

Children and Families Bill

ELEVENTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 8th July 2013, as follows –

Clauses 76 to 87
Schedule 5
Clause 88
Schedule 6

Clauses 89 to 98
Schedule 7
Clauses 99 to 112

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 76

BARONESS WALMSLEY
BARONESS TYLER OF ENFIELD
BARONESS JONES OF WHITCHURCH
BARONESS HUGHES OF STRETFORD

The above-named Lords give notice of their intention to oppose the Question that Clause 76 stand part of the Bill.

After Clause 76

LORD NASH

240R Insert the following new Clause –

“Discharge of authority’s duty to secure free early years provision

- (1) Part 1 of the Childcare Act 2006 (general functions of local authorities in England in relation to childcare) is amended as follows.

Amendment
No.

After Clause 76—continued

- (2) After section 7 (duty to secure early years provision free of charge in accordance with regulations) insert—

“7A Discharge of duty under section 7

- (1) Regulations may require an English local authority to discharge its duty to a young child under section 7 by making arrangements which secure that an early years provider chosen by a parent of the child provides the early years provision to which the child is entitled in cases where—
- 13 (a) the early years provider is willing to provide it, and
(b) the early years provider is also willing to accept—
(i) any terms as to the payments which would be made to him or her in respect of the provision, and
(ii) any requirements which would be imposed in respect of it.
- (2) Arrangements made by an authority to satisfy any requirement imposed under subsection (1) may be made with an early years provider or with an early years childminder agency or any other person who is able to arrange for an early years provider to provide early years provision.
- (3) The regulations may provide that such a requirement—
(a) applies only if the early years provider is of a prescribed description;
(b) applies only if the early years provision provided by the early years provider is of a prescribed description;
(c) does not apply in prescribed circumstances.
- (4) The regulations may provide that arrangements made by an authority for the purpose of complying with such a requirement must include provision allowing the local authority to terminate the arrangements in prescribed circumstances.
- (5) In this section—
“early years childminder agency” and “early years provider” have the same meanings as in Part 3;
“parent” has the same meaning as in section 2.”

- (3) After section 9 (arrangements between local authority and childcare providers) insert—

“9A Arrangements made by local authorities for the purposes of section 7

Regulations may provide that arrangements made by an English local authority for the purpose of discharging its duty under section 7—

- (a) may impose requirements on the person with whom the arrangements are made only if the requirements are of a prescribed description;
(b) may not impose requirements of a prescribed description on the person with whom the arrangements are made.””

Amendment
No.

After Clause 76 – continued

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

[As an amendment to Amendment 240R]

240S

Line 13, at end insert –

“() the overall effectiveness of the provision was awarded a grade of “good” or better in its most recent early years provision inspection report or childminder agency inspection report;”

After Clause 78

LORD NASH

241

Insert the following new Clause –

“Young carers

(1) In Part 3 of the Children Act 1989, after section 17 insert –

“17ZA Young carers’ needs assessments: England

- (1) A local authority in England must assess whether a young carer within their area has needs for support and, if so, what those needs are, if –
 - (a) it appears to the authority that the young carer may have needs for support, or
 - (b) the authority receive a request from the young carer or a parent of the young carer to assess the young carer’s needs for support.
- (2) An assessment under subsection (1) is referred to in this Part as a “young carer’s needs assessment”.
- (3) In this Part “young carer” means a person under 18 who provides or intends to provide care for another person (but this is qualified by section 17ZB(3)).
- (4) Subsection (1) does not apply in relation to a young carer if the local authority have previously carried out a care-related assessment of the young carer in relation to the same person cared for.
- (5) But subsection (1) does apply (and so a young carer’s needs assessment must be carried out) if it appears to the authority that the needs or circumstances of the young carer or the person cared for have changed since the last care-related assessment.
- (6) “Care-related assessment” means –
 - (a) a young carer’s needs assessment;
 - (b) an assessment under any of the following –
 - (i) section 1 of the Carers (Recognition and Services) Act 1995;
 - (ii) section 1 of the Carers and Disabled Children Act 2000;

Amendment
No.

After Clause 78 – continued

- (iii) section 4(3) of the Community Care (Delayed Discharges) Act 2003.
- (7) A young carer’s needs assessment must include an assessment of whether it is appropriate for the young carer to provide, or continue to provide, care for the person in question, in the light of the young carer’s needs for support, other needs and wishes.
- (8) A local authority, in carrying out a young carer’s needs assessment, must have regard to –
- (a) the extent to which the young carer is participating in or wishes to participate in education, training or recreation, and
 - (b) the extent to which the young carer works or wishes to work.
- (9) A local authority, in carrying out a young carer’s needs assessment, must involve –
- (a) the young carer,
 - (b) the young carer’s parents, and
 - (c) any person whom the young carer or a parent of the young carer requests the authority to involve.
- (10) A local authority that have carried out a young carer’s needs assessment must give a written record of the assessment to –
- (a) the young carer,
 - (b) the young carer’s parents, and
 - (c) any person to whom the young carer or a parent of the young carer requests the authority to give a copy.
- (11) Where the person cared for is under 18, the written record must state whether the local authority consider him or her to be a child in need.
- (12) A local authority in England must take reasonable steps to identify the extent to which there are young carers within their area who have needs for support.

17ZB Young carers’ needs assessments: supplementary

- (1) This section applies for the purposes of section 17ZA.
- (2) “Parent”, in relation to a young carer, includes –
- (a) a parent of the young carer who does not have parental responsibility for the young carer, and
 - (b) a person who is not a parent of the young carer but who has parental responsibility for the young carer.
- (3) A person is not a young carer if the person provides or intends to provide care –
- (a) under or by virtue of a contract, or
 - (b) as voluntary work.

Amendment
No.

After Clause 78 – continued

- (4) But in a case where the local authority consider that the relationship between the person cared for and the person under 18 providing or intending to provide care is such that it would be appropriate for the person under 18 to be regarded as a young carer, that person is to be regarded as such (and subsection (3) is therefore to be ignored in that case).
- (5) The references in section 17ZA and this section to providing care include a reference to providing practical or emotional support.
- (6) Where a local authority –
 - (a) are required to carry out a young carer’s needs assessment, and
 - (b) are required or have decided to carry out some other assessment of the young carer or of the person cared for;the local authority may, subject to subsection (7), combine the assessments.
- (7) A young carer’s needs assessment may be combined with an assessment of the person cared for only if the young carer and the person cared for agree.
- (8) The Secretary of State may by regulations make further provision about carrying out a young carer’s needs assessment; the regulations may, in particular –
 - (a) specify matters to which a local authority is to have regard in carrying out a young carer’s needs assessment;
 - (b) specify matters which a local authority is to determine in carrying out a young carer’s needs assessment;
 - (c) make provision about the manner in which a young carer’s needs assessment is to be carried out;
 - (d) make provision about the form a young carer’s needs assessment is to take.
- (9) The Secretary of State may by regulations amend the list in section 17ZA(6)(b) so as to –
 - (a) add an entry,
 - (b) remove an entry, or
 - (c) vary an entry.

17ZC Consideration of young carers’ needs assessments

A local authority that carry out a young carer’s needs assessment must consider the assessment and decide –

- (a) whether the young carer has needs for support in relation to the care which he or she provides or intends to provide;
- (b) if so, whether those needs could be satisfied (wholly or partly) by services which the authority may provide under section 17; and
- (c) if they could be so satisfied, whether or not to provide any such services in relation to the young carer.”

Amendment
No.

After Clause 78 – continued

- (2) In section 104 of the Children Act 1989 (regulations and orders) –
- (a) in subsections (2) and (3A) (regulations within subsection (3B) or (3C) not subject to annulment but to be approved in draft) before “(3B)” insert “(3AA),” and
 - (b) after subsection (3A) insert –
 - “(3AA) Regulations fall within this subsection if they are regulations made in the exercise of the power conferred by section 17ZB(9).”

241A Insert the following new Clause –

“Duty to support pupils with medical conditions

- (1) The appropriate authority for a school to which this section applies must make arrangements for supporting pupils at the school with medical conditions.
- (2) In meeting the duty in subsection (1) the appropriate authority must have regard to guidance issued by the Secretary of State.
- (3) The duty in subsection (1) does not apply in relation to a pupil who is a young child for the purposes of Part 3 of the Childcare Act 2006 (regulation of provision of childcare in England).
- (4) This section applies to the following schools in England –
 - (a) a maintained school;
 - (b) an Academy school;
 - (c) an alternative provision Academy;
 - (d) a pupil referral unit.
- (5) In this section –

“the appropriate authority for a school” means –

 - (a) in the case of a maintained school, the governing body,
 - (b) in the case of an Academy, the proprietor, and
 - (c) in the case of a pupil referral unit, the managing committee;

“maintained school” means –

 - (a) a community, foundation or voluntary school, within the meaning of the School Standards and Framework Act 1998, or
 - (b) a community or foundation special school, within the meaning of that Act.
- (6) The Education Act 1996 and this section are to be read as if this section were included in that Act.”

241B Insert the following new Clause –

“Local authority functions relating to children etc: intervention

- (1) Section 497A of the Education Act 1996 (which confers power on the Secretary of State to secure the proper performance of local authority education functions, and is applied to social services functions relating to children by section 50 of the Children Act 2004 and to functions relating to childcare by section 15 of the Childcare Act 2006) is amended in accordance with subsection (2).

Amendment
No.

After Clause 78 – continued

- (2) After subsection (4A) insert –
- “(4AA) So far as is appropriate in consequence of a direction given under subsection (4A), a reference (however expressed) in an enactment, instrument or other document to a local authority is to be read as a reference to the person by whom the function is exercisable.
- (4AB) Subsection (4AC) applies if a direction given under subsection (4A) expires or is revoked without being replaced.
- (4AC) So far as is appropriate in consequence of the expiry or revocation, a reference (however expressed) in an instrument or other document to the person by whom the function was exercisable is to be read as a reference to the local authority to which the direction was given.”
- (3) In section 15 of the Local Government Act 1999 (Secretary of State’s power to secure compliance with requirements of Part 1 of that Act) after subsection (6) insert –
- “(6A) So far as is appropriate in consequence of a direction given under subsection (6)(a), a reference (however expressed) in an enactment, instrument or other document to a best value authority is to be read as a reference to the person by whom the function is exercisable.
- (6B) Subsection (6C) applies if a direction given under subsection (6)(a) expires or is revoked without being replaced.
- (6C) So far as is appropriate in consequence of the expiry or revocation, a reference (however expressed) in an instrument or other document to the person by whom the function was exercisable is to be read as a reference to the best value authority to which the direction was given.””

241BA

Insert the following new Clause –

“Disqualification from carrying on, or being employed in, a children’s home

- (1) Section 65 of the Children Act 1989 (person disqualified from fostering a child privately to be disqualified from carrying on etc children’s home) is amended as follows.
- (2) Before subsection (1) insert –
- “(A1) A person (“P”) who is disqualified (under section 68) from fostering a child privately must not carry on, or be otherwise concerned in the management of, or have any financial interest in, a children’s home in England unless –
- (a) P has, within the period of 28 days beginning with the day on which P became aware of P’s disqualification, disclosed to the appropriate authority the fact that P is so disqualified, and
- (b) P has obtained the appropriate authority’s written consent.

Amendment
No.

After Clause 78 – continued

- (A2) A person (“E”) must not employ a person (“P”) who is so disqualified in a children’s home in England unless –
- (a) E has, within the period of 28 days beginning with the day on which E became aware of P’s disqualification, disclosed to the appropriate authority the fact that P is so disqualified, and
 - (b) E has obtained the appropriate authority’s written consent.”
- (3) In subsection (1), after “children’s home” insert “in Wales”.
- (4) In subsection (2), after “children’s home” insert “in Wales”.
- (5) In subsection (4), after “subsection” insert “(A1), (A2),”.
- (6) In subsection (5) after “subsection” insert “(A2) or”.

241C

Insert the following new Clause –

“Objectives and standards for establishments and agencies in England

- (1) In section 22 of the Care Standards Act 2000 (regulation of establishments and agencies), in subsection (1), for the words from “may in particular” to the end substitute “–
 - (a) regulations made by the Secretary of State may in particular make any provision such as is mentioned in subsection (1A), (2), (7) or (8), and
 - (b) regulations made by the Welsh Ministers may in particular make any provision such as is mentioned in subsection (2), (7) or (8).”
- (2) In that section, after subsection (1) insert –

“(1A) Regulations made by the Secretary of State may prescribe objectives and standards which must be met in relation to an establishment or agency for which the CIECSS is the registration authority.””

241D

Insert the following new Clause –

“National minimum standards for establishments and agencies in England

In section 23 of the Care Standards Act 2000 (national minimum standards), after subsection (1) insert –

- “(1A) The standards applicable to an establishment or agency for which the CIECSS is the registration authority may, in particular, explain or supplement requirements imposed in relation to that establishment or agency by regulations under section 22.””

Amendment
No.

After Clause 78 – continued

THE EARL OF LISTOWEL
BARONESS MASSEY OF DARWEN
BARONESS WALMSLEY
BARONESS TYLER OF ENFIELD

242 Insert the following new Clause –

“PART 4A

CHILDREN’S CENTRES

Birth registration pilot scheme

Local authorities must establish a pilot scheme to trial the registration of births within children’s centres, and evaluate the effectiveness of the scheme to –

- (a) identify and contact new families; and
- (b) enable children’s centres to reach more families, in particular those with children under the age of two, or who the local authority consider –
 - (i) hard to reach, or
 - (ii) vulnerable.”

BARONESS WALMSLEY
BARONESS BRINTON

243 Insert the following new Clause –

“PART 4A

PROTECTION OF CHILDREN

Actions due to a belief of possession by spirits

- (1) Section 1 of the Children and Young Persons Act 1993 (cruelty to persons under sixteen) is amended as follows.
- (2) In subsection (1) omit the words “and has responsibility for any child or young person under that age,” and for the word “him” substitute “any child or young person under that age”.
- (3) In subsection (2), after paragraph (b) insert –
 - “(c) in subsection (1) the meaning of “ill-treats” includes the communication by word or by action a belief that the child is possessed by evil spirits or has supernatural harmful powers –
 - (i) to the child concerned, or
 - (ii) to anyone connected to that child.””

Amendment
No.

After Clause 78 – continued

THE EARL OF LISTOWEL
BARONESS MASSEY OF DARWEN

244 Insert the following new Clause –

“Information and data sharing

- (1) NHS trusts shall make arrangements to share with local authorities records of live births to parents resident in their area, to be used by the local authority for the purposes of identifying and contacting new families through children’s centres and any other early years outreach services it may operate.
- (2) The Secretary of State must, within a period of six months of this Act being passed, bring forward regulations placing consequential requirements on trusts and local authorities in exercising their duty under subsection (1), including, but not limited to –
 - (a) the format of arrangements made;
 - (b) the safeguarding of information;
 - (c) the circumstances in which it would not be appropriate for a trust to provide information to local authorities;
 - (d) the regularity of data transfers;
 - (e) timescales within which a local authority must contact new families made known to it; and
 - (f) any further requirements the Secretary of State deems necessary.”

BARONESS MASSEY OF DARWEN
BARONESS HOWE OF IDLICOTE
LORD RAMSBOTHAM
BARONESS BUTLER-SLOSS

245 Insert the following new Clause –

“Independence of the Children’s Commissioner

In Schedule 1 to the Children Act 2004 (Children’s Commissioner), in paragraph 1 (status) after sub-paragraph (2) insert –

- “(3) The Secretary of State shall not undermine the Children’s Commissioner’s independence and shall ensure that the Children’s Commissioner is under as few constraints as reasonably possible in determining –
 - (a) the Commissioner’s activities,
 - (b) the Commissioner’s timetables, and
 - (c) the Commissioner’s priorities.””

Amendment
No.

After Clause 78 – *continued*

BARONESS WALMSLEY
LORD STOREY

246 Insert the following new Clause –

“No right to give corporal punishment: part-time educational institutions

In the Education Act 1996, at the end of section 548(7B) (no right to give corporal punishment), insert “except that it applies in relation to this section as if for paragraphs (a) and (b) of section 92(2) of that Act there were substituted the following words “for any amount of time during an academic year, no matter how little””.

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

247 Insert the following new Clause –

“Information on children’s centres

- (1) The Secretary of State must compile and publish information on children’s centres in England every three months, including –
 - (a) the number of registered children’s centres in each local authority area;
 - (b) the annual budget of each children’s centre in each local authority area;
 - (c) the total weekly opening hours of each centre in each local authority area;
 - (d) any changes in the figures for paragraph (a), (b) or (c) since the same period in the preceding year; and
 - (e) any other information he deems useful to compile and publish.
- (2) Local authorities are obliged to provide information requested by the Secretary of State in pursuance of his duties under subsection (1), in a format specified by him.
- (3) The Secretary of State must publish information in an accessible format, not later than three months after the information has been provided by the local authorities.
- (4) The Secretary of State may charge a prescribed fee for providing information compiled under this section in paper form.
- (5) The level of fee charged under subsection (4) must not exceed the cost of production and supply.
- (6) In this section “children’s centre” has the meaning given by section 5A(4) of the Childcare Act 2006 (arrangements for provision of children’s centres).”

248 Insert the following new Clause –

“Independent study: registration of births at children’s centres

- (1) The Secretary of State shall commission an independent study of the likely impact on the welfare of children of requiring births to be registered at children’s centres.

Amendment
No.

After Clause 78 – continued

- (2) The Secretary of State may, by regulations, establish pilot schemes to trial the registration of births within children’s centres, to inform the independent study under subsection (1).
- (3) In this section “children’s centre” has the meaning given by section 5A(4) of the Childcare Act 2006 (arrangements for provision of children’s centres).”

249 Insert the following new Clause –

“Information sharing about live births

- (1) NHS trusts should make arrangements to share with local authorities records of live births to parents resident in their area, to be used by the local authority for the purposes of identifying and contacting new families through children’s centres and any other early years outreach services it may operate.
- (2) The Secretary of State must, within a period of six months of the passing of this Act, bring forward regulations placing consequential requirements on trusts and local authorities in exercising their duty under subsection (1) including, but not limited to –
 - (a) the format of arrangements made;
 - (b) the safeguarding of information;
 - (c) the circumstances in which it would not be appropriate for a trust to provide information to local authorities;
 - (d) the regularity of data transfers;
 - (e) timescales within which a local authority must contact new families made known to it; and
 - (f) any further requirements the Secretary of State deems necessary.”

Clause 79

VISCOUNT ECCLES

249A Page 52, line 11, leave out from “promoting” to second “the” in line 13

BARONESS WALMSLEY
BARONESS MASSEY OF DARWEN
LORD RAMSBOTHAM

250 Page 52, line 16, at end insert –

- “() raise public awareness of children’s rights by promoting knowledge of and respect for the rights of children;
- () initiate and intervene in legal proceedings, including proceedings under section 7 of the Human Rights Act 1998 where the Children’s Commissioner is not the victim or potential victim of the unlawful act to which the proceedings relate;”

**Amendment
No.**

Clause 79 – continued

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

- 251** Page 52, line 43, leave out from “may” to end of line 44 and insert “only conduct an investigation of the case of an individual child where he considers it will enable him to discharge the primary function more effectively”

BARONESS LISTER OF BURTERSETT
LORD LESTER OF HERNE HILL
BARONESS WALMSLEY

- 252** Page 53, leave out lines 2 to 5 and insert –
“(1) For the purposes of section 2(1), the rights of children include the rights in the United Nations Convention on the Rights of the Child.”

VISCOUNT ECCLES

- 252A** Page 53, line 14, at end insert “all”

Clause 80

LORD TOUHIG

- 253** Page 54, line 5, at end insert –
“(3) The Children’s Commissioner may require a person to whom representations has been made under subsection (2) to state in writing, within such period as the Commissioner may reasonably require, what actions the person has taken or proposes to take in response to the representations.”

Clause 85

BARONESS WALMSLEY
BARONESS MASSEY OF DARWEN
LORD RAMSBOTHAM

- 254** Page 55, line 40, at end insert –
“(d) after paragraph (b) insert –
“(ba) the Children’s Commissioner’s assessment of the extent to which children in England enjoy –
(i) the rights in the United Nations Convention on the Rights of the Child;
(ii) the rights of children in any other international treaty ratified by the United Kingdom; and
(iii) the rights of children in the law applicable in England”.”

Amendment
No.

Clause 85 – continued

BARONESS WALMSLEY
LORD RAMSBOTHAM
BARONESS MASSEY OF DARWEN

255 Page 56, line 10, at end insert “and the extent to which the Commissioner has had due regard to their views”

After Clause 85

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

255A Insert the following new Clause –

“Accountability of the Children’s Commissioner to Parliament

- (1) The Children’s Commissioner must report in person to the Joint Committee on Human Rights annually on the exercise and performance of his or her duties (an “annual accountability hearing”).
- (2) Regulations may make further provisions about annual accountability hearings.”

Clause 86

BARONESS WALMSLEY
BARONESS MASSEY OF DARWEN
LORD RAMSBOTHAM
THE LORD BISHOP OF RIPON AND LEEDS

256 Page 56, line 37, at end insert –

- “() A child is within this subsection if he or she is detained in pursuance of –
- (a) an order made by a court, or
 - (b) an order of recall made by the Secretary of State.
- () A child is within this subsection if he or she has been identified by a professional as a potential victim of trafficking.
- () A child is within this subsection if he or she is a separated migrant child.”

**Amendment
No.**

Schedule 5

BARONESS MASSEY OF DARWEN
BARONESS HOWE OF IDLICOTE
LORD RAMSBOTHAM
BARONESS BUTLER-SLOSS

- 257** Page 188, line 9, at end insert –
“(za) after sub-paragraph (1) insert –
“(1A) The Secretary of State shall appoint an individual only if the Secretary of State reasonably considers the individual –
(a) has adequate experience and knowledge relating to children’s rights, including the involvement of children in decision-making; and
(b) is able and willing to act independently of Government.””

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

- 258** Page 188, line 9, at end insert –
“(za) in sub-paragraph (1), after “Secretary of State” insert “with the consent of the Education Committee of the House of Commons”,”

- 259** Page 188, line 11, at end insert –
“(aa) after sub-paragraph (2) insert –
“(2A) In appointing the Children’s Commissioner, the Secretary of State shall –
(a) have due regard to the views of –
(i) any parliamentary committee which has published a view on the proposed appointment;
(ii) children involved in the appointment of the Children’s Commissioner, and
(iii) the advice of any selection panel, established for the purpose of interviewing candidates, as to their suitability for appointment;
(b) appoint an individual only if the Secretary of State reasonably considers the individual –
(i) has experience and knowledge relating to children’s rights;
(ii) is able and willing to act independently of government;
(iii) enjoys the trust and confidence of the public (including children); and
(iv) is capable of effectively fulfilling the Children’s Commissioner’s primary function.””

Amendment
No.

Schedule 5 – continued

BARONESS MASSEY OF DARWEN
BARONESS BUTLER-SLOSS
BARONESS WALMSLEY

260 Page 188, line 14, at end insert –
“(d) after sub-paragraph (7) insert –

“(8) The Secretary of State shall have due regard to the views of any parliamentary committee which has published a view on a proposed appointment or removal from office of the Children’s Commissioner.””

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

261 Page 188, line 14, at end insert –
“(d) after sub-paragraph (7) insert –

“(8) The Secretary of State may only use his power under sub-paragraph (7) with the consent of the Education Committee of the House of Commons.””

LORD LESTER OF HERNE HILL
BARONESS HOWE OF IDLICOTE
BARONESS O’LOAN
BARONESS LISTER OF BURTERSETT

262 Page 189, line 9, at end insert –

“() In Schedule 1 to the Children Act 2004 (Children’s Commissioner), for paragraph 7 substitute –

“7 The Secretary of State shall –

- (a) pay to the Children’s Commissioner such sums as are reasonably sufficient for the purpose of enabling the Children’s Commissioner to perform his or her functions, and
- (b) have due regard to the views of any parliamentary committee which has published a view on the level at which such sums should be set.””

After Clause 88

BARONESS FINLAY OF LLANDAFF
LORD FAULKNER OF WORCESTER
BARONESS TYLER OF ENFIELD
BARONESS MASSEY OF DARWEN

263 Insert the following new Clause –

“Offence of failing to prevent smoking in a private vehicle when children are present

- (1) The Health Act 2006 is amended as follows.

Amendment
No.

After Clause 88 – continued

- (2) After section 8 insert –
- “8A Offence of failing to prevent smoking in a private vehicle when children are present**
- (1) It is the duty of any person who drives a private vehicle to ensure that that vehicle is smoke-free whenever a child or children under the age of 18 are in such vehicle or part of such vehicle.
- (2) A person who fails to comply with the duty in subsection (1) commits an offence.
- (3) A person convicted of an offence under this section who has not previously been convicted of such an offence shall have the option of attending a smoke-free driving awareness course in place of paying a fine under subsection (4).
- (4) A person who does not wish to attend an awareness course or who has previously been convicted of an offence under this section is liable on summary conviction to a fine of £60.
- (5) The Secretary of State may introduce regulations to alter the level of penalty payable under subsection (4).
- (6) The Secretary of State shall update all relevant regulations regarding the offence created under subsection (2) within six months of this section coming into force.
- (7) The Secretary of State shall introduce regulations within six months of this section coming into force to prescribe the format of the awareness course in subsection (3).”
- (3) In section 79(4)(a), for “or 8(7)” substitute “, 8(7), or 8A(5)”.”

LORD FAULKNER OF WORCESTER
BARONESS TYLER OF ENFIELD
BARONESS FINLAY OF LLANDAFF
LORD McCOLL OF DULWICH

264

Insert the following new Clause –

“Children’s health: standardised tobacco packaging

- (1) The Tobacco Advertising and Promotion Act 2002 is amended as follows.
- (2) After section 12 (television and radio broadcasting), insert –

“12A Children’s health: standardised packaging

- 6 (1) The Secretary of State may, if satisfied that doing so is in the interests of preventing harm to the health of children under the age of 18 or of promoting the health of children under the age of 18, make regulations specifying retail tobacco packaging requirements.

Amendment
No.

After Clause 88 – continued

- 10
- (2) Regulations made under subsection (1) may provide that retail packaging or tobacco products of any such description, or falling within any such class as may be specified in the regulations, shall not, except in such circumstances as may be so specified, be of any such colour or shape, or display any such mark or trade mark, or any other particulars as may be so specified.
- (3) A person is guilty of an offence if –
- (a) in the course of a business he or she owns or manages retail or commercial premises or a leisure facility;
 - (b) he or she sells or supplies products which might reasonably be expected to attract, or be aimed at, children under the age of 18;
 - (c) he or she sells or supplies, or has in the premises or facility for sale or supply, any tobacco product; and
 - (d) the retail packaging of the tobacco product does not comply with a specified retail tobacco packaging requirement.
- (4) In this section –
- “container” includes any pack, carton, box, tin, packet, bag, pouch, tube or other container;
- “retail packaging” means –
- (a) container for retail sale in which a tobacco product is directly placed;
 - (b) any container for retail sale that contains a smaller container in which a tobacco product is directly placed;
 - (c) any cigarette paper in which tobacco is contained and anything else forming part of a cigarette other than the tobacco;
 - (d) any plastic or other wrapper that covers any retail packaging of the type described in paragraphs (a) to (c);
 - (e) any plastic or other wrapper that covers a tobacco product, being a tobacco product that is for retail sale; or
 - (f) anything (other than a tobacco product) that is placed inside or is affixed or otherwise attached to retail packaging of the type described in paragraphs (a) to (e) but does not include the lining of a cigarette pack if the lining complies with retail packaging requirements;
- a “retail tobacco packaging requirement” is a requirement relating to any of the following particulars –
- (a) the colour of retail packaging;
 - (b) the shape and material of retail packaging;
 - (c) trade marks or registered trade marks displayed on retail packaging;
 - (d) trade marks or registered trade marks displayed on retail packaging;

Amendment
No.

After Clause 88 – continued

- (e) the labelling of or on packages, packaging or tobacco products, or associated with retail packaging or tobacco products;
 - (f) the contents of retail packaging (including the shape and size of tobacco products);
 - (g) any covert or overt markings, coded numbering or any other security features on retail packaging or tobacco products;
 - (h) any other particulars relating to retail packaging or tobacco products as may be prescribed by the Secretary of State;
- a “specified retail packaging requirement” is a retail tobacco packaging requirement specified in regulations made under subsection (1);
- “trade mark” and “registered trade mark” have the same meaning as in section 1 of the Trade Marks Act 1994.””

BARONESS HUGHES OF STRETFORD
LORD HUNT OF KINGS HEATH
BARONESS JONES OF WHITCHURCH
BARONESS WHEELER

[Amendments 265 and 266 are amendments to Amendment 264]

265 Line 6, leave out “may” and insert “must”

266 Line 10, leave out “may” and insert “must”

BARONESS MASSEY OF DARWEN
BARONESS WALMSLEY

266A Insert the following new Clause –

“Children’s rights duty

Any person whose functions are of a public nature must in the exercise of his or her functions have due regard to the need to –

- (a) respect, protect and fulfil children’s rights; and
- (b) actively seek and give due weight to the views of children in matters affecting them.”

LORD HARRISON

266AZZZA Insert the following new Clause –

“Children’s welfare: fire detection

In section 11 of the Landlord and Tenant Act 1985 (repairing obligations in short leases), after subsection (1)(c), insert –

- “(d) if the lessor is informed that a child will be resident in the dwelling-house, to keep in repair and proper working order a smoke alarm”.

Amendment
No.

Schedule 6

VISCOUNT ECCLES

266AZZA Page 189, line 13, leave out “may” and insert “must”

Clause 89

LORD STEVENSON OF BALMACARA

266AZA Page 59, line 10, at end insert—

- “(7) Entitlements provided by regulations made under this section may be transferred to another family member or other related party in the following exceptional circumstances—
- (a) where a mother is incapacitated;
 - (b) where a medical practitioner prescribes that the mother is unable to look after the child; or
 - (c) where the mother dies in childbirth.”

BARONESS LISTER OF BURTERSETT LORD STEVENSON OF BALMACARA

266AA Page 60, leave out lines 9 and 10 and insert—

- “(8) Regulations under section 75E may provide for the taking of leave under section 75E in a single period, or in non-consecutive periods, or in periods shorter than the period which constitutes, for the employee, a week’s leave.”

LORD TOUHIG

266AAA Page 66, line 38, at end insert—

- “() Where, during an employee’s shared parental leave, it is not reasonably practicable by reason of redundancy for the employer to continue to employ him or her under an existing contract of employment, the employee is entitled to be offered a suitable alternative vacancy that arises during the shared parental leave period.
- () The shared parental leave period means the period from the date of notification of intention to take shared parental leave, ending at 52 weeks from the birth of the employee’s baby.
- () Where there is a suitable alternative vacancy with the employer or his successor or an associated employer, it must be offered before the end of the existing contract of employment and takes effect immediately on the ending of the previous contract.
- () The new contract of employment must be both suitable work for the employee and appropriate for him or her to do in the circumstances and its provisions as to the capacity and place in which he or she is to be employed, and as to the other terms and conditions of employment are not substantially less favourable than if he or she had continued to be employed under the previous contract.”

Amendment
No.

Clause 89 – continued

LORD STEVENSON OF BALMACARA

266AB Page 66, line 39, leave out “may” and insert “must”

266AC Page 66, line 43, leave out “may” and insert “must”

After Clause 89

BARONESS LISTER OF BURTERSETT
BARONESS YOUNG OF HORNSEY

266B Insert the following new Clause –

“Rights to father quota of leave

(1) In Part 8 of the Employment Rights Act 1996, after section 80E insert –

“80EA Entitlement to father quota

- (1) The Secretary of State may make regulations entitling an employee who satisfies specified conditions as to the relationship with a child or expected child or with the child’s mother to be absent from work on leave under this subsection for the purpose of caring for the child.
- (2) Regulations under subsection (1) shall provide that such leave shall be taken before the end of a period of 56 weeks beginning with the date of the child’s birth.
- (3) Provision under subsection (1) shall secure that where an employee is entitled to leave under this section in respect of a child he is entitled to at least four weeks’ leave.”

(2) In the Social Security Contributions and Benefits Act 1992, after section 171ZT insert –

“171ZTA Entitlement to father quota

- (1) Regulations shall provide that where an employee is entitled to a father quota of leave under section 75E of the Employment Rights Act 1996, the employee is to be entitled to payments known as “father quota pay”.
- (2) Father quota pay under subsection (1) shall be at the earnings related weekly rate of 90 per cent of the employee’s average earnings for the first six weeks in respect of which it is payable, followed by a fixed weekly rate thereafter which shall not be less than the weekly rate of the full time national minimum wage in respect of the remaining portion of the father quota pay period.””

Amendment
No.

After Clause 89 – continued

LORD STEVENSON OF BALMACARA

266C Insert the following new Clause –

“Right to return to the same job after shared parental leave

- (1) An employee who returns to work after any period of –
- (a) ordinary maternity leave,
 - (b) ordinary adoption leave,
 - (c) paternity leave,
 - (d) shared parental leave of 26 weeks or less, or
 - (e) parental leave of four weeks or less, which was –
 - (i) a period of isolated leave, or
 - (ii) a consecutive period of any statutory leave under subsection (1) of 26 weeks or less,

is entitled to return from leave to the job in which the employee was employed before the employee’s absence.

- (2) An employee who returns to work after any period of –
- (a) additional maternity leave,
 - (b) additional adoption leave,
 - (c) parental leave of more than four weeks, or
 - (d) a consecutive period of any statutory leave under subsection (1) of more than 26 weeks,

is entitled to return from leave to the job in which the employee was employed before the employee’s absence, or, if it is not reasonably practicable for the employer to permit the employee to return to that job, to another job which is both suitable for the employee and appropriate for the employee to do in the circumstances.

- (3) The reference in subsections (1) and (2) to the job in which an employee was employed before the employee’s absence is a reference to the job in which the employee was employed –
- (a) if the employee’s return is from an isolated period of statutory leave, immediately before that period began, or
 - (b) if the employee’s return is from consecutive periods of statutory leave, immediately before the first such period.”

BARONESS LISTER OF BURTERSETT

266CA Insert the following new Clause –

“Annual review of shared parental leave

As soon as reasonably practicable after the end of every year beginning with the day on which this Act is passed, the Secretary of State must –

- (a) prepare a report on the operation of the shared parental leave provisions in this Part of this Act, including a review of the take-up of shared parental leave by fathers; and
- (b) lay a copy of that report before both Houses of Parliament.”

Amendment
No.

Clause 90

LORD TOUHIG

- 266D** Page 68, line 24, at end insert –
“(za) in subsection (2) at the end there is inserted “for each child born as a result of the pregnancy in addition to the entitlement to allow the Secretary of State to regulate for additional maternity leave under section 73;”

After Clause 90

LORD TOUHIG

- 266E** Insert the following new Clause –

“Statutory maternity pay for multiple births

- (1) The Social Security Contributions and Benefits Act 1992 is amended as follows.
- (2) In section 164 (statutory maternity pay – entitlement and liability to pay), in subsection (9) after paragraph (a), there is inserted –
 - “(aa) specify circumstances in which there is a liability to make additional statutory maternity payments to a woman who has given birth to more than one child as a result of a single pregnancy;”.

Clause 93

BARONESS MASSEY OF DARWEN
BARONESS DRAKE

- 267** Leave out Clause 93 and insert the following new Clause –

“Statutory rights to leave and pay of prospective adopters with whom looked after children are placed, special guardians and family and friends carers

- (1) In section 75A of the Employment Rights Act 1996 (ordinary adoption leave), after subsection (1) there is inserted –
 - “(1A) The conditions that may be prescribed under subsection (1) include conditions as to –
 - (a) being a local authority foster parent;
 - (b) being approved as a prospective adopter;
 - (c) being notified by a local authority in England that a child is to be, or is expected to be, placed with the employee under section 22C of the Children Act 1989;
 - (d) becoming a special guardian under section 14A of the Children Act 1989;
 - (e) becoming a family and friends carer in prescribed circumstances.”

Amendment
No.

Clause 93 – *continued*

- (2) In section 75B of the Employment Rights Act 1996 (additional adoption leave), after subsection (1) there is inserted –
- “(1A) The conditions that may be prescribed under subsection (1) include conditions as to –
- (a) becoming a special guardian under section 14A of the Children Act 1989;
 - (b) becoming a family and friends carer in prescribed circumstances.”
- (3) In section 80B of the Employment Rights Act 1996 (entitlement to ordinary paternity leave: adoption) –
- (a) in subsection (5), after paragraph (a) there is inserted –
 - “(aa) make provision excluding the right to be absent on leave under this section in the case of an employee who, by virtue of provision under subsection (6A), has already exercised a right to be absent on leave under this section in connection with the same child;”;
 - (b) after subsection (6) there is inserted –
 - “(6A) Regulations under subsection (1) shall include provision for leave in respect of a child –
 - (a) placed, or expected to be placed, under section 22C of the Children Act 1989 by a local authority in England with a local authority foster parent who has been approved as a prospective adopter;
 - (b) for whom a special guardian has been appointed under section 14A of the Children Act 1989;
 - (c) placed in a family and friends care arrangement in prescribed circumstances.
 - (6B) This section has effect in relation to regulations made by virtue of subsection (6A) as if –
 - (a) references to being placed for adoption were references to being placed under section 22C of the Children Act 1989 with a local authority foster parent who has been approved as a prospective adopter or to being placed with a special guardian under section 14A of the Children Act 1989 or to being placed in a family and friends care arrangement in prescribed circumstances;
 - (b) references to placement for adoption were references to placement under section 22C or section 14A with such a person or to placement with a family and friends carer in prescribed circumstances;
 - (c) paragraph (aa) of subsection (5) were omitted.”

Amendment
No.

Clause 93 – *continued*

- (4) In section 171ZB of the Social Security Contributions and Benefits Act 1992 (entitlement to ordinary statutory paternity pay: adoption), after subsection (7) there is inserted –
- “(8) This section has effect in a case involving a child placed under section 22C of the Children Act 1989 by a local authority in England with a local authority foster parent who has been approved as a prospective adopter, or placed with a special guardian under section 14A of the Children Act 1989 or placed in a family and friends care arrangement in prescribed circumstances, with the following modifications –
- (a) the references in subsection (2) to a child being placed for adoption under the law of any part of the United Kingdom are to be treated as references to a child being placed under section 22C in that manner or to being placed with a special guardian under section 14A or to being placed in a family and friends care arrangement in prescribed circumstances;
 - (b) the reference in subsection (3) to the week in which the adopter is notified of being matched with the child for the purposes of adoption is to be treated as a reference to the week in which the prospective adopter is notified that the child is to be, or is expected to be, placed with the prospective adopter under section 22C or the week the special guardian is expected to be appointed or the week the child is expected to be placed in a family and friends care arrangement in prescribed circumstances;
 - (c) the reference in subsection (6) to placement for adoption is to be treated as a reference to placement under section 22C of section 14A or to placement with a family and friends carer in prescribed circumstances;
 - (d) the definition in subsection (7) is to be treated as if it were a definition of “prospective adopter” or “special guardian” or “family and friends carer in prescribed circumstances”.
- (9) Where, by virtue of subsection (8), a person becomes entitled to statutory paternity pay in connection with the placement of a child under section 22C or 14A of the Children Act 1989 or placement with a family and friends carer in prescribed circumstances, the person may not become entitled to payments of statutory paternity pay in connection with the placement of the child for adoption.”
- (5) In section 171ZE of the Social Security Contributions and Benefits Act 1992 (rate and period of pay), after subsection (11) there is inserted –
- “(12) Where statutory paternity pay is payable to a person by virtue of section 171ZB(8), this section has effect as if –
- (a) the references in subsections (3)(b) and (10) to placement for adoption were references to placement under section 22C or 14A of the Children Act 1989 or placement with a family and friends carer in prescribed circumstances;
 - (b) the references in subsection (10) to being placed for adoption were references to being placed under section 22C or 14A or to being placed with a family and friends carer in prescribed circumstances.”

Amendment
No.

Clause 93 – *continued*

- (6) In section 171ZL of the Social Security Contributions and Benefits Act 1992 (entitlement to statutory adoption pay), after subsection (8) there is inserted –
- “(9) This section has effect in a case involving a child who is, or is expected to be, placed under section 22C of the Children Act 1989 by a local authority in England with a local authority foster parent who has been approved as a prospective adopter, or placed with a special guardian under section 14A of the Children Act 1989 or placed in a family and friends care arrangement in prescribed circumstances, with the following modifications –
- (a) the references in subsections (2)(a) and (4A)(a) to a child being placed for adoption under the law of any part of the United Kingdom are to be treated as references to a child being placed under section 22C in that manner or to being placed with a special guardian under section 14A or to being placed in a family and friends care arrangement in prescribed circumstances;
 - (b) the reference in subsection (3) to the week in which the person is notified that he has been matched with the child for the purposes of adoption is to be treated as a reference to the week in which the person is notified that the child is to be, or is expected to be, placed with him under section 22C or the week the special guardian is expected to be appointed or the week the child is expected to be placed in a family and friends care arrangement in prescribed circumstances;
 - (c) the references in subsection (4B)(a) to adoption are to be treated as references to placement under section 22C or 14A or placement with a family and friends carer in prescribed circumstances;
 - (d) the reference in subsection (5) to placement, or expected placement, for adoption is to be treated as a reference to placement, or expected placement, under section 22C or 14A or placement with a family and friends carer in prescribed circumstances.
- (10) Where, by virtue of subsection (9), a person becomes entitled to statutory adoption pay in respect of a child who is, or is expected to be, placed under section 22C or 14A of the Children Act 1989 or placement with a family and friends carer in prescribed circumstances, the person may not become entitled to payments of statutory adoption pay as a result of the child being, or being expected to be, placed for adoption.”

Amendment
No.

Clause 93 – continued

- (7) In section 171ZN of the Social Security Contributions and Benefits Act 1992 (rate and period of pay), after subsection (8) there is inserted –
- “(9) Where statutory adoption pay is payable to a person by virtue of section 171ZL(9), this section has effect as if the reference in subsection (2E) to the week in which the person is notified that he has been matched with a child for the purposes of adoption were a reference to the week in which the person is notified that a child is to be, or is expected to be, placed with him under section 22C of the Children Act 1989 or the week the special guardian is expected to be appointed or the week the child is expected to be placed in a family and friends care arrangement in prescribed circumstances.
- (8) In the Social Security Contributions and Benefits Act 1992 –
- (a) in section 171ZJ(1), at the appropriate place there is inserted –
- ““local authority” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);”;
- ““local authority foster parent” has the same meaning as in the Children Act 1989 (see section 22C(12) of that Act);”;
- (b) in section 171ZS(1), at the appropriate place there is inserted –
- ““local authority” has the same meaning as in the Children Act 1989 (see section 105(1) of that Act);”;
- ““local authority foster parent” has the same meaning as in the Children Act 1989 (see section 22C(12) of that Act);”.”

After Clause 93

BARONESS DRAKE
BARONESS MASSEY OF DARWEN

267A Insert the following new Clause –

“Kinship carers’ adjustment leave

- (1) A qualifying employee who satisfies prescribed conditions may be absent from work at any time during an adjustment leave period.
- (2) An adjustment leave period is a period calculated in accordance with regulations made by the Secretary of State.
- (3) The regulations under subsection (2) above shall include provision for determining the extent of an employee’s entitlement to leave under this section but shall secure that where an employee is entitled to leave under this section he is entitled to at least four weeks’ leave, or for a longer period to be prescribed.
- (4) An employee who exercises his rights under subsection (1) –
- (a) is entitled, for such purposes and to such extent as may be prescribed, to the benefit of the terms and conditions of employment which would have applied if he had not been absent,
- (b) is bound, for such purposes and to such extent as may be prescribed, by any obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1)), and

Amendment
No.

After Clause 93 – continued

- (c) is entitled to return from leave to a job of a prescribed kind.
- (5) For the purposes of this section, an employee is a qualifying employee if he is a family and friends (kinship) carer looking after a child full-time because the parent(s) is unable to look after the child, in the first 12 months after the child moves in.”

267B Insert the following new Clause –

“Carer’s leave

- (1) A qualifying employee who satisfies prescribed conditions may be absent from work for a specified period to provide care for a child or vulnerable adult.
- (2) An adjustment leave period is a period calculated in accordance with regulations made by the Secretary of State.
- (3) The regulations under subsection (2) above shall include provision for determining the extent of an employee’s entitlement to leave under this section but shall secure that where an employee is entitled to leave under this section he is entitled to two week’s leave in any given year.
- (4) The leave may be taken in a two week block or part-time, with the agreement of the employer.
- (5) An employee who exercises his rights under subsection (1) –
- (a) is entitled, for such purposes and to such extent as may be prescribed, to the benefit of the terms and conditions of employment which would have applied if he had not been absent,
 - (b) is bound, for such purposes and to such extent as may be prescribed, by any obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1)), and
 - (c) is entitled to return from leave to a job of a prescribed kind.
- (6) For the purposes of this section, an employee is a qualifying employee if he has caring responsibilities for a child or vulnerable adult.”

LORD STEVENSON OF BALMACARA

267BA Insert the following new Clause –

“Review of statutory rights to leave and pay for kinship carers and special guardians

Before the end of one year beginning with the day on which this Act is passed, the Secretary of State must –

- (a) carry out a review of the impact of the lack of statutory pay and leave on kinship carers and special guardians remaining in employment; and
- (b) publish, and lay before both Houses of Parliament, a report of the conclusions of the review.”

Amendment
No.

After Clause 97

BARONESS DRAKE
BARONESS MASSEY OF DARWEN

267C Insert the following new Clause –

“Extension of emergency leave entitlement to grandparents

In section 57A(3) of the Employment Rights Act 1996 (time off for dependants), after paragraph (d) there is inserted –

“(e) a grandchild.”

LORD KNIGHT OF WEYMOUTH

267D Insert the following new Clause –

“Parental bereavement leave

In the Employment Rights Act 1996, after section 57A there is inserted –

“57AA Parental bereavement leave

- (1) The Secretary of State must make regulations entitling an employee who satisfies specified conditions –
 - (a) as to duration of employment, and
 - (b) as to relationship with a child,
 to be absent from work on leave under this section in consequence of the death of a child.
- (2) Regulations under subsection (1) shall secure that, where an employee has a right to leave under this section, he or she is entitled to a leave period of at least 2 weeks.
- (3) Regulations under subsection (1) shall secure that an employee who exercises his or her right under subsection (1) –
 - (a) is entitled, for such purposes and to such extent as may be prescribed, to the benefit of the terms and conditions of employment which would have applied if he or she had not been absent,
 - (b) is bound, for such purposes and to such extent as may be prescribed, by any obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1)), and
 - (c) is entitled to return from leave to a job of a prescribed kind.
- (4) In subsection (3)(a) “terms and conditions of employment” includes –
 - (a) matters connected with an employee’s employment whether or not they arise under his or her contract of employment; and
 - (b) terms and conditions about remuneration.”

Amendment
No.

After Clause 98

LORD STEVENSON OF BALMACARA

267E Insert the following new Clause –

“Review of the provisions of this Part

- (1) The Secretary of State must from time to time –
 - (a) carry out a review of the provisions under this Part;
 - (b) set out the conclusions of the review in a report; and
 - (c) publish and lay a copy of the report before both Houses of Parliament.
- (2) The report must in particular –
 - (a) set out the objectives intended to be achieved by this Part including, the objective of encouraging fathers to share in caring for their children;
 - (b) assess the extent to which these objectives are achieved for all families including those with premature or multiple births; and
 - (c) assess, having regard to the objectives set out in paragraph (a) –
 - (i) the number of families having access to the provisions under this Part and whether this could be increased;
 - (ii) whether the amount of paid leave available to fathers independently of any shared parental leave arrangements is suitable;
 - (iii) whether and how shared parental leave could be taken on a part time basis.
- (3) The first report under subsection (1) must be published before the end of three years beginning with the day on which this Part comes into force.”

BARONESS PITKEATHLEY

267EA Insert the following new Clause –

“Welfare of disabled children

- (1) The Children Act 1989 is amended as follows.
- (2) After section 23A insert –

“23AA Welfare of disabled children

Regulations, subject to approval by resolution of both Houses of Parliament, shall provide for those who care for disabled children to have the same entitlement to a carer’s assessment as young carers and adults caring for adults.”

Clause 99

LORD STEVENSON OF BALMACARA
BARONESS BRINTON

267F Page 92, line 26, after “take” insert “reasonable”

267G Page 92, leave out lines 29 to 33

**Amendment
No.**

Clause 99 – continued

BARONESS BRINTON

267GA Page 92, line 33, at end insert –

“() The Secretary of State may, by regulations, provide for circumstances in which subsections (2) and (3) do not apply in cases where there is a severe medical need which requires further antenatal appointments or longer appointment periods.”

267GB Page 94, line 7, at end insert –

“() Regulations under this section must be made by statutory instrument.

() A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by resolution of, both Houses of Parliament.”

LORD STEVENSON OF BALMACARA
BARONESS BRINTON

267H Page 95, line 21, after “take” insert “reasonable”

267J Page 95, leave out lines 25 to 29

LORD STEVENSON OF BALMACARA

267K Page 95, leave out lines 25 to 27 and insert –

“(2) In relation to a singleton pregnancy, an employee is not entitled to take time off for the purpose specified in subsection (1) on more than two occasions, and in relation to a multiple pregnancy, an employee is not entitled to take time off for the purpose specified in subsection (1) on more than six occasions.”

BARONESS BRINTON

267KA Page 95, line 33, at end insert –

“() The Secretary of State may, by regulations, provide for circumstances in which subsections (2) and (3) do not apply in cases where there is a severe medical need which requires further antenatal appointments or longer appointment periods.”

267KB Page 97, line 2, at end insert –

“() Regulations under this section must be made by statutory instrument.

() A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by resolution of, both Houses of Parliament.”

Amendment
No.

Clause 104

LORD STEVENSON OF BALMACARA

- 267L** Page 112, line 10, leave out “If an employer allows an employee to appeal” and insert “Where an employee appeals”
- 267M** Page 112, line 34, leave out “the employer allow the employee to appeal” and insert “an employee appeals”

Lord Stevenson of Balmacara gives notice of his intention to oppose the Question that Clause 104 stand part of the Bill.

After Clause 106

BARONESS BENJAMIN
VISCOUNT COLVILLE OF CULROSS
LORD STEVENSON OF BALMACARA

- 268** Insert the following new Clause –

“PART 8A

CHILDREN PARTICIPATION IN PERFORMANCES

Children participation in performances

- (1) Section 25 of the Children and Young Persons Act 1933 (restrictions on persons under eighteen going abroad for the purpose of performing for profit) is amended as follows.
- (2) For subsection (1)(a) substitute –
 - “(a) for the purposes of taking part in a performance to which section 37(2) of the Children and Young Persons Act 1963 applies,”.
- (3) In subsection (1) –
 - (a) for “this section” substitute “section 37 of the Children and Young Persons Act 1963”,
 - (b) omit paragraph (a) and after “granted in respect of him under” omit “this” and after “section” insert “37 of the Children and Young Persons Act 1963”.
- (4) Subsections (2) to (11) of the Children and Young Persons Act 1933 are omitted.
- (5) Section 37 of the Children and Young Persons Act 1963 (restrictions on persons under 16 taking part in public performances, etc.) is amended as follows.
- (6) After subsection (2) insert –
 - “(2A) For the purposes of subsection (2), a performance does not include participation in –
 - (a) filming by private individuals for uploading onto the internet for transmission (“user generated content”);

Amendment
No.

After Clause 106 – continued

- (b) observational documentaries in which the child’s life and routine remains to a significant degree the same as it would have been had filming not been taking place;
 - (c) unplanned and spontaneous filming where parental consent is subsequently obtained for the purposes of broadcasting;
 - (d) filming in the context of news and current affairs journalism, or filming in the public interest in circumstances where it is not practicable to apply for a licence, without prejudice to the effect of sections 39 and 49; or
 - (e) any further category as the Secretary of State may specify by way of regulations.”
- (7) After subsection (3) insert –
- “(3A) Where subsection (2A)(b) to (e) applies such that no licence is required, the person responsible for filming the child shall carry out an assessment of risk prior to the filming taking place, save where it is not possible to do so, in which case such a risk assessment must be carried out as soon as possible after such filming takes place.”
- (8) In subsection (4) after “will not suffer” insert “and in particular, that the child would not be subjected to any risk beyond that involved in the ordinary course of their life”.
- (9) In subsection (5) after “imposed by the authority” insert “; such conditions shall however, seek to minimise any differences in conditions imposed in relation to different media and any such differences must be necessary and objectively justified for the purposes of protecting the child against a specified risk, and in particular, regulations shall not prohibit the recording or broadcast of live performances where the child’s participation in that live performance is permitted by the relevant licence”.
- (10) After subsection (1)(b) insert –
- “(c) go abroad for the purposes of a performance to which subsection 2 applies save that this subsection shall not apply in any case where it is proved that the child was only temporarily resident within the United Kingdom.”
- (11) Section 38 is repealed.
- (12) Section 42 is repealed.”

LORD STEVENSON OF BALMACARA
BARONESS HUGHES OF STRETFORD

268A Insert the following new Clause –

“Promoting flexible working: review

- (1) Before the end of one year beginning with the day on which this Act is passed, the Secretary of State must –
 - (a) carry out a review looking into ways of promoting flexible working; and
 - (b) publish, and lay before both Houses of Parliament, a report of the conclusions of the review.

Amendment
No.

After Clause 106 – continued

- (2) A review under subsection (1) will consider in particular –
- (a) how to promote the right to request flexible working among employees;
 - (b) how to encourage employers to discuss flexible working at the earliest opportunity; and
 - (c) whether all advertisements for employment opportunities in the public sector should specify the possibility of discussing flexible working at interview.”

Clause 107

LORD NASH

- 269** Page 114, line 34, leave out subsection (6) and insert –
- “(6) A statutory instrument containing (whether alone or with other provision) –
- (a) the first regulations to be made under section 49,
 - (b) an order under section 54(1) or 55(1), or
 - (c) an order under section 108 which amends or repeals any provision of primary legislation,
- is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

- 270** Page 114, line 36, after “legislation” insert “, or a statutory instrument containing an order under section 4,”
- 271** Page 114, line 36, after “legislation” insert “, or a statutory instrument containing an order under section 49,”
- 272** Page 114, line 36, after “legislation” insert “, or a statutory instrument containing an order under section 51(4),”
- 273** Page 114, line 36, after “legislation” insert “, or a statutory instrument containing an order under sections 54 and 55,”

Clause 111

LORD NASH

- 273A** Page 116, line 5, after “18” insert “, (*Local authority functions relating to children etc: intervention*)”
- 273B** Page 116, line 5, after “18” insert “, (*Objectives and standards for establishments and agencies in England*)”
- 273C** Page 116, line 5, after “18” insert “, (*National minimum standards for establishments and agencies in England*)”

**Amendment
No.**

Clause 112

LORD NASH

274

Page 116, line 14, leave out “is” and insert “and section (*Duty to support pupils with medical conditions*) (duty to support pupils with medical conditions) are”

Children and Families Bill

ELEVENTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

14th November 2013

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