

Children and Families Bill

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Order of 4th December 2013, as follows –

Clauses 27 to 72	Clause 95
Schedule 3	Schedule 6
Clauses 73 and 74	Clauses 96 to 105
Schedule 4	Schedule 7
Clauses 75 to 94	Clauses 106 to 119
Schedule 5	

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 27

BARONESS HOWE OF IDLICOTE

25E Page 23, line 3, at end insert –

- “(2A) If the educational and social care provision referred to in subsection (1)(a) and (b) is deemed insufficient to meet the needs of children and young people under subsection (2), a local authority must –
- (a) publish these findings;
 - (b) involve those consulted under subsection (3) in producing an action plan to revise the educational and social care provision referred to in subsection (1)(a) and (b);
 - (c) review and report on progress against the action plan; and
 - (d) revise the local offer accordingly.
- (2B) Regulations shall make provision about –
- (a) criteria to be used by local authorities in assessing whether the educational and social care provision referred to in subsection (1)(a) and (b) is sufficient under subsection (2);
 - (b) the information to be included in an authority’s action plan;

Amendment
No.

Clause 27 – continued

- (c) how an authority is to involve children, young people and families in the production of, and assessment of progress against, its action plan;
- (d) imposing time limits on implementing the revision of the educational and social care provision referred to in subsection (1)(a) and (b) that has been deemed insufficient under subsection (2A).”

LORD NASH

- 25F** Page 23, line 5, leave out paragraph (a) and insert –
 “() children and young people in its area with special educational needs, and the parents of children in its area with special educational needs;
 () children and young people in its area who have a disability, and the parents of children in its area who have a disability;”
- 25G** Page 23, line 17, after “by” insert “ –
 (i) ”
- 25H** Page 23, line 18, at end insert “, or
 (ii) children or young people in its area who have a disability”
- 25J** Page 23, line 20, after “to” insert “ –
 (i) ”
- 25K** Page 23, line 20, at end insert “, or
 (ii) children or young people in its area who have a disability”

THE COUNTESS OF MAR
 BARONESS MASHAM OF ILTON
 BARONESS MASSEY OF DARWEN

- 26** Page 23, line 21, at end insert “including alternative and online providers”

Clause 28

THE COUNTESS OF MAR
 BARONESS MASHAM OF ILTON
 BARONESS MASSEY OF DARWEN

- 27** Page 24, line 14, at end insert “including organisations that provide online or blended learning (or both)”

LORD NASH

- 27A** Page 24, line 16, at end insert –
 “() a person in charge of relevant youth accommodation –
 (i) in which there are detained persons aged 18 or under for whom the authority was responsible immediately before the beginning of their detention, or
 (ii) that the authority thinks is accommodation in which such persons are likely to be detained;”

**Amendment
No.**

Clause 29

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

- 28** Page 25, line 5, at end insert –
“() independent alternative education providers including providers of online or blended learning (or both)”
- 29** Page 25, line 17, at end insert –
“() in the case of an alternative education provider, a member of the senior team.”

Clause 30

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

- 30** Page 25, line 21, leave out “it expects to be” and insert “which is”

LORD NASH

- 30A** Page 25, line 23, after “needs” insert “or a disability”

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

- 31** Page 25, line 24, leave out “it expects to be” and insert “which is”

LORD NASH

- 31A** Page 25, line 25, after first “for” insert “ –
(i) ”

- 31B** Page 25, line 26, at end insert “, and
(ii) children and young people in its area who have a disability.”

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

- 32** Page 25, line 29, at end insert “including online and blended learning”

LORD NASH

- 32A** Page 25, line 30, at beginning insert “other”

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

- 33** Page 26, line 2, after “received” insert “, including the use of alternative education providers and online educational tools,”

**Amendment
No.**

Clause 30 – continued

LORD NASH

- 33A** Page 26, line 2, at end insert “ –
(i) ”
- 33B** Page 26, line 4, at end insert –
“(ii) children and young people who have a disability, and the
parents of children who have a disability, and”
- 33C** Page 26, line 5, at end insert “(including details of any action the authority intends
to take)”

LORD LOW OF DALSTON
BARONESS HUGHES OF STRETFORD

- 33D** Page 26, line 5, at end insert –
“(6A) The Secretary of State shall lay a draft of regulations setting out the
standards and quality of the special educational provision, health care
provision and social care provision which local authorities must meet in
their local offer, and the regulations are not to be made unless they have
been approved by a resolution of each House of Parliament.
(6B) Once regulations under subsection (6A) have been made, the Secretary of
State must –
(a) issue guidance to local authorities on how to meet these
regulations, and
(b) publish information on these regulations accessible to the families
of children and young people with special educational needs on the
Department’s website, and in any other way he sees fit.”

LORD NASH

- 33E** Page 26, line 13, after “involve” insert “ –
(i) ”
- 33F** Page 26, line 15, leave out from “needs,” to end of line and insert “and
(ii) children and young people who have a disability, and the
parents of children who have a disability,
in the preparation and review of its local offer;”
- 33G** Page 26, line 21, at end insert “ –
(i) ”
- 33H** Page 26, line 23, at end insert “, and
(ii) children and young people who have a disability and those
who care for them”

Clause 31

LORD NASH

- 33HA** Page 26, line 30, after “following” insert “persons and”

Amendment No.	Clause 31 – continued
33HB	Page 26, line 33, at end insert— “() the person in charge of any relevant youth accommodation;”
33HC	Page 26, line 38, after “The” insert “person or”
33HD	Page 26, line 38, leave out “it” and insert “the person or body”
33HE	Page 26, line 40, leave out “its own duties” and insert “the duties of the person or body”
33HF	Page 26, line 41, leave out “its functions” and insert “the functions of the person or body”
33HG	Page 26, line 42, after “A” insert “person or”
33HH	Page 26, line 44, after first “a” insert “person or”
33HJ	Page 27, line 1, after “assessment” insert “, a detained person’s EHC needs assessment”
33HK	Page 27, line 1, after second “the” insert “person or”

Clause 32

LORD NASH

33J	Page 27, line 4, after first “for” insert “children and young people for whom it is responsible, and”
33K	Page 27, line 5, leave out “and young people for whom it is responsible,”
33L	Page 27, line 7, at end insert— “(1A) A local authority in England must arrange for children and young people in its area with a disability, and the parents of children in its area with a disability, to be provided with advice and information about matters relating to the disabilities of the children or young people concerned.”
33M	Page 27, line 9, leave out “subsection (1)” and insert “subsections (1) and (1A)”
33N	Page 27, line 10, at end insert— “() children in its area;”
33P	Page 27, line 15, leave out “subsection (1)” and insert “subsections (1) and (1A)”

Clause 34

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

34	Page 28, line 14, after “school” insert “, through the provision of alternative education including online or blended learning (or both),”
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BARONESS HOWE OF IDLICOTE

34A	Page 28, line 41, leave out subsection (9)
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**Amendment
No.**

Clause 36

LORD NASH

- 34AA** Page 29, line 39, at end insert “or section (*Assessment of post-detention education, health and care needs of detained persons*)”
- 34B** [*Withdrawn*]

LORD NASH
BARONESS SHARP OF GUILDFORD
BARONESS CUMBERLEGE

- 34C** Page 30, line 20, after “In” insert “making a determination or”
- 34D** Page 30, line 21, leave out “have regard to his or her age” and insert “consider whether he or she requires additional time, in comparison to the majority of others of the same age who do not have special educational needs, to complete his or her education or training”

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

- 34E** Page 30, line 21, leave out “age” and insert “educational progress”

Clause 37

BARONESS SHARP OF GUILDFORD
LORD NASH
BARONESS CUMBERLEGE

- 34F** Page 31, line 10, leave out subsection (4)

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

- 34G** Page 31, line 11, leave out “age” and insert “educational progress”

Clause 38

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

- 35** Page 31, line 36, at end insert—
“() a provider of alternative educational provision including providers of online or blended learning (or both).”

**Amendment
No.**

Clause 39

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

- 36** Page 32, line 11, at end insert—
“() in the case of alternative education providers, a member of the senior team.”

Clause 41

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

- 37** Page 33, line 34, after “institution” insert “, including providers of online or blended learning (or both),”

Clause 42

LORD RIX
LORD LOW OF DALSTON
BARONESS HUGHES OF STRETFORD
BARONESS SHARP OF GUILDFORD

- 38** Page 34, line 10, at end insert—
“() If the plan specifies social care provision, the responsible local authority must secure the specified social care provision for the child or young person.”

LORD NASH

- 38A** Page 34, line 14, leave out “to the extent that” and insert “if”

Clause 43

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

- 39** Page 34, line 24, at end insert—
“() a provider of alternative educational provision including online or blended learning (or both).”

- 39A** [*Withdrawn*]

**Amendment
No.**

Clause 44

LORD NASH
BARONESS SHARP OF GUILDFORD
BARONESS CUMBERLEGE

39B Page 35, line 9, leave out “his or her age” and insert “whether the educational or training outcomes specified in the plan have been achieved”

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

39C Page 35, line 9, leave out “age” and insert “educational progress”

Clause 45

LORD PEARSON OF RANNOCH

39CA Page 35, line 32, at end insert—

“() A local authority shall not make a determination under subsection (1)(a) that an EHC plan is no longer necessary unless it is satisfied that appropriate alternative provision will be made in accordance with section 37 of the Care Act 2014, or otherwise.”

LORD NASH
BARONESS SHARP OF GUILDFORD
BARONESS CUMBERLEGE

39D Page 35, line 37, leave out “child or young person” and insert “young person aged over 18”

39E Page 35, line 39, after “educational” insert “or training”

BARONESS SHARP OF GUILDFORD
LORD NASH
BARONESS CUMBERLEGE

39F Page 35, line 41, leave out subsection (4)

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

39G Page 35, line 43, leave out “age” and insert “educational progress”

Clause 48

LORD NASH

39H Page 36, line 32, leave out “custodial sentence” and insert “detention order (within the meaning of section 562(1A)(a) of EA 1996)”

39J Page 36, line 36, after “was” insert “—
(i) ”

Amendment
No.

Clause 48 – continued

- 39K** Page 36, line 37, leave out “custodial sentence.” and insert “detention, or”
- 39L** Page 36, line 37, at end insert –
 “(ii) kept for him or her under section (*Duty to keep EHC plans for detained persons*) during the detention.”

Clause 49

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

- 40** Page 37, line 18, at end insert “, including online or blended learning provision (or both)”

Clause 51

LORD RIX
LORD LOW OF DALSTON
BARONESS HOLLINS

- 40A** Page 38, line 42, at end insert –
 “(g) the social care provision specified in an EHC plan;
 (h) the healthcare provision specified in an EHC plan.”

After Clause 51

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

- 40B** Insert the following new Clause –
“Single point of appeal: review
- (1) The Secretary of State will, within a year of this Act coming into force, carry out a review to assess the feasibility of enabling a child’s parent or a young person to appeal to the First-tier Tribunal in relation to the healthcare or social care provision specified in an EHC plan.
 - (2) In undertaking a review under subsection (1), the Secretary of State will pay particular regard to the need for an integrated appeals process.
 - (3) The Secretary of State will publish, and lay before both Houses of Parliament, a report setting out the conclusions of the review.”

Clause 57

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

- 41** Page 43, line 29, at end insert “including those institutions that provide alternative educational provision and online or blended learning (or both)”

Amendment
No.

Clause 59

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

- 42 Page 44, line 16, at end insert “that has been agreed to by the parent as being suitably provided and is therefore included in the EHC plan”
- 43 Page 44, line 30, after “institution” insert “, by an alternative education provider or in any place”

After Clause 61

LORD LOW OF DALSTON

- 43A Insert the following new Clause—
- “Guidance on duty to maintain a register of disabled children and young people under section 17 of the Children Act 1989**

The Secretary of State shall issue impairment specific guidance, whether in regulation or otherwise, to local authorities on how they can most effectively discharge their duty to maintain a register of disabled children and young people under section 17 of the Children Act 1989.”

Clause 62

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

- 44 Page 45, line 35, at end insert—
- “() alternative education providers including providers of online or blended learning (or both)”
- 45 Page 45, line 39, leave out from “provision” to end of line 40 and insert “that is requested by the pupil or student or the pupil or student’s parents (or both)”

LORD ADDINGTON

- 45A Page 45, line 40, at end insert—
- “() On using their best endeavours to fully meet the special educational needs of a registered student at a school or other institution, the school or other institution must undertake an audit of the skills and knowledge of its workforce to deliver a graduated approach to special educational provision.”

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

- 46 Page 46, line 2, at end insert—
- “() in the case of alternative education providers, a member of the senior team”

Amendment
No.

Clause 63

LORD ADDINGTON

46A Page 46, line 20, at end insert –

- “() The appropriate authority must ensure that those SEN co-ordinators who have not undertaken a module on special educational needs within a year must either –
- (a) demonstrate their core competence for the position through appropriate CPD activity; or
 - (b) have opportunities to undergo further training.”

After Clause 63

LORD ADDINGTON

46B Insert the following new Clause –

“Assessment of newly qualified teachers

- (1) This section imposes duties on the appropriate authorities for the following schools in England –
 - (a) mainstream schools, and
 - (b) maintained nursery schools.
- (2) The appropriate authority should assess all newly qualified teachers within one year of being in post, so that they are prepared to teach children with special educational needs the full range of needs they should expect to find in a mainstream state-funded school.”

46C Insert the following new Clause –

“Apprenticeship support

Apprenticeship training providers must enable individuals undertaking an apprenticeship to access the full range of special education provisions to which they are entitled under this Act, the Equality Act 2010 and the Apprenticeship, Skills, Children and Learning Act 2009.”

46D Insert the following new Clause –

“Apprenticeship re-assessment

Those individuals, with special educational needs, who fail the key skills or functional skills component of the Apprenticeship Frameworks must have the opportunity to be reassessed.”

Clause 64

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

47 Page 46, line 35, at end insert –

- “() in the case of alternative education providers, a member of the senior team”

Amendment
No.

After Clause 65

LORD NASH

47A Insert the following new Clause –

“Application of Part to detained persons

- (1) Subject to this section and sections (*Assessment of post-detention education, health and care needs of detained persons*) to (*Supply of goods and services: detained persons*), nothing in or made under this Part applies to, or in relation to, a child or young person detained in pursuance of –
 - (a) an order made by a court, or
 - (b) an order of recall made by the Secretary of State.
- (2) Subsection (1) does not apply to –
 - (a) section 28;
 - (b) section 31;
 - (c) section 69;
 - (d) section 73;
 - (e) any amendment made by this Part of a provision which applies to, or in relation to, a child or young person detained in pursuance of –
 - (i) an order made by a court, or
 - (ii) an order of recall made by the Secretary of State.
- (3) Regulations may apply any provision of this Part, with or without modifications, to or in relation to a child or young person detained in pursuance of –
 - (a) an order made by a court, or
 - (b) an order of recall made by the Secretary of State.
- (4) The Secretary of State must consult the Welsh Ministers before making regulations under subsection (3) which will apply any provision of this Part to, or in relation to, a child or young person who is detained in Wales.
- (5) For the purposes of this Part –

“appropriate person”, in relation to a detained person, means –

 - (a) where the detained person is a child, the detained person’s parent, or
 - (b) where the detained person is a young person, the detained person;

“detained person” means a child or young person who is –

 - (a) 18 or under,
 - (b) subject to a detention order (within the meaning of section 562(1A)(a) of EA 1996), and
 - (c) detained in relevant youth accommodation,

and in provisions applying on a person’s release, includes a person who, immediately before release, was a detained person;

“detained person’s EHC needs assessment” means an assessment of what the education, health care and social care needs of a detained person will be on his or her release from detention;

“relevant youth accommodation” has the same meaning as in section 562(1A)(b) of EA 1996, save that it does not include relevant youth accommodation which is not in England.

Amendment
No.

After Clause 65 – continued

- (6) For the purposes of this Part –
 - (a) “beginning of the detention” has the same meaning as in Chapter 5A of Part 10 of EA 1996 (persons detained in youth accommodation), and
 - (b) “the home authority” has the same meaning as in that Chapter, subject to regulations under subsection (7) (and regulations under section 562J(4) of EA 1996 made by the Secretary of State may also make provision in relation to the definition of “the home authority” for the purposes of this Part).
- (7) For the purposes of this Part, regulations may provide for paragraph (a) of the definition of “the home authority” in section 562J(1) of EA 1996 (the home authority of a looked after child) to apply with modifications in relation to such provisions of this Part as may be specified in the regulations.”

47B

Insert the following new Clause –

“Assessment of post-detention education, health and care needs of detained persons

- (1) This section applies in relation to a detained person for whom –
 - (a) the home authority is a local authority in England, and
 - (b) no EHC plan is being kept by a local authority.
- (2) A request to the home authority to secure a detained person’s EHC needs assessment for the detained person may be made by –
 - (a) the appropriate person, or
 - (b) the person in charge of the relevant youth accommodation where the detained person is detained.
- (3) Where this subsection applies, the home authority must determine whether it may be necessary for special educational provision to be made for the detained person in accordance with an EHC plan on release from detention.
- (4) Subsection (3) applies where –
 - (a) a request is made under subsection (2),
 - (b) the detained person has been brought to the home authority’s attention by any person as someone who has or may have special educational needs, or
 - (c) the detained person has otherwise come to the home authority’s attention as someone who has or may have special educational needs.
- (5) In making a determination under subsection (3), the home authority must consult –
 - (a) the appropriate person, and
 - (b) the person in charge of the relevant youth accommodation where the detained person is detained.

Amendment
No.

After Clause 65 – continued

- (6) Where the home authority determines that it will not be necessary for special educational provision to be made for the detained person in accordance with an EHC plan on release from detention, it must notify the appropriate person and the person in charge of the relevant youth accommodation where the detained person is detained –
 - (a) of the reasons for that determination, and
 - (b) that accordingly it has decided not to secure a detained person’s EHC needs assessment for the detained person.
- (7) Subsection (8) applies where –
 - (a) the detained person has not been assessed under this section or section 36 during the previous six months, and
 - (b) the home authority determines that it may be necessary for special educational provision to be made for the detained person in accordance with an EHC plan on release from detention.
- (8) The home authority must notify the appropriate person and the person in charge of the relevant youth accommodation where the detained person is detained –
 - (a) that it is considering securing a detained person’s EHC needs assessment for the detained person, and
 - (b) that the appropriate person and the person in charge of the relevant youth accommodation where the detained person is detained each have the right to –
 - (i) express views to the authority (orally or in writing), and
 - (ii) submit evidence to the authority.
- (9) The home authority must secure a detained person’s EHC needs assessment if, after having regard to any views expressed and evidence submitted under subsection (8), the authority is of the opinion that –
 - (a) the detained person has or may have special educational needs, and
 - (b) it may be necessary for special educational provision to be made for the detained person in accordance with an EHC plan on release from detention.
- (10) After a detained person’s EHC needs assessment has been carried out, the local authority must notify the appropriate person and the person in charge of the relevant youth accommodation where the detained person is detained of –
 - (a) the outcome of the assessment,
 - (b) whether it proposes to secure that an EHC plan is prepared for the detained person, and
 - (c) the reasons for that decision.
- (11) Regulations may make provision about detained persons’ EHC needs assessments, in particular –
 - (a) about requests under subsection (2);
 - (b) imposing time limits in relation to consultation under subsection (5);
 - (c) about giving notice;
 - (d) about expressing views and submitting evidence under subsection (8);

Amendment
No.

After Clause 65 – continued

- (e) about how detained persons' EHC needs assessments are to be conducted;
- (f) about advice to be obtained in connection with a detained person's EHC needs assessment;
- (g) about combining a detained person's EHC needs assessment with other assessments;
- (h) about the use for the purposes of a detained person's EHC needs assessment of information obtained as a result of other assessments;
- (i) about the use of information obtained as a result of a detained person's EHC needs assessment, including the use of that information for the purposes of other assessments;
- (j) about the provision of information, advice and support in connection with a detained person's EHC needs assessment."

47C Insert the following new Clause –

“Securing EHC plans for certain detained persons

- (1) Where, in the light of a detained person's EHC needs assessment it is necessary for special education provision to be made for the detained person in accordance with an EHC plan on release from detention, the home authority must secure that an EHC plan is prepared for him or her.
- (2) Sections 37(2) to (6) and 38 to 40 apply in relation to an EHC plan secured under subsection (1) as they apply to an EHC plan secured under section 37(1), with the following modifications –
 - (a) references to “the child or young person” are to be read as references to the detained person,
 - (b) references to the local authority are to be read as references to the home authority, and
 - (c) references to the child's parent or the young person are to be read as references to the appropriate person.
- (3) Section 33(2) to (7) apply where a home authority is securing the preparation of an EHC plan under this section as they apply where a local authority is securing a plan under section 37, with the following modifications –
 - (a) references to “the child or young person” are to be read as references to the detained person,
 - (b) references to the local authority are to be read as references to the home authority,
 - (c) references to the child's parent or the young person are to be read as references to the appropriate person, and
 - (d) the reference in subsection (2) to section 39(5) and 40(2) is to be read as a reference to those provisions as applied by subsection (2) of this section.”

47D Insert the following new Clause –

“EHC plans for certain detained persons: appeals and mediation

- (1) An appropriate person in relation to a detained person may appeal to the First-tier Tribunal against the matters set out in subsection (2), subject to section 52 (as applied by this section).

Amendment
No.

After Clause 65 – continued

- (2) The matters are –
- (a) a decision of the home authority not to secure a detained person’s EHC needs assessment for the detained person;
 - (b) a decision of the home authority, following a detained person’s EHC needs assessment, that it is not necessary for special educational provision to be made for the detained person in accordance with an EHC plan on release from detention;
 - (c) where an EHC plan is secured for the detained person –
 - (i) the school or other institution named in the plan, or the type of school or other institution named in the plan;
 - (ii) if no school or other institution is named in the plan, that fact.
- (3) The appropriate person may appeal to the First-tier Tribunal under subsection (2)(c) only when an EHC plan is first finalised for the detained person in accordance with section (*Securing EHC plans for certain detained persons*).
- (4) Regulations may make provision about appeals to the First-tier Tribunal in respect of EHC plans secured under section (*Securing EHC plans for certain detained persons*), in particular about –
- (a) making and determining appeals;
 - (b) the powers of the First-tier Tribunal on determining an appeal;
 - (c) unopposed appeals.
- (5) A person commits an offence if without reasonable excuse that person fails to comply with any requirement –
- (a) in respect of the discovery or inspection of documents, or
 - (b) to attend to give evidence and produce documents,
- where that requirement is imposed by Tribunal Procedure Rules in relation to an appeal under this section.
- (6) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Section 52(2) to (9) apply where an appropriate person intends to appeal to the First-tier Tribunal under this section as they apply where a child’s parent or young person intends to appeal under section 51, with the following modifications –
- (a) references to the child’s parent or young person are to be read as references to the appropriate person, and
 - (b) references to the local authority are to be read as references to the home authority.
- (8) Regulations under subsection (7) of section 52 may make provision for the purposes of subsection (7) of this section, and accordingly in subsection (7)(f) of section 52 –
- (a) the reference to a child’s parent is to be read as a reference to the parent of a detained person who is a child, and
 - (b) the reference to the child is to be read as a reference to a detained person who is a child.”

Amendment
No.

After Clause 65 – continued

47E

Insert the following new Clause –

“Duty to keep EHC plans for detained persons

- (1) This section applies in relation to a detained person –
 - (a) for whom a local authority in England was maintaining an EHC plan immediately before the beginning of his or her detention, or
 - (b) for whom the home authority has secured the preparation of an EHC plan under section (*Securing EHC plans for certain detained persons*).
- (2) The home authority must keep the EHC plan while the person is detained in relevant youth accommodation.
- (3) Regulations may make provision about the keeping of EHC plans under subsection (2), and the disclosure of such plans.
- (4) The home authority must use its best endeavours to arrange appropriate special educational provision for the detained person while he or she is detained in relevant youth accommodation.
- (5) If the EHC plan specifies health care provision, the detained person’s health services commissioner must use its best endeavours to arrange appropriate health care provision for the detained person while he or she is detained in relevant youth accommodation.
- (6) For the purposes of subsection (4), appropriate special educational provision is –
 - (a) the special educational provision specified in the EHC plan,
 - (b) educational provision corresponding as closely as possible to the special educational provision specified in the plan, or
 - (c) if it appears to the home authority that the special educational provision specified in the plan is no longer appropriate for the person, such special educational provision as reasonably appears to the home authority to be appropriate.
- (7) For the purposes of subsection (5), appropriate health care provision is –
 - (a) the health care provision specified in the EHC plan,
 - (b) health care provision corresponding as closely as possible to the health care provision specified in the plan, or
 - (c) if it appears to the detained person’s health services commissioner that the health care provision specified in the plan is no longer appropriate for the person, such health care provision as reasonably appears to the detained person’s health services commissioner to be appropriate.
- (8) In this section, “detained person’s health services commissioner”, in relation to a detained person, means the body that is under a duty under the National Health Service Act 2006 to arrange for the provision of services or facilities in respect of the detained person during his or her detention.”

Amendment
No.

After Clause 65 – continued

47F Insert the following new Clause –

“Supply of goods and services: detained persons

- (1) A local authority in England may supply goods and services to any authority or other person making special educational provision for a detained person, but only for the purpose set out in subsection (2).
- (2) The purpose is that of assisting the local authority in the performance of a duty under section (*Duty to keep EHC plans for detained persons*).
- (3) The goods and services may be supplied on the terms and conditions that the authority thinks fit, including terms as to payment.”

Clause 67

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

48 Page 48, line 33, at end insert “including providers of alternative educational provision including online and blended learning”

After Clause 68

BARONESS WILKINS
BARONESS HOWE OF IDLICOTE
LORD LOW OF DALSTON

48ZA Insert the following new Clause –

“Inspection and review of local authority special educational needs provision

Services included in the local offer that are delivered or commissioned by the local authority for the provision of specialist education support for children with special educational needs under this Act shall be subject to inspection by an appointed regulator and the findings shall be published.”

Before Clause 69

LORD ADDINGTON

48A Insert the following new Clause –

“Special educational needs screening test

After section 562E(2) of the Education Act 1996 insert –

- “(3) The host authority must make arrangements to ensure that the work force have skills and knowledge to identify special educational needs, particularly specific learning difficulties, and put effective interventions in place.””

Amendment
No.

After Clause 69

LORD RAMSBOTHAM
BARONESS WARNOCK

49 Insert the following new Clause –

“Maintaining an EHC plan for detained young persons

After section 562C(2) of the Apprenticeships, Skills, Children and Learning Act 2009, insert –

- “(3) The host local authority must make arrangements to secure special educational provision and health care provision in accordance with an EHC plan as agreed with the home local authority whilst the young person is detained in relevant youth accommodation.
- (4) Regulations may make provision about maintaining an EHC plan for a detained young person, in particular –
 - (a) how the host and home local authority determine the provisions of the EHC plan to be maintained whilst the young person is detained;
 - (b) about circumstances in which a host local authority must or may review an EHC plan or secure a re-assessment whilst the young person is detained;
 - (c) how the provisions of the EHC plan which the host and home local authority maintain are communicated to the young person and parent.”

Clause 70

LORD RAMSBOTHAM
BARONESS HUGHES OF STRETFORD
BARONESS WARNOCK
LORD NASH

50 Leave out Clause 70

Schedule 3

LORD NASH

50ZA Page 157, line 34, leave out sub-paragraphs (2) to (4) and insert –

- “() In subsection (1), after “local authority” insert “in Wales”.
- () In the title, after “with” insert “statement of”.

55A In section 562D (appropriate special educational provision: arrangements between local authorities), in subsection (2) after “local authority” insert “in Wales”.

50ZB Page 157, line 40, leave out sub-paragraphs (2) to (8) and insert –

- “() In subsection (1) after “local authority” insert “in Wales”.
- () In subsection (2) after “home authority” insert “, where they are a local authority in Wales,”.

**Amendment
No.**

Schedule 3 – continued

- () In subsection (4) after “local authority” insert “in Wales”.
- () In subsection (5) after “local authority” insert “in Wales”.
- () In subsection (7) –
 - (a) in paragraph (a) after “home authority” insert “, where they are a local authority in Wales”, and
 - (b) in paragraph (b) after “authority” insert “in Wales”.
- () In subsection (8) –
 - (a) after “home authority”, where it first occurs insert “, where they are a local authority in Wales”, and
 - (b) in paragraph (a) after “local authority” insert “in Wales”.

50ZC

Page 158, line 18, leave out sub-paragraphs (2) and (3) and insert –

- “() In subsection (1) –
 - (a) after “person” insert “ –
 - (a) ”, and
 - (b) after “apply” insert “, and
 - (b) for whom the home authority are a local authority in Wales.”
- () In subsection (4), for “Subsections (5) and (6) apply” substitute “Subsection (6) applies”.
- () Omit subsection (5).
- () In subsection (6), omit paragraph (b) and the “and” preceding it.”

50A

Page 161, line 5, at end insert –

“*Children Act 1989 (c. 41)*

- (1) The Children Act 1989 is amended as follows.
- (2) In section 23E (pathway plans), in subsection (1A)(a) after “Education Act 1996” insert “or Part 3 of the Children and Families Act 2013”.
- (3) In Part 1 of Schedule 2 (provision of services to families) in paragraph 3 (assessment of children’s needs) after paragraph (b) insert –
 - “(ba) Part 3 of the Children and Families Act 2013;”.

**Amendment
No.**

Clause 73

THE COUNTESS OF MAR
BARONESS MASHAM OF ILTON
BARONESS MASSEY OF DARWEN

51 Page 51, line 1, at beginning insert –
““alternative education provision” means education arranged by local authorities for pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education; education arranged by schools for pupils on a fixed-period exclusion; and pupils being directed by schools to off-site provision to improve their behaviour and education provision can include online and blended learning.”

52 Page 51, line 1, at beginning insert –
““alternative education provider” means an organisation that looks to provide education for those pupils who, because of exclusion, illness or other reasons, would not otherwise receive suitable education and this includes providers of online and blended learning.”

LORD NASH

52ZA Page 51, line 4, at end insert –
““appropriate person” has the meaning given by section (*Application of Part to detained persons*)(5);
“beginning of the detention” has the meaning given by section (*Application of Part to detained persons*)(6);
“detained person” has the meaning given by section (*Application of Part to detained persons*)(5);
“detained person’s EHC needs assessment” has the meaning given by section (*Application of Part to detained persons*)(5);”

52ZB Page 51, line 9, at end insert –
““the home authority” has the meaning given by section (*Application of Part to detained persons*)(6) (subject to subsection (7) of that section);”

52ZC Page 51, line 28, at end insert –
““relevant youth accommodation” has the meaning given by section (*Application of Part to detained persons*)(5);”

52A Page 51, line 40, at end insert –
“() A child or young person has a disability for the purposes of this Part if he or she has a disability for the purposes of the Equality Act 2010.”

Amendment
No.

After Clause 73

BARONESS JONES OF WHITCHURCH
BARONESS HUGHES OF STRETFORD
BARONESS KIDRON
THE LORD BISHOP OF OXFORD

53 Insert the following new Clause –

“Sex and relationship education guidance

- (1) The Secretary of State will, within six months of this Act coming into force, establish a working group to review and update the Sex and Relationship Education Guidance for Schools.
- (2) The working group established under subsection (1) will include young people, teachers, professionals and online experts.
- (3) In performing its functions under subsection (1), the working group will have particular regard to the need for the guidance to make reference to—
 - (a) the role of the internet, social media and mobile technology in sex and relationship education;
 - (b) online bullying and harassment.”

BARONESS MASSEY OF DARWEN
BARONESS WALMSLEY
LORD CORMACK
THE LORD BISHOP OF OXFORD

53ZA Insert the following new Clause –

“School policies to support well-being of children and young people

After section 78 of the Education Act 2002 insert –

“78A Duty of schools to promote the academic, spiritual, cultural, mental and physical development of children

- (1) All schools shall make explicit to parents, school governors and pupils how they deliver –
 - (a) school policies which contribute to the health and well being of pupils;
 - (b) pastoral care focused on the safety and well being of pupils and which, where appropriate, works in conjunction with support systems from agencies outside the school;
 - (c) a school ethos which fosters respect for self and others;
 - (d) a school curriculum from which pupils gain the information and skills to support their academic, spiritual, emotional, moral, physical and cultural well being and which prepares them for adult life; and
 - (e) the school’s commitment to democratic principles and good citizenship.
- (2) The above shall be delivered as appropriate to the age, readiness and needs of pupils in the school.
- (3) School governors shall be responsible, in their annual report, for specifying how the above is implemented.””

Amendment
No.

After Clause 73 – continued

LORD NORTHBOURNE

53ZAA Insert the following new Clause –
“School policies to prepare children and young people for the opportunities, challenges and responsibilities of adult life

After section 78 of the Education Act 2002 insert –

“78A Duty of schools to promote the personal and social development of pupils, and to prepare them for the responsibilities of adult life and parenthood

- (1) All schools shall make explicit to parents, school governors and pupils how they deliver –
 - (a) guidance to young people as they explore the opportunities and challenges of the adult life which lies ahead of them;
 - (b) help for children and young people who are pupils at the school to develop the personal, social and communication skills that they are likely to need in their adult life;
 - (c) help for children and young people who are pupils at the school to discuss and understand the responsibilities, duties and challenges of parenthood;
 - (d) provision of activities and other opportunities for pupils at the school to develop interpersonal, leadership and teamwork skills as a preparation for their adult life.
- (2) The above shall be delivered as appropriate to the age, readiness and needs of pupils in the school.””

Schedule 4

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

53ZAB Page 171, line 15, after “agency” insert “, or any individual childminder registered at the agency,”

53ZAC Page 171, line 21, at end insert –

- “() The Chief Inspector must at such intervals as may be prescribed inspect all early years provision registered with an early years childminder agency.”

BARONESS WALMSLEY
LORD STOREY
BARONESS TYLER OF ENFIELD
BARONESS SHARP OF GUILDFORD

53A Page 171, line 32, at end insert –

- “() the quality of the care and early education offered by the early years providers registered with the agency,”

Amendment
No.

Clause 76

BARONESS TYLER OF ENFIELD
LORD STOREY
BARONESS WALMSLEY
BARONESS SHARP OF GUILDFORD

53B Page 52, line 25, at end insert –

- “() The Secretary of State must, within four years of the coming into force of subsection (1), conduct a review of the impact of removal of section 11 of the Childcare Act 2006 on the sufficiency of childcare in England.
- () The Secretary of State must –
- (a) lay a copy of the report before Parliament, and
 - (b) publish the report in such a manner as they think fit.”

BARONESS HUGHES OF STRETFORD
BARONESS JONES OF WHITCHURCH

53C Leave out Clause 76

After Clause 78

BARONESS WALMSLEY
LORD STOREY
BARONESS SHARP OF GUILDFORD
BARONESS TYLER OF ENFIELD

54 Insert the following new Clause –

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

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

After Clause 79

THE EARL OF LISTOWEL

55 Insert the following new Clause –

“PART 4A

CHILDREN’S CENTRES

Birth registration pilot scheme

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

- (a) identify and contact new families; and

Amendment
No.

After Clause 79 – continued

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

56 Insert the following new Clause –

“Information and data sharing

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

BARONESS WALMSLEY

57 Insert the following new Clause –

“PART 4A

PROTECTION OF CHILDREN

Actions due to a belief of possession by spirits

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

Amendment
No.

After Clause 79 – continued

BARONESS PITKEATHLEY
BARONESS LISTER OF BURTERSETT

57ZA Insert the following new Clause –

“Amendments to the Carers (Recognition and Services) Act 1995

- (1) The Carers (Recognition and Services) Act 1995 is amended as follows.
- (2) Section 1(2)(b) is repealed.
- (3) After section 1(2) insert –
 - “(2A) Subject to subsection (3), in any case where it appears to the local authority that a person with parental responsibility for a disabled child (“the carer”) may have needs for support (whether currently or in the future) the authority must –
 - (a) assess whether the carer does have needs for support (or is likely to do so in the future),
 - (b) where the carer has such needs, (or is likely to in the future), take the results of that assessment into account in making their decision as to whether the needs of the disabled child call for the provision of any services.””

57ZB Insert the following new Clause –

“Amendments to the Carers and Disabled Children Act 2000

For section 6(1) of the Carers and Disabled Children Act 2000, substitute –

- “(1) Where it appears to the local authority that a person with parental responsibility for a disabled child (“the carer”) may have needs for support (whether currently or in the future), the authority must assess –
 - (a) whether the carer does have needs for support (or is likely to do so in the future), and
 - (b) where the carer has such needs, what those needs are (or are likely to be in the future).””

57ZC Insert the following new Clause –

“General responsibilities of local authorities in relation to carers of disabled children

- (1) The general duty of a local authority in exercising a function under this Part in the case of an adult, is to promote that carer’s well-being.
- (2) “Well-being”, in relation to an individual, means that individual’s well-being so far as relating to any of the following –
 - (a) personal dignity (including treatment of the individual with respect);
 - (b) physical and mental health and emotional well-being;
 - (c) protection from abuse and neglect;
 - (d) control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided);
 - (e) participation in work, education, training or recreation;

**Amendment
No.**

After Clause 79 – continued

- (f) social and economic well-being;
 - (g) domestic, family and personal relationships;
 - (h) suitability of living accommodation; or
 - (i) the individual’s contribution to society.
- (3) In exercising a function under this Part in the case of an individual, a local authority must have regard to the following matters in particular –
- (a) the importance of beginning with the assumption that the individual is best-placed to judge the individual’s well-being;
 - (b) the individual’s views, wishes, feelings and beliefs;
 - (c) the importance of preventing or delaying the development of needs for care and support or needs for support and the importance of reducing needs of either kind that already exist;
 - (d) the need to ensure that decisions about the individual are made having regard to all the individual’s circumstances (and are not based only on the individual’s age or appearance or any condition of the individual’s or aspect of the individual’s behaviour which might lead others to make unjustified assumptions about the individual’s well-being);
 - (e) the importance of the individual participating as fully as possible in decisions relating to the exercise of the function concerned and being provided with the information and support necessary to enable the individual to participate;
 - (f) the importance of achieving a balance between the individual’s well-being and that of any friends or relatives who are involved in caring;
 - (g) the need to protect people from abuse and neglect; and
 - (h) the need to ensure that any restriction on the individual’s rights or freedom of action that is involved in the exercise of the function is kept to the minimum necessary for achieving the purpose for which the function is being exercised.
- (4) “Local authority” means –
- (a) a county council in England;
 - (b) a district council for an area in England for which there is no county council;
 - (c) a London borough council; or
 - (d) the Common Council of the City of London.
- (5) In this Part, an “individual” is –
- (a) an adult aged 18 or over who has parental responsibility for a disabled child under Part III of the Children Act 1989.
- (6) An adult is not to be regarded as a carer if the adult provides or intends to provide care –
- (a) under or by virtue of a contract, or
 - (b) as voluntary work.”

Amendment
No.

Before Clause 80

LORD NASH

57A Insert the following new Clause –

“Extension of licensing of child performances to children under 14

Section 38 of the Children and Young Persons Act 1963 (licences for performances by children under 14 not to be granted except for certain dramatic or musical performances) is repealed.”

57B Insert the following new Clause –

“Regulation of retail packaging etc of tobacco products

- (1) The Secretary of State may make regulations under subsection (6) or (8) if the Secretary of State considers that the regulations may contribute at any time to reducing the risk of harm to, or promoting, the health or welfare of people under the age of 18.
- (2) Subsection (1) does not prevent the Secretary of State, in making regulations under subsection (6) or (8), from considering whether the regulations may contribute at any time to reducing the risk of harm to, or promoting, the health or welfare of people aged 18 or over.
- (3) The Secretary of State may treat regulations under subsection (6) or (8) as capable of contributing to reducing the risk of harm to, or promoting, the health or welfare of people under the age of 18 if the Secretary of State considers that –
 - (a) at least some of the provisions of the regulations are capable of having that effect, or
 - (b) the regulations are capable of having that effect when taken together with other regulations that were previously made under subsection (6) or (8) and are in force.
- (4) Regulations under subsection (6) or (8) are to be treated for the purposes of subsection (1) or (2) as capable of contributing to reducing the risk of harm to, or promoting, people’s health or welfare if (for example) they may contribute to any of the following –
 - (a) discouraging people from starting to use tobacco products;
 - (b) encouraging people to give up using tobacco products;
 - (c) helping people who have given up, or are trying to give up, using tobacco products not to start using them again;
 - (d) reducing the appeal or attractiveness of tobacco products;
 - (e) reducing the potential for elements of the packaging of tobacco products other than health warnings to detract from the effectiveness of those warnings;
 - (f) reducing opportunities for the packaging of tobacco products to mislead consumers about the effects of using them;
 - (g) reducing opportunities for the packaging of tobacco products to create false perceptions about the nature of such products;
 - (h) having an effect on attitudes, beliefs, intentions and behaviours relating to the reduction in use of tobacco products.

Amendment
No.

Before Clause 80 – continued

- (5) Regulations under subsection (6) or (8) are to be treated for the purposes of subsection (1) as capable of contributing to reducing the risk of harm to, or promoting, the health or welfare of people under the age of 18 if –
 - (a) they may contribute to reducing activities by such people which risk harming their health or welfare after they reach the age of 18, or
 - (b) they may benefit such people by reducing the use of tobacco products among people aged 18 or over.
- (6) The Secretary of State may by regulations make provision about the retail packaging of tobacco products.
- (7) Regulations under subsection (6) may in particular impose prohibitions, requirements or limitations relating to –
 - (a) the markings on the retail packaging of tobacco products (including the use of branding, trademarks or logos);
 - (b) the appearance of such packaging;
 - (c) the materials used for such packaging;
 - (d) the texture of such packaging;
 - (e) the size of such packaging;
 - (f) the shape of such packaging;
 - (g) the means by which such packaging is opened;
 - (h) any other features of the retail packaging of tobacco products which could be used to distinguish between different brands of tobacco product;
 - (i) the number of individual tobacco products contained in an individual packet;
 - (j) the quantity of a tobacco product contained in an individual packet.
- (8) The Secretary of State may by regulations make provision imposing prohibitions, requirements or limitations relating to –
 - (a) the markings on tobacco products (including the use of branding, trademarks or logos);
 - (b) the appearance of such products;
 - (c) the size of such products;
 - (d) the shape of such products;
 - (e) the flavour of such products;
 - (f) any other features of tobacco products which could be used to distinguish between different brands of tobacco product.
- (9) The Secretary of State may by regulations –
 - (a) create offences which may be committed by persons who produce or supply tobacco products the retail packaging of which breaches prohibitions, requirements or limitations imposed by regulations under subsection (6);
 - (b) create offences which may be committed by persons who produce or supply tobacco products which breach prohibitions, requirements or limitations imposed by regulations under subsection (8);
 - (c) provide for exceptions and defences to such offences;
 - (d) make provision about the liability of others to be convicted of such offences if committed by a body corporate or a Scottish partnership.

Amendment
No.

Before Clause 80 – continued

- (10) The Secretary of State may by regulations provide that regulations under subsection (6) or (8) are to be treated for the purposes specified in regulations under this subsection as safety regulations within the meaning of the Consumer Protection Act 1987.
- (11) The Secretary of State may by regulations make provision amending, repealing, revoking or otherwise modifying any provision made by or under an enactment (whenever passed or made) in connection with provision made by regulations under any of subsections (6), (8), (9) or (10).
- (12) The Secretary of State must –
- (a) obtain the consent of the Scottish Ministers before making regulations under any of subsections (6), (8), (9) or (10) containing provision which would (if contained in an Act of the Scottish Parliament) be within the legislative competence of that Parliament;
 - (b) obtain the consent of the Welsh Ministers before making regulations under any of those subsections containing provision which would (if contained in an Act of the National Assembly for Wales) be within the legislative competence of that Assembly;
 - (c) obtain the consent of the Department of Health, Social Services and Public Safety before making regulations under any of those subsections containing provision which would (if contained in an Act of the Northern Ireland Assembly) be within the legislative competence of that Assembly.
- (13) For the purposes of this section a person produces a tobacco product if, in the course of a business and with a view to the product being supplied for consumption in the United Kingdom or through the travel retail sector, the person –
- (a) manufactures the product,
 - (b) puts a name, trademark or other distinguishing mark on it by which the person is held out to be its manufacturer or originator, or
 - (c) imports it into the United Kingdom.
- (14) For the purposes of this section a person supplies a tobacco product if in the course of a business the person –
- (a) supplies the product,
 - (b) offers or agrees to supply it, or
 - (c) exposes or possesses it for supply.
- (15) In this section –
- “enactment” includes –
- (a) an Act of the Scottish Parliament,
 - (b) a Measure or Act of the National Assembly for Wales, or
 - (c) Northern Ireland legislation;
- “external packaging”, “internal packaging” and “wrapper” have the meanings given by regulations under subsection (6);
- “packaging”, in relation to a tobacco product, means –
- (a) the external packaging of that product,
 - (b) any internal packaging of that product,
 - (c) any wrapper of that product, or
 - (d) any other material attached to or included with that product or anything within paragraphs (a) to (c);

Amendment
No.

Before Clause 80 – *continued*

“retail packaging”, in relation to a tobacco product, means the packaging in which it is, or is intended to be, presented for retail sale;

“retail sale” means sale otherwise than to a person who is acting in the course of a business which is part of the tobacco trade;

“tobacco product” means a product consisting wholly or partly of tobacco and intended to be smoked, sniffed, sucked or chewed;

“travel retail sector” means retail outlets in the United Kingdom at which tobacco products may be purchased only by people travelling on journeys to destinations outside the United Kingdom.”

Clause 81

LORD KENNEDY OF SOUTHWARK
BARONESS HOWE OF IDLICOTE

57C★ Page 57, line 16, at end insert –

“(7) In preparing and implementing individual health care plans and following the guidance issued by the Secretary of State, local authorities, clinical commissioning groups and governing bodies must work together in fulfilling their functions under this Act.”

After Clause 81

BARONESS BRINTON

57D Insert the following new Clause –

“Provision and support for bullied children

- (1) The Secretary of State must produce an anti-bullying strategy (“the Strategy”) (and consequential Code of Practice and Statutory Guidelines) for schools and further education institutions on ways of preventing and protecting children and young people from bullying and ensuring effective recovery programmes to counter the consequences of severe bullying.
- (2) The Strategy produced under subsection (1) must include a comprehensive definition of bullying.
- (3) The Strategy shall ensure cross links between the SEN and Anti-Bullying Codes of Practice and Statutory Guidelines, so that schools are aware that some bullied children and young people will have special educational needs.
- (4) Where the impact of bullying results in a pupil or student having social, mental or emotional needs, schools and further education institutions should use the graduated approach detailed in the SEN Code of Practice, but if those needs are complex and will not be met through this approach, then an education, health and care plan should be made.

Amendment
No.

After Clause 81 – continued

- (5) Where any bullied child or student who has been out of school or further education institution for a period of three months or longer, and who has mental or emotional problems (whether or not they are impacting on the child or student’s learning), the school or further education institution will have a duty to help provide an urgent referral to the child or young person’s local Child and Adolescent Mental Health Service.
- (6) A bullied pupil or student who is unable to attend their school or institution, but who is still on the roll, must be brought to the attention of the local authority by their school or institution within three months of starting to miss school.
- (7) Where a pupil or student is brought to the attention of the local authority under subsection (6), it has a duty to find alternative provision that is suitable for the pupil or student and their needs, and the pupil or student’s educational establishment has a duty to co-operate with the local authority.
- (8) During an inspection, OFSTED will expect a school or institution to provide details of the plan for any child out of school for an extended period who is still on the school roll.”

After Clause 82

BARONESS MASSEY OF DARWEN
BARONESS DRAKE

58 Insert the following new Clause –

“Local authority’s duty to investigate: work with families

In section 47 of the Children Act 1989 after subsection (8) insert –

- “(8A) Where, as a result of complying with this section, a local authority conclude that a child may need to become looked after in order to safeguard and promote their welfare, the local authority must, unless emergency action is required, seek to identify and consider the willingness and suitability of any relative, friend or other person connected with the child, to care for them as an alternative to them becoming looked after by unrelated carers.””

59 Insert the following new Clause –

“Support for family and friends carers when children are not looked after

After section 17B of the Children Act 1989 insert –

“17C Support for family and friends carers when children are not looked after

Each local authority must make arrangements for the provision within their area of family and friends care support services, including –

- (a) counselling, advice and information; and
- (b) such other services as are prescribed, in relation to family and friends care.””

Amendment
No.

After Clause 85

BARONESS MASSEY OF DARWEN

59A Insert the following new Clause –

“Independence of the Children’s Commissioner

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

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

After Clause 95

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

60 Insert the following new Clause –

“Children’s health: standardised tobacco packaging

- (1) The Children and Young Persons (Protection from Tobacco) Act 1991 is amended as follows.
- (2) After section 3A (sales from vending machines in England and Wales) there is inserted –

“3B Standardised packaging

- (1) The appropriate national authority must, if satisfied that doing so is in the interests of preventing harm to the health of children under the age of 18 or of promoting the health of children under the age of 18, make regulations specifying retail tobacco packaging requirements in England and Wales.
- (2) Regulations made under subsection (1) must provide that retail packaging or tobacco products of any such description, or falling within any such class as may be specified in the regulations, shall not, except in such circumstances as may be so specified, be of any such colour or shape, or display any such mark or trade mark, or any other particulars as may be so specified.
- (3) A person is guilty of an offence if –
 - (a) in the course of a business the person owns or manages retail or commercial premises or a leisure facility; and
 - (b) the person sells or supplies, or has in the premises or facility for sale or supply, any tobacco product; and
 - (c) the retail packaging of the tobacco product does not comply with a specified retail tobacco packaging requirement.

Amendment
No.

After Clause 95 – continued

- (4) A person (“person A”) is guilty of an offence if –
- (a) person A manufactures any tobacco product; and
 - (b) either –
 - (i) person A packages the product for retail sale; or
 - (ii) person A enters into a contract or arrangement, or arrives at an understanding, for another person (person B) to package the product for retail sale; and
 - (c) (in a case falling within paragraph (b)(ii)) the tobacco product is packaged for retail sale by person B; and
 - (d) the retail packaging does not comply with a specified retail tobacco packaging requirement.
- (5) Sections 13, 14 and 15 of the Tobacco Advertising and Promotion Act 2002 (enforcement etc.) apply for the purposes of this section and regulations made under it as they apply for the purposes of provisions of that Act.
- (6) The power of the appropriate national authority to make regulations under this section –
- (a) is exercisable by statutory instrument,
 - (b) may be exercised to make different provision for different cases or circumstances, and
 - (c) includes power to make supplementary, incidental, consequential or transitional provision.
- (7) A statutory instrument containing regulations made under this section may not be made –
- (a) by the Secretary of State unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament, and
 - (b) by the Welsh Ministers unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (8) In this section –
- “the appropriate national authority” –
- (a) in relation to England, means the Secretary of State; and
 - (b) in relation to Wales, means the Welsh Ministers;
- “container” includes any pack, carton, box, tin, packet, bag, pouch, tube or other container;
- “retail packaging” means –
- (a) container for retail sale in which a tobacco product is directly placed;
 - (b) any container for retail sale that contains a smaller container in which a tobacco product is directly placed;
 - (c) any cigarette paper in which tobacco is contained and anything else forming part of a cigarette other than the tobacco;

Amendment
No.

After Clause 95 – continued

- (d) any plastic or other wrapper that covers any retail packaging of the type described in paragraphs (a) to (c);
 - (e) any plastic or other wrapper that covers a tobacco product, being a tobacco product that is for retail sale; or
 - (f) anything (other than a tobacco product) that is placed inside or is affixed or otherwise attached to retail packaging of the type described in paragraphs (a) to (e) but does not include the lining of a cigarette pack if the lining complies with retail packaging requirements;
- a “retail tobacco packaging requirement” is a requirement relating to any of the following particulars –
- (a) the colour of retail packaging;
 - (b) the shape and material of retail packaging;
 - (c) trade marks or registered trade marks displayed on retail packaging;
 - (d) the labelling of or on packages, packaging or tobacco products, or associated with retail packaging or tobacco products;
 - (e) the contents of retail packaging (including the shape and size of tobacco products);
 - (f) any covert or overt markings, coded numbering or any other security features on retail packaging or tobacco products; or
 - (g) any other particulars relating to retail packaging or tobacco products as may be prescribed by the Secretary of State;
- a “specified retail packaging requirement” is a retail tobacco packaging requirement specified in regulations made under subsection (1);
- “trade mark” and “registered trade mark” have the same meaning as in section 1 of the Trade Marks Act 1994.””

LORD HUNT OF KINGS HEATH
BARONESS HUGHES OF STRETFORD

61 Insert the following new Clause –

“Protection of children’s health: standardised tobacco packaging

The Secretary of State shall, within six months of this Act coming into force, bring forward legislation making it an offence, where the sale or supply of any tobacco product would have a detrimental impact on the health or wellbeing of children under 18, for anyone to sell or supply any tobacco product, the retail packaging of which is not free of any colour, shape, trademark or any other mark as may be specified in regulations by the Secretary of State.”

Amendment
No.

After Clause 95 – continued

LORD RIBEIRO
BARONESS FINLAY OF LLANDAFF
BARONESS TYLER OF ENFIELD
LORD FAULKNER OF WORCESTER

62

Insert the following new Clause –

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

- (1) The Health Act 2006 is amended as follows.
- (2) After section 8 there is inserted –
 - “8A Offence of failing to prevent smoking in a private vehicle when children are present**
 - (1) It is the duty of any person who drives a private vehicle to ensure that that vehicle is smoke-free whenever a child or children under the age of 18 are in such vehicle or part of such vehicle.
 - (2) A person who fails to comply with the duty in subsection (1) commits an offence.
 - (3) A person convicted of an offence under this section who has not previously been convicted of such an offence shall have the option of attending a smoke-free driving awareness course in place of paying a fine under subsection (4).
 - (4) A person who does not wish to attend an awareness course or who has previously been convicted of an offence under this section is liable on summary conviction to a fine of £60.
 - (5) The Secretary of State may introduce regulations to alter the level of penalty payable under subsection (4).
 - (6) The Secretary of State shall update all relevant regulations regarding the offence created under subsection (2) within six months of this section coming into force.
 - (7) The Secretary of State shall introduce regulations within six months of this section coming into force to prescribe the format of the awareness course in subsection (3).”
- (3) In section 79(4)(a), for “or 8(7)” substitute “, 8(7), or 8A(5)”.

Clause 99

LORD NASH

62A

Page 92, line 22, at end insert –

- “(3CA) Regulations may provide for a reduction in the duration of the maternity allowance period as it applies to a woman to be revoked, or to be treated as revoked, subject to prescribed restrictions and conditions.”

62B

Page 92, line 23, leave out “(3C)” and insert “(3CA)”

Amendment
No.

Clause 99 – *continued*

62C

Page 93, line 2, at end insert –

“(3D) Regulations may provide for a reduction in the duration of the maternity pay period as it applies to a woman to be revoked, or to be treated as revoked, subject to prescribed restrictions and conditions.”

62D

Page 93, line 32, at end insert –

“(2CA) Regulations may provide for a reduction in the duration of the adoption pay period as it applies to a person to be revoked, or to be treated as revoked, subject to prescribed restrictions and conditions.”

After Clause 100

BARONESS DRAKE
BARONESS MASSEY OF DARWEN

63

Insert the following new Clause –

“Kinship carers’ adjustment leave

- (1) A qualifying employee who satisfies prescribed conditions may be absent from work at any time during an adjustment leave period.
- (2) An adjustment leave period is a period calculated in accordance with regulations made by the Secretary of State.
- (3) The regulations under subsection (2) shall include provision for determining the extent of an employee’s entitlement to leave under this section but shall secure that where an employee is entitled to leave under this section a period prescribed by the Secretary of State.
- (4) An employee who exercises his or her rights under subsection (1) –
 - (a) is entitled, for such purposes and to such extent as may be prescribed, to the benefit of the terms and conditions of employment which would have applied if he or she had not been absent,
 - (b) is bound, for such purposes and to such extent as may be prescribed, by any obligations arising under those terms and conditions (except in so far as they are inconsistent with subsection (1)), and
 - (c) is entitled to return from leave to a job of a prescribed kind.
- (5) For the purposes of this section, an employee is a qualifying employee if –
 - (a) he or she is a family and friends (kinship) carer looking after a child full-time because the parent(s) is unable to look after the child, and
 - (b) he or she meets the criteria set out in the regulations under subsection (2).”

Amendment
No.

Clause 103

LORD NASH

63A Page 98, line 16, leave out “(2C)” and insert “(2CA)”

Clause 114

LORD NASH

63AA Page 121, line 35, at end insert –
“() regulations under section (*Application of Part to detained persons*)(3),”

EARL HOWE

63B Page 121, line 36, after “55(1),” insert –
“(ba) regulations under subsection (6), (8), (9) or (10) of section (*Regulation of retail packaging etc of tobacco products*),
(bb) regulations under subsection (11) of that section which amend, repeal or revoke any provision of an enactment within the meaning of that section,”

Clause 118

LORD NASH

64 Page 123, line 2, at end insert –
“(1A) Section (*Contact between prescribed persons and adopted person’s relatives*) –
(a) so far as it relates to England, comes into force on such day as the Secretary of State appoints by order, and
(b) so far as it relates to Wales, comes into force on such day as the Welsh Ministers appoint by order.”

64A Page 123, line 5, leave out “and 84” and insert “, 84 and (*Extension of licensing of child performances to children under 14*)”

65 Page 123, line 9, after “subsection” insert “(1A),”

65A [*Re-numbered as Amendment 64A*]

Clause 119

EARL HOWE

65B Page 123, line 18, at end insert –
“(3A) Section (*Regulation of retail packaging etc of tobacco products*) extends to the whole of the United Kingdom.”

65C Page 123, line 24, at end insert “, subject to subsection (8).
(8) Subsection (7) does not apply to the repeal made by section (*Extension of licensing of child performances to children under 14*), which extends to England and Wales only.”

**Amendment
No.**

In the Title

LORD NASH

66 Line 2, after “needs” insert “or disabilities”

Children and Families Bill

THIRD
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

3rd January 2014

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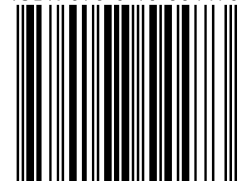
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