

# Education Bill

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MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*The amendments are tabled in accordance with the Order of 17th October, as follows—*

|                  |                   |
|------------------|-------------------|
| Clauses 1 to 4   | Schedule 10       |
| Schedule 1       | Clauses 35 and 36 |
| Clauses 5 and 11 | Schedule 11       |
| Schedule 2       | Clauses 37 to 48  |
| Clause 12        | Schedule 12       |
| Schedule 3       | Clauses 49 to 53  |
| Clause 13        | Schedule 13       |
| Schedule 4       | Clauses 54 to 61  |
| Clauses 14 to 16 | Schedule 14       |
| Schedule 5       | Clauses 62 and 63 |
| Clause 17        | Schedule 15       |
| Schedule 6       | Clauses 64 and 65 |
| Clauses 18 to 21 | Schedule 16       |
| Schedule 7       | Clause 66         |
| Clauses 22 to 24 | Schedule 17       |
| Schedule 8       | Clause 67         |
| Clause 25        | Schedule 18       |
| Schedule 9       | Clauses 68 to 79  |
| Clauses 26 to 34 |                   |

*[Amendments marked ★ are new or have been altered]*

Amendment  
No.

## Before Clause 1

LORD NORTHBOURNE

1★ Insert the following new Clause—

### “Foundation Stage

During a child’s first five years, both the father and the mother have a responsibility to do their best to provide or procure for their child the early education, including the personal, social and emotional development that child will need when they enter primary school at 5 years old.”

Amendment  
No.

**Before Clause 1**—*continued*

2★ Insert the following new Clause—

**“Support for parents**

An English local authority must secure that preparation and support of such a description as may be prescribed is available free of charge, and in accordance with any regulations in this section, to parents, prospective parents, grandparents or other family members who are, or are likely in the near future to be, responsible for the care of a child under school age.”

3★ Insert the following new Clause—

**“Support for parents: information**

An English local authority shall, once in each school year, provide the Secretary of State for Education with details of—

- (a) the preparation and support they are offering to parents and carers of children in the foundation stage; and
- (b) the number or proportion of children in their area who were, in their opinion, not adequately prepared emotionally, socially or cognitively to cope with the demands of primary school when they reached compulsory school age.”

**Clause 1**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

4★ Page 2, line 8, at end insert—

“( ) Regulations under subsections (1) of (2) may not, following their first use, specify a reduction in the total number of hours of early years provision available to each child that a local authority must secure free of charge.”

**After Clause 1**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

5★ Insert the following new Clause—

**“Sure Start: funding and qualifications**

- (1) Part 1 of the Childcare Act 2006 (functions of local authorities in England in relation to childcare) is amended as set out in subsections (2) and (3).
- (2) In section 5A (arrangements for provision of children’s services) omit the words “, so far as is reasonably practicable,”.
- (3) In section 5B (children’s centres: staffing, organisation and operation), at the end insert—  
“(3) Regulations must specify the minimum qualifications of staff working at the children’s centre.””

**Amendment  
No.**

**Clause 2**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

- 6★ Page 4, line 26, at end insert—  
“( ) In subsection (1)(b), at the end insert “and has been trained—  
(i) in the need to maintain the pupil’s dignity and right to privacy in carrying out the search, and  
(ii) on additional requirements for searching pupils with special educational needs and disabilities;”

- 7★ Page 4, line 32, leave out sub-paragraph (ii)

BARONESS WALMSLEY  
BARONESS BRINTON

- 8★ Page 4, leave out lines 40 to 44 and insert—  
“(b) in the time available it is not reasonably practical for the search to be carried out by a person of the same sex as P and in the presence of another member of staff, then—  
(i) if the pupil is less than 12 years of age, the search may be carried out by a person who is not of the same sex as P and in the presence of another member of staff, or  
(ii) if the pupil is 12 years of age or older, the search must be carried out by a person who is the same sex as P and in the presence of another member of staff.”;

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

- 9★ Page 4, line 43, at end insert—  
“(c) but there is still a staff witness present”

- 10★ Page 6, line 21, at end insert—  
“( ) The Secretary of State, in respect of a school in England, must give guidance which the head teacher must consider prior to the head teacher determining rules under this section about the items for which a search may be made and those for which a search will not be made.”

**Clause 3**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

- 11★ Page 6, line 32, at end insert—  
“( ) in subsection (1)(b), at the end insert “and has been trained—  
(i) in the need to maintain the pupil’s dignity and right to privacy in carrying out the search, and

**Amendment  
No.**

**Clause 3—*continued***

- (ii) on additional requirements for searching pupils with special educational needs and disabilities;”

**12★** Page 6, line 36, leave out paragraph (ii)

BARONESS WALMSLEY  
BARONESS BRINTON

**13★** Page 6, line 44, leave out from beginning to end of line 2 on page 7 and insert—

- “(b) in the time available it is not reasonably practical for the search to be carried out in the presence of another member of staff who is the same sex as S; however, for the avoidance of doubt, the person carrying out the search must be the same sex as S in all cases.”;

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

**14★** Page 7, line 2, at end insert—

- “(c) but there is still a staff witness present”

**Clause 4**

LORD LOW OF DALSTON  
LORD TOUHIG

**15** Page 8, line 22, at end insert—

- “( ) Regulations must make provision that if a pupil has been excluded from school for a fixed period on two or more occasions in a 12 month period or is at risk of permanent exclusion, a head teacher shall ensure that—
- (a) there is an assessment of whether that child has unidentified learning needs;
  - (b) there is a review of the effectiveness of the special educational provision being made if that pupil has identified special educational needs;
  - (c) there is a review of the effectiveness of the reasonable adjustments being made if that pupil has disability.”

BARONESS WALMSLEY  
BARONESS BRINTON  
BARONESS HOWE OF IDLICOTE

**16★** Page 8, line 28, at end insert—

- “( ) requiring the responsible body to ensure that the pupil—
- (i) has an opportunity to make representations in relation to any exclusion under subsection (1) or (2), and
  - (ii) receives relevant information that may be relevant to such representations in language capable of being readily understood by the pupil;”

**Amendment  
No.****Clause 4—continued**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

**17★** Page 8, line 30, at end insert—

“( ) requiring the responsible body to consider a report about the pupil from the special educational needs co-ordinator when considering whether a pupil should be excluded;”

LORD RAMSBOTHAM

**18** Page 8, line 37, at end insert—

“( ) requiring schools to assess appropriately pupils for special educational needs, including Attention Deficit Hyperactivity Disorder at a pupil’s second fixed-term exclusion.”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

**19★** Page 8, line 37, at end insert—

“( ) requiring the review panel to consider a report about the pupil from the special educational needs expert before making any decisions under subsections (4) to (7)”

BARONESS WALMSLEY  
BARONESS BRINTON

**20★** Page 8, line 37, at end insert—

“( ) Regulations must make provision for—

- (a) the training of panels constituted under subsection (3)(c);
- (b) Regulations under this section must provide, amongst other things, that training—
  - (i) is provided by independent providers;
  - (ii) is provided by accredited providers;
  - (iii) covers the law in relation to permanent exclusions;
  - (iv) specifically includes the Human Rights Act 1998 and the Equality Act 2010 as they apply to exclusions;
  - (v) enables the panel to assess the facts of cases in an impartial and independent manner;
  - (vi) enables the panel to assess all the opposing arguments impartially and independently;
  - (vii) enables the panel to recognise when a case falls outside its jurisdiction.”

**Amendment  
No.**

**Clause 4—continued**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

**21★** Page 8, line 39, at end insert—

“( ) direct that the pupil be reinstated,”

BARONESS WALMSLEY  
BARONESS BRINTON

**22★** Page 9, line 2, at end insert—

“(d) decline to hear a case which falls outside its jurisdiction and within the jurisdiction of the First Tier Tribunal;  
(e) where the panel declines to hear a case under paragraph (d), refer the case to the First Tier Tribunal.”

**23★** Page 9, line 2, at end insert—

“(4A) For the avoidance of doubt, where the responsible body re-instates the child following a review panel’s recommendation under the subsection (4)(b) or direction under subsection (4)(c), the responsible body may enter into a parenting contract with the parent of the child or seek a parenting order.”

LORD LOW OF DALSTON  
LORD TOUHIG

**24** Page 9, line 12, at end insert—

“( ) the ability of all parents to request a special educational needs expert to advise the panel on special educational needs issues;”

**25** Page 9, line 12, at end insert—

“( ) the information parents are given on their right to request a special educational needs expert;”

**26** Page 9, line 12, at end insert—

“( ) the skills and qualifications that a special educational needs expert will be required to have;”

**27** Page 9, line 12, at end insert—

“( ) the ability of the special educational needs expert to review the needs of the child and whether the school puts the correct support in place;  
( ) the duty of the school to co-operate with the work of the special educational needs expert;”

**28** Page 9, line 12, at end insert—

“( ) the ability of parents to select a special educational needs expert of their choice;”

**Amendment  
No.**

**Clause 4—continued**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

**29★** Page 9, line 24, at end insert—

“( ) requiring a school to retain an excluded pupil on its roll and to fund the pupil’s education until the pupil is no longer of compulsory school age”

BARONESS WALMSLEY  
BARONESS BRINTON

**30★** Page 9, line 34, at end insert—

““independent provider” means providers which are independent of, in particular, the review panels, the local authority and schools within the geographic area served by the local authority;

“accredited provider” means providers certified by the Secretary of State as providing training which satisfies at least all of the criteria set out in subsection (4)(b)(iii) to subsection (4)(b)(vii) inclusive;”

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

**31★** Page 10, line 1, leave out “may” and insert “must”

BARONESS WALMSLEY  
BARONESS BRINTON

**32★** Page 10, line 3, at end insert—

**“51B Appeals to Upper Tribunal**

- (1) A pupil, or the pupil’s parent or guardian, may appeal to the Upper Tribunal on a point of law against a decision of the review panel.
- (2) The Upper Tribunal, on finding that the making of the decision concerned involved the making of an error on a point of law—
  - (a) may (but need not) set aside the decision of the review panel; and
  - (b) if it does, must either—
    - (i) remit the case to the review panel with directions for its reconsideration; or
    - (ii) re-make the decision.
- (3) In acting under subsection (2)(b)(i), the Upper Tribunal may also—
  - (a) direct that the members of the review panel who are chosen to reconsider the case are not to be the same as those who made the decision that has been set aside;
  - (b) give procedural directions in connection with the reconsideration of the case by the review panel.

Amendment  
No.

**Clause 4**—*continued*

- (4) In acting under subsection (2)(b)(ii), the Upper Tribunal—
- (a) may make any decision which the review panel could make if the review panel were re-making the decision; and
  - (b) may make such findings of fact as it considers appropriate.”

**Clause 5**

BARONESS WALMSLEY  
BARONESS BRINTON

- 33★ Page 10, line 16, after “Wales” insert “or a pupil at a school in England whose parent has not confirmed the receipt by any effective method of a notice from the head teacher of the school that the pupil will be detained after the school session on the day that the notice is issued”

**After Clause 5**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

- 34★ Insert the following new Clause—

**“Notice of detention**

- (1) Where a school in England requires a pupil to be detained outside school hours, the school must give reasonable notice to the parent or carer of the pupil and before the detention occurs the school must have received from the parent or carer confirmation that the parent or carer is aware of the detention.
- (2) Where the school does not receive such confirmation, the detention may take place, but only after 24 hours.”

**After Clause 6**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

- 35★ Insert the following new Clause—

**“Locally based cooperation and collaboration**

The Government must issue guidance to encourage locally based cooperation and collaboration between schools in areas including—

- (a) behaviour,
- (b) attendance and registration,
- (c) peer improvement,
- (d) raising standards.”



**Amendment  
No.**

**After Clause 7**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

**36★** Insert the following new Clause—

**“Register of teachers**

The Secretary of State shall have a duty to maintain a register of qualified teachers.”

**Clause 8**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

**37★** Page 11, line 1, at end insert—

“( ) In Part 8 of EA 2002 (teachers), after section 132(4) insert—

“(4A) The Secretary of State must keep a list containing the names of all persons who have achieved qualified teacher status under section 132.””

**38★** Page 12, line 26, at end insert—

“( ) Where subsection (1) applies, the employer must provide information about the teacher to the Secretary of State.”

**39★** Page 12, line 30, at beginning insert “Where subsection (2) applies,”

**40★** Page 13, line 7, at end insert—

“( ) Where subsection (1) applies, the employer must provide information about the teacher to the Secretary of State.”

**41★** Page 13, line 14, at beginning insert “Where subsection (2) applies,”

**Clause 13**

LORD HILL OF OAREFORD  
BARONESS WALMSLEY

**42** Page 20, line 16, after second “is” insert “or may be”

LORD HILL OF OAREFORD  
LORD PHILLIPS OF SUDBURY  
BARONESS WALMSLEY

**43** Page 20, line 22, leave out “an appropriate criminal court” and insert “a magistrates’ court”

**44** Page 20, line 27, at end insert “, and

(b) the victim of the offence to which the allegation relates.”

**45** Page 20, line 28, leave out “of a magistrates’ court”

**46** Page 20, line 30, leave out “of a magistrates’ court”

**Amendment  
No.**

**Clause 13—continued**

47 Page 21, line 3, leave out from “once” to end of line 4 and insert “proceedings for the offence have been instituted.”

LORD PHILLIPS OF SUDBURY

48 Page 21, line 16, at end insert “, or  
(c) the person who is the subject of the allegation resigns or is dismissed from the relevant employment or engagement.”

LORD HILL OF OAREFORD  
LORD PHILLIPS OF SUDBURY  
BARONESS WALMSLEY

49 Page 21, line 16, at end insert—  
“(11A) The restrictions in subsection (3) also cease to apply if—  
(a) the person who is the subject of the allegation includes a matter in a publication, or  
(b) another person includes a matter in a publication with the written consent of the person who is the subject of the allegation;  
and, in either case, the inclusion of the matter in the publication would otherwise be in breach of subsection (3).  
(11B) Written consent is to be ignored for the purposes of subsection (11A)(b) if it is proved that any person interfered unreasonably with the peace or comfort of the person giving the consent, with intent to obtain it.”

50 Page 21, leave out lines 18 to 20

LORD PHILLIPS OF SUDBURY

51 Page 21, line 31, at end insert “, or  
(c) a publication by or on behalf of a registered pupil at the relevant school made to pupils at that school or made to parents of the same (or persons in loco parentis) or made to members of staff at such school”

LORD HILL OF OAREFORD  
LORD PHILLIPS OF SUDBURY  
BARONESS WALMSLEY

52 Page 21, line 38, at end insert—  
“( ) For the purposes of this section, proceedings for an offence are instituted at the earliest of the following times—  
(a) when a justice of the peace issues a summons or warrant under section 1 of the Magistrates’ Courts Act 1980 in respect of the offence;  
(b) when a public prosecutor issues a written charge and requisition in respect of the offence;  
(c) when a person is charged with the offence after being taken into custody without a warrant;  
(d) when a bill of indictment is preferred by virtue of section 2(2)(b) of the Administration of Justice (Miscellaneous Provisions) Act 1933.”

**Amendment  
No.****Clause 13—continued**

- 53 Page 22, line 21, leave out “any” and insert “either”
- 54 Page 22, leave out lines 30 to 35

**Clause 18**

BARONESS HUGHES OF STRETFORD  
BARONESS JONES OF WHITCHURCH  
BARONESS CRAWLEY

- 55★ Leave out Clause 18

**After Clause 22**

LORD HILL OF OAREFORD

- 56 Insert the following new Clause—

**“Enforcement powers**

- (1) Part 7 of ASCLA 2009 (the Office of Qualifications and Examinations Regulation) is amended as set out in subsections (2) to (6).
- (2) In section 151 (power to give directions), for subsection (1) substitute—
  - “(1) Subsection (2) applies if it appears to Ofqual that a recognised body has failed or is likely to fail to comply with a condition to which the recognition is subject.”
- (3) After section 151 insert—

**“151A Power to impose monetary penalties**

- (1) Subsection (2) applies if it appears to Ofqual that a recognised body has failed to comply with a condition to which the recognition is subject.
- (2) Ofqual may impose a monetary penalty on the recognised body.
- (3) A “monetary penalty” is a requirement to pay to Ofqual a penalty of an amount determined by Ofqual in accordance with section 151B.
- (4) Before imposing a monetary penalty on a recognised body, Ofqual must give notice to the body of its intention to do so.
- (5) The notice must—
  - (a) set out Ofqual’s reasons for proposing to impose the penalty, and
  - (b) specify the period during which, and the way in which, the recognised body may make representations about the proposal.
- (6) The period specified under subsection (5)(b) must not be less than 28 days beginning with the date on which the notice is received.
- (7) Ofqual must have regard to any representations made by the recognised body during the period specified in the notice in deciding whether to impose a monetary penalty on the body.

Amendment  
No.

**After Clause 22—*continued***

- (8) If Ofqual decides to impose a monetary penalty on the body, it must give the body a notice containing information as to—
- (a) the grounds for imposing the penalty,
  - (b) how payment may be made,
  - (c) the period within which payment is required to be made (which must not be less than 28 days),
  - (d) rights of appeal,
  - (e) the period within which an appeal may be made, and
  - (f) the consequences of non-payment.

**151B Monetary penalties: amount**

- (1) The amount of a monetary penalty imposed on a recognised body under section 151A must not exceed 10% of the body's turnover.
- (2) The turnover of a body for the purposes of subsection (1) is to be determined in accordance with an order made by the Secretary of State.
- (3) Subject to subsection (1), the amount may be whatever Ofqual decides is appropriate in all the circumstances of the case.

**151C Monetary penalties: appeals**

- (1) A recognised body may appeal to the First-tier Tribunal against—
  - (a) a decision to impose a monetary penalty on the body under section 151A;
  - (b) a decision as to the amount of the penalty.
- (2) An appeal under this section may be made on the grounds—
  - (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that the decision was unreasonable.
- (3) The requirement to pay the penalty is suspended pending the determination of an appeal under this section.
- (4) On an appeal under this section the Tribunal may—
  - (a) withdraw the requirement to pay the penalty;
  - (b) confirm that requirement;
  - (c) vary that requirement;
  - (d) take such steps as Ofqual could take in relation to the failure to comply giving rise to the decision to impose the requirement;
  - (e) remit the decision whether to confirm the requirement to pay the penalty, or any matter relating to that decision, to Ofqual.

Amendment  
No.

After Clause 22—*continued*

**151D Monetary penalties: interest and recovery**

- (1) This section applies if all or part of a monetary penalty imposed on a recognised body is unpaid at the end of the period ending on the applicable date.
  - (2) The applicable date is—
    - (a) the last date on which the recognised body may make an appeal under section 151C in respect of the penalty, if no such appeal is made;
    - (b) if an appeal under section 151C in respect of the penalty is made—
      - (i) the date on which the appeal is determined, or
      - (ii) if the appeal is withdrawn before being determined, the date on which the appeal is withdrawn.
  - (3) The unpaid amount of the penalty for the time being carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (and does not also carry interest as a judgment debt under that section).
  - (4) The total amount of interest imposed under subsection (3) must not exceed the amount of the penalty.
  - (5) Ofqual may recover from the body, as a civil debt due to it, the unpaid amount of the penalty and any unpaid interest.”
- (4) In section 152 (power to withdraw recognition), for subsection (2) substitute—
- (2) Ofqual may withdraw recognition from the recognised body in respect of the award or authentication of—
    - (a) a specified qualification or description of qualification in respect of which the body is recognised, or
    - (b) every qualification or description of qualification in respect of which the body is recognised.”
- (5) After section 152 insert—

**“152A Costs recovery**

- (1) Ofqual may, by notice, require a recognised body on which a sanction has been imposed to pay the costs incurred by Ofqual in relation to imposing the sanction, up to the time it is imposed.
- (2) The references in subsection (1) to imposing a sanction are to—
  - (a) giving a direction under section 151;
  - (b) imposing a monetary penalty under section 151A;
  - (c) withdrawing recognition under section 152.
- (3) “Costs” includes in particular—
  - (a) investigation costs;
  - (b) administration costs;

**Amendment  
No.**

**After Clause 22—*continued***

- (c) costs of obtaining expert advice (including legal advice).
- (4) A notice given to a recognised body under subsection (1) must contain information as to—
  - (a) the amount required to be paid,
  - (b) how payment may be made,
  - (c) the period within which payment is required to be made (which must not be less than 28 days),
  - (d) rights of appeal,
  - (e) the period within which an appeal may be made, and
  - (f) the consequences of non-payment.
- (5) The body may require Ofqual to provide a detailed breakdown of the amount specified in the notice.

**152B Costs recovery: appeals**

- (1) A recognised body may appeal to the First-tier Tribunal against—
  - (a) a decision under section 152A(1) to require the body to pay costs;
  - (b) a decision as to the amount of those costs.
- (2) An appeal under this section may be made on the grounds—
  - (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that the decision was unreasonable.
- (3) The requirement to pay the costs is suspended pending the determination of an appeal under this section.
- (4) On an appeal under this section the Tribunal may—
  - (a) withdraw the requirement to pay the costs;
  - (b) confirm that requirement;
  - (c) vary that requirement;
  - (d) take such steps as Ofqual could take in relation to the failure to comply giving rise to the decision to impose the requirement;
  - (e) remit the decision whether to confirm the requirement to pay the costs, or any matter relating to that decision, to Ofqual.

**152C Costs: interest and recovery**

- (1) This section applies if all or part of an amount of costs that a recognised body is required to pay under section 152A(1) is unpaid at the end of the period ending on the applicable date.

**Amendment  
No.****After Clause 22—*continued***

- (2) The applicable date is—
  - (a) the last date on which the recognised body may make an appeal under section 152B in respect of the costs, if no such appeal is made;
  - (b) if an appeal under section 152B in respect of the costs is made—
    - (i) the date on which the appeal is determined, or
    - (ii) if the appeal is withdrawn before being determined, the date on which the appeal is withdrawn.
- (3) The unpaid amount of the costs for the time being carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (and does not also carry interest as a judgment debt under that section).
- (4) The total amount of interest imposed under subsection (3) must not exceed the amount of the costs.
- (5) Ofqual may recover from the body, as a civil debt due to it, the unpaid amount of the costs and any unpaid interest.”
- (6) In section 153 (qualifications regulatory framework), in subsection (8)(e), for “152” substitute “152C”.
- (7) In section 262(6) of ASCLA 2009 (orders and regulations subject to affirmative resolution procedure), after paragraph (e) insert—
  - “(ea) an order under section 151B(2);”.

57 Insert the following new Clause—

**“Enforcement powers of Welsh Ministers**

- (1) Chapter 2 of Part 5 of EA 1997 (functions of Welsh Ministers: qualifications and the school curriculum) is amended as set out in subsections (2) to (6).
- (2) In section 32A (power to give directions), for subsections (1) and (2) substitute—
  - “(1) Subsection (1A) applies if it appears to the Welsh Ministers that a recognised person has failed or is likely to fail to comply with a condition subject to which the recognition has effect.
  - (1A) The Welsh Ministers may direct the recognised person to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the recognition has effect.
  - (2) Subsection (2A) applies if it appears to the Welsh Ministers that a recognised person who awards or authenticates a qualification accredited by them has failed or is likely to fail to comply with a condition subject to which the accreditation has effect.
  - (2A) The Welsh Ministers may direct the recognised person to take or refrain from taking specified steps with a view to securing compliance with the conditions subject to which the accreditation has effect.”

Amendment  
No.

**After Clause 22—*continued***

- (3) In section 32A(5), for “32B and” substitute “32AA to”.
- (4) After section 32A insert—

**“32AA Power of Welsh Ministers to impose monetary penalties**

- (1) Subsection (2) applies if it appears to the Welsh Ministers that a recognised person has failed to comply with a condition subject to which the recognition has effect.
- (2) The Welsh Ministers may impose a monetary penalty on the recognised person.
- (3) Subsection (4) applies if it appears to the Welsh Ministers that a recognised person who awards or authenticates a qualification accredited by them has failed to comply with a condition subject to which the accreditation has effect.
- (4) The Welsh Ministers may impose a monetary penalty on the recognised person.
- (5) A “monetary penalty” is a requirement to pay to the Welsh Ministers a penalty of an amount determined by them in accordance with section 32AB.
- (6) Before imposing a monetary penalty on a recognised person, the Welsh Ministers must give notice to the person of their intention to do so.
- (7) The notice must—
  - (a) set out their reasons for proposing to impose the penalty, and
  - (b) specify the period during which, and the way in which, the recognised person may make representations about the proposal.
- (8) The period specified under subsection (7)(b) must not be less than 28 days beginning with the date on which the notice is received.
- (9) The Welsh Ministers must have regard to any representations made by the recognised person during the period specified in the notice in deciding whether to impose a monetary penalty on the person.
- (10) If the Welsh Ministers decide to impose a monetary penalty on the person, they must give the person a notice containing information as to—
  - (a) the grounds for imposing the penalty,
  - (b) how payment may be made,
  - (c) the period within which payment is required to be made (which must not be less than 28 days),
  - (d) rights of appeal,
  - (e) the period within which an appeal may be made, and



**Amendment  
No.**

**After Clause 22—*continued***

- (f) the consequences of non-payment.

**32AB Monetary penalties: amount**

- (1) The amount of a monetary penalty imposed on a recognised person under section 32AA must not exceed 10% of the person's turnover.
- (2) The turnover of a person for the purposes of subsection (1) is to be determined in accordance with an order made by the Welsh Ministers.
- (3) Subject to subsection (1), the amount may be whatever the Welsh Ministers decide is appropriate in all the circumstances of the case.

**32AC Monetary penalties: appeals**

- (1) A recognised person may appeal to the First-tier Tribunal against—
  - (a) a decision to impose a monetary penalty on the person under section 32AA;
  - (b) a decision as to the amount of the penalty.
- (2) An appeal under this section may be made on the grounds—
  - (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that the decision was unreasonable.
- (3) The requirement to pay the penalty is suspended pending the determination of an appeal under this section.
- (4) On an appeal under this section the Tribunal may—
  - (a) withdraw the requirement to pay the penalty;
  - (b) confirm that requirement;
  - (c) vary that requirement;
  - (d) take such steps as the Welsh Ministers could take in relation to the failure to comply giving rise to the decision to impose the requirement;
  - (e) remit the decision whether to confirm the requirement to pay the penalty, or any matter relating to that decision, to the Welsh Ministers.

**32AD Monetary penalties: interest and recovery**

- (1) This section applies if all or part of a monetary penalty imposed on a recognised person is unpaid at the end of the period ending on the applicable date.
- (2) The applicable date is—
  - (a) the last date on which the recognised person may make an appeal under section 32AC in respect of the penalty, if no such appeal is made;

Amendment  
No.

**After Clause 22**—*continued*

- (b) if an appeal under section 32AC in respect of the penalty is made—
  - (i) the date on which the appeal is determined, or
  - (ii) if the appeal is withdrawn before being determined, the date on which the appeal is withdrawn.
- (3) The unpaid amount of the penalty for the time being carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (and does not also carry interest as a judgment debt under that section).
- (4) The total amount of interest imposed under subsection (3) must not exceed the amount of the penalty.
- (5) The Welsh Ministers may recover from the person, as a civil debt due to them, the unpaid amount of the penalty and any unpaid interest.”
- (5) In section 32B (power to withdraw recognition)—
  - (a) for subsection (2) substitute—
    - “(2) The Welsh Ministers may withdraw recognition from the recognised person in respect of the award or authentication of—
      - (a) a specified qualification or description of qualification in respect of which the person is recognised, or
      - (b) every qualification or description of qualification in respect of which the person is recognised.”;
    - (b) for subsection (4) substitute—
      - “(4) The Welsh Ministers may withdraw recognition from the recognised person in respect of the award or authentication of—
        - (a) the qualification or a specified description of qualification in respect of which the person is recognised, or
        - (b) every qualification or description of qualification in respect of which the person is recognised.”
  - (6) After section 32B insert—

**“32BA Costs recovery**

- (1) The Welsh Ministers may, by notice, require a recognised person on whom a sanction has been imposed to pay the costs incurred by the Welsh Ministers in relation to imposing the sanction, up to the time it is imposed.
- (2) The references in subsection (1) to imposing a sanction are to—
  - (a) giving a direction under section 32A;
  - (b) imposing a monetary penalty under section 32AA;
  - (c) withdrawing recognition under section 32B.
- (3) “Costs” includes in particular—
  - (a) investigation costs;

**Amendment  
No.****After Clause 22—*continued***

- (b) administration costs;
  - (c) costs of obtaining expert advice (including legal advice).
- (4) A notice given to a recognised person under subsection (1) must contain information as to—
- (a) the amount required to be paid,
  - (b) how payment may be made,
  - (c) the period within which payment is required to be made (which must not be less than 28 days),
  - (d) rights of appeal,
  - (e) the period within which an appeal may be made, and
  - (f) the consequences of non-payment.
- (5) The person may require the Welsh Ministers to provide a detailed breakdown of the amount specified in the notice.

**32BB Costs recovery: appeals**

- (1) A recognised person may appeal to the First-tier Tribunal against—
- (a) a decision under section 32BA(1) to require the person to pay costs;
  - (b) a decision as to the amount of those costs.
- (2) An appeal under this section may be made on the grounds—
- (a) that the decision was based on an error of fact;
  - (b) that the decision was wrong in law;
  - (c) that the decision was unreasonable.
- (3) The requirement to pay the costs is suspended pending the determination of an appeal under this section.
- (4) On an appeal under this section the Tribunal may—
- (a) withdraw the requirement to pay the costs;
  - (b) confirm that requirement;
  - (c) vary that requirement;
  - (d) take such steps as the Welsh Ministers could take in relation to the failure to comply giving rise to the decision to impose the requirement;
  - (e) remit the decision whether to confirm the requirement to pay the costs, or any matter relating to that decision, to the Welsh Ministers.

**32BC Costs: interest and recovery**

- (1) This section applies if all or part of an amount of costs that a recognised person is required to pay under section 32BA(1) is unpaid at the end of the period ending on the applicable date.

**Amendment  
No.**

**After Clause 22—*continued***

- (2) The applicable date is—
- (a) the last date on which the recognised person may make an appeal under section 32BB in respect of the costs, if no such appeal is made;
  - (b) if an appeal under section 32BB in respect of the costs is made—
    - (i) the date on which the appeal is determined, or
    - (ii) if the appeal is withdrawn before being determined, the date on which the appeal is withdrawn.
- (3) The unpaid amount of the costs for the time being carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (and does not also carry interest as a judgment debt under that section).
- (4) The total amount of interest imposed under subsection (3) must not exceed the amount of the costs.
- (5) The Welsh Ministers may recover from the person, as a civil debt due to them, the unpaid amount of the costs and any unpaid interest.”
- (7) In section 54 of EA 1997 (orders and regulations)—
- (a) in subsection (2), after “section” insert “32AB(2) or”;
  - (b) after subsection (2) insert—
    - “(2A) A statutory instrument which contains (whether alone or with other provision) an order under section 32AB(2) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.””

**Clause 27**

BARONESS BRINTON  
BARONESS SHARP OF GUILDFORD

- 58★ Page 28, line 25, after “apprenticeships,” insert—
- “( ) is provided by a person who attends the premises, and has a relevant qualification in careers guidance who meets such quality assurance standards as the Secretary of State shall require,”
- 59★ Page 28, line 27, at end insert “, and
- “( ) is given on a personal face to face basis to those pupils in need of extra assistance including those on free school meals or those with special education needs (or both)”
- 60★ Page 28, line 35, leave out “14” and insert “13”
- 61★ Page 28, line 37, leave out “16” and insert “19”

**Amendment  
No.**

**Clause 30**

LORD HILL OF OAREFORD  
LORD LAMING  
BARONESS WALMSLEY  
BARONESS HUGHES OF STRETFORD

62 Leave out Clause 30

**Clause 31**

LORD HILL OF OAREFORD  
LORD LAMING  
BARONESS WALMSLEY  
BARONESS HUGHES OF STRETFORD

63 Leave out Clause 31

**Clause 34**

LORD HILL OF OAREFORD

64 Page 33, line 33, at end insert—

“( ) In section 88I (other functions of adjudicator relating to admission arrangements), in subsection (3), omit paragraph (b) (and the “or” preceding it).”

65 Page 33, line 38, leave out sub-paragraph (i)

66 Page 34, line 1, leave out paragraph (c)

**Schedule 10**

LORD HILL OF OAREFORD

67 Page 85, leave out lines 9 and 10

68 Page 85, line 39, leave out paragraph 5

**After Clause 35**

LORD HILL OF OAREFORD

69 Insert the following new Clause—

**“Objections to admission arrangements**

- (1) Section 88H of SSFA 1998 (reference of objections to adjudicator) is amended as set out in subsections (2) to (6).
- (2) In subsection (2)—
  - (a) in paragraph (a), for “an appropriate person” substitute “a body or person”;
  - (b) after “that” insert “body or”.
- (3) Omit subsection (3).
- (4) In subsection (4) omit “or (3)”.

**Amendment  
No.**

**After Clause 35—*continued***

- (5) In subsection (5)—
  - (a) in paragraph (a)(i) omit “or (3)”;
  - (b) in paragraph (a)(ii) for “(3)” substitute “(2)”;
  - (c) in paragraph (c) omit “or (3)”;
  - (d) in paragraph (d) omit “or (3)”.
- (6) Omit subsection (6).
- (7) In section 88K of SSFA 1998 (sections 88H to 88J: supplementary), for subsection (2)(b) substitute—
  - “(b) any other person or body.”

BARONESS WALMSLEY  
BARONESS BRINTON

**70★** Insert the following new Clause—

**“Access to education and training**

- (1) The Education Act 1996 is amended as follows.
- (2) In section 10 (general duty of Secretary of State) at the end insert—
  - “( ) The Secretary of State in England shall ensure fair access to education and training provision as far as is reasonably practicable.”

**Schedule 11**

BARONESS MASSEY OF DARWEN

- 71** Page 87, leave out line 11
- 72** Page 87, leave out lines 35 to 38
- 73** Page 87, leave out lines 42 and 43

**Clause 39**

LORD HILL OF OAREFORD

- 74** Page 35, line 22, leave out “follows” and insert “set out in subsections (2) to (8)”
- 75** Page 36, line 31, at end insert—
  - “(9) In section 121 of EA 2005 (parliamentary control of subordinate legislation)—
    - (a) in subsection (2)(a), after “subsection” insert “(2A) or”;
    - (b) after subsection (2) insert—
      - “(2A) This subsection applies to regulations under section 5(4A) (power to prescribe schools exempt from inspection), apart from the first regulations to be made under that subsection.

Amendment  
No.Clause 39—*continued*

- (2B) A statutory instrument which contains (whether alone or with other provisions) regulations to which subsection (2A) applies may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

LORD HUNT OF KINGS HEATH

76 Leave out Clause 39

## Clause 40

BARONESS WALMSLEY  
BARONESS BRINTON

77★ Page 36, line 40, after “achievement” insert “and well-being”

BARONESS FLATHER

78 Page 36, line 43, at end insert—

“( ) the contribution made by the school to community cohesion.”

LORD QUIRK  
BARONESS COUSSINS  
BARONESS HOOPER

79 Page 37, line 1, after “social” insert “, linguistic”

BARONESS MASSEY OF DARWEN  
BARONESS GOULD OF POTTERNEWTON  
LORD LAYARD

80 Page 37, line 8, at end insert—

- “(5C) In reporting under subsection (5), the Chief Inspector’s report must consider the wellbeing of the children in the school and, in particular, must report on—
- (a) school policies on bullying and healthy eating;
  - (b) the delivery of citizenship education;
  - (c) the delivery of personal, social and health education, including sex and relationships education; and
  - (d) child protection measures.
- (5D) In reporting on the matters listed in subsection (5C), the Chief Inspector must take into account the age and stage of development of the pupils.
- (5E) The Chief Inspector’s report must also consider—
- (a) how the delivery of the matters listed in subsection (5C) is coordinated across the school curriculum and in pastoral care; and
  - (b) how many parents, pupils and members of the wider community are involved in the delivery of the matters listed in subsection (5C).”

**Amendment  
No.**

**Clause 41**

LORD HILL OF OAREFORD

- 81** Page 37, line 13, leave out “follows” and insert “set out in subsections (2) to (10)”
- 82** Page 38, line 4, at end insert—
- “(11) In section 182 of EIA 2006 (parliamentary control of orders and regulations)—
- (a) in subsection (2), after paragraph (a) insert—
- “(aa) regulations to which subsection (2A) applies,”;
- (b) after subsection (2) insert—
- “(2A) This subsection applies to regulations made under section 125(1A) (power to prescribe institutions exempt from inspection), apart from the first regulations to be made under that subsection.”;
- (c) in subsection (3), after paragraph (a) insert—
- “(aa) regulations to which subsection (2A) applies.”

**Schedule 12**

BARONESS BRINTON  
BARONESS SHARP OF GUILDFORD

- 83★** Page 91, line 17, leave out paragraph 3
- 84★** Page 91, line 41, leave out paragraph 11

**Clause 60**

BARONESS TURNER OF CAMDEN

- 85** Page 49, line 1, at end insert—
- “( ) In section 59(1) of SSFA 1998 (religious opinions etc. of staff), after paragraph (b) insert—
- “(c) an Academy that is not religiously designated”.
- 86** Page 49, line 1, at end insert—
- “( ) Section 60 of SSFA 1998 (staff at foundation or voluntary school with religious character) is amended as follows.
- ( ) For subsection (5) substitute—
- “(5) If the school is a voluntary aided school, preference may be given, in connection with the appointment, remuneration or promotion of teachers at the school, to persons whose religious opinions are in accordance with the tenets of the religion or religious denomination specified in relation to the school under section 69(4) but only to the extent that the treatment in question can be justified on the basis that the religion or belief of a teacher in the school constitutes a genuine, legitimate and justified occupational requirement having regard to the school’s religious ethos.



**Amendment  
No.**

**Clause 60—continued**

(5A) Regard may be had, in connection with the termination of the employment or engagement of any teacher at the school, to any conduct on his or her part which is incompatible with the precepts, or with the upholding of the tenets, of the religion or religious denomination so specified; provided that nothing in this section shall be taken to permit discrimination which would be prohibited by the Equality Act 2010 other than in relation to religion or belief.”

( ) Omit subsection (2)(b) and (c) of section 124A of SSFA 1998 (appointment and dismissal of teachers of religious education).”

87 Page 49, line 18, at end insert “, but he or she shall not make such an order unless there has been consultation with such persons as he or she considers appropriate on the question of whether an order should be made and having regard to the responses given in that consultation”

**After Clause 60**

BARONESS MASSEY OF DARWEN

88 Insert the following new Clause—

**“Discrimination on grounds of religion or belief**

After section 1(9) of AA 2010 (Academy arrangements) insert—

“(9A) Subsection (9B) applies if the school is a voluntary controlled school which is designated by order under section 69(3) of SSFA 1998 as a school having a particular religious character.

(9B) The Academy agreement must include terms imposed for the purpose of securing that no greater percentage of pupils are selected on the basis of religion or belief after, as compared with before, the conversion date, unless the Secretary of State has by order provided that section 124AA of AA 2010 does not apply to the school.””

**Clause 62**

LORD HILL OF OAREFORD

89 Page 51, leave out lines 6 to 16

**Clause 78**

LORD HILL OF OAREFORD

LORD LAMING

BARONESS WALMSLEY

90 Page 58, line 23, leave out paragraph (c)





# Education Bill

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MARSHALLED  
LIST OF AMENDMENTS  
TO BE MOVED  
ON REPORT

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*14th October 2011*

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PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS  
LONDON – THE STATIONERY OFFICE LIMITED

HL Bill 98—I

(15460)

55/1



ISBN 978-0-10-848584-8



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