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Stewart Stevenson MSP
Convener
Standards, Procedures and Public Appointments Committee
The Scottish Parliament
Room TG.01
Edinburgh
EH99 1SP

15 March 2016

Dear Stewart,

Thank you for your letter of 14 March about clause 11 of the Scotland Bill (super-majority requirement for certain legislation).

Clause 11 implements the Smith Commission Agreement by ensuring that legislation that relates to certain matters may only be passed by a two-thirds majority of the Scottish Parliament.

We are implementing this aspect of the Agreement in a way which is workable whilst providing safeguards so that the principle of a two-thirds majority is maintained.

Clause 11 allows the Advocate General, the Lord Advocate or the Attorney General to refer to the Supreme Court the question of whether a Bill or any provision of a Bill requires a two-thirds majority. As you are aware, the Supreme Court already performs a similar role on whether a particular matter is within the legislative competence of the Scottish Parliament.

You have raised the scenario in which a Bill does not receive a super-majority but the Supreme Court decides that it required one. You consider in such a scenario it should be open to the Scottish Parliament to reconsider the Bill and remove or amend the provisions which triggered the super-majority requirement.

I can confirm that in such circumstances, there would be no opportunity for amendment of the Bill on reconsideration. The Bill could be reconsidered as is, or it would be open to the Scottish Government to reintroduce an amended Bill. In these circumstances, in particular, given the importance of the matters with which the super-majority clause is concerned, we consider it important that the Scottish Parliament has the opportunity to consider an amended Bill through the usual Bill stages, rather than to fast track an amended Bill through a reconsideration process.

Clause 11 has been carefully scrutinised by both the House of Commons and the House of Lords and we do not consider that a case has been made to make further amendments at this late stage in the passage of the Scotland Bill.

**Rt Hon DAVID MUNDELL MP
SECRETARY OF STATE FOR SCOTLAND**