

# Mental Health Bill [HL]

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## LORDS AMENDMENTS IN LIEU OF, CONSEQUENTIAL ON, OR TO CERTAIN COMMONS AMENDMENTS

*[The page and line references are to Bill 76, the bill as first printed for the Commons]*

### Clause 3

**1** Page 2, leave out lines 22 to 30 and insert –

“(3) Dependence on alcohol or drugs is not considered to be a disorder or disability of the mind for the purposes of subsection (2) above.”

*The Lords agree with the Commons in their Amendment 1, but do propose the following consequential amendment to the bill –*

**1A** Page 5, line 8, at end insert –

“(aa) respect for diversity generally including, in particular, diversity of religion, culture and sexual orientation (within the meaning of section 35 of the Equality Act 2006),”

### Clause 6

**4** Leave out Clause 6

*The Lords agree with the Commons in their Amendment 4, but do propose the following amendment in lieu of the words so left out of the Bill –*

**4A** Page 6, line 19, at end insert –

“( ) after subsection (5) insert –

“(5A) But the responsible clinician may not furnish a report under subsection (3) above unless a person –

(a) who has been professionally concerned with the patient’s medical treatment; but

(b) who belongs to a profession other than that to which the responsible clinician belongs,

states in writing that he agrees that the conditions set out in subsection (4) above are satisfied.”””

**Clause 32**

COMMONS AMENDMENT 32

- 32** Page 20, line 40, leave out from beginning to end of line 17 on page 21 and insert—
- “(b) it is necessary for his health or safety or for the protection of other persons that he should receive such treatment;
  - (c) subject to his being liable to be recalled as mentioned in paragraph (d) below, such treatment can be provided without his continuing to be detained in a hospital;
  - (d) it is necessary for his health or safety or for the protection of other persons that he should be liable to be recalled to hospital for medical treatment;”

*The Lords agree with the Commons in their Amendment 32, but do propose Amendment 32A as an amendment thereto, and Amendment 32B as a consequential amendment to the bill —*

- 32A** Line 7, leave out paragraph (d) and insert—
- “(d) it is necessary that the responsible clinician should be able to exercise the power under section 17E(1) below to recall the patient to hospital;”

- 32B** Page 21, line 19, at end insert—
- “( ) In determining whether the criterion in subsection (5)(d) above is met, the responsible clinician shall, in particular, consider, having regard to the patient’s history of mental disorder and any other relevant factors, what risk there would be of a deterioration of the patient’s condition if he were not detained in a hospital (as a result, for example, of his refusing or neglecting to receive the medical treatment he requires for his mental disorder).”

COMMONS AMENDMENT 41

- 41** Page 25, leave out lines 24 to 43 and insert—
- “(b) it is necessary for his health or safety or for the protection of other persons that he should receive such treatment;
  - (c) subject to his continuing to be liable to be recalled as mentioned in paragraph (d) below, such treatment can be provided without his being detained in a hospital;
  - (d) it is necessary for his health or safety or for the protection of other persons that he should continue to be liable to be recalled to hospital for medical treatment;”

*The Lords agree with the Commons in their Amendment 41, but do propose Amendment 41A as an amendment thereto, and Amendments 41B to 41D as consequential amendments to the bill —*

- 41A** Line 7, leave out paragraph (d) and insert—
- “(d) it is necessary that the responsible clinician should continue to be able to exercise the power under section 17E(1) above to recall the patient to hospital;”

- 41B** Page 25, line 45, at end insert—

“( ) In determining whether the criterion in subsection (7)(d) above is met, the responsible clinician shall, in particular, consider, having regard to the patient’s history of mental disorder and any other relevant factors, what risk there would be of a deterioration of the patient’s condition if he were to continue not to be detained in a hospital (as a result, for example, of his refusing or neglecting to receive the medical treatment he requires for his mental disorder).”

**41C** Page 63, line 17, leave out sub-paragraph (iii) and insert –

“(iii) that it is necessary that the responsible clinician should be able to exercise the power under section 17E(1) above to recall the patient to hospital;”

**41D** Page 63, line 27, at end insert –

“( ) After subsection (1) insert –

“(1A) In determining whether the criterion in subsection (1)(c)(iii) above is met, the tribunal shall, in particular, consider, having regard to the patient’s history of mental disorder and any other relevant factors, what risk there would be of a deterioration of the patient’s condition if he were to continue not to be detained in a hospital (as a result, for example, of his refusing or neglecting to receive the medical treatment he requires for his mental disorder).”

LORDS AMENDMENTS IN LIEU OF,  
CONSEQUENTIAL ON, OR TO  
CERTAIN COMMONS AMENDMENTS  
TO THE  
**MENTAL HEALTH BILL [HL]**

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