

LORDS AMENDMENTS TO THE
EDUCATION BILL

[The page and line references are to HL Bill 67, the bill as first printed for the Lords.]

Clause 8

1 Page 12, line 22, leave out “2(3)” and insert “2A”

2 Page 13, leave out lines 32 to 34

3 Page 13, line 42, at end insert –

“Interim prohibition orders

2A (1) Regulations under paragraph 1 may make provision for the Secretary of State to make an interim prohibition order, pending the Secretary of State’s final decision under section 141B(2).

(2) Regulations about interim prohibition orders must provide that an interim prohibition order may be made only if the Secretary of State considers that it is necessary in the public interest to do so.

(3) Regulations about interim prohibition orders must provide that the Secretary of State must review an interim prohibition order –

(a) within six months of the order being made, and

(b) within each subsequent six month period,

if the person to whom the order relates makes an application to the Secretary of State for such a review.”

4 Page 14, line 27, leave out “2(3)” and insert “2A”

Clause 13

5 Page 20, line 9, after second “is” insert “or may be”

6 Page 20, line 15, leave out “an appropriate criminal court” and insert “a magistrates’ court”

7 Page 20, line 20, at end insert “, and

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

8 Page 20, line 21, leave out “of a magistrates’ court”

9 Page 20, line 23, leave out “of a magistrates’ court”

10 Page 20, line 37, leave out from “once” to end of line 38 and insert “proceedings for the offence have been instituted.”

11 Page 21, line 6, 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.”

12 Page 21, leave out lines 8 to 10

13 Page 21, line 28, 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.”

14 Page 22, line 12, leave out “any” and insert “either”

15 Page 22, leave out lines 21 to 26

After Clause 22

16 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.
- (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.

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;
 - (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.
- (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);”.

17 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.”
- (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
 - (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;
 - (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;
 - (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.
- (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 30

- 18 Leave out Clause 30

Clause 31

- 19 Leave out Clause 31

Clause 34

- 20 Page 33, line 24, 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).”

- 21 Page 33, line 29, leave out sub-paragraph (i)

- 22 Page 33, line 33, leave out paragraph (c)

After Clause 35

- 23 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)”.
- (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.””

Clause 37

24 Page 34, line 23, at end insert—

- “(ba) a person elected as a staff governor,
 (bb) a person appointed as a local authority governor,”

25 Page 34, line 30, at end insert—

“(4ZA) Regulations made by virtue of subsection (3)(c) in relation to a maintained school in England may include provision for eligibility criteria for the school’s local authority governor to be such as may be specified by the school’s governing body.”

Clause 39

26 Page 35, line 9, leave out “follows” and insert “set out in subsections (2) to (8)”

27 Page 36, line 16, 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.

(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.””

Clause 41

28 Page 36, line 42, leave out “follows” and insert “set out in subsections (2) to (10)”

29 Page 37, line 32, 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.””

Clause 52

- 30 Page 42, line 32, leave out “and”
- 31 Page 42, line 34, at end insert “, and
() it is not an alternative provision Academy (see section 1C).”
- 32 Page 43, line 36, at end insert “or without”
- 33 Page 43, line 41, after “Academies” insert “or a description of alternative provision Academy”

After Clause 56

- 34 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 62

- 35 Page 50, line 33, leave out paragraph (b)

After Clause 67

- 36 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”.

- (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).”

After Clause 71

37 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.
- (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.
- (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.”
- (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) A statutory instrument which contains (alone or with other provision) an order under section 532B(1) (direct payments: pilot schemes) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”
- (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.”

Clause 78

- 38** Page 57, line 39, leave out “(8)” and insert “(9)”
- 39** Page 57, line 41, leave out “, (9) and (10)” and insert “and (9) to (11)”
- 40** Page 57, line 41, at end insert –
 - “() section (*Academy orders: local authority powers*);”
- 41** Page 57, line 41, at end insert –

“() section (*Direct payments: persons with special educational needs or subject to learning difficulty assessment*);”

42 Page 58, line 7, leave out paragraph (c)

43 Page 58, line 15, leave out “section 67” and insert “sections 67 and (*Securing the provision of apprenticeship training*)”

Schedule 1

44 Page 59, line 18, at end insert –

“ In section 31A of that Act (consideration of adverse reports), in subsection (3)(c), for “exclusion appeal panel” substitute “exclusion review panel”.”

Schedule 10

45 Page 84, leave out lines 9 and 10

46 Page 84, line 39, leave out paragraph 5

Schedule 12

47 Page 89, 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.”

48 Page 89, line 40, at end insert –

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

49 Page 90, 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.

- (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.

- (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.”

50 Page 90, 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.

- (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.””

51 Page 90, 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
 - (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),
 - (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.”
- 52** Page 90, line 22, at end insert –
- “ In section 30 (special provision for certain institutions), in subsection (1) for “section 29” substitute “sections 29 to 29C”.”
- 53** Page 90, line 32, at end insert –
- “ In section 33E (principal powers of a sixth form college corporation), in subsection (2), after “subsection (1)” insert “and (in the case of a sixth form college corporation to which section 33J applies) section 33J(1A)””
- 54** Page 90, line 33, at end insert –
- “() in subsection (6)(e)(ii), for “27” substitute “27C or 33P”;
- 55** Page 90, line 39, 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.””
- 56** Page 90, line 39, at end insert –
- “ (1) Section 33J (special provision for certain institutions) is amended as follows.
- (2) After subsection (1) insert –
- “(1A) A sixth form college corporation to which this section applies may (accordingly) conduct the relevant sixth form college in a way that secures that the established character of the sixth form college is preserved and developed (and, in particular, in a way that is in accordance with any trust deed relating to the college).”
- (3) In subsection (3) –
- (a) for “reference in subsection (1)(a) to the established character of a sixth form college is” substitute “references in subsections (1)(a) and (1A) to the established character of a sixth form college are”;
 - (b) for “a reference” substitute “references”.”
- 57** Page 91, line 1, leave out paragraph (b) and insert –
- “(b) for subsection (2) substitute –
- “(2) An order under subsection (1) may not be made unless –
 - (a) the Secretary of State has consulted the corporation, and
 - (b) in the case of a sixth form college corporation to which section 33J applies, the trustees of the

relevant sixth form college have given their consent.””

58 Page 91, line 2, leave out paragraphs 12 and 13 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.
- (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).”
- 59** Page 92, line 7, leave out paragraph 15 and insert –
“15 Section 49A (guidance about consultation with students and employees), as it has effect in relation to England, is repealed.”
- 60** Page 92, line 12, at end insert –
“ Section 51 (publication of proposals) is repealed.”
- 61** Page 92, line 23, 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.”
- 62** Page 93, leave out lines 2 to 11 and insert –
“(4) Subsections (4A) and (4B) apply to a sixth form college which is specified, or falls within a class specified, in an order under section 33J(2).

(4A) Before doing one or more of the things listed in subsection (6), the Secretary of State must consult –
(a) the trustees of the sixth form college, and
(b) each person or body with power under the college’s instrument of government to appoint or nominate one or more of its foundation governors.

(4B) After carrying out a consultation under subsection (4A), the Secretary of State must give the persons and bodies consulted a notice stating –
(a) what the Secretary of State has decided to do;
(b) the reasons for the decision.”
- 63** Page 93, line 13, leave out from “for” to end of line 14 and insert ““authority do one or more of those things, the authority” substitute “Secretary of State does one or more of the things listed in subsection (6), the Secretary of State”
- 64** Page 93, line 21, 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.”

65 Page 94, line 15, 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”.

66 Page 94, line 16, leave out paragraph 30 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),”;
- (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).”

67 Page 94, line 19, 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) ”

68 Page 94, line 22, after “(index)” insert “ –

(a) after the entry for “further education corporation” insert –

“further corporation in England	education		section 90(1)
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further education | section 90(1)”
 corporation in Wales

(b) ”

69 Page 94, line 24, leave out paragraph 33 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;
 - (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,
 - (c) the members to include—
 - (i) staff and students at the institution, and
 - (ii) in the case of a sixth form college corporation, parents of students at the institution aged under 19, and
 - (d) the appointment of members.

- 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.
- 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.
- 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.””

70 Page 94, line 26, 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”.”

71 Page 94, line 26, 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).”

Schedule 13

72 Page 95, line 14, at end insert—

- “ In section 10A (charges at boarding Academies) (inserted by section 59), in subsection (1)(a), for “an Academy” substitute “an Academy school or an alternative provision Academy”.”

73 Page 95, line 15, after “land)” insert “(substituted by Schedule 14)”

74 Page 95 leave out lines 16 to 35 and insert—

- “() In paragraph 10 (power of Secretary of State to make direction where Academy order made)—
- (a) in sub-paragraph (1)(b), for “Academy” substitute “Academy school”;
 - (b) in sub-paragraph (3)(c), for “Academy” substitute “Academy school”.
- () In paragraph 13 (transfer of land and other property on dissolution of governing body), in sub-paragraph (3)(b), for “Academy” substitute “Academy school”.”

75 Page 95, line 36, at end insert—

- “ (1) The Children Act 1989 is amended as follows.

- (2) In section 62 (voluntary organisations providing accommodation: duties of local authorities), in subsection (10), after “1992,” insert “a 16 to 19 Academy”.
- (3) In section 80 (inspection of children’s homes etc by persons authorised by Secretary of State) –
- (a) in subsection (5), after paragraph (dc) insert –
 - “(dd) proprietor of a 16 to 19 Academy;”;
 - (b) in subsection (13), in the definition of “college”, after “1992” insert “or a 16 to 19 Academy”;
 - (c) in subsection (13), at the end insert –
 - ““proprietor” has the same meaning as in the Education Act 1996.”
- (4) In section 87 (welfare of children in boarding schools and colleges) –
- (a) in subsection (10), in the definition of “college”, after “1992 Act” insert “or a 16 to 19 Academy”;
 - (b) in subsection (11), after paragraph (c) insert –
 - “(d) in relation to a 16 to 19 Academy, the proprietor of the Academy.”

In Schedule 4A to the Water Industry Act 1991 (premises that are not to be disconnected for non-payment of charges), after paragraph 10 insert –

“10A A 16 to 19 Academy.”

- (1) FHEA 1992 is amended as follows.
- (2) In section 85A (nuisance or disturbance on educational premises) –
- (a) in subsection (2), omit the “and” after paragraph (a) and after paragraph (b) insert “, and
 - (c) any 16 to 19 Academy.”;
 - (b) in subsection (4), omit the “and” after paragraph (a) and after paragraph (b) insert “, and
 - (c) in relation to premises of a 16 to 19 Academy, the proprietor.”;
 - (c) in subsection (6), omit the “and” after paragraph (a) and after paragraph (b) insert “, and
 - (c) in relation to an offence committed on premises of a 16 to 19 Academy, a person whom the proprietor has authorised to bring such proceedings.”
- (3) In section 85AA (power of members of staff to search students for prohibited items: England) –
- (a) in subsection (1), after “England” insert “, or a 16 to 19 Academy,”;
 - (b) in subsection (6), in the definition of “member of staff”, after “further education sector” insert “or a 16 to 19 Academy”.
- (4) In section 85AB (power of search under section 85AA: supplementary), in subsection (3), after “England” insert “, or a principal of a 16 to 19 Academy,”.
- (5) In section 85C (power of members of staff to use force) –

- (a) in subsection (1), after “further education sector” insert “or is a 16 to 19 Academy”;
- (b) in subsection (5), after “further education sector” insert “or a 16 to 19 Academy”.

76 Page 95, line 40, leave out “and (1B)” and insert “to (1C)”

77 Page 95, line 42, at end insert –

“(1C) An alternative provision Academy is a school.”

78 Page 95, line 42, at end insert –

- “() In section 11 (Secretary of State’s duty in the case of primary, secondary and further education) –
 - (a) in subsection (1)(a), omit the “or” after sub-paragraph (i) and after sub-paragraph (ii) insert “or
 - (iii) in 16 to 19 Academies,”;
 - (b) in subsection (1)(b), for “or institutions within the further education sector” substitute “, institutions within the further education sector or 16 to 19 Academies”;
 - (c) in subsection (2), for “and institutions within the further education sector” substitute “, institutions within the further education sector and 16 to 19 Academies”.
- () In section 329A (review or assessment of educational needs at request of responsible body), in subsection (12), after paragraph (d) insert –
 - “(da) an alternative provision Academy that is not an independent school,”.
- () In section 332B (special educational provision: resolution of disputes), in subsection (8)(c), for “or an Academy” substitute “, an Academy school or an alternative provision Academy”.
- () In section 337 (special schools), in paragraph (b), for “Academy” substitute “Academy school”.
- () In section 444 (offence: failure to secure regular attendance at school of registered pupil), in subsection (7A)(a), for sub-paragraph (iii) substitute –
 - “(iii) an Academy school,
 - (iiia) an alternative provision Academy,”.
- () In section 444ZA (application of section 444 to alternative education provision), in subsection (8) –
 - (a) in paragraph (a), for sub-paragraph (iii) substitute –
 - “(iii) an Academy school,
 - (iiia) an alternative provision Academy,”;
 - (b) in paragraph (b), after “(iii),” insert “(iiia),”.
- () In section 444B (penalty notices: supplemental), in subsection (4), in the definition of “relevant school”, for paragraph (c) substitute –
 - “(c) an Academy school,
 - (ca) an alternative provision Academy,”.
- () In section 508A (local authorities in England: duty to promote sustainable modes of travel) –

- (a) in subsection (5)(b), after “further education sector” insert “, or 16 to 19 Academies,”;
 - (b) in subsection (6)(b), after “further education sector” insert “, or 16 to 19 Academies,”.
- () In section 508C (local authorities in England: travel arrangements etc for children other than eligible children), in subsection (6)(b), after “further education sector” insert “, or 16 to 19 Academy,”.
- () In section 508G (local authorities in England: transport policy statements for young adults subject to learning difficulty assessment), in subsection (1), after paragraph (b) insert—
- “(ba) proprietors of 16 to 19 Academies in the authority’s area,”.
- () In section 509AA (local authorities in England: provision of transport etc for persons of sixth form age)—
- (a) in subsection (2), omit the “or” at the end of paragraph (c) and after that paragraph insert—
 - “(ca) at any 16 to 19 Academy, or”;
 - (b) in subsection (2)(d), for “or (c)” substitute “, (c) or (ca)”.
- () In section 510 (provision of clothing), in subsection (4)(b), after “further education sector” insert “or a 16 to 19 Academy”.
- () In section 537 (power of Secretary of State to require information from governing bodies etc), in subsection (1)(b), after “every” insert “(i)” and at the end insert “or
- (ii) alternative provision Academy which is not an independent school,”.
- () In section 557 (adoption of statutory trusts), in subsection (10), in the definition of “relevant school”, for “Academy,” substitute “Academy school, alternative provision Academy,”.

79 Page 96, line 8, at end insert—

- “() in the definition of “proprietor”—
 - (i) after “a school” insert “or a 16 to 19 Academy”;
 - (ii) after “the school” insert “or Academy”.

80 Page 96, line 18, at end insert—

- “() In paragraph 15(2) of Schedule 35B (travel arrangements for eligible children: meaning of “qualifying school”), in paragraph (f), for “or an Academy” substitute “, an Academy school or an alternative provision Academy”.

81 Page 96, line 18, at end insert—

- “ (1) SSFA 1998 is amended as follows.
- (2) In section 77 (control of disposals or changes in use of school playing fields) (as amended by Schedule 14)—
- (a) in subsection (2B)(c)(ii), for “of Academy” substitute “of Academy school”;
 - (b) in subsection (3), for “Academy” (in both places) substitute “Academy school”;
 - (c) in subsection (4B), for “Academy” substitute “Academy school”.

- (3) In section 88 (admission authorities and admission arrangements), in subsection (1)(c) (inserted by section 62), for “Academy” (in both places) substitute “Academy school”.
- (4) In section 88H (reference of objections to adjudicator) (as amended by section 62) –
 - (a) in subsection (1A), for “an Academy” (in both places) substitute “an Academy school”;
 - (b) in subsection (6)(b), for “Academy” substitute “Academy school”.
- (5) In section 88I (other functions of adjudicator relating to admission arrangements), in subsection (1)(b) (inserted by section 62), for “Academy” substitute “Academy school”.
- (6) In section 88K (sections 88H and 88I: supplementary) (as amended by section 62) –
 - (a) in subsection (4)(a), for “Academy” substitute “Academy school”;
 - (b) in subsection (5)(b), for “an Academy” substitute “an Academy school”.
- (7) In section 88P (reports by local authorities), in subsection (3)(b), for “Academy” substitute “Academy school”.
- (8) In section 88Q (reports under section 88P: provision of information), in subsection (2)(d)(i), for “Academy” substitute “Academy school”.
- (9) In section 110 (home-school agreements), in subsection (1)(b), for “Academy” substitute “Academy school”.

In section 24 of the Anti-social Behaviour Act 2003 (sections 19 to 22A and 24: interpretation) –

- (a) in the definition of “governing body”, for “Academy” substitute “Academy school, alternative provision Academy”;
- (b) in the definition of “relevant school”, for paragraph (e) substitute –
 - “(e) an Academy school,
 - (e) an alternative provision Academy,”.

In section 14 of the International Development Act 2002 (functions of the Commonwealth Scholarship Commission etc), in subsection (1)(b)(i), after “higher education sector” insert “, at 16 to 19 Academies”.

- (1) EA 2002 is amended as follows.
- (2) In section 135A (requirement to serve induction period: teachers in England) (inserted by section 9) –
 - (a) in subsection (1)(d), after “prescribed description)” insert “or a 16 to 19 Academy”;
 - (b) in subsection (2)(k), for “or to institutions within the further education sector” substitute “institutions within the further education sector or 16 to 19 Academies”;
 - (c) in subsection (5), after “further education sector” insert “or a 16 to 19 Academy”.

- (3) In section 141A (teacher misconduct: teachers to whom sections 141B to 141E apply) (inserted by section 8), in subsection (1), after paragraph (b) insert—
- “(ba) a 16 to 19 Academy,”.
- (4) In section 141D (supply of information following dismissal, resignation etc) (inserted by section 8), in subsection (4), in paragraph (c) of the definition of “relevant employer”, after “school” insert “or 16 to 19 Academy”.
- (5) In section 203 (further education institutions: hazardous material, etc)—
- (a) after subsection (1) insert—
- “(1A) The Secretary of State may by regulations require the proprietor of a 16 to 19 Academy to prevent the use in the Academy of specified equipment or specified materials without the approval of the Secretary of State.”;
- (b) in subsection (5), at the end insert “and “proprietor” has the same meaning as in the Education Act 1996”.

In section 71 of the Income Tax (Trading and Other Income) Act 2005 (educational establishments for the purposes of section 70), in subsection (1), omit the “or” after paragraph (c) and after paragraph (d) insert “, or

(e) a 16 to 19 Academy.”

- (1) EA 2005 is amended as follows.
- (2) In section 5 (duty to inspect certain schools at prescribed intervals), in subsection (2), for paragraph (d) substitute—
- “(d) Academy schools,
(da) alternative provision Academies,”.
- (3) In section 113 (information about the school workforce: introductory), in subsection (2)(c), after “institution” insert “or a 16 to 19 Academy”.
- (1) EIA 2006 is amended as follows.
- (2) In section 7 (invitation for proposals for establishment of new schools), in subsection (2)(b), for “Academy” substitute “Academy school”.
- (3) In section 100 (duty of governing body or proprietor where pupil excluded for fixed period), in subsection (5), in the definition of “governing body”, for “Academy,” substitute “Academy school, an alternative provision Academy,”.
- (4) In section 104 (notice to parent relating to excluded pupil), in subsection (8), in paragraph (c) of the definition of “the appropriate authority”, for “Academy,” substitute “Academy school, an alternative provision Academy,”.
- (5) In section 111 (meaning of “maintained school” and “relevant school” in Chapter 2 of Part 7), in the definition of “relevant school”, for paragraph (b) substitute—
- “(b) an Academy school,
(ba) an alternative provision Academy,”.
- (6) In section 123 (inspections: education and training to which Chapter applies), in subsection (1) after paragraph (b) insert—
- “(ba) education provided in 16 to 19 Academies;”.

- (7) In section 125 (inspection of further education institutions), in subsection (1) (amended by section 41), after “sector” insert “, and all 16 to 19 Academies,”.
- (8) In Schedule 2 (consideration, approval and implementation of proposals for establishment or discontinuance of schools in England), in paragraph 3A(a) (inserted by Schedule 11), for “an Academy” substitute “an Academy school”.
- (1) The Safeguarding Vulnerable Groups Act 2006 is amended as follows.
- (2) In section 21 (controlled activity relating to children), in subsection (4), after “Education Act 2002)” insert “or a 16 to 19 Academy”.
- (3) In section 59 (meaning of “vulnerable adults”), in subsection (3), after paragraph (d) insert –
- “(e) a 16 to 19 Academy which provides accommodation for children.”

In section 71 of the Corporation Tax Act 2009 (educational establishments for the purposes of section 70), in subsection (1), omit the “or” after paragraph (c) and after paragraph (d) insert “, or

(e) a 16 to 19 Academy.”

In section 23 of ASCLA 2009 (duty to prepare and submit draft specification of apprenticeship standards: England), in subsection (2)(b), omit the “and” after sub-paragraph (ii), and after that sub-paragraph insert –

“(iia) 16 to 19 Academies, and”.

- (1) The Equality Act 2010 is amended as follows.
- (2) In section 91 (students: admission and treatment, etc) –
- (a) in subsection (10), after paragraph (c) insert –
- “(d) a 16 to 19 Academy.”;
- (b) in subsection (12), after paragraph (a) insert –
- “(aa) in the case of an institution within subsection (10)(d), the proprietor (within the meaning of the Education Act 1996);”.
- (3) In Schedule 10 (accessibility for disabled pupils), in paragraph 5(3), for paragraph (b) substitute –
- “(b) Academy schools;
- (c) alternative provision Academies.”
- (4) In Schedule 17 (disabled pupils: enforcement), in paragraph 13(5)(b), for “Academy” substitute “Academy school or an alternative provision Academy”.

Schedule 14

- 82** Page 96, line 35, after “school” insert “or a 16 to 19 Academy”
- 83** Page 97, line 2, after “school” insert “or 16 to 19 Academy”
- 84** Page 98, line 3, after “school” insert “or 16 to 19 Academy”
- 85** Page 98, line 22, after “school” insert “or a 16 to 19 Academy”

- 86 Page 99, line 34, after “school” insert “or a 16 to 19 Academy”
- 87 Page 100, line 14, after “school” insert “or a 16 to 19 Academy”
- 88 Page 100, line 17, after “school” insert “or a 16 to 19 Academy”
- 89 Page 103, line 9, at end insert –
“This is subject to sub-paragraph (1A).
(1A) If a leasehold interest in land is held for the purposes of a new Academy, this paragraph does not apply to –
(a) that or any other leasehold interest in the land, or
(b) a freehold interest in the land.
(1B) An Academy is a new Academy for the purposes of sub-paragraph (1A) if, by virtue of section 9(1)(a) (new educational institutions), the duty in section 9(2) (impact on other schools etc) applied when the Secretary of State was deciding whether to enter into Academy arrangements in relation to it.”
- 90 Page 103, line 10, after “land” insert “to which this paragraph applies”
- 91 Page 103, line 14, after “land” insert “to which this paragraph applies”
- 92 Page 103, line 21, after “land” insert “(subject to sub-paragraph (6))”
- 93 Page 103, line 24, at end insert –
“(6) Where the land is vested in the official custodian for charities in trust for a charity, a notice under sub-paragraph (4) must be served –
(a) on the charity, if the charity is a corporate charity;
(b) on the persons having the general control and management of the administration of the charity, in any other case.”
- 94 Page 103, line 27, leave out from beginning to end of line 30 and insert –
“(a) an educational institution ceases to be an Academy, and
(b) immediately before it does so, publicly funded land is held by a person for the purposes of the Academy.”
- 95 Page 103, line 31, leave out “(1)(b)” and insert “(1)(a)”
- 96 Page 113, line 8, at end insert –
“ Section 482 of EA 1996 (Academies) is repealed.”
- 97 Page 113, line 38, at end insert –
“ In section 65 of EA 2002 (Academies), omit subsection (1).”
- 98 Page 113, line 38, at end insert –
“ (1) Section 12 of AA 2010 (charitable status of Academy proprietors etc) is amended as follows.
(2) After subsection (1) insert –
“(1A) In the definition of “trust corporation” in the provisions listed in subsection (1B), the reference to a corporation appointed by the court in any particular case to be a trustee includes a reference to a qualifying Academy proprietor.
(1B) The provisions are –

- (a) section 117(1)(xxx) of the Settled Land Act 1925;
- (b) paragraph (18) of section 68(1) of the Trustee Act 1925;
- (c) section 205(1)(xxviii) of the Law of Property Act 1925;
- (d) section 55(1)(xxvi) of the Administration of Estates Act 1925;
- (e) section 128 of the Senior Courts Act 1981.”

(3) In the heading, after “charitable” insert “and trust corporation”.”

Schedule 16

99 Page 115, line 34, at end insert –

“Value Added Tax Act 1994 (c. 23)

- (4) Group 6 of Part 2 of Schedule 9 to the Value Added Tax Act 1994 (exemptions: education) is amended as follows.
- (5) In item 5A –
 - (a) omit paragraph (a);
 - (b) in paragraph (b), for “that Act” substitute “the Apprenticeships, Skills, Children and Learning Act 2009”.
- (6) After item 5A insert –

“5B The provision of education or vocational training and the supply, by the person providing that education or training, of any goods or services essential to that provision, to persons who are –

 - (a) aged under 19,
 - (b) aged 19 or over, in respect of education or training begun by them when they were aged under 19,
 - (c) aged 19 or over but under 25 and subject to learning difficulty assessment, or
 - (d) aged 25 or over, in respect of education or training begun by them when they were within paragraph (c),

to the extent that the consideration payable is ultimately a charge to funds provided by the Secretary of State.”
- (7) In note (5A), for “item 5A” substitute “items 5A and 5B”.
- (8) After note (5A) insert –

“(5B) In item 5B, “subject to learning difficulty assessment” has the same meaning as in the Education Act 1996.””

Schedule 18

100 Page 121, line 31, leave out paragraph 7

LORDS AMENDMENTS TO THE
EDUCATION BILL

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