

Education Bill

FOURTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

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

Clauses 41 to 48	Clauses 64 and 65
Schedule 12	Schedule 16
Clauses 49 to 53	Clause 66
Schedule 13	Schedule 17
Clauses 54 to 61	Clause 67
Schedule 14	Schedule 18
Clauses 62 and 63	Clauses 68 to 79
Schedule 15	

[Amendments marked ★ are new or have been altered]

**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,”.

Amendment
No.

Clause 43

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH
BARONESS CRAWLEY

82A Page 39, line 12, leave out subsection (2) and insert—

“(1) The Secretary of State shall not have the right to direct closure of a maintained school unless that school is eligible for intervention by virtue of section 62 of EIA 2006 (school requiring special measures).”

Schedule 12

LORD HILL OF OAREFORD

82B Page 90, line 38, at end insert—

“ After section 16 insert—

“16A Publication of proposals

- (1) The appropriate authority may not make an order under section 16(1) or (3) unless the authority has published a draft of the proposed order, or of an order in substantially the same form, by such time and in such manner as may be prescribed.
- (2) A draft proposal or order in respect of an institution which is maintained by a local authority may not be published without the consent of the governing body and the local authority.
- (3) In this section “the appropriate authority” means—
 - (a) in relation to a proposal or order in respect of an institution in England, the Secretary of State;
 - (b) in relation to a proposal or order in respect of an institution in Wales, the Welsh Ministers.”

82C Page 90, line 40, at end insert—

“() In subsection (4)(c), for “27” substitute “27C or 33P”.”

BARONESS BRINTON
BARONESS SHARP OF GUILDFORD

83 Page 91, line 17, leave out paragraph 3

LORD HILL OF OAREFORD

83A Page 91, line 18, at end insert—

“ In section 20 (constitution of further education corporation and conduct of further education institution), for subsection (2) substitute—

- “(2) Instruments of government and articles of government of further education corporations in England—
 - (a) must comply with the requirements of Part 2 of Schedule 4, and
 - (b) subject to that, may make such other provision as may be necessary or desirable.

**Amendment
No.**

Schedule 12—*continued*

- (2A) Instruments of government and articles of government of further education corporations in Wales—
- (a) must comply with the requirements of Part 3 of Schedule 4, and
 - (b) subject to that, may make any provision authorised to be made by that Part of that Schedule and such other provision as may be necessary or desirable.”

For section 22 substitute—

“22 Subsequent instruments and articles: England

A further education corporation in England may modify or replace their instrument of government or articles of government.

22ZA Subsequent instruments and articles: Wales

- (1) Subject to subsections (2) and (3), the Welsh Ministers may—
 - (a) if a further education corporation in Wales submits a draft of an instrument of government to have effect in place of their existing instrument, by order make a new instrument of government in the terms of the draft or in such terms as they think fit, and
 - (b) if such a corporation submits draft modifications of an instrument made under paragraph (a), by order modify the instrument in the terms of the draft or in such terms as they think fit.
- (2) The Welsh Ministers must not make a new instrument otherwise than in the terms of the draft, or modify the instrument otherwise than in the terms of the draft, unless they have consulted the corporation.
- (3) If the institution conducted by a further education corporation mainly serves the population of England, or receives financial support from the Chief Executive of Skills Funding, the Welsh Ministers must consult the Chief Executive of Skills Funding before making an order under subsection (1).
- (4) The Welsh Ministers may by order modify, replace or revoke any instrument of government or articles of government of any further education corporation in Wales.
- (5) An order under subsection (4) may relate to all further education corporations in Wales, to any category of such corporations specified in the order or to any such corporation so specified.
- (6) Before making an order under subsection (4), the Welsh Ministers must consult—
 - (a) the further education corporation or (as the case may be) each further education corporation to which the order relates, and
 - (b) the Chief Executive of Skills Funding, if the institution conducted by the corporation or (as the case may be) any corporation to which the order relates mainly serves the population of England, or receives financial support from the Chief Executive of Skills Funding.

Amendment
No.

Schedule 12—continued

- (7) A further education corporation in Wales may, with the consent of the Welsh Ministers—
- (a) make new articles of government in place of their existing articles, or
 - (b) modify their existing articles.
- (8) The Welsh Ministers may by a direction under this section require further education corporations in Wales, any class of such corporations specified in the direction or any particular further education corporation so specified—
- (a) to modify, replace or revoke their articles of government, or
 - (b) to secure that any rules or bye-laws made in pursuance of their articles of government are modified, replaced or revoked, in any manner so specified.
- (9) Before giving a direction under this section, the Welsh Ministers must consult the further education corporation or (as the case may be) each further education corporation to which the direction applies.”

83B Page 91, line 19, leave out paragraph 4 and insert—

“ For section 27 substitute—

“27 Proposals for dissolution of further education corporations: England

- (1) This section applies if a further education corporation in England propose that the corporation should be dissolved.
- (2) The corporation must publish details of the proposal, and such other information as may be prescribed, in accordance with regulations.
- (3) The corporation must consult on the proposal, and take account of the views of those consulted, in accordance with regulations.

27A Dissolution of further education corporations: England

- (1) This section and section 27B apply if, after complying with section 27, a further education corporation in England resolve that the corporation should be dissolved on a specified date.
- (2) “The dissolution date” means the date specified in a resolution under subsection (1).
- (3) The corporation must notify the Secretary of State of the resolution and the dissolution date as soon as reasonably practicable.
- (4) The corporation are dissolved on the dissolution date.

27B Dissolution of further education corporations: England: transfer of property, rights and liabilities

- (1) At any time before the dissolution date, the corporation may transfer any of their property, rights or liabilities to such person or body, or a person or body of such description, as may be prescribed.

**Amendment
No.**

Schedule 12—*continued*

- (2) The corporation may do so only with the consent of the person or body concerned.
- (3) A transfer under subsection (1) has effect on the dissolution date.
- (4) Subsection (5) applies if a person or body prescribed, or of a description prescribed, under subsection (1) is not a charity established for charitable purposes which are exclusively educational purposes.
- (5) Any property transferred to the person or body must be transferred on trust to be used for charitable purposes which are exclusively educational purposes.

27C Dissolution of further education corporations: Wales

- (1) Subject to the following provisions of this section, the Welsh Ministers may by order provide for—
 - (a) the dissolution of a further education corporation in Wales, and
 - (b) the transfer to any person mentioned in subsection (2) or (3) of property, rights and liabilities of the corporation.
- (2) Such property, rights and liabilities may, with the consent of the person or body concerned, be transferred to—
 - (a) any person appearing to the Welsh Ministers to be wholly or mainly engaged in the provision of educational facilities or services of any description, or
 - (b) any body corporate established for purposes which include the provision of such facilities or services.
- (3) Such property, rights and liabilities may be transferred to a higher education funding council.
- (4) Where the recipient of a transfer under an order under this section is not a charity established for charitable purposes which are exclusively educational purposes, any property transferred must be transferred on trust to be used for charitable purposes which are exclusively charitable purposes.
- (5) An order under this section may apply section 26 with such modifications as the Welsh Ministers consider necessary or desirable.
- (6) Before making an order under this section in respect of a further education corporation, the Welsh Ministers must consult—
 - (a) the corporation, and
 - (b) the Chief Executive of Skills Funding, if the institution conducted by the corporation mainly serves the population of England, or receives financial support from the Chief Executive of Skills Funding.”

Amendment
No.

Schedule 12—continued

83C Page 91, line 21, leave out paragraph 5 and insert—

“ For section 29 substitute—

“29 Government and conduct of designated institutions

- (1) This section applies to a designated institution, other than—
 - (a) an institution conducted by a company, or
 - (b) an institution conducted by an unincorporated association, if the order designating the institution provides for its exemption.
- (2) For each designated institution to which this section applies, there is to be—
 - (a) an instrument providing for the constitution of a governing body of the institution (to be known as the instrument of government), and
 - (b) an instrument in accordance with which the institution is to be conducted (to be known as the articles of government).
- (3) In sections 29A to 29C—

“instrument” means an instrument of government or articles of government;

“regulatory instrument”, in relation to an institution, means—

 - (a) an instrument of government or articles of government, or
 - (b) any other instrument relating to or regulating the institution.

29A First post-designation instruments and articles of designated institutions: England and Wales

- (1) The first post-designation instrument and articles of government of a designated institution to which section 29 applies must each comply with subsection (3) and (if the institution is in Wales) subsection (6).
- (2) The “first post-designation instrument and articles of government” of a designated institution are the first instrument of government and articles of government that the institution has after the designation takes effect.
- (3) The instrument must meet one of the following requirements—
 - (a) the instrument was in force when the designation took effect and is approved for the purposes of this section by the appropriate authority;
 - (b) the instrument—
 - (i) is made in pursuance of a power under a regulatory instrument or (where there is no such power) by the governing body of the institution, and

**Amendment
No.****Schedule 12—continued**

- (ii) (in either case) is approved for the purposes of this section by the appropriate authority;
 - (c) the instrument is made by the appropriate authority by order.
- (4) An instrument made by the governing body under subsection (3)(b) or the appropriate authority under subsection (3)(c) may replace wholly or in part an existing regulatory instrument.
- (5) Before making an instrument under subsection (3)(c), the appropriate authority must, so far as it appears practicable to do so, consult—
 - (a) the governing body of the institution, and
 - (b) where there is power under a regulatory instrument to make the instrument, and that power is exercisable by persons other than the governing body of the institution, the persons by whom the power is exercisable.
- (6) If the institution is in Wales, provision made by the instrument in relation to the appointment of members of the governing body must take into account the members who may be appointed by the Welsh Ministers under section 39 of the Learning and Skills Act 2000.
- (7) In this section “the appropriate authority”—
 - (a) in relation to an institution in England, means the Secretary of State;
 - (b) in relation to an institution in Wales, means the Welsh Ministers.

29B Changes to instruments and articles: England

- (1) This section applies to a designated institution in England which is an institution to which section 29 applies.
- (2) The governing body of the institution may modify or replace its instrument of government and articles of government.
- (3) The instrument of government and articles of government (as modified or replaced)—
 - (a) must comply with the requirements of Part 2 of Schedule 4, and
 - (b) subject to that, may make such other provision as may be necessary or desirable.

29C Changes to instruments and articles: Wales

- (1) This section applies to a designated institution in Wales which is an institution to which section 29 applies.
- (2) Subject to subsection (3), the governing body of the institution may modify, replace or revoke its instrument of government and articles of government if —
 - (a) the instrument falls within section 29A(3)(a),

**Amendment
No.**

Schedule 12—continued

- (b) the instrument was made by the governing body, or
 - (c) the instrument was made in pursuance of a power under a regulatory instrument, where there is no other power to modify it.
- (3) An instrument approved under section 29A(3)(a) or (b) by the Welsh Ministers may not be modified, replaced or revoked without the consent of the Welsh Ministers.
- (4) The Welsh Ministers may by order modify, replace or revoke the instrument of government or articles of government of the institution.
- (5) Before making an order under subsection (4), the Welsh Ministers must, so far as it appears practicable to do so, consult—
- (a) the governing body of the institution, and
 - (b) where there is power under a regulatory instrument to make the instrument, and that power is exercisable by persons other than the governing body of the institution, the persons by whom the power is exercisable.”
- 83D** Page 91, line 22, at end insert—
- “ In section 30 (special provision for certain institutions), in subsection (1) for “section 29” substitute “sections 29 to 29C”.”
- 83E** Page 91, line 36, at end insert—
- “() in subsection (6)(e)(ii), for “27” substitute “27C or 33P”;
- BARONESS BRINTON
BARONESS SHARP OF GUILDFORD
- 84** Page 91, line 41, leave out paragraph 11
- LORD HILL OF OAREFORD
- 84ZA** Page 91, line 42, at end insert—
- “ In section 33I(2) (instrument and articles of government of sixth form college corporations)—
- (a) in paragraph (a), after “requirements of” insert “Part 2 of”;
 - (b) for paragraph (b) substitute—
- “(b) subject to that, may make such other provision as may be necessary or desirable.”
- 84ZB** Page 92, line 23, leave out paragraphs 14 and 15 and insert—
- “ For section 33L substitute—
- “33L Changes to instruments and articles**
- (1) A sixth form college corporation may modify or replace their instrument of government or articles of government.

**Amendment
No.**

Schedule 12—continued

- (2) A sixth form college corporation to which section 33J applies may do the things mentioned in subsection (1) only with the consent of the trustees of the relevant sixth form college.”

For section 33N substitute—

“33N Proposals for dissolution of sixth form college corporations

- (1) This section applies if a sixth form college corporation propose that the corporation should be dissolved.
- (2) The corporation must publish details of the proposal, and such other information as may be prescribed, in accordance with regulations.
- (3) The corporation must consult on the proposal, and take account of the views of those consulted, in accordance with regulations.

33O Dissolution of sixth form college corporations

- (1) This section and section 33P apply if, after complying with section 33N, a sixth form college corporation resolve that the corporation should be dissolved on a specified date.
- (2) “The dissolution date” means the date specified in a resolution under subsection (1).
- (3) The corporation must notify the Secretary of State of the resolution and the dissolution date as soon as reasonably practicable.
- (4) The corporation are dissolved on the dissolution date.

33P Dissolution of sixth form college corporations: transfer of property, rights and liabilities

- (1) At any time before the dissolution date, the corporation may transfer any of their property, rights or liabilities to such person or body, or a person or body of such description, as may be prescribed, subject to subsection (4).
- (2) The corporation may do so only with the consent of the person or body concerned.
- (3) A transfer under subsection (1) has effect on the dissolution date.
- (4) In the case of a sixth form college corporation to which section 33J applies, any property held by the corporation on trust for the purposes of the relevant sixth form college must be transferred to the trustees of the relevant sixth form college.
- (5) Subsection (6) applies if a person or body prescribed, or of a description prescribed, under subsection (1) is not a charity established for charitable purposes which are exclusively educational purposes.
- (6) Any property transferred to the person or body must be transferred on trust to be used for charitable purposes which are exclusively educational purposes.
- (7) Subsection (6) does not apply to property transferred to the person or body by virtue of subsection (4).”

**Amendment
No.**

Schedule 12—continued

- 84ZBA★** Page 94, line 8, leave out paragraph 17 and insert—
- “17 Section 49A (guidance about consultation with students and employees), as it has effect in relation to England, is repealed.”
- 84ZC** Page 94, line 13, at end insert—
- “ Section 51 (publication of proposals) is repealed.”
- 84ZD** Page 94, line 24, at end insert—
- “() In subsection (7), after “include” insert “— (a)” and at the end insert—
- “(b) a direction requiring a governing body to make a resolution under section 27A(1) for the body to be dissolved on a date specified in the direction.
- (7A) A governing body to which a direction such as is mentioned in subsection (7)(b) is given is to be taken for the purposes of section 27A(1) to have complied with section 27 before making the resolution required by the direction.”
- 84ZE** Page 95, line 26, at end insert—
- “() In subsection (7), after “include” insert “— (a)” and at the end insert—
- “(b) a direction requiring a governing body to make a resolution under section 33O(1) for the body to be dissolved on a date specified in the direction.
- (7A) A governing body to which a direction such as is mentioned in subsection (7)(b) is given is to be taken for the purposes of section 33O(1) to have complied with section 33N before making the resolution required by the direction.”
- 84ZF** Page 96, line 22, at end insert—
- “ In section 88 (stamp duty)—
- (a) for “27” substitute “27B, 27C”;
- (b) for “33N” substitute “33P”.
- In section 88A (stamp duty land tax)—
- (a) for “27” substitute “27B, 27C”;
- (b) for “33N” substitute “33P”.
- 84ZG** Page 96, line 23, leave out paragraph 32 and insert—
- “(1) Section 89 (orders, regulations and directions) is amended as follows.
- (2) In subsection (2)—
- (a) for “22, 29(6) and (8)” substitute “22ZA(1) and (4), 29A(3)(c), 29C(4)”;
- (b) after “33A(5)(b)” insert “33J(2), 33K(1),”;

**Amendment
No.**

Schedule 12—continued

- (c) omit “or section 33L”.
- (3) In subsection (3), after “subsection (3A)” insert “or (3B)”.
- (4) After subsection (3A) insert—
- “(3B) An order falls within this subsection if—
- (a) it is an order revoking (wholly or in part) an order under section 15 or 16 and is made by virtue of section 27A(4), or
- (b) it is an order revoking (wholly or in part) an order under section 33A, 33B or 33C and is made by virtue of section 33O(4).”

84ZH [Withdrawn]

LORD HILL OF OAREFORD

- 84ZJ** Page 96, line 26, after “(1)” insert “—
- (a) after the definition of “further education” insert—
- ““further education corporation in England” means a further education corporation established to conduct an institution in England;
- “further education corporation in Wales” means a further education corporation established to conduct an institution in Wales;”;
- (b) ”

- 84ZK** Page 96, line 29, after “(index)” insert “—
- (a) after the entry for “further education corporation” insert—
- | | |
|--|----------------|
| “further education corporation
in England | section 90(1) |
| further education corporation
in Wales | section 90(1)” |
- (b) ”

- 84ZL** Page 96, line 31, leave out paragraph 35 and insert—

“ For Schedule 4 substitute—

“SCHEDULE 4

INSTRUMENTS AND ARTICLES OF GOVERNMENT

PART 1

GENERAL

- 1 In this Schedule—
- “instrument” means an instrument of government or articles of government;
- “the institution” means—
- (a) in the case of a further education corporation, the institution which the corporation are established to conduct;

Amendment
No.

Schedule 12—*continued*

- (b) in the case of the governing body of a designated institution, the institution;
- (c) in the case of a sixth form college corporation, the relevant sixth form college.

PART 2

ENGLAND

- 2 This Part applies in relation to—
 - (a) a further education corporation in England;
 - (b) the governing body of a designated institution in England;
 - (c) a sixth form college corporation.
- 3 In this Part “the body” means—
 - (a) in the case of a further education corporation or a sixth form college corporation, the corporation;
 - (b) in the case of a governing body, the governing body.
- 4 An instrument must provide for—
 - (a) the number of members of the body,
 - (b) the eligibility of persons for membership, and
 - (c) the appointment of members.
- 31 5 (1) An instrument must make provision about the procedures of the body and the institution.
 - (2) In particular, an instrument must specify how the body may resolve for its dissolution and the transfer of its property, rights and liabilities.
- 6 (1) An instrument must make provision for there to be—
 - (a) a chief executive of the institution, and
 - (b) a clerk to the body.
 - (2) An instrument must make provision about the respective responsibilities of the body, the chief executive and the clerk.
 - (3) The responsibilities of the body must include—
 - (a) in the case of a sixth form college corporation to which section 33J applies, the preservation and development of the educational character and mission of the institution and the oversight of its activities;
 - (b) in the case of any other sixth form college corporation, a further education corporation or a governing body, the determination and periodic review of the educational character and mission of the institution and the oversight of its activities;
 - (c) in any case, the effective and efficient use of resources, the solvency of the institution and the body and the safeguarding of their assets.

**Amendment
No.****Schedule 12—*continued***

- 7 An instrument must require the body to publish arrangements for obtaining the views of staff and students on the matters for which the body are responsible under paragraph 6(3)(a) or (b).
- 8 An instrument must permit the body to change their name with the approval of the Secretary of State.
- 9 An instrument must specify how the body may modify or replace the instrument of government and articles of government.
- 10 An instrument must prohibit the body from making changes to the instrument of government or articles of government that would result in the body ceasing to be a charity.
- 11 An instrument must provide for—
- (a) a copy of the instrument to be given free of charge to every member of the body,
 - (b) a copy of the instrument to be given free of charge, or at a charge not exceeding the cost of copying, to anyone else who requests it, and
 - (c) a copy of it to be available for inspection at the institution on request, during normal office hours, to every member of staff of, and student at, the institution.
- 12 An instrument must provide for the authentication of the application of the seal of the body.

PART 3

WALES

- 13 This Part applies in relation to further education corporations in Wales.
- 14 Provision made by an instrument in relation to the appointment of members of the corporation must take into account the members who may be appointed by the Welsh Ministers under section 39 of the Learning and Skills Act 2000.
- 15 (1) An instrument must provide for—
- (a) the number of members of the corporation,
 - (b) the eligibility of persons for membership, and
 - (c) the appointment of members.
- (2) An instrument may provide for the nomination of any person for membership by another, including by a body nominated by the Welsh Ministers.
- 16 An instrument must provide for one or more officers to be chosen from among the members.

**Amendment
No.****Schedule 12—continued**

- 17 An instrument may—
- (a) provide for the corporation to establish committees, and
 - (b) permit such committees to include persons who are not members of the corporation.
- 18 An instrument may provide for the delegation of functions of the corporation to—
- (a) officers or committees, or
 - (b) the principal of the institution.
- 19 An instrument may provide for the corporation to pay allowances to its members.
- 20 An instrument must provide for the authentication of the seal of the corporation.
- 21 An instrument must require the corporation to—
- (a) keep proper accounts and proper records in relation to the accounts, and
 - (b) prepare in respect of each financial year of the corporation a statement of accounts.
- 22 An instrument must—
- (a) provide for the appointment of a principal of the institution, and
 - (b) determine which functions exercisable in relation to the institution are to be exercised by the corporation, its officers or committees and which by the principal of the institution.
- 23 An instrument must make provision about the procedures of the corporation and the institution.
- 24 An instrument must provide—
- (a) for the appointment, promotion, suspension and dismissal of staff, and
 - (b) for the admission, suspension and expulsion of students.
- 25 An instrument may make provision authorising the corporation to make rules or bye-laws for the government and conduct of the institution, including in particular rules or bye-laws about the conduct of students, staff or both.”

**Amendment
No.**

Schedule 12—continued

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH
BARONESS CRAWLEY
[As an amendment to Amendment 842L]

84ZLA Line 31, at end insert—
“(d) the appointment of staff and student members”

LORD HILL OF OAREFORD

84ZM Page 96, line 33, at end insert—
“ (1) LSA 2000 is amended as follows.
(2) In section 110 (secondary education), in subsection (5), for “51(3A)” substitute “16A(2)”.
(3) In section 143 (further education sector: designated institutions), in subsection (6)(b), for “section 29” substitute “any of sections 29 to 29C”.”

84ZN★ Page 96, line 33, at end insert—
“ In section 22 of the Further Education and Training Act 2007 (consultation of further education institutions), in the new section 49A to be inserted into FHEA 1992 in relation to Wales—
(a) in subsection (1)—
(i) after “further education sector” insert “in Wales”;
(ii) for “appropriate authority” substitute “Welsh Ministers”;
(b) omit subsection (3).”

After Clause 52

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH
BARONESS CRAWLEY

84A Insert the following new Clause—

“Academies: school teachers’ qualifications

- (1) EA 2002 is amended as follows.
- (2) In section 133 (requirement to be qualified), in subsection (6) (schools to which this section applies), after paragraph (b) insert—
“(c) an Academy, including a free school,
(d) a city technology college, or
(e) a city college for the technology of the arts.”
- (3) At the end of subsection (6) of that Act insert—
“(7) Nothing in subsection (6) should prohibit a school’s ability to employ non-qualified individuals to provide educational support in relation to non-‘specified work’ in so far as it would positively contribute to pupils’ educational development”.

Amendment
No.

After Clause 52—*continued*

- (4) Any individual employed under the terms of subparagraph (3) above shall be supervised in their work by a qualified teacher.”

Clause 55

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH
BARONESS CRAWLEY

84B Page 45, line 40, leave out from “England” to end of line and insert “applies for an Academy Order, there must be a consultation on the question of whether the conversion should take place.

- (2) The consultation must seek the views of such persons as the person carrying it out thinks appropriate, but must include the views of parents of registered pupils, registered pupils, school staff and the local authority.”

After Clause 56

LORD HILL OF OAREFORD

84C Insert the following new Clause—

“Academy orders: local authority powers

In section 6 of AA 2010 (effect of Academy order), after subsection (2) insert—

“(2A) Subsection (2) does not prohibit the local authority from providing financial or other assistance in respect of the Academy, including by—

- (a) making payments in respect of some (but not all) of the expenses of maintaining the Academy,
- (b) providing premises, goods or services for the Academy, or
- (c) making premises, goods or services available to be used for the purposes of the Academy.”

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.

Amendment
No.

Clause 60—*continued*

() 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.

(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.”

Amendment
No.

Clause 62

LORD HILL OF OAREFORD

89 Page 51, line 6, leave out paragraph (b)

Clause 67

LORD YOUNG OF NORWOOD GREEN
BARONESS WALL OF NEW BARNET

89ZZA Page 53, line 26, at end insert—

“() The Secretary of State will make available the apprenticeship offer, and will ensure that progress is made to ensure the offer is available, to all qualified persons by 2015.”

89ZZAA Page 53, line 26, at end insert—

“() With the objective of achieving the apprenticeship offer for all qualified persons by 2015—

(a) the Secretary of State will ensure that all government contracts require a clear commitment to apprenticeships; and

(b) the Secretary of State will ensure that all government departments report regularly on the number of apprentices they employ and how many they intend to employ.”

89ZZAB Page 53, line 26, at end insert—

“() To gain the Investors in People award companies must demonstrate their commitment to apprenticeships.”

After Clause 67

LORD HILL OF OAREFORD

89ZZB Insert the following new Clause—

“Securing the provision of apprenticeship training

- (1) Part 4 of ASCLA 2009 (the Chief Executive of Skills Funding) is amended as follows.
- (2) In section 85 (encouragement of training provision etc for persons within section 83)—
 - (a) for subsection (1)(a) substitute—
 - “(a) make reasonable efforts to secure that employers participate in the provision of apprenticeship training for all persons who are within section 83(1)(a) or (b) or section 83A(4), (5) or (6);”;
 - (b) in subsection (1)(b), for “training within the Chief Executive’s remit” substitute “apprenticeship training”;
 - (c) in subsection (2), after “provision of” insert “apprenticeship”;
 - (d) in the heading, for “Encouragement of training provision etc for persons within section 83” substitute “Provision of apprenticeship training etc for persons within section 83 or 83A”.

**Amendment
No.****After Clause 67—continued**

- (3) In section 118 (guidance by Secretary of State), after subsection (1) insert—
- “(1A) Guidance under this section must include guidance about the performance by the Chief Executive of the duty imposed by section 85(1)(a).”

Schedule 18

LORD HILL OF OAREFORD

89ZZC Page 130, line 22, leave out paragraph 7

After Clause 71

LORD HILL OF OAREFORD

89ZZD Insert the following new Clause—

“Direct payments: persons with special educational needs or subject to learning difficulty assessment

- (1) In Chapter 2 of Part 9 of EA 1996 (ancillary functions of local authorities) after section 532 insert—

“Direct payments

532A Persons with special educational needs or subject to learning difficulty assessment

- (1) A local authority in England may make a payment (a “direct payment”) for the purpose of securing the provision of any goods and services mentioned in subsection (2) to a person (“the beneficiary”)—
- (a) for whom the authority maintain a statement of special educational needs under section 324, or
 - (b) who is subject to learning difficulty assessment by the authority.

This power is subject to subsection (3).

- (2) The goods and services referred to in subsection (1) are—
- (a) where the beneficiary is within subsection (1)(a), special educational provision specified in the statement of special educational needs;
 - (b) where the beneficiary is within subsection (1)(b) and the authority have arranged for an assessment to be conducted under section 139A of the Learning and Skills Act 2000, provision identified in the assessment as required to meet the beneficiary’s educational and training needs;
 - (c) transport or anything else that may be the subject of arrangements under section 508B(1), 508F(1) or 509AA(7)(b) that apply in relation to the beneficiary.

Amendment
No.

After Clause 71—*continued*

- (3) A direct payment may be made only in accordance with a pilot scheme made under section 532B.

532B Pilot schemes

- (1) The Secretary of State may by order make pilot schemes in accordance with which direct payments may be made under section 532A.
- (2) Subject to the following provisions of this section, a pilot scheme may include such provision as the Secretary of State thinks appropriate.
- (3) A pilot scheme must include provision about—
- (a) circumstances in which, and the descriptions of goods and services in respect of which, direct payments may (or may not) be made;
 - (b) descriptions of persons to or in respect of whom direct payments may (or may not) be made;
 - (c) conditions with which a local authority must comply before, after or at the time of making a direct payment;
 - (d) conditions with which a person to or in respect of whom a direct payment is or may be made may be required by a local authority to comply before, after or at the time the payment is made;
 - (e) the principles by reference to which the amount of a direct payment is to be calculated;
 - (f) circumstances in which a local authority may or must stop making direct payments;
 - (g) circumstances in which a local authority may or must require all or part of a direct payment to be repaid, by the person to whom the payment is made or otherwise;
 - (h) the monitoring of the making of direct payments, of their use by the persons to whom they are made or of the goods and services they are used to secure;
 - (i) the arrangements to be made by a local authority for providing persons to or in respect of whom direct payments are made with information, advice or support in connection with direct payments;
 - (j) treating such support to any extent as goods or services in respect of which direct payments may be made.
- (4) The conditions referred to in subsection (3)(c)—
- (a) must include a requirement to obtain the written consent of the person to whom a direct payment is to be made before making the payment;
 - (b) may include a requirement to obtain the written consent of one or more other persons before making a direct payment.

**Amendment
No.****After Clause 71—*continued***

- (5) The circumstances referred to in subsection (3)(f) in which a local authority must stop making direct payments must include where the consent required by virtue of subsection (4)(a), or any consent required by virtue of subsection (4)(b), is withdrawn.
- (6) A pilot scheme must include provision for a sum required to be repaid to a local authority by virtue of the scheme to be recoverable as a debt due to the authority.
- (7) A pilot scheme may provide for paid-for goods and services to be treated as goods and services provided or arranged by a local authority in pursuance of a statutory duty specified in the scheme.
- (8) A pilot scheme may provide for paid-for goods and services to be treated in that way—
 - (a) to the extent set out in the scheme, and
 - (b) subject to any conditions set out in the scheme.
- (9) The only statutory duties that may be specified are—
 - (a) section 324(5)(a)(i) (duty to arrange special educational provision specified in statement of special educational needs);
 - (b) section 508B(1) (duty to make travel arrangements for eligible children);
 - (c) section 508F(1) (duty to make arrangements for provision of transport etc for adult learners);
 - (d) section 509AA(7)(b) (duty to make, and secure that effect is given to, arrangements for provision of transport etc for persons of sixth form age).
- (10) “Paid-for goods and services” are goods and services acquired by means of a direct payment.

532C Pilot schemes: local authorities and duration

- (1) An order under section 532B(1) making a pilot scheme must specify—
 - (a) the local authorities in respect of which the scheme operates, and
 - (b) the period for which the scheme has effect.
- (2) The period specified under subsection (1)(b) must not exceed two years, subject to subsection (3).
- (3) An order under section 532B(1) may extend the period for which a pilot scheme has effect, subject to subsection (4).
- (4) The period for which a pilot scheme has effect may not be extended so as to end after the end of the relevant four year period.
- (5) “The relevant four year period” is the period of four years beginning with the day on which the Education Act 2011 is passed.”

**Amendment
No.**

After Clause 71—*continued*

- (2) In section 568 of EA 1996 (orders)—
- (a) in subsection (3), after “other than” insert “an order to which subsection (3A) applies or”;
 - (b) after subsection (3) insert—
- “(3A) This subsection applies to an order under section 532B(1) (direct payments: pilot schemes), apart from the first order to be made under that subsection.
- (3B) A statutory instrument which contains (alone or with other provision) an order to which subsection (3A) 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.”
- 124
- (3) The provisions inserted into EA 1996 by subsections (1) and (2) are repealed at the end of four years beginning with the day on which this Act is passed.”

LORD TOUHIG

LORD LOW OF DALSTON

[Amendments 89ZZDA and 89ZZDB are amendments to Amendment 89ZZD]

89ZZDA Line 52, at end insert—

- “() the principles by reference to which the amount of direct payment is to be calculated should include—
- (i) a review of any statement of special educational needs or learning disability assessment;
 - (ii) clearly specified and quantified provision;
 - (iii) the satisfactory qualification of the person or local authority to deliver the provision;
 - (iv) the frequency and duration of the provision;
 - (v) consideration of the provision of individual learning support, including, yet not limited to, speech and language therapy, occupational therapy, physiotherapy and specialist teacher support;
 - (vi) monitoring arrangements to review the level of provision;”

LORD TOUHIG

89ZZDB Line 124, at end insert—

- “(3C) A statutory instrument which contains (alone or with other provision) an order to which subsection (3A) applies may not be made until an evaluation of direct payments in education has been published by the Secretary of State.”

Amendment
No.

Clause 72

LORD STEVENSON OF BALMACARA

- 89ZZE** Page 56, line 16, at end insert “or
“() for the period until the first repayment is made, not in excess of the average cost of borrowing borne by the Government in the preceding financial year.”

After Clause 73

BARONESS BRINTON
BARONESS SHARP OF GUILDFORD
LORD STEVENSON OF BALMACARA

- 89ZA** Insert the following new Clause—

“Repayment of loans for part-time students

No part-time student shall be required to repay their loan until—

- (a) they have completed their studies, or
- (b) four years and six months has passed since the start of their course, whichever occurs first.”

Clause 74

LORD TOUHIG
LORD LOW OF DALSTON

- 89ZB** Page 57, line 18, after “Act” insert “or any order which introduces direct payments in any area”

Clause 78

LORD HILL OF OAREFORD

- 89ZC★** Page 58, line 14, leave out “(8)” and insert “(9)”
- 89ZD★** Page 58, line 16, leave out “(9) and (10)” and insert “and (9) to (11)”
- 89A** Page 58, line 16, at end insert—
“() section (*Academy orders: local authority powers*);”
- 89B** Page 58, line 16, at end insert—
“() section (*Direct payments: persons with special educational needs or subject to learning difficulty assessment*);”

LORD HILL OF OAREFORD
LORD LAMING
BARONESS WALMSLEY

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

LORD HILL OF OAREFORD

- 91** Page 58, line 31, leave out “section 67” and insert “sections 67 and (*Securing the provision of apprenticeship training*)”

Education Bill

FOURTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

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