investigation.”
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Mr Steve Reed

NC2

To move the following Clause—

“Independent investigation of deaths: legal aid

- (1) Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (civil legal services) is amended as follows.
 - (2) After paragraph 41 (inquests) insert—
- “41A Investigation of deaths resulting from use of force in mental health units**
- (1) Civil legal services provided to an individual in relation to an investigation under section (*independent investigations of deaths*) of the Mental Health Units (Use of Force) Act 2018 (independent investigation of deaths) into the death of a member of the individual’s family.
 - (2) For the purposes of this paragraph an individual is a member of another individual’s family if—
 - (a) they are relatives (whether of the full blood or half blood or by marriage or civil partnership),
 - (b) they are cohabitants (as defined in Part 4 of the Family Law Act 1996), or
 - (c) one has parental responsibility for the other.”
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Mental Health Units (Use of Force) Bill, *continued*

Sir Christopher Chope	86
Clause 1, page 1, line 13, leave out sub-paragraph (ii)	
Sir Christopher Chope	87
Clause 1, page 1, line 15, leave out subsection (4)	
Philip Davies	44
Clause 1, page 2, line 3, leave out “force” and insert “restraint”	
Norman Lamb	40
Clause 1, page 2, line 4, after “use” insert “or threat ”	
<i>Member’s explanatory statement</i>	
<i>This amendment, together with Amendments 41 to 43, would extend the definition of the use of force for the provisions in the Bill to cover threats of the use of force and coercion.</i>	
Sir Christopher Chope	88
Clause 1, page 2, line 4, leave out “mechanical or chemical” and insert “or mechanical”	
Sir Christopher Chope	89
Clause 1, page 2, line 5, leave out paragraph (b)	
Norman Lamb	41
Clause 1, page 2, line 5, after “isolation” insert “or threat of isolation”	
<i>Member’s explanatory statement</i>	
<i>See explanatory statement for Amendment 40.</i>	
Norman Lamb	42
Clause 1, page 2, line 5, at end insert “or (c) the coercion of a patient.”	
<i>Member’s explanatory statement</i>	
<i>See explanatory statement for Amendment 40.</i>	
Sir Christopher Chope	90
Clause 1, page 2, leave out lines 14 and 15	
Sir Christopher Chope	91
Clause 1, page 2, leave out lines 16 and 17	

 Mental Health Units (Use of Force) Bill, *continued*

Norman Lamb

43

Clause 1, page 2, line 17, at end insert—

““Coercion” means the use or threat of force, with the intention of causing fear, alarm or distress to control a patient’s behaviour or elicit compliance with the application of a use of force.”

Member’s explanatory statement

See explanatory statement for Amendment 40.

Sir Christopher Chope

92

Clause 2, page 2, line 20, leave out “a relevant” and insert “any”

Sir Christopher Chope

93

Clause 2, page 2, line 23, leave out “relevant”

Robert Courts

105

☆ Clause 2, page 2, leave out line 24 and insert—

“(b) appropriate in terms of qualifications or experience.”

Member’s explanatory statement

This amendment would give relevant health organisations flexibility to appoint a responsible person based on criteria other than seniority.

Robert Courts

106

☆ Clause 2, page 2, line 24, at end insert—

“(2A) Before appointing a responsible person, the relevant health organisation must consult any persons that the organisation considers appropriate.”

Member’s explanatory statement

This amendment would require relevant health organisations to consult before appointing a responsible person.

Sir Christopher Chope

94

Clause 2, page 2, line 25, leave out “relevant”

Robert Courts

107

☆ Clause 3, page 2, line 29, after “publish”, insert “in print, with or without any other format,”

Member’s explanatory statement

This amendment would require a relevant health organisation’s policy to be published in hard copy so it is accessible to people in the unit, and not just online.

Mental Health Units (Use of Force) Bill, *continued*

- Philip Davies 45
 Clause 3, page 2, line 30, leave out “force” and insert “restraint”
- Sir Christopher Chope 95
 Clause 3, page 2, line 32, leave out “relevant”
- Robert Courts 108
 ☆ Clause 3, page 2, line 35, leave out “any” and insert “persons who appear to the responsible person to represent the interests of patients and any other”
Member’s explanatory statement
This amendment would ensure that patient representatives are consulted in the development of the policy before it is published.
- Robert Courts 109
 ☆ Clause 3, page 2, line 41, leave out “any” and insert “persons that appear to the responsible person to represent the interests of patients and any other”
Member’s explanatory statement
This amendment would ensure that patient representatives are consulted on any substantial changes to the policy.
- Norman Lamb 37
 Clause 3, page 3, line 2, at end insert—
 “(6A) A policy published under this section must set out that the use of force will only be used without the sole intention of inflicting pain, suffering or humiliation, or subjecting patients to tortuous, inhumane or degrading treatment, or without inflicting punishment or intimidation.”
Member’s explanatory statement
This amendment would prevent the use of force with the sole intention of causing suffering or harm to a patient, in line with the Mental Health Act code of practice and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Norman Lamb 36
 Clause 3, page 3, line 3, leave out from “out” to end of line 4 and insert—
 “(a) a description of each of the methods of restraint that may be used in the mental health unit;
 (b) what steps will be taken to reduce and minimise the use of force in the mental health unit by staff who work in the unit;
 (c) a description of the techniques to be used for avoiding or reducing the use of force in the mental health unit by staff who work in the unit; and
 (d) a commitment to reducing the overall use of force in the mental health unit.”
Member’s explanatory statement
This amendment would require mental health units to commit to reducing the overall use of force, and increase transparency about how they intend to achieve this and what types of force they permit.

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Mental Health Units (Use of Force) Bill, *continued*

- Philip Davies 46
- Clause 3, page 3, line 4, leave out “force” and insert “restraint”
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- Philip Davies 47
- Clause 4, page 3, line 7, leave out “force” and insert “restraint”
- Norman Lamb 38
- Clause 4, page 3, line 8, at end insert—
- “(1A) Information under subsection (1) must include a patient’s right to advocacy and how to access an advocate.”
- Member’s explanatory statement**
- This amendment would ensure that people’s legal rights to advocacy, under existing provisions, are communicated to them in relation to the use of force.*
- Robert Courts 110
- ☆ Clause 4, page 3, line 13, after “patient,” insert—
- “(aa) to any person appearing to be the patient’s nearest relative within the meaning of section 26(3) of the Mental Health Act 1983, if that person is in the unit,”.
- Member’s explanatory statement**
- This amendment would ensure that a patient’s nearest relative is provided with the information published under subsection (1) if they are in the unit.*
- Secretary Jeremy Hunt 1
- Clause 4, page 3, line 16, at end insert—
- “unless the patient (where paragraph (a) applies) or the other person (where paragraph (b) applies) refuses the information.”
- Member’s explanatory statement**
- This allows for cases where a person refuses the information provided, and supersedes subsections (9)(a) and (10)(a).*
- Secretary Jeremy Hunt 2
- Clause 4, page 3, line 22, leave out subsection (5) and insert—
- “(5) The responsible person must take whatever steps are reasonably practicable to ensure that the patient is aware of the information and understands it.”
- Member’s explanatory statement**
- This expands the duty to provide information accessibly so that it requires the responsible person to take whatever steps are reasonably practicable to ensure the patient understands.*

Mental Health Units (Use of Force) Bill, *continued*

Secretary Jeremy Hunt	3
<p>Clause 4, page 3, line 33, leave out subsections (9) and (10)</p> <p><i>Member's explanatory statement</i></p> <p><i>Subsections (9)(a) and (10)(a) are superseded by Amendment 1. Subsections (9)(b) and (10)(b) are unnecessary as the information will not be of a nature that would cause distress.</i></p>	
Sir Christopher Chope	96
<p>Clause 4, page 3, line 36, leave out “the responsible person considers that”</p>	
Sir Christopher Chope	97
<p>Clause 4, page 3, line 42, leave out “the responsible person considers that”</p>	

Philip Davies	48
<p>Clause 5, page 4, line 3, leave out “force” and insert “restraint”</p>	
Norman Lamb	79
<p>Clause 5, page 4, line 3, at end insert—</p> <p>“(1A) The Secretary of State must publish quality standards for training provided under subsection (1).</p> <p>(1B) The Secretary of State may delegate the publication of quality standards for training under subsection (2).”</p> <p><i>Member's explanatory statement</i></p> <p><i>This amendment would require training on the use of force to comply with quality standards.</i></p>	
Sir Christopher Chope	98
<p>Clause 5, page 4, line 6, after “patients” insert “and their families”</p>	
Philip Davies Robert Courts	9
<p>Clause 5, page 4, line 9, leave out paragraph (c)</p>	
Philip Davies	49
<p>Clause 5, page 4, line 11, leave out “force” and insert “restraint”</p>	
Philip Davies	50
<p>Clause 5, page 4, line 12, leave out “force” and insert “restraint”</p>	

 Mental Health Units (Use of Force) Bill, *continued*

Norman Lamb	80
Clause 5, page 4, line 13, at beginning insert “trauma-informed care, including” <i>Member’s explanatory statement</i> <i>This amendment, together with Amendment 81, would ensure that training requirements for staff include training on trauma-informed care.</i>	
Robert Courts	112
☆ Clause 5, page 4, line 13, leave out paragraph (g) <i>Member’s explanatory statement</i> <i>This amendment would leave out any specific requirement for training on impact of trauma on a patient’s mental and physical health.</i>	
Norman Lamb	81
Clause 5, page 4, line 14, at end insert “and the impact of the use of force on a patient who may have experienced violence and abuse.” <i>Member’s explanatory statement</i> <i>See explanatory statement for Amendment 80.</i>	
Philip Davies	51
Clause 5, page 4, line 15, leave out “force” and insert “restraint”	
Philip Davies	52
Clause 5, page 4, line 16, leave out “force” and insert “restraint”	
Sir Christopher Chope	99
Clause 5, page 4, line 18, leave out “the principal”	
Philip Davies	10
Clause 5, page 4, line 18, leave out “or ethical”	
Philip Davies	53
Clause 5, page 4, line 18, leave out “force” and insert “restraint”	
Philip Davies	11
Clause 5, page 4, line 18, at end insert— “(l) the roles, responsibilities and procedure in the event of police involvement,”	
Philip Davies	12
Clause 5, page 4, line 18, at end insert— “(m) awareness of acute behavioural disturbance.”	

Mental Health Units (Use of Force) Bill, *continued*

- Secretary Jeremy Hunt 4
- Clause 5, page 4, line 30, leave out “meets the standards of” and insert “is of an equivalent standard to”
- Member’s explanatory statement*
This is a small drafting change that clarifies that training does not need to be provided under Clause 5 if training that was recently provided was of an equivalent standard to the training provided under that Clause.
- Philip Davies 13
- Clause 5, page 4, line 31, leave out subsections (5) and (6)
- Robert Courts 113
- ☆ Clause 5, page 4, line 31, leave out “regular intervals” and insert “least annually”.
- Member’s explanatory statement*
This amendment would ensure that staff receive refresher training at least annually.
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- Sir Christopher Chope 100
- Clause 6, page 5, line 8, at end insert—
- “(7) Guidance under this Act shall be published no later than six months after this Act is passed.”
- Robert Courts 114
- ☆ Clause 6, page 5, line 8, at end insert —
- “(7) Before publishing the guidance, or any revision that amounts to a substantial change in the guidance, the Secretary of State must lay a copy of the guidance or the revision, as the case may be, before Parliament.”
- Member’s explanatory statement*
This amendment would ensure that the guidance is laid before Parliament before it is issued.
- Secretary Jeremy Hunt
- That Clause 6 be transferred to the end of line 34 on page 7.
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- Sir Christopher Chope 101
- Clause 7, page 5, line 11, after “any” insert “significant”
- Philip Davies 54
- Clause 7, page 5, line 12, leave out “force” and insert “restraint”

Mental Health Units (Use of Force) Bill, *continued*

Norman Lamb	39
<p>Clause 7, page 5, line 13, leave out subsections (2) and (3)</p> <p><i>Member's explanatory statement</i></p> <p><i>This amendment would improve transparency and accountability about the use of force by ensuring consistency in the recording of all uses of force, not just those that are above a threshold to be set in statutory guidance.</i></p>	
Sir Christopher Chope	102
<p>Clause 7, page 5, line 13, leave out subsection (2)</p>	
Philip Davies	55
<p>Clause 7, page 5, line 13, leave out "force" and insert "restraint"</p>	
Philip Davies	14
<p>Clause 7, page 5, line 13, at end insert "or does not involve physical contact"</p>	
Sir Christopher Chope	103
<p>Clause 7, page 5, line 14, leave out subsection (3)</p>	
Philip Davies	56
<p>Clause 7, page 5, line 14, leave out "force" and insert "restraint"</p>	
Sir Christopher Chope	104
<p>Clause 7, page 5, line 17, leave out subsection (4)</p>	
Philip Davies	57
<p>Clause 7, page 5, line 20, leave out "force" and insert "restraint"</p>	
Philip Davies	58
<p>Clause 7, page 5, line 21, leave out "force" and insert "restraint"</p>	
Philip Davies	59
<p>Clause 7, page 5, line 22, leave out "force" and insert "restraint"</p>	
Philip Davies	60
<p>Clause 7, page 5, line 23, leave out "force" and insert "restraint"</p>	
Philip Davies	61
<p>Clause 7, page 5, line 25, leave out "force" and insert "restraint"</p>	

Mental Health Units (Use of Force) Bill, *continued*

Robert Courts	115
☆ Clause 7, page 5, line 26, leave out paragraph (f) <i>Member's explanatory statement</i> <i>This amendment would remove the requirement to record a description of how force was used.</i>	
Philip Davies	62
Clause 7, page 5, line 26, leave out “force” and insert “restraint”	
Philip Davies	63
Clause 7, page 5, line 28, leave out “force” and insert “restraint”	
Philip Davies	64
Clause 7, page 5, line 31, leave out “force” and insert “restraint”	
Philip Davies	15
Clause 7, page 5, line 33, leave out paragraph (k)	
Philip Davies	65
Clause 7, page 5, line 36, leave out “force” and insert “restraint”	
Philip Davies	66
Clause 7, page 5, line 38, leave out “force” and insert “restraint”	
Philip Davies	67
Clause 7, page 5, line 39, leave out “force” and insert “restraint”	
Philip Davies	68
Clause 7, page 5, line 40, leave out “force” and insert “restraint”	
Philip Davies	21
Clause 7, page 5, line 41, at end insert— “(q) the relevant characteristics of the staff involved (if known)”	
Robert Courts	116
☆ Clause 7, page 5, line 42, leave out “3 years” and insert “12 months” <i>Member's explanatory statement</i> <i>This amendment would reduce the retention period for a record of use of force from 3 years to 12 months.</i>	

Mental Health Units (Use of Force) Bill, *continued*

Philip Davies	16
Clause 7, page 5, line 43, at end insert— “(6A) Records must also be kept in the patient’s medical notes.”	
Secretary Jeremy Hunt	5
Clause 7, page 6, line 5, leave out “made by or under the Data Protection Act 1998” and insert “of the data protection legislation” <i>Member’s explanatory statement</i> <i>Amendments 5 and 6 are consequential on the Data Protection Act 2018.</i>	
Secretary Jeremy Hunt	6
Clause 7, page 6, line 6, at end insert— “() In subsection (8) “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).” <i>Member’s explanatory statement</i> <i>Amendments 5 and 6 are consequential on the Data Protection Act 2018.</i>	
Philip Davies	17
Clause 7, page 6, line 7, leave out subsections (9) and (10)	
Philip Davies	22
Clause 7, page 6, line 7, leave out from “(5)(k)” to “mean” and insert “(5)(k) and (q) the “relevant characteristics” in relation to a patient and member of staff”	
Philip Davies	23
Clause 7, page 6, line 8, leave out “the patient’s” and insert “their”	
Philip Davies	24
Clause 7, page 6, line 9, leave out “the patient has” and insert “they have”	
Philip Davies	32
Clause 7, page 6, line 11, leave out paragraph (c)	
Philip Davies	25
Clause 7, page 6, line 11, leave out “the patient’s” and insert “their”	
Philip Davies	26
Clause 7, page 6, line 12, leave out “the patient is” and insert “they are”	
Philip Davies	33
Clause 7, page 6, line 13, leave out paragraph (e)	

Mental Health Units (Use of Force) Bill, *continued*

Philip Davies	27
Clause 7, page 6, line 13, leave out “the patient’s” and insert “their”	
Philip Davies	34
Clause 7, page 6, line 14, leave out paragraph (f)	
Philip Davies	28
Clause 7, page 6, line 14, leave out “the patient’s” and insert “their”	
Philip Davies	29
Clause 7, page 6, line 15, leave out “the patient’s” and insert “their”	
Philip Davies	35
Clause 7, page 6, line 16, leave out paragraph (h)	
Philip Davies	30
Clause 7, page 6, line 16, leave out “the patient’s” and insert “their”	
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Robert Courts	117
☆ Clause 8, page 6, line 20, after “each” insert “calendar”	
<i>Member’s explanatory statement</i>	
<i>This amendment would ensure that statistics on the use of force are published at the end of each calendar year.</i>	
Philip Davies	69
Clause 8, page 6, line 21, leave out “force” and insert “restraint”	
Philip Davies	70
Clause 8, page 6, line 22, leave out “force” and insert “restraint”	
Philip Davies	31
Clause 8, page 6, line 26, leave out “and (n)” and insert “(n) and (q)”	
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Philip Davies	71
Clause 9, page 6, line 33, leave out “force” and insert “restraint”	

Mental Health Units (Use of Force) Bill, *continued*

Robert Courts

118

- ☆ Clause 9, page 6, line 35, leave out “death of a patient as a result of the use of force” and insert “use of force on a patient”

Member’s explanatory statement

This amendment clarifies that the Secretary of State may review findings that relate to a use of force on a patient in mental health units that did not result in the death of the patient.

Philip Davies

72

- Clause 9, page 6, line 35, leave out “force” and insert “restraint”

Norman Lamb

82

- Clause 9, page 6, line 39, at end insert—

“(2A) The report published under subsection (2) must make reference to the annual statistics published under section 8.”

Member’s explanatory statement

This amendment, together with Amendments 83 to 85, would improve accountability and transparency in the progress towards reducing the overall use of force.

Norman Lamb

83

- Clause 9, page 6, line 39, at end insert—

“(2B) The Secretary of State must make a statement to Parliament, as soon as practicable following the publication of report under subsection (2).”

Member’s explanatory statement

See explanatory statement for Amendment 82.

Norman Lamb

84

- Clause 9, page 6, line 41, leave out “and”

Member’s explanatory statement

See explanatory statement for Amendment 82.

Norman Lamb

85

- Clause 9, page 6, line 41, at end insert “and the statement under subsection (2B).”

Member’s explanatory statement

See explanatory statement for Amendment 82.

Robert Courts

120

- ☆ Clause 9, page 6, line 41, at end insert—

“(3A) The Secretary of State must lay a copy of the report before Parliament.”

Member’s explanatory statement

This amendment would require the Secretary of State’s annual report to be laid before Parliament.

Mental Health Units (Use of Force) Bill, *continued*

- Robert Courts 119
- ☆ Clause 9, page 7, line 1, leave out subsection (4)
Member's explanatory statement
This amendment would remove the explanation of "other findings" in relation to the death of a patient that the Secretary of State may review.
- Philip Davies 73
- Clause 9, page 7, line 2, leave out "force" and insert "restraint"
-
- Robert Courts 121
- ☆ Clause 12, page 7, line 37, leave out "going to" and insert "attending"
Member's explanatory statement
This amendment would make it clearer that the police officer is performing a function to assist staff in a mental health unit.
- Philip Davies 18
- Clause 12, page 7, line 38, leave out "must take" and insert "should consider taking"
- Philip Davies 19
- Clause 12, page 8, line 2, leave out "must wear it and" and insert "should wear it and try to"
- Robert Courts 122
- ☆ Clause 12, page 8, line 4, leave out "special"
Member's explanatory statement
This amendment would narrow the provision so as to not require a definition of circumstances to meet the meaning of 'special circumstances'.
- Robert Courts 123
- ☆ Clause 12, page 8, line 5, at end insert "to make a continuous audio and video recording"
Member's explanatory statement
This amendment defines the function of the operation of the camera.
- Philip Davies 20
- Clause 12, page 8, line 6, leave out subsections (4) and (5)

Mental Health Units (Use of Force) Bill, *continued*

Robert Courts

124

☆ Clause 12, page 8, line 22, at end insert—

“(f) a Police Community Support Officer called to assist at a Mental Health Unit with a “police officer”.”

Member’s explanatory statement

This amendment would widen the definition of a police officer to include PSCOs, as they can use reasonable force to arrest or detain a suspected offender.

Secretary Jeremy Hunt

7

Clause 13, page 8, line 32, leave out “has the meaning given by section 2” and insert “means a person appointed under section 2(1)”

Member’s explanatory statement

This improves the drafting of the definition of “responsible person”.

Philip Davies

74

Clause 13, page 8, line 42, leave out “force” and insert “restraint”

Philip Davies

75

Clause 13, page 8, line 43, leave out “force” and insert “restraint”

Philip Davies

76

Clause 13, page 8, line 46, leave out “force” and insert “restraint”

Robert Courts

125

☆ Page 9, line 2, leave out Clause 14

Robert Courts

126

☆ Clause 15, page 9, line 10, at end insert—

“(3) Regulations under section 10(e) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, each House of Parliament.”

Member’s explanatory statement

This amendment would make regulations under section 10(e) (prescribing bodies) subject to the affirmative parliamentary procedure.

Mental Health Units (Use of Force) Bill, *continued*

Secretary Jeremy Hunt

That Clause 15 be transferred to the end of line 15 on page 9.

Robert Courts

127

☆ Clause 17, page 9, line 23, leave out “or areas”

Member’s explanatory statement

This amendment would remove the power to bring provisions of the Act into force at different times for different areas.

Philip Davies

77

Clause 17, page 9, line 24, leave out “Force” and insert “Restraint”

Philip Davies

78

Title, line 2, leave out “force” and insert “restraint”

Secretary Jeremy Hunt

8

Title, line 2, leave out “and similar institutions”

Member’s explanatory statement

This removes from the long title a reference to “similar institutions” as these are not covered by the Bill.
