

# **AD HOC JOINT COMMITTEE TO CONSIDER THE MENTAL CAPACITY BILL**

## **MINUTES OF PROCEEDINGS**

**Monday, 11 January 2016  
Room 30, Parliament Buildings**

**Present:** Mr Alastair Ross MLA (Chairperson)  
Mr Patsy McGlone MLA (Deputy Chairperson)  
Mrs Pam Cameron MLA  
Mr Alex Easton MLA  
Mr Paul Frew MLA  
Mr Danny Kennedy MLA  
Mr Séan Lynch MLA  
Mr Kieran McCarthy MLA  
Mr Raymond McCartney MLA  
Ms Rosie McCorley MLA

**In Attendance:** Dr Kathryn Aiken (Clerk)  
Ms Elaine Farrell (Assistant Clerk)  
Ms Marianne Doherty (Clerical Officer)

*The meeting commenced in Open Session at 1.55 p.m.*

**1. Apologies**

None.

**2. Chairperson's Business**

None.

**3. Draft Minutes of the meeting on Thursday 7 January 2016**

The minutes of the Committee meeting on Thursday 7 January 2016 were agreed.

**4. Forward Work Programme**

*Noted:* The Committee noted the Forward Work Programme.

**5. Background papers**

*Noted:* The Committee noted the relevant background papers in respect of the Mental Capacity Bill.

## **6. Formal clause by clause consideration of the Mental Capacity Bill**

The Committee commenced its formal clause-by-clause consideration of the Mental Capacity Bill.

### **Clause 1- Principles: capacity**

The Committee considered Clause 1 as drafted.

Question: That the Committee is content with Clause 1 put and agreed to.

### **Clause 2 – Principle: best interests**

The Committee considered Clause 2 as drafted.

Question: That the Committee is content with Clause 2 put and agreed to.

### **Clause 3 – Meaning of “lacks capacity”**

The Committee considered Clause 3 as drafted.

Question: That the Committee is content with Clause 3 put and agreed to.

### **Clause 4 – Meaning of “unable to make a decision”**

The Committee considered an amendment proposed by the Department which will ensure that references to enabling a person to make a decision, or helping a person to make a decision, are read as enabling the person to do the things in clause 4 (1) (a) to (d).

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 4 subject to the proposed departmental amendment put and agreed to.

### **Clause 5 – Supporting person to make decision**

The Committee considered an amendment proposed by the Department which will amplify what is said in clause 5 (2) in a way that brings out the point that help and support must be given to enable the person to communicate his or her decision.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 5 subject to the proposed departmental amendment put and agreed to.

### **Clause 6 – Compliance with section 1(2)**

The Committee considered Clause 6 as drafted.

Question: That the Committee is content with Clause 6 put and agreed to.

### **Clause 7 – Best interests**

The Committee considered two amendments proposed by the Department which will change reference to “independent advocate” to “independent mental capacity advocate” and an amendment which will make reference to an attorney acting under EPA to be a relevant person.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 7 subject to the proposed departmental amendments put and agreed to.

### **Clause 8 – Compliance with section 2**

The Committee considered Clause 8 as drafted.

Question: That the Committee is content with Clause 8 put and agreed to.

### **Clause 9 – Protection from liability for acts in best interests of person lacking capacity**

The Committee considered an amendment proposed by the Department which will change reference to “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 9 subject to the proposed departmental amendment put and agreed to.

### **Clause 10 – General limitations on section 9**

The Committee considered Clause 10 as drafted.

Question: That the Committee is content with Clause 10 put and agreed to.

### **Clause 11 – Advance decisions: effect on section 9**

The Committee considered Clause 11 as drafted.

Question: That the Committee is content with Clause 11 put and agreed to.

### **Clause 12 – Acts of restraint: condition that must be met**

The Committee considered Clause 12 as drafted.

Question: That the Committee is content with Clause 12 put and agreed to.

### **Clause 13 – Formal assessment of capacity**

The Committee considered Clause 13 as drafted.

Question: That the Committee is content with Clause 13 put and agreed to.

**Clause 14 – Section 13: formal capacity assessments and statements of incapacity**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 14 subject to the proposed departmental amendment put and agreed to.

**Clause 15 – Nominated person: need to have in place and consult**

The Committee considered Clause 15 as drafted.

Question: That the Committee is content with Clause 15 put and agreed to.

**Clause 16 – Second opinion needed for certain treatment**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 16 subject to the proposed departmental amendment put and agreed to.

**Clause 17 – Second opinion needed for continuation of medication**

The Committee considered Clause 17 as drafted.

Question: That the Committee is content with Clause 17 put and agreed to.

**Clause 18 – Second opinion: relevant certificates**

The Committee considered five amendments proposed by the Department, three of which are technical, one which clarifies that the doctor providing a second opinion should be independent of the doctor providing the treatment and one that ensures that the second opinion doctor must examine P and any relevant health records before providing a certificate under clause 18.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 18 subject to the proposed departmental amendments put and agreed to.

**Clause 19 – Treatment with serious consequences: objection from nominated person**

The Committee considered Clause 19 as drafted.

Question: That the Committee is content with Clause 19 put and agreed to.

#### **Clause 20 – Meaning of “treatment with serious consequences”**

The Committee considered Clause 20 as drafted.

Question: That the Committee is content with Clause 20 put and agreed to.

#### **Clause 22 – Resistance etc by P to provision of certain treatment**

The Committee considered proposed Committee amendments which together would require that the prevention of serious harm condition, as set out in clause 21, would have to be met in the event of P resisting the act.

*Agreed:* The Committee agreed its amendments to Clause 22.

Question: That the Committee is content with Clause 22 subject to the proposed Committee amendments put and agreed to.

#### **Clause 21 – Section 19: the prevention of serious harm condition**

The Committee considered a proposed Committee amendment consequential to the proposed Committee amendment to clause 22.

*Agreed:* The Committee agreed its amendment to Clause 21.

Question: That the Committee is content with Clause 21 subject to the proposed Committee amendment put and agreed to.

#### **Clause 23 – Meaning of “subject to an additional measure”**

The Committee considered an amendment proposed by the Department which will include supervision and assessment orders as an “additional measure” for the purpose of the Bill.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 23 subject to the proposed departmental amendment put and agreed to.

#### **Clause 24 – Deprivation of liberty**

The Committee considered Clause 24 as drafted.

Question: That the Committee is content with Clause 24 put and agreed to.

#### **Clause 25 – Section 24: definitions**

The Committee considered Clause 25 as drafted.

Question: That the Committee is content with Clause 25 put and agreed to.

#### **Clause 26 – Taking person to a place for deprivation of liberty**

The Committee considered Clause 26 as drafted.

Question: That the Committee is content with Clause 26 put and agreed to.

**Clause 27 – Permission for absence**

The Committee considered Clause 27 as drafted.

Question: That the Committee is content with Clause 27 put and agreed to.

**Clause 28 – Requirements to attend for certain treatment**

The Committee considered two technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 28 subject to the proposed departmental amendments put and agreed to.

**Clause 29 – Duty to revoke requirement where criteria no longer met**

The Committee considered Clause 29 as drafted.

Question: That the Committee is content with Clause 29 put and agreed to.

**Clause 30 – Community residence requirements: authorisation etc**

The Committee considered Clause 30 as drafted.

Question: That the Committee is content with Clause 30 put and agreed to.

**Clause 31 – Meaning of “community residence requirement”**

The Committee considered two technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 31 subject to the proposed departmental amendments put and agreed to.

**Clause 32 – Duty to revoke community residence requirements where criteria no longer met**

The Committee considered Clause 32 as drafted.

Question: That the Committee is content with Clause 32 put and agreed to.

**Clause 33 – Duties in relation to people subject to community residence requirements**

The Committee considered Clause 33 as drafted.

Question: That the Committee is content with Clause 33 put and agreed to.

**Clause 34- Community residence requirements: further provision**

The Committee considered Clause 34 as drafted.

Question: That the Committee is content with Clause 34 put and agreed to.

**Clause 35 – Independent advocate: need to have in place and consult**

The Committee considered amendments proposed by the Department to change the reference from “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 35 subject to the proposed departmental amendments put and agreed to.

**Clause 36 – Section 35: relevant acts**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 36 subject to the proposed departmental amendment put and agreed to.

**Clause 37 – First extension of period of authorisation**

The Committee considered Clause 37 as drafted.

Question: That the Committee is content with Clause 37 put and agreed to.

**Clause 38 – Subsequent extensions**

The Committee considered Clause 38 as drafted.

Question: That the Committee is content with Clause 38 put and agreed to.

**Clause 39 – Sections 37 and 38: extension reports**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 39 subject to the proposed departmental amendment put and agreed to.

**Clause 40 – Extension of period where responsible person not of the requisite opinion**

The Committee considered Clause 40 as drafted.

Question: That the Committee is content with Clause 40 put and agreed to.

**Clause 41 – Meaning of “measure”, “authorised measure” and “the criteria for continuation”**

The Committee considered Clause 41 as drafted.

Question: That the Committee is content with Clause 41 put and agreed to.

**Clause 42 – Meaning of “the responsible person”**

The Committee considered Clause 42 as drafted.

Question: That the Committee is content with Clause 42 put and agreed to.

**Clause 43 – Extension reports: further provision**

The Committee considered an amendment proposed by the Department to change the reference to “independent advocate” to “independent mental capacity advocate” and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 43 subject to the proposed departmental amendments put and agreed to.

**Clause 44 – Effect of extension on authorisation where authorised measure unused etc.**

The Committee considered Clause 44 as drafted.

Question: That the Committee is content with Clause 44 put and agreed to.

**Clause 45 – Right to apply to Tribunal**

The Committee considered Clause 45 as drafted.

Question: That the Committee is content with Clause 45 put and agreed to.

**Clause 46 – Applications: visiting and examination**

The Committee considered Clause 46 as drafted.

Question: That the Committee is content with Clause 46 put and agreed to.

**Clause 47 – Power of certain persons to refer case to Tribunal**

The Committee considered Clause 47 as drafted.

Question: That the Committee is content with Clause 47 put and agreed to.

**Clause 48 – Duty of HSC trust to refer case to Tribunal**

The Committee considered two technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 48 subject to the proposed departmental amendments put and agreed to.

**New Clause 48A– References etc to Tribunal: persons formally detained under the Mental Health Order**

The Committee considered an amendment proposed by the Department to insert a new clause 48A which deals with persons formally detained under the Mental Health Order and applications to the Tribunal.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 48A put and agreed to.

**Clause 49 – Duty of HSC trust to notify the Attorney General**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 49 subject to the proposed departmental amendment put and agreed to.

**Clause 50 – Powers of Tribunal in relation to authorisation under Schedule 1**

The Committee considered Clause 50 as drafted.

Question: That the Committee is content with Clause 50 put and agreed to.

**Clause 51 – Powers of Tribunal in relation to authorisation under Schedule 2**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 51 subject to the proposed departmental amendment put and agreed to.

**New Clause 51A – Sections 50 and 51: additional powers of Tribunal**

The Committee considered an amendment proposed by the Department to insert a new clause 51A which deals with the additional powers of the Tribunal under sections 50 and 51.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 51A put and agreed to.

**Clause 52 – Medical reports: involvement of nominated person**

The Committee considered an amendment proposed by the Department which will change the reference from “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 52 subject to the proposed departmental amendment put and agreed to.

### **Clause 53 – Medical reports: involvement of independent advocate**

The Committee considered amendments proposed by the Department which will change references from “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 53 subject to the proposed departmental amendments put and agreed to.

### **Clause 54 - Sections 52 and 53: meaning of “emergency”**

The Committee considered an amendment proposed by the Department which will change references from “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 54 subject to the proposed departmental amendment.

### **Clause 55 – Provision of information**

The Committee considered Clause 55 as drafted.

Question: That the Committee is content with Clause 55 put and agreed to.

### **Clause 56 – Ways in which information must be provided**

The Committee considered Clause 56 as drafted.

Question: That the Committee is content with Clause 56 put and agreed to.

### **Clause 57 – Failure by person other than D to take certain steps**

The Committee considered Clause 57 as drafted.

Question: That the Committee is content with Clause 57 put and agreed to.

### **Clause 58 – Part 2 not applicable where other authority for act**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 58 subject to the proposed departmental amendment put and agreed to.

### **New Clause 58A – Power to make further provision**

The Committee considered an amendment proposed by the Department to insert a new clause 58A which is linked to the proposed replacement of clause 288 and will allow it by regulations to modify Part 2 of the Bill in relation to instances when a person is transitioning between being an under 16 and an over 16, and in relation to errors in documents.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 58A put and agreed to.

### **Clause 59 – Disregards of certain detention**

The Committee considered three technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 59 subject to the proposed departmental amendments put and agreed to.

### **Clause 60- “Serious intervention”**

The Committee considered Clause 60 as drafted.

Question: That the Committee is content with Clause 60 put and agreed to.

### **Clause 61 – Acts that are “part of” serious interventions**

The Committee considered Clause 61 as drafted.

Question: That the Committee is content with Clause 61 put and agreed to.

### **Clause 62 – Meaning of “emergency” in relation to safeguard provisions**

The Committee considered Clause 62 as drafted.

Question: That the Committee is content with Clause 62 put and agreed to.

### **Clause 63 – Section 62: definitions etc**

The Committee considered an amendment proposed by the Department which will change the reference from “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 63 subject to the proposed departmental amendment put and agreed to.

**Clause 64 – Failure by persons other than D to take steps to ensure safeguard met**

The Committee considered Clause 64 as drafted.

Question: That the Committee is content with Clause 64 put and agreed to.

**Clause 65 – References to treatment “likely” to be treatment with serious consequences**

The Committee considered Clause 65 as drafted.

The Committee was advised that the Minister intends to oppose the question that clause 65 stand part of the Bill. This is because the definition of what is likely to be treatment with serious consequences will be provided for through an amendment to clause 66.

Question: That the Committee is not content with Clause 65 put and agreed to.

**Clause 66 – Interpretation of Part 2: general**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 66 subject to the proposed departmental amendment put and agreed to.

**Clause 67 – Nominated person**

The Committee considered Clause 67 as drafted.

Question: That the Committee is content with Clause 67 put and agreed to.

**Clause 68 – Appointment of nominated person**

The Committee considered Clause 68 as drafted.

Question: That the Committee is content with Clause 68 put and agreed to.

**Clause 69 – Revocation of appointment**

The Committee considered Clause 69 as drafted.

Question: That the Committee is content with Clause 69 put and agreed to.

**Clause 70 – Resignation**

The Committee considered Clause 70 as drafted.

Question: That the Committee is content with Clause 70 put and agreed to.

**Clause 71 – Default nominated person**

The Committee considered Clause 71 as drafted.

Question: That the Committee is content with Clause 71 put and agreed to.

**Clause 72 – Section 71: the list**

The Committee considered Clause 72 as drafted.

Question: That the Committee is content with Clause 72 put and agreed to.

**Clause 73 – Section 71: persons to be disregarded**

The Committee considered Clause 73 as drafted.

Question: That the Committee is content with Clause 73 put and agreed to.

**Clause 74 – Section 71: meaning of “carer”**

The Committee considered Clause 74 as drafted.

Question: That the Committee is content with Clause 74 put and agreed to.

**Clause 75 – Declaration that particular person not to be nominated person**

The Committee considered Clause 75 as drafted.

Question: That the Committee is content with Clause 75 put and agreed to.

**Clause 76 – Notice declining to be a person’s nominated person**

The Committee considered Clause 76 as drafted.

Question: That the Committee is content with Clause 76 put and agreed to.

**Clause 77 – Formalities for documents under Part 3**

The Committee considered an amendment proposed by the Department which will clarify the nature of information that may be disclosed to the nominated person and to align the language used in the Bill with the Data Protection Act 1998.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 77 subject to the proposed departmental amendment put and agreed to.

**Clause 78 – Application to Tribunal for appointment of nominated person**

The Committee considered an amendment proposed by the Department which will insert a reference to an attorney under an enduring power of attorney in the list of qualifying persons who may apply to the Tribunal for appointment of a nominated person, and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 78 subject to the proposed departmental amendments.

**Clause 79 – Tribunal’s power to appoint nominated person**

The Committee considered Clause 79 as drafted.

Question: That the Committee is content with Clause 79 put and agreed to.

**Clause 80 – Tribunal’s power to disqualify person from being default nominated person**

The Committee considered Clause 80 as drafted.

Question: That the Committee is content with Clause 80 put and agreed to.

**Clause 81 – Revocation of Tribunals’ appointment where P regains capacity**

The Committee considered Clause 81 as drafted.

Question: That the Committee is content with Clause 81 put and agreed to.

**Clause 82 – Duties in relation to nominated person: supplementary**

The Committee considered Clause 82 as drafted.

Question: That the Committee is content with Clause 82 put and agreed to.

**Clause 83 – Determining who is nominated person**

The Committee considered Clause 83 as drafted.

Question: That the Committee is content with Clause 83 put and agreed to.

**Clause 84 – Independent advocates**

The Committee considered an amendment proposed by the Department which will leave out the words “so far as practicable” which will strengthen the principle that HSC Trusts must have regard to when commissioning and instructing an advocate for the purposes of the Bill and amendments to change reference to “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 84 subject to the proposed departmental amendments put and agreed to.

**Clause 85 – Functions of independent advocates: provision of support etc**

The Committee considered four amendments proposed by the Department which will change references from “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 85 subject to the proposed departmental amendments put and agreed to.

#### **Clause 86 – Request for independent advocates to be instructed**

The Committee considered two amendments proposed by the Department to change references from “independent advocate” to “independent mental capacity advocate” and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 86 subject to the proposed departmental amendments put and agreed to.

**Clause 87 – Steps to be taken before independent advocate may be required**  
The Committee considered an amendment proposed by the Department to clarify the nature of information that may be disclosed to an independent advocate and aligns the language used in the Bill with the Data Protection Act 1998, and four amendments to change references from “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 87 subject to the proposed departmental amendments put and agreed to.

#### **Clause 88 – Right to declare that no independent advocated to be instructed**

The Committee considered two amendments proposed by the Department to change references from “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 88 subject to the proposed departmental amendments put and agreed to.

#### **Clause 89 – Instruction of independent advocate**

The Committee considered two amendments proposed by the Department to change references from “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 89 subject to the proposed departmental amendments put and agreed to.

### **Clause 90 – Powers of independent advocates**

The Committee considered five amendments proposed by the Department to change references from “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 90 subject to the proposed departmental amendments put and agreed to.

### **Clause 91 – Right of person to discontinue involvement of independent advocate**

The Committee considered three amendments proposed by the Department to change references from “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 91 subject to the proposed departmental amendments put and agreed to.

### **Clause 92 – Continuing duty of trust in relation to independent advocate**

The Committee considered three amendments proposed by the Department to change references from “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 92 subject to the proposed departmental amendments put and agreed to.

### **Clause 93 – Formalities for declarations under Part 4**

The Committee considered Clause 93 as drafted.

Question: That the Committee is content with Clause 93 put and agreed to.

### **Clause 94 – Power to adjust role of independent advocate**

The Committee considered five amendments proposed by the Department to change references from “independent advocate” to “independent mental capacity advocate”.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 94 subject to the proposed departmental amendments put and agreed to.

**Clause 95 – Lasting powers of attorney**

The Committee considered Clause 95 as drafted.

Question: That the Committee is content with Clause 95 put and agreed to.

**Clause 96 – Restrictions on scope of lasting power of attorney**

The Committee considered Clause 96 as drafted.

Question: That the Committee is content with Clause 96 put and agreed to.

**Clause 97 – Relationships between advance decisions and lasting powers of attorney**

The Committee considered Clause 97 as drafted.

Question: That the Committee is content with Clause 97 put and agreed to.

**Clause 98 – Scope of lasting powers of attorney: gifts**

The Committee considered Clause 98 as drafted.

Question: That the Committee is content with Clause 98 put and agreed to.

**Clause 99 – Appointment of attorneys: requirements as respects attorneys**

The Committee considered Clause 99 as drafted.

Question: That the Committee is content with Clause 99 put and agreed to.

**Clause 100 – Appointment of two or more attorneys**

The Committee considered Clause 100 as drafted.

Question: That the Committee is content with Clause 100 put and agreed to.

**Clause 101 – Appointment of replacement attorneys**

The Committee considered Clause 101 as drafted.

Question: That the Committee is content with Clause 101 put and agreed to.

**Clause 102 – Appointment of two or more replacements for a single initial appointee**

The Committee considered Clause 102 as drafted.

Question: That the Committee is content with Clause 102 put and agreed.

**Clause 103 – Replacement attorneys: position where two or more initial appointees**

The Committee considered Clause 103 as drafted.

Question: That the Committee is content with Clause 103 put and agreed to.

**Clause 104 – Revocation of lasting power etc by donor or on donor's bankruptcy**

The Committee considered Clause 104 as drafted.

Question: That the Committee is content with Clause 104 put and agreed to.

**Clause 105 – Revocation etc: events relating to the attorney**

The Committee considered Clause 105 as drafted.

Question: That the Committee is content with Clause 105 put and agreed to.

**Clause 106 – Protection of attorney and others if no power created or power revoked**

The Committee considered Clause 106 as drafted.

Question: That the Committee is content with Clause 106 put and agreed to.

**Clause 107 – Reliance on authority of attorney in relation to treatment etc**

The Committee considered Clause 107 as drafted.

Question: That the Committee is content with Clause 107 put and agreed to.

**Clause 108 – Powers of court as to lasting powers of attorney**

The Committee considered Clause 108 as drafted.

Question: That the Committee is content with Clause 108 put and agreed to.

**Clause 109 – Powers of court as to operation of lasting powers of attorney**

The Committee considered Clause 109 as drafted.

Question: That the Committee is content with Clause 109 put and agreed to.

**Clause 110 – Enduring powers of attorney**

The Committee considered Clause 110 as drafted.

Question: That the Committee is not content with Clause 110 put and agreed to.

Question: That the Committee register opposition to Clause 110 with the Bill Office put and agreed to.

**Clause 111 – The court's power to make declarations**

The Committee considered Clause 111 as drafted.

Question: That the Committee is content with Clause 111 put and agreed to.

**Clause 112 – the court’s power to make decisions and appoint deputies: general**

The Committee considered Clause 112 as drafted.

Question: That the Committee is content with Clause 112 put and agreed to.

**Clause 113 – Section 112 powers: care, treatment and personal welfare**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 113 subject to the proposed departmental amendment put and agreed to.

**Clause 114 – Section 112 powers: property and affairs**

The Committee considered Clause 114 as drafted.

Question: That the Committee is content with Clause 114 put and agreed to.

**Clause 115 – Appointment of deputies**

The Committee considered two technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 115 subject to the proposed departmental amendments put and agreed to.

**Clause 116 – Restrictions on deputies**

The Committee considered an amendment proposed by the Department which will ensure that a deputy may not be given a power to make a decision on behalf of P that is inconsistent with a decision made by an attorney under an enduring power of attorney.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 116 subject to the proposed departmental amendment put and agreed to.

**Clause 117 – Reliance on authority of deputy in relation to treatment etc**

The Committee considered Clause 117 as drafted.

Question: That the Committee is content with Clause 117 put and agreed to.

#### **Clause 118 – Interim orders and directions**

The Committee considered Clause 118 as drafted.

Question: That the Committee is content with Clause 118 put and agreed to.

#### **Clause 119 – Power to call for reports**

The Committee considered Clause 119 as drafted.

Question: That the Committee is content with Clause 119 put and agreed to.

#### **Clause 120 – Powers of Public Guardian or Court Visitor in respect of reports under section 119(2)**

The Committee considered Clause 120 as drafted.

Question: That the Committee is content with Clause 120 put and agreed to.

#### **Clause 121 – Applications to the court**

The Committee considered an amendment proposed by the Department which will ensure that the donor of, or an attorney under, an enduring power of attorney can apply to the court under Part 6 without leave, and three technical amendments.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 121 subject to the proposed departmental amendments.

#### **New Clause 121A – Duty to notify Attorney General**

The Committee considered an amendment proposed by the Department to insert new Clause 121A which creates a duty to notify the Attorney General of applications to the High Court under Part 6 of the Bill.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 121A put and agreed to.

#### **Clause 122 – Rules of court**

The Committee considered four technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 122 subject to the proposed departmental amendments put and agreed to.

### **Clause 123 – The Public Guardian**

The Committee considered Clause 123 as drafted.

Question: That the Committee is content with Clause 123 put and agreed to.

### **Clause 124 – Functions of the Public Guardian**

The Committee considered Clause 124 as drafted.

Question: That the Committee is content with Clause 124 put and agreed to.

### **Clause 125 – Further powers of the Public Guardian**

The Committee considered an amendment proposed by the Department which will ensure that all providers of care in Northern Ireland would be covered by the clause.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 125 subject to the proposed departmental amendment put and agreed to.

### **Clause 126 – Duty to notify the Public Guardian**

The Committee considered Clause 126 as drafted.

Question: That the Committee is content with Clause 126 put and agreed to.

### **Clause 127 – Notifications under section 126: procedure and effect**

The Committee considered three technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 127 subject to the proposed departmental amendments.

### **Clause 128 – Court Visitors**

The Committee considered Clause 128 as drafted.

Question: That the Committee is content with Clause 128 put and agreed to.

### **Clause 129 – Powers of Court Visitors**

The Committee considered Clause 129 as drafted.

Question: That the Committee is content with Clause 129 put and agreed to.

### **Clause 130 – Research**

The Committee considered Clause 130 as drafted.

Question: That the Committee is content with Clause 130 put and agreed to.

### **Clause 131 – Section 130: supplementary**

The Committee considered an amendment proposed by the Department which will require the designation of any other regulations relating to clinical trials that are not to be treated as research for the purpose of Part 8, to be done by regulations subject to negative resolution.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 131 subject to the proposed departmental amendment put and agreed to.

### **Clause 132 – Approval of research projects**

The Committee considered Clause 132 as drafted.

Question: That the Committee is content with Clause 132 put and agreed to.

### **Clause 133 – Requirement to consult nominated person, carer etc**

The Committee considered an amendment proposed by the Department which will make reference to an attorney under an enduring power of attorney in the list of people who can be consulted about P's involvement in a research project.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 133 subject to the proposed departmental amendment put and agreed to.

### **Clause 134 – Section 133: exception for urgent treatment**

The Committee considered Clause 134 as drafted.

Question: That the Committee is content with Clause 134 put and agreed to.

### **Clause 135 – Additional safeguards**

The Committee considered Clause 135 as drafted.

Question: That the Committee is content with Clause 135 put and agreed to.

### **Clause 136 – Loss of capacity during research project: transitional cases**

The Committee considered Clause 136 as drafted.

Question: That the Committee is content with Clause 136 put and agreed to.

### **Clause 137 – Power of police to remove person from public place to place of safety**

The Committee considered two amendments proposed by the Department which will amend the clause to clarify that the potential of the individual to create a risk of serious “physical or psychological harm” to himself must be considered.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 137 subject to the proposed departmental amendments put and agreed to.

### **Clause 138 – Information to be given on removal**

The Committee considered Clause 138 as drafted.

Question: That the Committee is content with Clause 138 put and agreed to.

### **Clause 139 – Search of person on exercise of power to remove**

The Committee considered two technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 139 subject to the proposed departmental amendments put and agreed to.

### **Clause 140 – Power of police to detain in hospital a person removed from a public place**

The Committee considered Clause 140 as drafted.

Question: That the Committee is content with Clause 140 put and agreed to.

### **Clause 141 – Power to detain in police station a person removed from a public place**

The Committee considered an amendment proposed by the Department which will clarify that the potential of the individual to create a risk of serious “physical or psychological harm” to himself must be considered.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 141 subject to the proposed departmental amendment put and agreed to.

### **Clause 142 – Sections 140 and 141: the detention conditions**

The Committee considered two amendments proposed by the Department which will clarify that the potential of the individual to create a risk of serious “physical or psychological harm” to himself must be considered.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 142 subject to the proposed departmental amendments put and agreed to.

**Clause 143 – Transfer from one place of safety to another**

The Committee considered two amendments proposed by the Department which will clarify that the potential of the individual to create a risk of serious “physical or psychological harm” to himself must be considered.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 143 subject to the proposed departmental amendments put and agreed it.

**Clause 144 – Maximum period of detention under Part 9**

The Committee considered Clause 144 as drafted.

Question: That the Committee is content with Clause 144 put and agreed to.

**Clause 145 – Duty to inform certain persons where power of removal or transfer used**

The Committee considered eleven technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 145 subject to the proposed departmental amendments put and agreed to.

**Clause 146 – Section 145: meaning of “the required information”**

The Committee considered nine technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 146 subject to the proposed departmental amendments put and agreed to.

**Clause 147 – Record of detention to be kept**

The Committee considered Clause 147 as drafted.

Question: That the Committee is content with Clause 147 put and agreed to.

**Clause 148 – Responsibilities of the appropriate officer**

The Committee considered Clause 148 as drafted.

Question: That the Committee is content with Clause 148 put and agreed to.

#### **Clause 149 – Review of detention**

The Committee considered Clause 149 as drafted.

Question: That the Committee is content with Clause 149 put and agreed to.

#### **Clause 150 – Access to legal advice**

The Committee considered Clause 150 as drafted.

Question: That the Committee is content with Clause 150 put and agreed to.

#### **Clause 151 – Searches of person following removal of place of safety**

The Committee considered Clause 151 as drafted.

Question: That the Committee is content with Clause 151 put and agreed to.

#### **Clause 152 – Searches and examination to ascertain identity**

The Committee considered Clause 152 as drafted.

Question: That the Committee is content with Clause 152 put and agreed to.

#### **Clause 153 – Intimate searches**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 153 subject to the proposed departmental amendment put and agreed to.

#### **Clause 154 – Annual records**

The Committee considered proposed Committee amendments which together will require that separate statistics are collected for young people detained in hospital and police stations under these powers, and their ultimate disposal.

*Agreed:* The Committee agreed its amendments to Clause 154.

Question: That the Committee is content with Clause 154 subject to the proposed Committee amendments put and agreed to.

#### **Clause 155 – Principles applying for purposes of Part 9**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 155 subject to the proposed departmental amendment put and agreed to.

#### **Clause 156 – Reasonable belief etc**

The Committee considered Clause 156 as drafted.

Question: That the Committee is content with Clause 156 put and agreed to.

**Clause 157 – Power of constable to use reasonable force**

The Committee considered Clause 157 as drafted.

Question: That the Committee is content with Clause 157 put and agreed to.

**Clause 158 – Definitions for purposes of Part 9**

The Committee considered a consequential amendment proposed by the Department linked to the amendment to Clause 5.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 158 subject to the proposed departmental amendment put and agreed to.

**Clause 159 – Relationship of Part 9 to other provisions**

The Committee considered Clause 159 as drafted.

Question: That the Committee is content with Clause 159 put and agreed to.

**Clause 160 – Remand to hospital**

The Committee considered Clause 160 as drafted.

Question: That the Committee is content with Clause 160 put and agreed to.

**Clause 161 – Section 160: meaning of “accused person”**

The Committee considered Clause 161 as drafted.

Question: That the Committee is content with Clause 161 put and agreed to.

**Clause 162 – Section 160: the medical report condition**

The Committee considered Clause 162 as drafted.

Question: That the Committee is content with Clause 162 put and agreed to.

**Clause 163 – Section 160 – the treatment condition**

The Committee considered an amendment proposed by the Department to clarify that the potential of the individual to create a risk of serious “physical or psychological harm” to himself must be considered, and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 163 subject to the proposed departmental amendments put and agreed to.

**Clause 164 – Effect of remand to hospital**

The Committee considered Clause 164 as drafted.

Question: That the Committee is content with Clause 164 put and agreed to.

**Clause 165 – Public protection orders with and without restrictions**

The Committee considered Clause 165 as drafted.

Question: That the Committee is content with Clause 165 put and agreed to.

**Clause 166 – Section 165: the detention conditions**

The Committee considered two amendments proposed by the Department which will ensure that the potential of the individual to create a risk or serious psychological harm to others would also be considered, and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 166 subject to the proposed departmental amendments put and agreed to.

**Clause 167 – Section 165: the restriction condition**

The Committee considered two amendments proposed by the Department so that the potential of the individual to create a risk of serious physical or psychological harm to other persons must be considered.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 167 subject to the proposed departmental amendments put and agreed to.

**Clause 168 – Further provision about making of public protection orders**

The Committee considered Clause 168 as drafted.

Question: That the Committee is content with Clause 168 put and agreed to.

**Clause 169 – Effect of public protection orders**

The Committee considered Clause 169 as drafted.

Question: That the Committee is content with Clause 169 put and agreed to.

**Clause 170 – Power to direct the ending of restrictions under a public protection order**

The Committee considered an amendment proposed by the Department so that the potential of the individual to create a risk of serious physical or psychological harm to other persons must be considered.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 170 subject to the proposed departmental amendment put and agreed to.

**Clause 171 – Effect of ending of restrictions under a public protection order**

The Committee considered Clause 171 as drafted.

Question: That the Committee is content with Clause 171 put and agreed to.

**Clause 172 – Hospital direction when passing custodial sentence**

The Committee considered Clause 172 as drafted.

Question: That the Committee is content with Clause 172 put and agreed to.

**Clause 173 – Conditions for giving hospital direction**

The Committee considered an amendment proposed by the Department so that the potential of the individual to create a serious risk of physical or psychological harm to other persons must be considered, and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 173 subject to the proposed departmental amendments put and agreed to.

**Clause 174 – Effect of hospital directions**

The Committee considered Clause 174 as drafted.

Question: That the Committee is content with Clause 174 put and agreed to.

**Clause 175 – Interim detention orders**

The Committee considered Clause 175 as drafted.

Question: That the Committee is content with Clause 175 put and agreed to.

**Clause 176 – Effect of interim detention orders**

The Committee considered Clause 176 as drafted.

Question: That the Committee is content with Clause 176 put and agreed to.

**Clause 177 – Detention under a public protection order without restrictions**

The Committee considered Clause 177 as drafted.

Question: That the Committee is content with Clause 177 put and agreed to.

**Clause 178 – Discharge from detention by responsible medical practitioner**

The Committee considered an amendment proposed by the Department so that the potential of the individual to create a serious risk of physical or psychological harm to other persons must be considered.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 178 subject to the proposed departmental amendment put and agreed to.

#### **Clause 179 – First extension of period of order**

The Committee considered Clause 179 as drafted.

Question: That the Committee is content with Clause 179 put and agreed to.

#### **Clause 180 – Subsequent extensions**

The Committee considered Clause 180 as drafted.

Question: That the Committee is content with Clause 180 put and agreed to.

#### **Clause 181 – Sections 179 and 180: extension reports**

The Committee considered Clause 181 as drafted.

Question: That the Committee is content with Clause 181 put and agreed to.

#### **Clause 182 – Extension of period where responsible person not of the requisite opinion**

The Committee considered Clause 182 as drafted.

Question: That the Committee is content with Clause 182 put and agreed to.

#### **Clause 183 – The criteria for continuation**

The Committee considered an amendment proposed by the Department so that the potential of the individual to create a serious risk of physical or psychological harm to other persons must be considered.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 183 subject to the proposed departmental amendment put and agreed to.

#### **Clause 184 – Extension reports: further provision**

The Committee considered Clause 184 as drafted.

Question: That the Committee is content with Clause 184 put and agreed to.

#### **Clause 185 – Permission for absence**

The Committee considered Clause 185 as drafted.

Question: That the Committee is content with Clause 185 put and agreed to.

**Clause 186 – Transfers between hospitals etc**

The Committee considered Clause 186 as drafted.

Question: That the Committee is content with Clause 186 put and agreed to.

**Clause 187 – Effect of custodial sentence**

The Committee considered Clause 187 as drafted.

Question: That the Committee is content with Clause 187 put and agreed to.

**Clause 188 – Detention under a public protection order with restrictions**

The Committee considered Clause 188 as drafted.

Question: That the Committee is content with Clause 188 put and agreed to.

**Clause 189 – Discharge from detention by Department of Justice**

The Committee considered Clause 189 as drafted.

Question: That the Committee is content with Clause 189 put and agreed to.

**Clause 190 – Power to recall person who has been conditionally discharged**

The Committee considered an amendment proposed by the Department so that the potential of the individual to create a serious risk of physical or psychological harm to other persons must be considered.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 190 subject to the proposed departmental amendment put and agreed to.

**Clause 191 – Reports by responsible medical practitioner**

The Committee considered Clause 191 as drafted.

Question: That the Committee is content with Clause 191 put and agreed to.

**Clause 192 – Direction for person to attend for purposes of justice etc**

The Committee considered Clause 192 as drafted.

Question: That the Committee is content with Clause 192 put and agreed to.

**Clause 193 – Permission for absence**

The Committee considered Clause 193 as drafted.

Question: That the Committee is content with Clause 193 put and agreed to.

### **Clause 194 – Transfers between hospitals etc**

The Committee considered Clause 194 as drafted.

Question: That the Committee is content with Clause 194 put and agreed to.

### **Clause 195 – Detention under a hospital direction**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 195 subject to the proposed departmental amendment put and agreed to.

### **Clause 196 – Transfer to prison etc of person detained in hospital under a hospital direction**

The Committee considered amendments proposed by the Department which will impose a duty on, rather than grant a power to, the DoJ, to direct that a prisoner be returned from hospital if that prisoner can no longer be detained in hospital; clarify that the potential of the individual to create a risk of serious physical or psychological harm to himself must be considered; and technical amendments.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 196 subject to the proposed departmental amendments put and agreed to.

### **Clause 197 – Section 196: meaning of “release date”**

The Committee considered Clause 197 as drafted.

Question: That the Committee is content with Clause 197 put and agreed to.

### **Clause 198 – Duties and powers to release from detention**

The Committee considered an amendment proposed by the Department which will clarify that the right to apply to, and the powers of, the Sentence Review Commissioners apply to that individual.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 198 subject to the proposed departmental amendment put and agreed to.

### **Clause 199 – Reports by responsible medical practitioner**

The Committee considered Clause 199 as drafted.

Question: That the Committee is content with Clause 199 put and agreed to.

### **Clause 200 – Permission for absence etc**

The Committee considered Clause 200 as drafted.

Question: That the Committee is content with Clause 200 put and agreed to.

**Clause 201 – Transfers between hospitals**

The Committee considered Clause 201 as drafted.

Question: That the Committee is content with Clause 201 put and agreed to.

**Clause 202 – Procedure where question of fitness to be tried arises**

The Committee considered Clause 202 as drafted.

Question: That the Committee is content with Clause 202 put and agreed to.

**Clause 203 – Finding that the accused did the act or made the omission charged**

The Committee considered Clause 203 as drafted.

Question: That the Committee is content with Clause 203 put and agreed to.

**Clause 204 – Procedure in relation to finding of insanity**

The Committee considered Clause 204 as drafted.

Question: That the Committee is content with Clause 204 put and agreed to.

**Clause 205 – Powers to deal with person unfit to be tried or not guilty by reason of insanity**

The Committee considered four amendments proposed by the Department to reflect the decision to rename “Supervision and Treatment orders” as “Supervision and Assessment Orders” and to take account of new Schedule 7A which provides for these Orders, rather than them being dealt with through regulations.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 205 subject to the proposed departmental amendments put and agreed to.

**Clause 206 – Remission for trial where person no longer unfit to be tried**

The Committee considered two amendments proposed by the Department which will reflect the decision to rename “Supervision and Treatment orders” as “Supervision and Assessment Orders”.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 206 subject to the proposed departmental amendments put and agreed to.

**Clause 207 – Power to make order where the accused did the act or made the omission charged**

The Committee considered Clause 207 as drafted.

Question: That the Committee is content with Clause 207 put and agreed to.

**New Clause 207A – Power to make restraining order following finding of unfitness to plead etc**

The Committee considered an amendment proposed by the Department to insert new Clause 207A deals with the power to make a restraining order following a finding of unfitness to plead.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 207A put and agreed to.

**Clause 208 – Power to transfer person serving custodial sentence etc to hospital**

The Committee considered Clause 208 as drafted.

Question: That the Committee is content with Clause 208 put and agreed to.

**Clause 209 – Conditions for transfer under section 208**

The Committee considered an amendment proposed by the Department which will clarify that the potential of the individual to create a risk of serious physical or psychological harm to himself must be considered, and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 209 subject to the proposed departmental amendments put and agreed to.

**Clause 210 – Effect of transfer under section 208**

The Committee considered Clause 210 as drafted.

Question: That the Committee is content with Clause 210 put and agreed to.

**Clause 211 – Transfer of civil prisoner or immigration detained to hospital**

The Committee considered Clause 211 as drafted.

Question: That the Committee is content with Clause 211 put and agreed to.

**Clause 212 – Detention in hospital on removal under section 211**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: The Committee is content with Clause 212 subject to the proposed departmental amendment put and agreed to.

**Clause 213 – Duration of direction under section 211**

The Committee considered amendments to impose a duty on, rather than grant a power to, the DOJ, to direct that a prisoner be returned from hospital if that prisoner can no longer be detained in hospital; to clarify that the potential of the individual to create a risk of serious physical or psychological harm to himself must be considered; and five technical amendments.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 213 subject to the proposed departmental amendments put and agreed to.

**Clause 214 – Transfer to hospital of person remanded by magistrates’ court**

The Committee considered Clause 214 as drafted.

Question: That the Committee is content with Clause 214 put and agreed to.

**Clause 215 – Detention in hospital on removal under section 214**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 215 subject to the proposed departmental amendment put and agreed to.

**Clause 216 – Duration of direction under section 214**

The Committee considered an amendment proposed by the Department which will clarify that the potential of the individual to create a risk of serious physical or psychological harm to himself must be considered, and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 216 subject to the proposed departmental amendments put and agreed to.

**Clause 217 – Transfer of certain other detainees to hospital**

The Committee considered Clause 217 as drafted.

Question: That the Committee is content with Clause 217 put and agreed to.

**Clause 218 – Detention in hospital on removal under section 217**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 218 subject to the proposed departmental amendment put and agreed.

**Clause 219 – Duration of direction under section 217**

The Committee considered amendments to impose a duty on, rather than grant a power to, the DoJ, to direct that a prisoner be returned from hospital if that

prisoner can no longer be detained in hospital; to clarify that the potential of the individual to create a risk of serious physical or psychological harm to himself must be considered, and four technical amendments.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 219 subject to the proposed departmental amendments put and agreed to.

#### **Clause 220 – Conditions for transfer to hospital under section 211, 214 or 217**

The Committee considered an amendment to clarify that the potential of the individual to create a risk of serious physical or psychological harm to himself must be considered, and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 220 subject to the proposed departmental amendments put and agreed to.

#### **Clause 221 – General provisions about hospital transfer directions**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 221 subject to the proposed departmental amendment put and agreed to.

#### **Clause 222 – Right to apply to Tribunal**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 222 subject to the proposed departmental amendment put and agreed to.

#### **Clause 223 – Meaning of “a qualifying person”**

The Committee considered Clause 223 as drafted.

Question: That the Committee is content with Clause 223 put and agreed to.

#### **Clause 224 – Applications: visiting and examination**

The Committee considered Clause 224 as drafted.

Question: That the Committee is content with Clause 224 put and agreed to.

#### **Clause 225 – Power of certain persons to refer case to Tribunal**

The Committee considered Clause 225 as drafted.

Question: That the Committee is content with Clause 225 put and agreed to.

#### **Clause 226 – Duty of HSC trust to refer case to Tribunal**

The Committee considered four technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 226 subject to the proposed departmental amendments put and agreed to.

#### **Clause 227 – Duty to notify the Attorney General**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 227 subject to the proposed departmental amendment put and agreed to.

#### **Clause 228 – Powers of Tribunal as to public protection order without restrictions**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: The Committee is content with Clause 228 subject to the proposed departmental amendment put and agreed to.

#### **Clause 229 – Powers of Tribunal as to public protection order with restrictions**

The Committee considered Clause 229 as drafted.

Question: That the Committee is content with Clause 229 put and agreed to.

#### **Clause 230 – Sections 228 and 229: the prevention of serious harm condition**

The Committee considered an amendment proposed by the Department so that the potential of the individual to create a risk of serious psychological harm to other persons must also be considered in addition to serious physical harm.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 230 subject to the proposed departmental amendment put and agreed to.

#### **New Clause 230A – Sections 228 and 229: additional powers of Tribunal etc**

The Committee considered an amendment proposed by the Department to insert new Clause 230A which deals with the powers of the Tribunal under sections 228 and 229, which will allow the Tribunal to recommend the taking of specific

actions and to allow it to further consider the case in the event that the recommendations are not complied with.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 230A put and agreed to.

### **Clause 231 – Effect of conditional discharge**

The Committee considered Clause 231 as drafted.

Question: That the Committee is content with Clause 231 put and agreed to.

### **Clause 232 – Applications and reference to Tribunal where person recalled**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 232 subject to the proposed departmental amendment put and agreed to.

### **Clause 233 – Application to Tribunal where person has not been recalled**

The Committee considered Clause 233 as drafted.

Question: That the Committee is content with Clause 233 put and agreed to.

### **Clause 234 – Powers of Tribunal as to hospital directions and hospital transfer directions**

The Committee considered an amendment proposed by the Department to clarify that the potential of the individual to create a risk of serious physical or psychological harm to himself must be considered, and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 234 subject to the proposed departmental amendments put and agreed to.

### **New Clause 234A – additional powers of Tribunal**

The Committee considered an amendment from the Department to insert new Clause 234A which deals with additional powers of the Tribunal under section 234, which will allow the Tribunal to recommend the taking of specific actions and to allow it to further consider the case in the event that the recommendations are not complied with.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 234A put and agreed to.

**Clause 235 – Section 234: procedure where prevention of serious harm condition is not met**

The Committee considered Clause 235 as drafted.

Question: That the Committee is content with Clause 235 put and agreed to.

**Clause 236 – Provision of information**

The Committee considered Clause 236 as drafted.

Question: That the Committee is content with Clause 236 put and agreed to.

**Clause 237 – Ways in which information must be provided**

The Committee considered Clause 237 as drafted.

Question: That the Committee is content with Clause 237 put and agreed to.

**Clause 238 – Section 22 may apply to person detained under Part 10**

The Committee considered Clause 238 as drafted.

Question: That the Committee is content with Clause 238 put and agreed to.

**Clause 239 – Absence without permission**

The Committee considered Clause 239 as drafted.

Question: That the Committee is content with Clause 239 put and agreed to.

**Clause 240 – Effect of court order or direction on previous authority for hospital detention**

The Committee considered Clause 240 as drafted.

Question: That the Committee is content with Clause 240 put and agreed to.

**Clause 241 – Appeals: general**

The Committee considered an amendment proposed by the Department to reflect the decision to rename “Supervision and Treatment Orders” as “Supervision and Assessment Orders”.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 241 subject to the proposed departmental amendment.

**Clause 242 – Appeals against orders made on finding of unfitness to plead etc**

The Committee considered an amendment proposed by the Department to reflect the decision to rename “Supervision and Treatment Orders” as “Supervision and Assessment Orders”.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 242 subject to the proposed departmental amendment put and agreed to.

#### **New Clause 242A – Hospital directions: case stated by magistrates’ courts**

The Committee considered an amendment proposed by the Department to insert a new clause 242A to deal with hospital directions in cases stated by the magistrates’ court. It will allow for an appeal to be made against a hospital direction that is made by a magistrates’ court.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 242A put and agreed to.

#### **Clause 243 – Requirements as to written evidence**

The Committee considered Clause 243 as drafted.

Question: That the Committee is content with Clause 243 put and agreed to.

#### **Clause 244 – Interpretation of part 10: children**

The Committee considered Clause 244 as drafted.

Question: That the Committee is content with Clause 244 put and agreed to.

#### **Clause 245 – Interpretation of Part 10: impairment of or disturbance in the functioning**

The Committee considered Clause 245 as drafted.

Question: That the Committee is content with Clause 245 put and agreed to.

#### **Clause 246 – Interpretation of Part 10: references to disorder**

The Committee considered Clause 246 as drafted.

Question: That the Committee is content with Clause 246 put and agreed to.

#### **Clause 247 – Interpretation of Part 10: general**

The Committee considered an amendment proposed by the Department to rename “Supervision and Treatment orders” as “Supervision and Assessment Orders” and to take account of new Schedule 7A which provides for these orders; and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 247 subject to the proposed departmental amendments.

### **New Clause 249A – Removal of certain persons detained under Part 10 to England or Wales**

The Committee considered an amendment proposed by the Department to insert a new clause 249A which deals with the removal of certain persons detained under Part 10 to England or Wales.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 249A put and agreed to.

### **New Clause 249B - Removal of certain persons detained under Part 10 to Scotland**

The Committee considered an amendment proposed by the Department to insert a new Clause 249B which deals with the removal of certain persons detained under Part 10 to Scotland.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 249B put and agreed to.

### **Clause 250 – Persons removed from England or Wales to Northern Ireland**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 250 subject to the proposed departmental amendment put and agreed to.

### **Clause 251 – Persons removed from Scotland to Northern Ireland**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 251 subject to the proposed departmental amendment put and agreed to.

### **New Clause 251A – Persons to be detained under Part 10 after removal from England and Wales**

The Committee considered an amendment proposed by the Department to insert a new Clause 251A which deals with persons to be detained under Part 10 after removal from England or Wales.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 251A put and agreed to.

### **New Clause 251B - Persons to be detained under Part 10 after removal from Scotland**

The Committee considered an amendment proposed by the Department to insert a new Clause 251B which deals with person to be detained under Part 10 after removal from Scotland.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 251B put and agreed to.

**Clause 252 – Removal from Northern Ireland: power to make further provision**

The Committee considered an amendment proposed by the Department which will replace the text of Clause 252 entirely to take account of the insertion of new powers in relation to Part 10 transfers from Northern Ireland.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 252 subject to the proposed departmental amendment put and agreed to.

**Clause 248 – Removal of detained persons from Northern Ireland to England or Wales**

The Committee considered an amendment proposed by the Department which is as a consequence of the proposed amendments to Clause 252, and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 248 subject to the proposed departmental amendments put and agreed to.

**Clause 249 – Removal of detained persons from Northern Ireland to Scotland**

The Committee considered an amendment proposed by the Department which is as a consequence of the proposed amendments to Clause 252, and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 249 subject to the proposed departmental amendments put and agreed to.

**Clause 253 – Persons transferred to Northern Ireland: power to make further provision**

The Committee considered an amendment proposed by the Department which replaces the text of Clause 253 entirely due to the insertion of new powers in relation to Part 10 transfers to Northern Ireland created through the new Clauses 251A and 251B.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 253 subject to the proposed departmental amendment.

#### **New Clause 253A – Interpretation of Part 11**

The Committee considered an amendment proposed by the Department to insert a new Clause 253A which deals with the interpretation of Part 11 and provides definitions of certain terms.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 253A put and agreed to.

#### **Clause 254 – In-patients under 18: duties of hospital managers**

The Committee considered Clause 254 as drafted.

Question: That the Committee is content with Clause 254 put and agreed to.

#### **Clause 255 – Amendments of Mental Health Order: children etc**

The Committee considered Clause 255 as drafted.

Question: That the Committee is content with Clause 255 as drafted.

#### **Clause 256 – Ill-treatment or neglect**

The Committee considered amendments proposed by the Department which will extend the application of the offence to individuals detained under Parts 9 or 10 of the Bill; to insert a reference to an attorney under an EPA in the list of people by whom the offence could be committed; and to ensure alignment with the consent requirements for the equivalent offence under the Mental Health Order and minimise the potential for vexatious prosecutions.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 256 subject to the proposed departmental amendments put and agreed to.

#### **Clause 257 – Forgery, false statements etc**

The Committee considered Clause 257 as drafted.

Question: That the Committee is content with Clause 257 put and agreed to.

#### **Clause 258 – Unlawful detention of persons lacking capacity etc**

The Committee considered amendments proposed by the Department which will extend the application of the offence to individuals detained under Parts 9 or 10 of the Bill; to ensure alignment with consent requirements for the equivalent offence under the Mental Health Order and minimise the potential for vexatious prosecutions; and to clarify that the offence does not interfere with the common law offence of false imprisonment; and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 258 subject to the proposed departmental amendments put and agreed to.

#### **Clause 259 – Assisting person to breach community residence requirement**

The Committee considered an amendment proposed by the Department so that a person can only be found guilty under this clause if they know that the person they are assisting is liable to be detained under the Bill.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 259 subject to the proposed departmental amendment put and agreed to.

#### **Clause 260 – Assisting persons to breach community residence requirement**

The Committee considered an amendment proposed by the Department so that a person can only be guilty under this clause if they know the person they are assisting is subject to a community residence requirement; and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 260 subject to the proposed departmental amendments put and agreed to.

#### **Clause 261 – Obstruction**

The Committee considered Clause 261 as drafted.

Question: That the Committee is content with Clause 261 put and agreed to.

#### **Clause 262 – Offences by bodies corporate**

The Committee considered an amendment proposed by the Department which will ensure alignment with the consent requirements for offences by bodies corporate as set out in the Interpretation Act (NI) 1954 and to minimise the potential for vexatious prosecutions.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 262 subject to the proposed departmental amendment put and agreed to.

#### **Clause 263 – Renaming of Mental Health Review Tribunal**

The Committee considered Clause 263 as drafted.

Question: That the Committee is content with Clause 263 put and agreed to.

#### **Clause 264 – Visiting etc powers of medical practitioners in connection with the Tribunal**

The Committee considered Clause 264 as drafted.

Question: That the Committee is content with Clause 264 put and agreed to.

**Clause 265 – Power to make regulations about dealing with money and valuables**

The Committee considered an amendment proposed by the Department which will ensure that any regulations may not permit the relevant authority to do anything inconsistent with a decision concerning P's property and affairs made by an EPA, and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 265 subject to the proposed departmental amendments put and agreed to.

**Clause 266 – Contravention of regulations under section 265**

The Committee considered two technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 266 subject to the proposed departmental amendments put and agreed to.

**Clause 267 – Expenditure**

The Committee considered Clause 267 as drafted.

Question: That the Committee is content with Clause 267 put and agreed to.

**Clause 268 – Payment for necessary goods and services**

The Committee considered Clause 268 as drafted.

Question: That the Committee is content with Clause 268 put and agreed to.

**Clause 269 – Appointment of approved social workers**

The Committee considered Clause 269 as drafted.

Question: That the Committee is content with Clause 269 put and agreed to.

**Clause 270 – Miscellaneous functions of HSC trusts**

The Committee considered two technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 270 subject to the proposed departmental amendments put and agreed to.

### **Clause 271 – Direct payments in place of provision of care services**

The Committee considered an amendment proposed by the Department which will ensure that references to attorney in the direct payment provision in the Bill includes attorneys under an EPA.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 271 subject to the proposed departmental amendment put and agreed to.

### **Clause 272 – International protection of adults**

The Committee considered Clause 272 as drafted.

Question: That the Committee is content with Clause 272 put and agreed to.

### **New Clause 272A – Review of law relating to advance decisions**

The Committee considered an amendment proposed by the Department to insert new Clause 272A which deals with the review of the law relating to advance decisions.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 272A put and agreed to.

### **Clause 273 – Family relationships etc**

The Committee considered Clause 273 as drafted.

Question: That the Committee is content with Clause 273 put and agreed to.

### **Clause 274 – Voting rights**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 274 subject to the proposed departmental amendment put and agreed to.

### **Clause 275 – Relationship of Act with law relating to murder etc**

The Committee considered Clause 275 as drafted.

Question: That the Committee is content with Clause 275 put and agreed to.

### **Clause 276 – Codes of practice**

The Committee considered an amendment proposed by the Department which will change the reference from “independent advocate” to “independent mental capacity advocate”, and five technical amendments.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 276 subject to the proposed departmental amendments put and agreed to.

#### **Clause 277 – Effect of code**

The Committee considered an amendment proposed by the Department which will change the reference from “independent advocate” to “independent mental capacity advocate” and an amendment to insert a reference to an attorney under an EPA in the list of people that must have regard to any relevant code of practice.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 277 subject to the proposed departmental amendments put and agreed to.

#### **New Clause 277A – Provision of information by HSC trusts and the Department**

The Committee considered an amendment proposed by the Department to insert a new Clause 277A which will place a duty on trusts and the Department to furnish such returns, reports and other information about an individual who is subject of proceedings under the Bill as the High Court, the Review Tribunal and the Public Guardian may require for the exercise of their functions under the Bill.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 277A put and agreed to.

#### **New Clause 277B – Provision of facilities by HSC trusts and the Department**

The Committee considered an amendment proposed by the Department to insert a new Clause 277B which places a duty on trusts and the Department to provide facilities as the High Court, the Review Tribunal and the Public Guardian may require for the exercise of their functions under the Bill.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with new Clause 277B put and agreed to.

#### **Clause 278 – Warrants**

The Committee considered an amendment proposed by the Department which will allow an approved social worker to accompany a constable to enter premises when a warrant issued under clause 278 is executed, and six technical amendments.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 279 subject to the proposed departmental amendments put and agreed to.

**Clause 279 – Warrants: people liable to be detained under 1983 Act or 2005 Order**

The Committee considered six technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 279 subject to the proposed departmental amendments put and agreed to.

**Clause 280 – Provisions as to custody, detention etc**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 280 subject to the proposed departmental amendment put and agreed to.

**Clause 281 – Retaking of persons escaping from legal custody**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 281 subject to the proposed departmental amendment put and agreed to.

**Clause 282 – Special accommodation**

The Committee considered an amendment proposed by the Department so that the words “from serious physical harm” have been removed, to allow for the detention of individuals who might pose a risk of serious psychological harm to other persons, and a technical amendment.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 282 subject to the proposed departmental amendments put and agreed to.

**Clause 283 – Panels constituted to decide applications: general provision**

The Committee considered an amendment proposed by the Department which will provide that all panel members must be in attendance during the proceedings of the panel, which includes when a decision is to be made; and seven technical amendments.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 283 subject to the proposed departmental amendments put and agreed to.

**Clause 284 – Protection for acts done in pursuance of Part 9 or 10**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 284 subject to the proposed departmental amendment put and agreed to.

**Clause 285 – Risk of serious physical harm to others**

The Committee considered Clause 285 as drafted.

Question: That the Committee is content with Clause 285 put and agreed to.

**Clause 286 – Medical practitioners who may make certain medical reports**

The Committee considered Clause 286 as drafted.

Question: That the Committee is content with Clause 286 put and agreed to.

**Clause 287 – Documents appearing to be duly made**

The Committee considered Clause 287 as drafted.

Question: That the Committee is content with Clause 287 put and agreed to.

**Clause 288 – Power to make further provision**

The Committee considered Clause 288 as drafted.

The Committee was advised that the Minister intends to oppose the question that Clause 288 stand part of the Bill. This is as a consequence of new Clause 58A and the amendments to Clauses 289, 290 and 294.

Question: That the Committee is not content with Clause 288 put and agreed to.

Question: That the Committee register opposition to Clause 288 with the Bill Office put and agreed to.

**Clause 289 – Regulations**

The Committee considered amendments which will require that regulations made under Clauses 36 (4) (b), 252, 253, 290 (3) and paragraph 14 of Schedule 7A are subject to the draft affirmative procedure, and technical amendments.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 289 subject to the proposed departmental amendments put and agreed to.

#### **Clause 290 – Consequential amendments and repeals**

The Committee considered a consequential amendment linked to the removal of clause 288 proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Clause 290 subject to the proposed departmental amendment put and agreed to.

#### **Clause 291 – Persons “unconnected with” a person**

The Committee considered Clause 291 as drafted.

Question: That the Committee is content with Clause 291 put and agreed to.

#### **Clause 292 – Meaning of “mental disorder”**

The Committee considered Clause 292 as drafted.

Question: That the Committee is content with Clause 292 put and agreed to.

#### **Clause 293 – Definitions for purposes of Act**

The Committee considered amendments proposed by the Department so that the potential of the individual to create a risk of serious psychological harm is included within the scope of the definition; to change reference from “independent advocate” to “independent mental capacity advocate”; and technical amendments.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 293 subject to the proposed departmental amendments put and agreed to.

#### **Clause 294 – Commencement**

The Committee considered an amendment proposed by the Department which is linked to the replacement of Clause 288, which gives the Departments the power to make transitional, transitory or saving provision by regulations in connection with the commencement of the Bill, and two technical amendments.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Clause 294 subject to the proposed departmental amendments put and agreed to.

#### **Clause 295 – Short title**

The Committee considered Clause 295 as drafted.

Question: That the Committee is content with Clause 295 put and agreed to.

### **Schedule 1 – Authorisation by panel of certain serious interventions**

The Committee considered an amendment proposed by the Department which will change the reference from “independent advocate” to “independent mental capacity advocate”, and nine technical amendments.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Schedule 1 subject to the proposed departmental amendments put and agreed to.

### **Schedule 2 – Authorisation of short-term detention in hospital for examination etc**

The Committee considered amendments proposed by the Department which will change the reference from “independent advocate” to “independent mental capacity advocate”; restrict the timeframe within which the examination required for the admission report must be done; limit the types of errors that can be corrected under paragraph 20 to include administrative errors only; and eleven technical amendments.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Schedule 2 subject to the proposed departmental amendments put and agreed to.

### **Schedule 3 – Extension of panel of period of authorisation**

The Committee considered an amendment proposed by the Department which will change the reference from “independent advocate” to “independent mental capacity advocate”, and two technical amendments.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Schedule 3 subject to the proposed departmental amendments put and agreed to.

### **Schedule 4 – Lasting powers of attorney: formalities**

The Committee considered four technical amendments proposed by the Department:

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Schedule 4 subject to the proposed departmental amendments put and agreed to.

### **Schedule 5 – Existing enduring powers of attorney**

The Committee considered Schedule 5 and the technical amendment proposed by the Department.

Question: That the Committee is not content with Schedule 5 subject to the proposed departmental amendment put and agreed to.

Question: That the Committee register opposition to Schedule 5 with the Bill Office put and agreed to.

### **Schedule 6 – Property and affairs: supplementary provisions**

The Committee considered Schedule 6 as drafted.

Question: That the Committee is content with Schedule 6 put and agreed to.

### **Schedule 7 – Extension by panel of public protection order without restrictions**

The Committee considered Schedule 7 as drafted.

Question: That the Committee is content with Schedule 7 put and agreed to.

### **New Schedule 7A – Supervision and Assessment Orders**

The Committee considered an amendment proposed by the Department to insert a new Schedule 7A to provide for Supervision and Assessment Orders.

*Agreed:* The Committee noted the amendment proposed by the Department.

Question: That the Committee notes new Schedule 7A put and agreed to.

### **Schedule 8 – Amendments of Mental Health Order**

The Committee considered amendments proposed by the Department to repeal Part 6 of the Mental Health (NI) Order 1986; address the dual registration problem relating to private mental health hospitals; ensure that the duty to maintain a register of people receiving medical treatment for mental disorder as in-patients in hospital applies to people under 18; the repeal of Article 128 of the Mental Health (NI) Order 1986; amend references to “place of safety” to “appropriate place” in Article 129 of the Mental Health (NI) Order 1986; remove paragraph 67 on the basis that the amendment of existing provisions will be dealt with after Royal Assent in conjunction with the drafting of an Order in Council and the drafting of regulations under Part 11 of the Bill; and technical amendments.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Schedule 8 subject to the proposed departmental amendments put and agreed to.

### **Schedule 9 – International protection of adults**

The Committee considered a technical amendment proposed by the Department.

*Agreed:* The Committee is content with the amendment proposed by the Department.

Question: That the Committee is content with Schedule 9 subject to the proposed departmental amendment put and agreed to.

### **Schedule 10 – Consequential amendments**

The Committee considered two technical amendments proposed by the Department.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Schedule 10 subject to the proposed departmental amendments put and agreed to.

### **Schedule 11 – Repeals**

The Committee considered amendments proposed by the Department relating to Schedule 8 amendments; relating to new Clause 277A; and an amendment made on the basis that the amendment of existing provisions will be dealt with after Royal Assent in conjunction with the drafting of an Order in Council and the drafting of regulations under Part 11 of the Bill.

*Agreed:* The Committee is content with the amendments proposed by the Department.

Question: That the Committee is content with Schedule 11 subject to the proposed departmental amendments put and agreed to.

### **Long Title**

The Committee considered the long title as drafted.

Question: That the Committee is content with the long title of the Bill as drafted put and agreed to.

## **7. Correspondence**

*Agreed:* The Committee noted the correspondence from the Law Society in respect of concerns it has regarding the abolition of enduring powers of attorney, and agreed to write to advise that it is the intention of the Committee to oppose the abolition of the EPA system.

## **8. Any Other Business**

None

## **9. Date, Time and Place of Next Meeting**

The next Committee meeting will be on Monday 18 January 2016 at 12.00pm in Room 30, Parliament Buildings.

*The deputy Chairperson adjourned the meeting at 3.17pm.*

Signed: \_\_\_\_\_  
*Chairperson*

Date: \_\_\_\_\_