

Education and Adoption Bill

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
ON REPORT

The amendments have been marshalled in accordance with the Order of 26th November 2015, as follows –

Clauses 1 and 2
Clauses 7 to 12
Title

[Amendments marked ★ are new or have been altered]

Amendment
No.

Clause 1

LORD ADDINGTON

8A Page 1, line 9, after “school” insert “or an Academy”

LORD NASH

8B Page 1, line 10, leave out from “if” to end of line 14 and insert “–
(a) the school is coasting, and
(b) the Secretary of State has notified the governing body that it is coasting.”

LORD ADDINGTON

8C Page 1, line 10, after “school” insert “or Academy”

8D Page 1, line 12, after “school” insert “or Academy”

9 Page 1, line 12, after “coasting,” insert –
“(b) have been notified over a three year period that the school has remained within the coasting definition,”

9A Page 1, line 14, after “school” insert “or Academy”

**Amendment
No.**

Clause 1 – continued

LORD NASH

9B Page 1, line 14, at end insert –

“() The Secretary of State may by regulations provide that this section does not apply in relation to a school of a description specified in the regulations.”

LORD HUNT OF KINGS HEATH
LORD WATSON OF INVERGOWRIE
LORD NASH

10 Page 1, line 15, leave out “may” and insert “must”

LORD ADDINGTON

10A Page 1, line 16, after “school” insert “or an Academy”

LORD NASH

10B Page 1, line 16, leave out “for the purposes of subsection (1)” and insert “to which this section applies”

LORD HUNT OF KINGS HEATH
LORD WATSON OF INVERGOWRIE

11 Page 1, line 16, at end insert –

“() Regulations under subsection (2) must be made by statutory instrument, which may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

12 Page 1, line 16, at end insert –

“() The governing body must inform the parents of registered pupils that the school has been notified that it is coasting.”

13 Page 1, line 16, at end insert –

“() An Academy may be defined as “coasting” if it comes under the definition made by the Secretary of State by regulations under subsection (2).

() The Secretary of State will serve a “coasting notice” where the Academy is found to be coasting.

() A coasting notice must specify –

(a) that the Academy Trust must submit a plan to the Secretary of State setting out the actions to be taken to improve the school sufficiently; and

(b) the date by which the plan must be submitted.”

**Amendment
No.**

Clause 1 – continued

THE EARL OF LISTOWEL
LORD SUTHERLAND OF HOUNDWOOD

14 Page 1, line 16, at end insert –

- “() Regulations made under subsection (2) must specify that schools may not be defined as coasting on the basis of school performance data which include data relating to pupils absent for medical reasons for more than 15 days in any one school year.”

LORD ADDINGTON

15 Page 1, line 16, at end insert –

- “() Regulations under subsection (2) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- () In the event that a school is defined as “coasting” under the definition contained in regulations made under subsection (2), the Regional Schools Commissioner, in assessing whether or not a school has a credible plan to improve sufficiently, must demonstrate that he or she has taken into account the entire activity of the school including, but not limited to –
- (a) academic achievements;
 - (b) achievements in, and access provided to, sports and arts;
 - (c) provision of access to further training or education; and
 - (d) provision of access to work placements, internships and apprenticeships.”

15A Page 1, line 16, at end insert –

- “(3) The Secretary of State may by regulations made by statutory instrument disapply the definition of coasting to certain types of schools, including –
- (a) community and foundation special schools, and
 - (b) maintained nurseries.
- (4) A statutory instrument containing regulations under subsection (3) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”

LORD NASH

15B Page 1, line 16, at end insert –

- “() In section 182 (Parliamentary control of orders and regulations), in subsection (3), after paragraph (a) insert –
- “(aza) the first regulations to be made under section 60B(2) (regulations defining “coasting” in relation to a school),”.

Amendment
No.

Clause 7

LORD WATSON OF INVERGOWRIE
LORD STOREY
LORD HUNT OF KINGS HEATH

15C Page 6, line 5, leave out “must” and insert “may”

LORD STOREY
BARONESS PINNOCK

15D Page 6, line 8, at end insert—

- “() In determining whether to make an Academy order in respect of a maintained school in England, the Secretary of State must consider the availability of a suitable sponsor with a value added measure above the national average.
- () If no suitable sponsor is available, the Secretary of State must appoint as a sponsor a willing council-maintained school or local authority with a value added measure above the national average.”

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

16 Leave out Clause 7 and insert the following new Clause—

“Schools with an inadequate Ofsted judgement

- (1) Where, in a report of a school made under section 5 of the Education Act 2005 (duty to inspect certain schools at prescribed intervals), Her Majesty’s Chief Inspector of Education, Children’s Services and Skills states that in his or her opinion—
- (a) special measures are required to be taken in relation to the school, or
 - (b) the school requires significant improvement,
- the following actions shall be taken.
- (2) The Regional Schools Commissioner must consult the local authority, any trustees or persons representing foundations associated with the school and, in the case of an Academy school, the person with whom the Secretary of State has made Academy arrangements, about the school’s governance arrangements.
- (3) If the school is a local authority maintained school, then the Regional Schools Commissioner may determine that section 5 of the Academies Act 2010 (consultation on conversion) applies.
- (4) If the school is an Academy school, then the Regional Schools Commissioner may consult the Secretary of State about whether or not to terminate the school’s Academy arrangements—
- (a) with a view to the school being established as a local authority maintained school, or
 - (b) by the Secretary of State making Academy arrangements with another person.”

Amendment
No.

Clause 8

LORD WATSON OF INVERGOWRIE
LORD STOREY
LORD HUNT OF KINGS HEATH

16A Page 6, line 25, at end insert –

“5ZA Consultation about conversion: schools issued with an Academy order

- (1) If a school is issued with an Academy order under section 4(A1) or (1)(b), consultation must be held on whether conversion should take place.
- (2) The consultation exercise must include –
 - (a) parents of children attending the school;
 - (b) teachers and staff at the school;
 - (c) governors at the school;
 - (d) the relevant local authority;
 - (e) such other persons as the Secretary of State considers appropriate.
- (3) The terms of such consultation, including the minimum length of time that must be allowed, shall be prescribed by the Secretary of State in regulations.
- (4) After the close of the consultation, the Secretary of State must take into account the outcome of the consultation when deciding whether conversion is appropriate for the school.”

After Clause 8

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

17 Insert the following new Clause –

“Schools causing concern: involvement of parents

- (1) The Education and Inspectors Act 2006 is amended as follows.
- (2) In section 59 (meaning of “maintained school” and “eligible for intervention”) –
 - (a) in subsection (1) after paragraph (c) insert –
 - “(d) an Academy school”;
 - (b) after subsection (2) insert –
 - “(3) In this Part, references to the governing body of an Academy school are to be read as references to the proprietor of an Academy school.
 - (4) If an Academy school is found to be eligible for intervention under this Part, the school is to be treated as a maintained school for the purposes of sections 63 to 69, and the proprietor of the Academy is to be treated as the governing body of the school.

Amendment
No.

After Clause 8 – continued

- (5) An intervention under sections 63 to 69 shall take precedence over any provision of the Academy arrangements made between the Secretary of State and the proprietor.”
- (3) After section 59 insert –
- “59A Duties of Secretary of State, local authorities, and proprietors to parents when a school is eligible for intervention**
- When a school is eligible for intervention, the Secretary of State, the local authority, school governing body and proprietor must exercise their functions with a view to involving parents of registered pupils in decisions relating to the school under this Part and the Academies Act 2010.”
- (4) In section 60 (performance standards and safety warning notice), in subsection (6) at the end insert –
- “(e) the parents of registered pupils”.
- (5) In section 60A (teachers’ pay and conditions warning notice), in subsection (6) at the end insert –
- “(d) the parents of registered pupils”.”

Clause 10

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

- 17A Page 7, line 28, at end insert –
- “() In facilitating the conversion under subsection (1), the governing body must ensure that parents and staff of the school are fully informed of the steps being taken.”
- 18 [Withdrawn]

After Clause 11

BARONESS PINNOCK
LORD STOREY

- 19★ Insert the following new Clause –
- “Land owned by communities and faith groups**
- Where an Academy order under section 4(A1) or (1)(b) of the Academies Act 2010 has effect in respect of a school, the Secretary of State, when making the Academy order, must ensure that ownership of the land used by the school does not pass to the Academy, but is retained by the landowner where the land is –
- (a) owned by a community group, or
- (b) owned by a faith group.”

Amendment
No.

After Clause 12

LORD NASH

20 Insert the following new Clause –

“Duty to communicate information about plans to improve school

After section 5D of the Academies Act 2010 (inserted by section 12 above)
insert –

“5E Duty to communicate information about plans to improve school

- 8 (1) Before a maintained school in England which is causing concern is
9 converted into an Academy, the proposed proprietor of the
Academy must communicate to the registered parents of registered
pupils at the school information about the proposed proprietor’s
plans to improve the school.
- (2) For the purposes of subsection (1) –
- (a) the “proposed proprietor of the Academy” is the person
with whom the Secretary of State proposes to enter or has
entered into Academy arrangements in respect of the
school;
- (b) a school is “causing concern” if it is eligible for intervention
within the meaning of Part 4 of EIA 2006.””
- 17

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

[Amendments 21 to 23 are amendments to Amendment 20]

21★ Line 8, leave out “communicate to” and insert “consult”

22★ Line 9, leave out “information”

23★ Line 17, at end insert –

- “(3) After the close of the consultation, the Secretary of State must take
into account the outcome of the consultation carried out under
subsection (1) when deciding whether the proposed proprietor of
the Academy is still suitable.”

LORD NASH

24 Insert the following new Clause –

“Academies causing concern

After section 2 of the Academies Act 2010 insert –

“2A Academy agreements: provision about failing schools

- (1) An Academy agreement in respect of an Academy school or an
alternative provision academy must include provision allowing the
Secretary of State to terminate the agreement if –
- (a) special measures are required to be taken in relation to the
Academy, or
- (b) the Academy requires significant improvement.

Amendment
No.

After Clause 12—continued

- (2) The Academy agreement must require the Secretary of State, before terminating the agreement on one of those grounds, to give the proprietor an opportunity to make representations.
- (3) For the purposes of this section special measures are required to be taken in relation to an Academy, or an Academy requires significant improvement, if the Chief Inspector has given notice under section 13(3)(a) of the Education Act 2005.

2B Academy agreements: provision about coasting schools

- (1) An Academy agreement in respect of an Academy school or an alternative provision academy must include provision allowing the Secretary of State to terminate the agreement if –
 - (a) the Academy is coasting, and
 - (b) the Secretary of State has notified the proprietor that it is coasting.
- (2) The Academy agreement must require the Secretary of State, before terminating the agreement on that ground, to give the proprietor a termination warning notice.
- (3) A termination warning notice is a notice requiring the proprietor –
 - (a) to take specified action to improve the Academy by a specified date, and
 - (b) to respond to the Secretary of State by making representations, or by agreeing to take that action, by a specified date.
- (4) The Academy agreement must provide that the power to terminate the agreement on the ground that the Academy is coasting is available only if the proprietor has failed to comply with a termination warning notice (whether by failing to take specified action, or to respond, on time).
- (5) The Secretary of State may by regulations provide that this section does not apply in relation to an Academy of a description specified in the regulations.
- (6) “Coasting”, in relation to an Academy to which this section applies, has the meaning given by regulations under subsection (2) of section 60B of the Education and Inspections Act 2006 in relation to a school to which that section applies.

2C Sections 2A and 2B supplementary - new agreements

- (1) An Academy agreement may include further provision about –
 - (a) the procedure for terminating the agreement in accordance with the provision required by section 2A or 2B;
 - (b) the consequences of terminating the agreement in accordance with that provision.
- (2) This section does not apply to agreements made before the day on which section 1A of the Education and Adoption Act 2015 comes into force (but see section 2D).

Amendment
No.

After Clause 12—continued

2D Sections 2A and 2B: supplementary - old agreements

- (1) An old Academy agreement is to be treated as if it included the new termination powers.
- (2) A provision of an old Academy agreement that relates to the procedure for terminating the agreement does not apply to the new termination powers.
- (3) Subsections (4) and (5) apply where an old Academy agreement—
 - (a) contains provision about the consequences of terminating the agreement (“relevant provision”), and
 - (b) the relevant provision is expressed in a way that is capable of covering termination in accordance with the new termination powers.
- (4) The relevant provision applies to termination in accordance with the new termination powers.
- (5) If the relevant provision sets out different consequences depending on whether the agreement is terminated on the ground that the proprietor has breached the Agreement or on other grounds, termination in accordance with the new termination powers is to be treated as termination on the grounds of breach by the proprietor.
- (6) In this section—

“new termination powers”, in relation to an Academy agreement, means the powers to terminate in accordance with the provision required by sections 2A and 2B;

“old Academy agreement” means an Academy agreement made before the day on which section 1A of the Education and Adoption Act 2015 comes into force.”

LORD STOREY
BARONESS PINNOCK

25 Insert the following new Clause—

“Inspection of Academies

Before section 9 of the Academies Act 2010 insert—

“8A Inspection of Academies

Before a coasting school is converted into an Academy by virtue of this Act, and of section 61 or 62 of EIA 2006 (schools requiring significant improvement or schools requiring special measures), the Chief Inspector of Education, Children’s Services and Skills must inspect and report on the person with whom it is anticipated the Secretary of State will enter into an Academy arrangement.”

Amendment
No.

After Clause 12—continued

LORD ADDINGTON

26 Insert the following new Clause—

“Regional Schools Commissioners

- (1) The Secretary of State must publish a document which sets out the responsibilities and powers of the Regional Schools Commissioners which are connected with the provisions of the Education and Adoption Act 2015.
- (2) The document under subsection (1) shall identify the Acts of Parliament and regulations from which each responsibility and power of the Regional Schools Commissioners is drawn.
- (3) The Secretary of State shall ensure that the document under subsection (1) is made widely available to the public.”

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

27★ Insert the following new Clause—

“Repeal: education provisions

Sections 1 to 12 are repealed at the end of the period of 5 years beginning with the day on which this Act is passed.”

Education and Adoption Bill

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MARSHALLED
LIST OF AMENDMENTS
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