

Schools Bill [HL]

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

Clause 1

BARONESS CHAPMAN OF DARLINGTON
BARONESS WILCOX OF NEWPORT

Clause 1, page 1, line 5, leave out "may" and insert "must"

Member's explanatory statement

This amendment explicitly lists the academy standards the Secretary of State must regulate for, namely those set out in section 94 of the Education and Skills Act 2008 for independent schools.

BARONESS CHAPMAN OF DARLINGTON
BARONESS WILCOX OF NEWPORT

Clause 1, page 1, leave out line 7 and insert –

“(2) Under subsection (1) the Secretary of State must set standards about the following matters –”

Member's explanatory statement

This amendment explicitly lists the academy standards the Secretary of State must regulate for, namely those set out in section 94 of the Education and Skills Act 2008 for independent schools.

BARONESS CHAPMAN OF DARLINGTON
BARONESS WILCOX OF NEWPORT

Clause 1, page 1, line 8, leave out subsections (a) to (t) and insert –

- “(a) the quality of education provided;
- (b) the spiritual, moral, social and cultural development of students;
- (c) the welfare, health and safety of students;
- (d) the suitability of proprietors and staff;
- (e) the premises and accommodation;
- (f) the provision of information by the Academy;
- (g) the manner in which the Academy handles complaints;
- (h) the quality of the leadership and management.”

Clause 1 - continued***Member's explanatory statement***

This amendment explicitly lists the academy standards the Secretary of State must regulate for, namely those set out in section 94 of the Education and Skills Act 2008 for independent schools.

Clause 2

BARONESS BARRAN

Clause 2, page 3, line 35, leave out subsection (6)

Member's explanatory statement

This amendment removes clause 2(6), bringing the treatment of secure 16 to 19 Academies under that clause in line with that of other Academies. This means that if an Academy standard applies to secure 16 to 19 Academies, this can trump any corresponding contractual provisions.

Clause 2

LORD BAKER OF DORKING
LORD NASH
LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 2 stand part of the Bill.

Clause 3

BARONESS CHAPMAN OF DARLINGTON
BARONESS WILCOX OF NEWPORT

Clause 3, page 4, line 31, leave out paragraph (c)

Member's explanatory statement

This amendment would remove the inclusion of further education institutions within the definition of "educational institution". This would remove the power of the Secretary of State to apply any statutory provision relating to further education colleges to academies.

Clause 4

BARONESS CHAPMAN OF DARLINGTON
BARONESS WILCOX OF NEWPORT

Clause 4, page 5, line 7, at end insert –

“(d) the obligations of schools to safeguard the mental health of pupils.”

Clause 4 - continued***Member's explanatory statement***

This amendment would give a duty to academy proprietors to have regard to current and future government guidance on mental health in schools.

Clause 4

LORD BAKER OF DORKING
LORD NASH
LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 4 stand part of the Bill.

Clause 5

LORD BAKER OF DORKING
LORD NASH
LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 5 stand part of the Bill.

Clause 6

LORD BAKER OF DORKING
LORD NASH
LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 6 stand part of the Bill.

Clause 7

BARONESS BARRAN

Clause 7, page 8, line 7, at end insert –

“(3A) Where the Secretary of State proposes to give an interim trustee notice to the proprietor of one or more Academy schools with a religious character, the Secretary of State must first consult the relevant religious body for each Academy school with a religious character in the proprietor’s care.”

Member's explanatory statement

This amendment requires the Secretary of State, before giving an interim trustee notice to the proprietor of an Academy school with a religious character, to consult the relevant religious body for the school.

Clause 7

LORD BAKER OF DORKING
LORD NASH
LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 7 stand part of the Bill.

Clause 8

BARONESS BARRAN

Clause 8, page 8, line 28, at end insert –

“(3) Subsection (2) applies to an Academy agreement in respect of a secure 16 to 19 Academy (see section 1B of the Academies Act 2010) as if the reference to the seventh Academy financial year were a reference to the second Academy financial year.”

Member's explanatory statement

This amendment provides for a two-year notice period for terminating an Academy agreement in respect of a secure 16 to 19 Academy (in contrast to the seven-year notice period which applies to other types of Academy).

Clause 8

LORD BAKER OF DORKING
LORD NASH
LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 8 stand part of the Bill.

Clause 9

BARONESS BARRAN

Clause 9, page 8, line 29, at end insert –

“(A1) The Secretary of State may by notice terminate an Academy agreement with the proprietor of an Academy if any of subsections (1) to (1B) applies.”

Member's explanatory statement

This amendment, and the other amendments to clauses 9 and 14 in Baroness Barran's name, allow the Secretary of State to terminate an Academy agreement without first issuing a termination warning notice in certain cases where the Academy is failing.

Clause 9 - continued

BARONESS BARRAN

Clause 9, page 8, line 30, leave out subsection (1) and insert –

- “(1) This subsection applies if the Chief Inspector has given a notice in relation to the Academy under section 13(3)(a) of the Education Act 2005 (special measures required to be taken or significant improvement required).”

Member's explanatory statement

See the explanatory statement to the amendment in Baroness Barran's name at page 8, line 29.

BARONESS BARRAN

Clause 9, page 8, line 34, at end insert –

- “(1A) This subsection applies if –
- (a) the Academy is a 16 to 19 Academy, and
 - (b) a report made under section 124(3) or 125(3) of the Education and Inspections Act 2006 (inspections of education and training and of further education institutions) states that the Chief Inspector does not consider the education or training inspected at the Academy to be of a quality adequate to meet the reasonable needs of those receiving it.
- (1B) This subsection applies if a pupil is provided with board and lodging at the Academy and –
- (a) the Chief Inspector has made a notification in relation to the Academy under section 87(4)(c) of the Children Act 1989 (duty to notify Secretary of State of welfare failure in boarding schools), or
 - (b) the Secretary of State considers that a national minimum standard published under section 87C of that Act (boarding schools: national minimum standards) is not being met in relation to the Academy.”

Member's explanatory statement

See the explanatory statement to the amendment in Baroness Barran's name at page 8, line 29.

BARONESS BARRAN

Clause 9, page 8, line 35, leave out subsection (2)

Member's explanatory statement

See the explanatory statement to the amendment in Baroness Barran's name at page 8, line 29.

Clause 9LORD BAKER OF DORKING
LORD NASH

Clause 9 - continued

LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 9 stand part of the Bill.

Clause 10LORD BAKER OF DORKING
LORD NASH
LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 10 stand part of the Bill.

Clause 11

BARONESS BARRAN

Clause 11, page 9, line 23, leave out “a” and insert “an Academy agreement or”

Member's explanatory statement

This amendment allows the Secretary of State to terminate an Academy agreement as well as a master agreement if there is a change of control or insolvency event (so that an Academy agreement in respect of a single-Academy trust could be terminated on those grounds).

Clause 11LORD BAKER OF DORKING
LORD NASH
LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 11 stand part of the Bill.

Clause 12LORD BAKER OF DORKING
LORD NASH
LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 12 stand part of the Bill.

Clause 13LORD BAKER OF DORKING
LORD NASH

Clause 13 - continued

LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 13 stand part of the Bill.

Clause 14

BARONESS BARRAN

Clause 14, page 12, line 11, leave out subsections (6) and (7)

Member's explanatory statement

See the explanatory statement to the amendment in Baroness Barran's name at page 8, line 29.

Clause 14LORD BAKER OF DORKING
LORD NASH
LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 14 stand part of the Bill.

Clause 15LORD BAKER OF DORKING
LORD NASH
LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 15 stand part of the Bill.

Clause 16LORD BAKER OF DORKING
LORD NASH
LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 16 stand part of the Bill.

Clause 17LORD BAKER OF DORKING
LORD NASH

Clause 17 - continued

LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 17 stand part of the Bill.

Clause 18LORD BAKER OF DORKING
LORD NASH
LORD AGNEW OF OULTON

The above-named Lords give notice of their intention to oppose the Question that Clause 18 stand part of the Bill.

After Clause 18BARONESS BLOWER
LORD HUNT OF KINGS HEATH

After Clause 18, insert the following new Clause—

“Withdrawal from a Multi Academy Trust

- (1) The Secretary of State must establish a procedure whereby the local governing body of an individual Academy within a Multi Academy Trust may withdraw from the Multi Academy Trust to—
 - (a) join another Multi Academy Trust, or
 - (b) establish itself as a separate Academy Trust.
- (2) The procedure under subsection (1) must specify requirements regarding—
 - (a) a consultation process that must include parents and staff of the school,
 - (b) a statement by the local governing body setting out the reasons for wishing to withdraw from the Multi Academy Trust including a statement explaining how this will benefit children's education in the school, and
 - (c) a timetable and financial framework under which such a withdrawal can be undertaken.”

Member's explanatory statement

The amendment is designed to establish a procedure for a school to leave a Multi Academy Trust.

Clause 29BARONESS BLOWER
LORD HUNT OF KINGS HEATH

Clause 29, page 23, line 24, at end insert “only with the consent of the governing body that is the subject of the application”

Clause 29 - continued***Member's explanatory statement***

This amendment ensures that a local authority cannot apply for an Academy order to be made unless it has the consent of the governing body.

BARONESS BLOWER
LORD HUNT OF KINGS HEATH

Clause 29, page 23, line 30, at end insert –

“(c) the parents and staff of the school that is the subject of the application.”

Member's explanatory statement

This amendment ensures that parents and staff of the school must be added to the list of those who have to be consulted by a local authority before making an application to the Secretary of State for an Academy order.

BARONESS BARRAN

Clause 29, page 24, line 6, leave out paragraphs (a) and (b) and insert –

“(a) in subsection (1), after “Academy” insert “following an application under section 3 (application for Academy order by governing body)”;

(b) after subsection (1) insert –

“(1A) Before a maintained school in England is converted into an Academy following an application under section 3A (application for Academy order by local authority), the local authority must consult such persons as they think appropriate about whether the conversion should take place.”;

(c) for subsection (2) substitute –

“(2) But this section ceases to apply where, following an application under section 3 or 3A in respect of a school, an Academy order is made in respect of the school under –

(a) section 4(A1) (duty to make Academy order in respect of school requiring significant improvement or special measures), or

(b) section 4(1)(b) (power to make Academy order in respect of school otherwise eligible for intervention).”

Member's explanatory statement

This amendment would require the local authority to carry out a consultation in relation to an application under new section 3A for conversion of a maintained school into an Academy. As with consultations by governing bodies who apply for Academy conversion, the consultation may be carried out before or after the application, or any Academy order, is made.

After Clause 29

BARONESS BLOWER
LORD HUNT OF KINGS HEATH

After Clause 29, insert the following new Clause –

“Consultation before joining a Multi Academy Trust

After section 14 of the Academies Act 2010, insert –

“14A Application by an Academy to join a Multi Academy Trust

- (1) Before an Academy Trust can make an application to join a Multi Academy Trust it must consult, in a comprehensive and timely fashion, the parents and staff of the school that is the subject of the application.
- (2) The consultation under section (1) must show how the proposal will benefit children's education and what alternatives have been considered.”

Member's explanatory statement

This amendment is designed to ensure that a governing body cannot apply to join a Multi Academy Trust before a full and proper consultation takes place with parents and staff.

After Clause 30

BARONESS BARRAN

After Clause 30, insert the following new Clause –

“Secure 16 to 19 Academies

- (1) The Academies Act 2010 is amended as follows.
- (2) In section 2 (payments under Academy agreements), after subsection (2) insert –
 - “(2A) Subsection (2) applies to an Academy agreement in respect of a secure 16 to 19 Academy as though the references to 7 years were references to 2 years.”
- (3) In section 9 (impact: new and expanded educational institutions), in subsection (1), after paragraph (b) (and on a new line) insert –

“except where the institution, if the arrangements are entered into, is to be a secure 16 to 19 Academy.”
- (4) In section 10 (consultation: new and expanded educational institutions) –
 - (a) after subsection (2) insert –
 - “(2A) But where the educational institution, if the arrangements are entered into, is to be a secure 16 to 19 Academy –
 - (a) the person is not required to carry out a consultation on that question, and

After Clause 30 - continued

- (b) they must instead carry out a consultation on the question of how they should cooperate with potential local partners in connection with the establishment and carrying on of the Academy.
- (2B) “Potential local partners” in subsection (2A)(b) means—
 - (a) public authorities (within the meaning of section 6 of the Human Rights Act 1998), and
 - (b) so far as not falling within paragraph (a), proprietors of educational institutions, with whom the person carrying out the consultation thinks it appropriate to cooperate.”;
- (b) in subsection (3), for “The consultation” substitute “A consultation under this section”.

Member's explanatory statement

This amendment makes special provision for secure 16 to 19 Academies as to the period for which funding must continue, the requirement to consider the impact of new or expanded educational institutions on other local institutions, and the consultation requirements applicable to new or expanded educational institutions.

Clause 32

BARONESS CHAPMAN OF DARLINGTON
BARONESS WILCOX OF NEWPORT

Clause 32, page 28, line 28, at end insert—

- “(d) regulations under section 1(7) (assessing or monitoring compliance with an Academy standard).”

Member's explanatory statement

This amendment would subject to the affirmative procedure the Secretary of State's power to give any person they choose responsibility over judging an academy's compliance with standards.

Schedule 3

BARONESS BARRAN

Schedule 3, page 93, line 18, at end insert—

“Education Act 1996

- A1 (1) Section 494 of the Education Act 1996 (recoupment: excluded pupils) is amended as follows.
- (2) In subsection (1)—
 - (a) after “maintained by” (in the first place it occurs) insert “, or from any Academy located in the area of,”;
 - (b) after “provided with education by” insert “or in the area of”;

Schedule 3 - continued

- (c) for “or otherwise than at school” substitute “, at an Academy located in that authority’s area, or by that authority otherwise than at school”.
- (3) In subsection (3) –
- (a) after “maintained by” (in the first place it occurs) insert “, or from any Academy located in the area of,”;
- (b) in paragraph (b) –
- (i) after “education by” insert “or in the area of”;
- (ii) for “or otherwise than at school” substitute “, at an Academy located in that authority’s area, or by that authority otherwise than at school”.
- (4) After that subsection insert –
- “(3A) For the purposes of this section references to an Academy do not include a 16-19 Academy.””

After Clause 57

BARONESS BARRAN

After Clause 57, insert the following new Clause –

“Education and childcare behaviour orders

- (1) The Education and Skills Act 2008 is amended as set out in subsections (2) and (3).
- (2) In section 96 (unregistered independent educational institutions: offence), at the end insert –
- “(5) Schedule A1 makes provision enabling a court to make an education and childcare behaviour order where a person is convicted of an offence under this section.”
- (3) Before Schedule 1 insert –

“SCHEDULE A1

section 96

EDUCATION AND CHILDCARE BEHAVIOUR ORDERS

Making an education and childcare behaviour order

- 1 (1) Where a person (the “defendant”) is convicted of an offence under section 96 (conducting an unregistered independent educational institution) after the coming into force of this Schedule, the prosecution may apply for an education and childcare behaviour order.
- (2) On an application under sub-paragraph (1), the court may make an education and childcare behaviour order if it thinks it is appropriate to do so for the purpose of protecting children from the risk of harm arising from the defendant conducting an unregistered independent educational

Schedule 3 - continued

institution or otherwise providing children with education, childcare, instruction or supervision.

- (3) An education and childcare behaviour order is an order which, for the purpose mentioned in sub-paragraph (2) –
 - (a) requires the defendant to do anything specified in the order, or
 - (b) prohibits the defendant from doing anything specified in the order.
- (4) The court may make an education and childcare behaviour order in respect of the defendant only if it is made in addition to –
 - (a) a sentence imposed in respect of the offence under section 96, or
 - (b) an order discharging the offender conditionally.
- (5) If, following an application by the prosecution for an education and childcare behaviour order, the court decides not to make such an order, it must state in open court its reasons for that decision.

Duration of education and childcare behaviour order

- 2 (1) An education and childcare behaviour order takes effect on the day on which it is made.
- (2) An education and childcare behaviour order must specify the period for which it has effect, which must be a fixed period of at least six months and not more than three years.
- (3) Where a court makes an education and childcare behaviour order in respect of a defendant who is already subject to such an order, the earlier order ceases to have effect.

Application for variation or discharge of education and childcare behaviour order

- 3 (1) The defendant may apply to the appropriate court for an order varying or discharging an education and childcare behaviour order.
- (2) On an application under this paragraph, the court may by order vary or discharge the education and childcare behaviour order.
- (3) A defendant may not make an application under this paragraph –
 - (a) before the end of the period of three months beginning with the day on which the order was made, or
 - (b) before the end of the period of three months beginning with the day on which any previous application under this paragraph was refused.
- (4) In this paragraph, the “appropriate court” means –
 - (a) the court that made the order, or
 - (b) a magistrates’ court for the area in which the defendant lives.

After Clause 57 - continued*Offence of breaching education and childcare behaviour order*

- 4 (1) A person who breaches an education and childcare behaviour order is guilty of an offence.
- (2) A person guilty of an offence under this paragraph is liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine (or to both).
- (3) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, for “51 weeks” in sub-paragraph (2), substitute “six months”.
- (4) Where a person is convicted of an offence under this paragraph, it is not open to the court by or before which the person is convicted to make, in respect of the offence, an order for conditional discharge.”
- (4) In section 379 of the Sentencing Act 2020, in the table in subsection (1), after the entry for the Serious Crime Act 2007 insert –
- “Education and Skills Act 2008
- | | | |
|-------------|---|--|
| Schedule A1 | education and childcare behaviour order | offence of conducting an unregistered independent education institution”.” |
|-------------|---|--|

Member's explanatory statement

This amendment would enable a court, after having convicted a person of the offence of operating an unregistered independent educational institution, to make an order requiring or prohibiting certain behaviour by that person, if the court considers it appropriate in order to protect children from a risk of harm. Breach of an order would constitute a further criminal offence.

Schedule 5

BARONESS BARRAN

Schedule 5, page 103, line 40, leave out ““refusal” substitute “decision not”” and insert ““104(1) (refusal” substitute “104 (decision not””

Member's explanatory statement

This amendment corrects a missed consequential amendment.

Clause 63

BARONESS BARRAN

Clause 63, page 74, line 33, at end insert –

- “(g) paragraph 4 of Schedule A1 (breach of education and childcare behaviour order).”

Clause 63 - continued***Member's explanatory statement***

This amendment adds the offence of breaching an education and childcare behaviour order to the list of offences in clause 63, meaning that the new powers of entry and investigation in the Bill would be exercisable in respect of a suspected offence under this Schedule.

Clause 65

BARONESS BARRAN

Clause 65, page 78, line 14, at end insert “that is not a school”

Member's explanatory statement

This is a drafting clarification to make it clear that the reference to independent educational institutions inserted into s.141A(1) (teachers to whom the misconduct provisions apply) only catches such institutions that are not schools. Schools are already covered by s.141A(1)(a), so this amendment avoids an overlap between existing paragraph (a) and new paragraph (bb).

After Clause 65

LORD TRIESMAN

After Clause 65, insert the following new Clause—

“School admissions for children adopted from overseas

- (1) The Secretary of State must revise the code of practice for school admissions in accordance with sections 84 and 85 of the School Standards and Framework Act 1998 (code for school admissions), to contain provision that children adopted from overseas must receive the same priority for admission as children looked after or previously looked after by a local authority in England.
- (2) The Secretary of State must lay the revision under subsection (1) before each House of Parliament within four months of the passing of this Act.
- (3) In subsection (1) of section 88B of the School Standards and Framework Act 1998 (admission arrangements relating to children looked after by local authority), after the second “England” insert “, and those adopted from overseas,”.
- (4) In this section and the School Standards and Framework Act 1998, a child “adopted from overseas” means a child that was born overseas or was previously in care outside the United Kingdom and has since been legally adopted by UK citizens and currently resides in the United Kingdom.”

After Clause 65 - continued

BARONESS CHAPMAN OF DARLINGTON
BARONESS WILCOX OF NEWPORT

After Clause 65, insert the following new Clause—

“Ofsted inspections: mental health

- (1) When inspecting schools, Ofsted must make an assessment of the mental health of the student body.
- (2) Schools with an “inadequate” mental health rating cannot be rated “good” or “outstanding” overall.”

Schools Bill [HL]

AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

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