

CHILDREN AND FAMILIES BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

INTRODUCTION

1. These Explanatory Notes relate to the Lords Amendments to the Children and Families Bill, as brought from the House of Lords on 5 February 2014. These notes have been prepared by the Department for Education, the Department of Health, and the Department for Business, Innovation and Skills in conjunction with the Department for Work and Pensions in order to assist the reader of the Bill and the Lords Amendments and to help inform debate on the Lords Amendments. They do not form part of the Bill and have not been endorsed by Parliament.
2. These Notes, like the Lords Amendments themselves, refer to HL Bill 32, the Bill as first printed for the Lords.
3. These notes need to be read in conjunction with the Lords Amendments and the text of the Bill. They are not and are not meant to be a comprehensive description of the effect of the Lords amendments.
4. Lords Amendment 12 derives from an amendment tabled by Baroness Butler-Sloss, Baroness Hughes of Stretford and Baroness Howarth of Breckland that was opposed by the Government. That original amendment was refined at a subsequent stage, by an amendment in the names of the Minister and Baroness Butler-Sloss, to produce the final form of Lords Amendment 12. Lords Amendment 125 derives from an amendment tabled by Lord Hunt, Baroness Hughes of Stretford and Lord Faulkner of Worcester that was opposed by the Government. The original amendment was largely replaced at a subsequent stage, by an amendment in the names of the Minister, Lord Hunt of Kings Heath, Baroness Finlay of Llandaff and Lord Ribeiro to produce the final form of Lords Amendment 125. Lords Amendments 3 to 7, though non-Government amendments tabled by Baroness Hamwee, Baroness Eaton, Viscount Eccles and Lord Storey, were accepted by the Government. In the following Commentary, an asterisk* appears against the Lords Amendments that are wholly or partly non-Government amendments.

COMMENTARY ON LORDS AMENDMENTS

Lords Amendments to Part 1 – Adoption and children looked after by local authorities

Lords Amendment 1

5. Lords Amendment 1 would insert a new clause which would amend section 98(1) of the Adoption and Children Act 2002 (“the 2002 Act”). Section 98(1) currently allows regulations to be made to facilitate contact between persons adopted before 30 December 2005 (when the 2002 Act came into force) and their birth relatives. Lords Amendment 1 would extend this regulation-making power so that regulations can also make provision to facilitate contact between persons with a prescribed relationship to a person adopted before 30 December 2005 and the adopted person’s birth relatives.
6. The intention is that the persons prescribed under these regulations would include the direct line of descendants of the adopted person (i.e. children, grandchildren) but the Department for Education would consult on whether it is appropriate for others, such as spouses and siblings of descendants, to be able to access the same services.

Lords Amendment 2

7. Lords Amendment 2 would have two effects. The first would be to clarify that the new duty, to consider placing a child with a foster parent who has also been approved as a prospective adopter, applies either where:
 - a. A local authority is considering adoption as an option for a looked after child but has not yet made its decision; or
 - b. The local authority has made the decision that the child ought to be placed for adoption, but where it does not yet have authority to place the child for adoption either through a placement order or parental consent.
8. The second effect would be to clarify that, before the local authority considers placing the child in this way, it must first have considered placing the child in a placement with relatives, friends or a connected person, and have decided that this is not the most appropriate placement.

Lords Amendments 3* to 7*

9. Lords Amendments 3* to 7* would amend clause 3 which inserts new section 3A into the 2002 Act. These Amendments have the effect of turning the proposed direction making power in the original subsection (3)(c) of that section into an order making power to which the affirmative procedure will apply.
10. Lords Amendment 5* would create a power by order for the Secretary of State to require all local authorities in England to make arrangements for all or any of the functions listed in subsection (2) of section 3A to be carried out on their behalf by one or more other adoption agencies.
11. Lords Amendments 3*, 4* and 6* are consequential, and preserve the direction making power in respect of one or more named local authorities, or one or more descriptions of local authorities.

These notes relate to the Lords Amendments to the Children and Families Bill as brought from the House of Lords on 5 February 2014 [Bill 171].

12. Lords Amendment 7* would require the order to be subject to the affirmative resolution procedure and would prevent the order from being made before 1 March 2015.

Lords Amendment 8

13. Lords Amendment 8 would ensure that the first set of regulations on personal budgets will be subject to the affirmative resolution procedure.

Lords Amendments 9-10

14. Lords Amendment 9 would ensure that the affirmative procedure is used the first time regulations are made under section 128A of the 2002 Act. The regulations will give approved prospective adopters access to prescribed information on the Adoption and Children Act Register.
15. Lords Amendment 10 would ensure that piloting enabling approved prospective adopters to search information on the Adoption and Children Act Register could take place in discrete geographical areas.

Lords Amendment 11

16. Lords Amendment 11 would move clause 9 (Promotion of educational achievement of children looked after by local authorities) to after the new clause to be inserted by Lords Amendment 128.

Lords Amendments to Part 2 – Family Justice

Lords Amendment 12*

17. Lords Amendment 12* would amend clause 11 (parental involvement) to make clear that involvement means involvement that is either direct or indirect but does not mean any particular division of the child's time.

Lords Amendment 152

18. Lords Amendment 152 is an amendment to Schedule 2 to the Bill and would insert an additional amendment to legislation that relates to clause 12 (child arrangements orders). It would update an existing reference in Schedule 1 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 to refer to child arrangements orders rather than to contact and residence orders.

Lords Amendments to Part 3 – Children and young people in England with special educational needs

Lords Amendments in respect of disabled children and young people

19. A number of Lords Amendments would extend the scope of a number of clauses in Part 3 of the Bill to include children and young people who are disabled but do not have special educational needs ("SEN").
20. Lords Amendments 14 and 15 to clause 22 would require local authorities to exercise their functions with a view to securing that they identify all children and young people with SEN and disabled children and young people.

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21. Lords Amendments 17 and 18 to clause 24 would require health bodies to inform a child's parent and their local authority where they are of the opinion that the child under compulsory school age has or probably has SEN or a disability.
22. Lords Amendment 16 would move clause 23, so it is after clause 24.
23. Lords Amendments 19 and 20 to clause 25 would require local authorities to exercise their functions with a view to ensuring the integration of education and training provision with health care provision and social care provision for children and young people with SEN and disabled children and young people where they think this would promote their well-being, including in relation to their participation in education, training and recreation.
24. Lords Amendments 21 to 28 to clause 26 would place duties on local authorities and their partner commissioning bodies to make joint arrangements for the commissioning of education, health and care provision for disabled children and young people as well as children and young people with SEN.
25. Lords Amendments 29 to 39 would amend clause 27 to require local authorities to keep education and training provision for disabled children and young people under review and additionally consult disabled children and young people when carrying out their duties to keep special educational provision and social care provision under review.
26. Lords Amendments 41 to 46 and 48 to 51 to clause 30 would include provision for disabled children and young people in the local offer. They would require local authorities to consult disabled children and their parents and disabled young people when developing and reviewing the local offer and publish comments from them about the local offer.
27. Lords Amendments 62 to 65 and 67 to clause 32 would extend the requirement on local authorities to arrange for young people with SEN and parents of children with SEN to receive advice and information on SEN to include provision for disabled children and young people and the parents of disabled children to be provided with information about matters related to disability.
28. Lords Amendment 118 would define in clause 73 disabled child or young person for the purposes of the Part as a person who has a disability for the purposes of the Equality Act 2010.

Lords Amendment 13

29. Lords Amendment 13 to clause 21 would clarify when health or social care provision is treated as special educational provision. It would make clear that healthcare and social care provision which educates or trains a child or young person is to be treated as special educational provision.

Lords Amendments 40 and 52 to 61

30. Lords Amendments 40 and 52 to 61 would amend clauses 28 and 31 to require persons in charge of relevant youth accommodation (secure institutions) to

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cooperate with the local authority in delivering support for young offenders with special educational needs.

Lords Amendment 47

31. Lords Amendment 47 to clause 30 would require local authorities to set out any action they intend to take in response to comments received from children with SEN or a disability and their parents and young people with SEN or a disability.

Lords Amendment 67

32. Lords Amendment 67 to clause 32 would require local authorities to arrange for advice and information about matters relating to SEN to be provided to children with SEN as well as their parents and young people with SEN.

Lords Amendment 68

33. Lords Amendment 68 would extend the circumstances in which local authorities will not be required to consider a request for an Education, Health and Care Plan (“EHC plan”) assessment in respect of a child or young person to include where a child or young person has been assessed in detention.

Lords Amendments 69, 70, 74 and 78 to 81

34. Lords Amendments 69, 70, 74 and 78 to 81 would clarify that when a young person turns 18, there must be explicit consideration of whether the young person requires more time (compared to their peers) to complete their education, and whether education and training outcomes have been met.

Lords Amendment 71

35. Lords Amendment 71 would remove a regulation making power from clause 36. This power was to make regulations requiring persons of a prescribed description, such as a child’s parents, to attend an assessment.

Lords Amendments 72 and 73:

36. Lords Amendments 72 and 73 would amend clause 37 to require that the EHC plan must include any social care provision made for a child or young person under 18 as a result of section 2 of the Chronically Sick and Disabled Persons Act 1970.

Lords Amendment 75

37. Lords Amendment 75 would enable regulations to be made to make provision for disclosure of EHC plans replicating the current power in paragraph 7 of Schedule 27 to the Education Act 1996. The amendment would also enable regulations to make provision about making minor amendments to EHC plans to keep them up to date without the need for a full review of the plan or a reassessment, replicating the current power in paragraph 2A(5) of Schedule 27 to the Education Act 1996.

Lords Amendment 76

38. Lords Amendment 76 would require any plans made under clause 37(5) to include provision about attending a mainstream school or college.

Lords Amendment 77

39. Lords Amendment 77 to clause 42 would mean that local authorities would not

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have to secure the specified special educational provision, and the responsible commissioning body would not have to secure the specified health care provision, if the child's parent or the young person had made suitable alternative arrangements.

Lords Amendments 82 to 84

40. Lords Amendments 82 to 84 are technical amendments which would substitute 'detention order' for 'custodial sentence' and would provide that a local authority must maintain any existing plan for a child or young person when they were released from detention.

Lords Amendment 85

41. Lords Amendment 85 would extend the clause to include the scenario where an EHC plan is created while the young offender is detained.

Lords Amendments 86 to 97 and 113

42. Lords Amendments 86 to 97 would amend the Bill to extend the scope of the provisions for mediation to cover health and social care issues in addition to educational issues.

43. Lords Amendments 98 to 1034 would amend the redress arrangements to include health and social care disputes when an EHC plan was being formulated or reviewed or reassessed.

44. Lords Amendment 87 would provide for the First Tier Tribunal (SEN and Disability) to make recommendations about health and social care provision in pilot areas.

45. Lords Amendment 113 would create a new provision to provide for a review of the operation of appeals under the Bill with a report back to Parliament.

Lords Amendment 104

46. Lords Amendment 104 would add a new clause titled 'Application of Part to detained persons' after clause 65. The clause would state what provisions in the Bill apply to detained persons and would be the basis upon which new rights are provided to young offenders to request an assessment during detention, and to have the education and health care provision specified in the plan provided during the detention.

Lords Amendments 105 and 106

47. Lords Amendments 105 and 106 would add new clauses titled 'Assessment of post-detention education, health and care needs of detained persons' and 'Securing EHC plans for certain detained persons'. These amendments would allow the custodial institution, the detained person or their parent to request a statutory Education, Health and Care Assessment from the detained person's home local authority.

Lords Amendment 107

48. Lords Amendment 107 would add a new clause titled 'EHC plans for certain

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detained persons: appeals and mediation'. This would provide a right of appeal for the young person or child's parent against decisions not to make an EHC assessment, not to issue an EHC plan following an assessment, and also decisions about the school place named in the ECH plan of the detained person. The amendments would also require mediation to be considered (where appropriate) before an appeal can be triggered,

Lords Amendment 108

49. Lords Amendment 108 would add a new clause titled 'Duty to keep EHC plans for detained persons'. This would require a child or young person's home local authority to use its best endeavours to arrange the special educational provision specified in their EHC plan while they are in custody. It would also create a parallel requirement for a detained child or young person's health services commissioner to use its best endeavours to arrange the health care provision specified in an EHC plan.

Lords Amendment 111

50. Lords Amendment 111 would add a new clause titled 'Supply of goods and services: detained persons'. This would enable local authorities to supply goods and services to other local authorities or bodies for the purpose of their duty to keep EHC plans for detained persons.

Lords Amendment 111 and 112

51. Lords Amendments 111 and 112 would require the Secretary of State to lay the first draft of the Special Educational Needs Code of Practice relating to this Bill before Parliament to be approved by the affirmative resolution of both Houses. Subsequent revisions to the Code of Practice would be subject to the negative resolution procedure in order to enable the Code to be kept more easily up to date.

Lords Amendment 114

52. Lords Amendment 114 would remove clause 70 from the Bill. This is a consequential amendment which follows providing young offenders with the right to request an assessment and to receive the special educational provision and health care provision specified in the plan during their detention.

Lords Amendments 115 to 117

53. Lords Amendments 115 to 117 provide for the definitions in clause 73 to be updated to include the amendments to include young offenders with SEN.

Lords Amendments 153 to 155

54. Lords Amendments 153 to 155 make amendments to provisions in the Education Act 1996 to clarify how the young offenders amendments will work

Lords Amendment 156

55. Lords Amendment 156 would amend section 23E of and Schedule 2 to the Children Act 1989 to include references to assessments made under the provisions in the Bill – particularly EHC assessments - in addition to the current references to SEN assessments and statements made under the Education Act 1996.

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Lords Amendments to Part 4 – Childcare etc

Lords Amendments 157 to 175

56. Lords Amendments 157 to 175 would amend Schedule 4 to the Bill (Childminder Agencies) which, in turn, amends Part 3 of the Childcare Act 2006 to make provision for childminder agencies.
57. Lords Amendment 158 would require the Chief Inspector, following an inspection of an early years childminder agency, to report on the effectiveness of that agency's procedures for assessing the quality of care and education provided by its registered childminders.
58. Lords Amendment 160 would introduce a parallel provision for reports on the inspection of later years childminder agencies.
59. Lords Amendments 157 and 159 are consequential on amendments 158 and 160.
60. Lords Amendment 161 would amend paragraph 35 of Schedule 4 to the Bill to make clear that, if the Secretary of State exercises the power to make regulations about the suspension of a childminder's registration by a childminder agency, he or she must include a right of appeal to the First Tier Tribunal.
61. Lords Amendments 162 to 171 would amend paragraphs 45 and 46 of Schedule 4 to the Bill which together set out the disqualification regime for those seeking to register as, or applying to work in, a childminder agency.
62. Lords Amendments 162 and 163 would amend the Bill so that the consequences of disqualification from registering as a provider relate solely to the delivery of childcare or direct concern in the management of childcare provision.
63. Lords Amendments 164 to 170 would mean that the consequences of disqualification from registering as an agency relate solely to the running of an agency, in the sense of being involved in the management of an agency, or working in an agency in a capacity which involves entering childcare premises. Amendment 171 would make it an offence for an agency to employ a disqualified person in such a capacity.
64. Lords Amendments 172 to 175 are technical amendments which are consequential on those outlined above. They would amend provisions concerning powers of entry to the premises of a childminder agency and offences by corporate bodies.

Lords Amendment 119

65. Lords Amendment 119 would allow regulations to be made about the way local authorities meet their duty to secure early years provision for young children. Regulations could impose a requirement on local authorities to meet this duty by securing early years provision at any provider which meets the description in regulations, which meets the terms of funding, and where a parent of an eligible child wishes to send that child. Regulations could also specify what conditions local authorities may and may not attach to their arrangements with providers when delivering this duty.

Lords Amendments to be included in a new Part – Welfare of children

Lords Amendment 120

66. Lords Amendment 120 would insert a new clause in the Bill to repeal section 38 of the Children and Young Persons Act 1963. The effect of that repeal would be to remove restrictions on the circumstances in which a local authority can issue a performance licence to a child under the age of 14.

Lords Amendment 121

67. Lords Amendment 121 would insert a new clause which would introduce an offence in England and Wales of 'proxy purchasing' of tobacco products and cigarette papers. This would make it an offence for a person aged 18 or over to buy, or attempt to buy, tobacco or cigarette papers on behalf of a person under the age of 18. If found guilty of an offence, the penalty would be a fine not exceeding level 4 on the standard scale, currently £2,500. The new clause would also provide local authority enforcement officers with the flexibility to issue fixed penalty notices if they believe an offence has been committed. To enable effective enforcement, the new clause would provide enforcement officers with powers of entry.
68. These provisions will apply to England and Wales subject to the necessary Legislative Consent Motion being passed by the Welsh Government.

Lords Amendment 122

69. Lords Amendment 122 would insert a new clause which would provide the Secretary of State with the power to make regulations to prohibit the sale of nicotine products such as electronic cigarettes, to persons under the age of 18. This provision will not capture tobacco products which are already subject to a prohibition on sale to persons aged under 18. Other exemptions will be set out in the regulations.
70. There will be an exemption for under 18s employed in the industry and a due diligence defence. The penalty for committing the offence is a fine not exceeding level 4 on the standard scale, currently £2,500. These provisions will apply to England and Wales.
71. Subsections (9) to (11) provide a definition of “nicotine product” which will capture among other things: an electronic cigarette, components thereof such as the cartridge and the empty device, as well as other products such as nicotine chewing gum, although not tobacco. The powers at subsection (7) enable the Secretary of State to make other exceptions or to make provision in relation to nicotine products of a specified kind.
72. All regulations made under these powers will be subject to the affirmative parliamentary procedure and in appropriate cases the Secretary of State must obtain the consent of the Welsh Ministers.

Lords Amendment 123

73. Lords Amendment 123 would make consequential amendments to integrate the

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new nicotine products offence into the existing tobacco regime.

74. Consequential amendments to section 5 of the Children and Young Persons (Protection from Tobacco) Act 1991 would extend the existing enforcement regime for the tobacco age of sale offence to the new nicotine products offence. Local authorities will be under a duty to consider a programme of enforcement action in their area and to carry out such enforcement.
75. Consequential amendments to sections 12A to 12D of the Children and Young Persons Act would extend the existing regime which addresses repeated tobacco age of sale offences to the new nicotine products age of sale offence.

Lords Amendment 124

76. Lords Amendment 124 would add a new clause titled “Regulation of retail packaging etc of tobacco products”. It would give the Secretary of State the power to make regulations to standardise tobacco packaging if and when he or she considers that they may contribute to reducing the risk of harm or to promoting the health or welfare of children and young people.

Lords Amendment 125

77. Lords Amendment 125 would add a new clause which would amend smoke-free legislation (the Health Act 2006) to provide the Secretary of State, or Welsh Ministers in relation to Wales, with the power to make regulations to provide for a private vehicle to be smoke-free when a person under the age of 18 is present in the vehicle. The Health Act 2006 contains two offences in relation to vehicles that are designated as smoke-free under the regulations: smoking in a smoke-free vehicle, and failure by the person in control of the vehicle to prevent smoking in a smoke-free vehicle.
78. The Health Act 2006 includes a power to provide for penalty notices in relation to the offence of smoking in a smoke-free vehicle and the clause would amend the Act to allow penalty notices to also be used for the offence of failing to prevent smoking in a vehicle when a person under the age of 18 is present.
79. All regulations made under these powers would be subject to the affirmative parliamentary procedure.

Lords Amendment 126

80. Lords Amendment 126 would add a new clause titled ‘Young carers’ which would consolidate existing rights for young carers, in particular from the Carers (Recognition and Services) Act 1995 and the Carers and Disabled Children Act 2000, and insert new sections into Part 3 of the Children Act 1989.
81. The new clause would also extend the right to an assessment of needs for support to all young carers under the age of 18 regardless of who they care for, what type of care they provide or how often they provide it. It would require a local authority to carry out an assessment of a young carer's needs for support on request or on the appearance of need, and would provide for local authorities to combine the assessment of a young carer with an assessment of the person they care for. Currently, a young carer has to request such an assessment. The new

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clause would enable the Secretary of State to make regulations making provision about the carrying out of a young carer's needs assessment. Those regulations may, in particular, specify matters to which a local authority is to have regard or is to determine in carrying out the assessment, the manner in which an assessment is to be carried out and the form that assessment is to take.

Lords Amendment 127

82. Lords Amendment 127 would insert a new clause which would consolidate into Part 3 of the Children Act 1989 existing legislation which gives individuals with parental responsibility for a disabled child the right to an assessment of their needs by a local authority, in particular the Carers and Disabled Children Act 2000. This consolidation would simplify the legislation relating to parent carers of disabled children, making rights and duties clearer to both parent and practitioners. It would remove the requirement for such carers to be providing 'a substantial amount of care on a regular basis' in order to be assessed, and requires local authorities to assess on the appearance of need, as well as on request. Currently, a parent-carer has to request such an assessment.

83. The new clause would enable the Secretary of State to make regulations making provision about the carrying out of a parent carer's needs assessment. Those regulations may, in particular, specify matters to which a local authority is to have regard or is to determine in carrying out the assessment, the manner in which an assessment is to be carried out and the form that assessment is to take.

Lords Amendment 128

84. Lords Amendment 128 would enable former looked after children to continue to live ("stay put") with their former foster parents until age 21, if the local authority determines that it would be appropriate for them to do so and both the young person and the foster parents wish to make a "staying put" arrangement. The local authority would be required to monitor the "staying put" arrangement and provide advice and assistance, including financial support, to the former foster parent.

Lords Amendment 129

85. Lords Amendment 129 would insert a new clause titled 'Duty to support pupils with medical conditions'. These provisions would place a duty on governing bodies of maintained schools, proprietors of Academies and managing committees of pupil referral units to make arrangements for supporting pupils at school with medical conditions. In meeting that duty, the clause would require all those bodies to have regard to guidance issued by the Secretary of State under this provision.

Lords Amendment 130

86. Lords Amendment 130 would add a new clause titled 'Local authority functions relating to children etc: intervention'. This amendment would clarify the law in relation to the Secretary of State's power to intervene under section 497A of the Education Act 1996 and section 50 of the Children Act 2004 where a local authority is failing to deliver children's services to an adequate standard. The amendment would ensure that these powers would be exercised effectively, in particular in the interests of certainty for children who may be taken into care or placed for adoption.

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87. Lords Amendment 130 amends section 497A of the Education Act 1996 to clarify the effect of the power in section 497A(4A) of that Act. This would put beyond doubt that either the Secretary of State or a nominee, exercising functions in place of a local authority pursuant to a direction under section 497A(4A) of the Education Act 1996 can, for example, apply for or be named in care orders under section 31 of the Children Act 1989, exercise adoption related functions set out in section 92(2) of the Adoption and Children Act 2002 and exercise certain other court-related functions as a local authority can. The amendment would make it clear that, following such a direction, other relevant references in legislation to a “local authority”, such as in relation to the Chief Inspector’s functions and powers under sections 136 to 141 of the Education and Inspections Act 2006, are to be read as references to the Secretary of State or a nominee.
88. Lords Amendment 146 would provide for the new clause inserted by Lords Amendment 130 to come into force two months after Royal Assent.

Lords Amendment 131

89. Lords Amendment 131 would make available to Ofsted the powers in sections 14A and 20B of the Care Standards Act 2000 to suspend a person’s registration in respect of an establishment or agency in England. At present these powers are only available to Welsh Ministers in respect of establishments or agencies in Wales. If a registered person continued to operate a setting whilst suspended, they would commit a criminal offence. This amendment would clarify Ofsted’s enforcement powers so action can be taken if, for example, it has serious concerns about the safety and care provided by a regulated setting, such as a children’s home, that require an urgent response.

Lords Amendment 132

90. Lords Amendment 132 would add a new subsection (1A) into section 22 of the Care Standards Act 2000. It would provide for the Secretary of State to have a power to make regulations to prescribe objectives and standards that must be met by an establishment or agency that is regulated by Ofsted. This includes children’s homes.

Lords Amendment 133

91. Lords Amendment 133 would amend section 23 of the Care Standards Act 2000, which is concerned with ‘national minimum standards’ (NMS). The amendment would insert a new section (1A) into section 23 of the CSA 2000. It would provide that the NMS applicable to an establishment or agency regulated by Ofsted, such as a children’s home, may explain and supplement regulations made under section 22 of the Care Standards Act 2000.

Lords Amendment 134

92. Lords Amendment 134 would amend section 65 of the Children Act 1989, which provides for persons who are disqualified from private fostering under section 68 of that Act to be disqualified from carrying on, managing or having a financial interest in children’s homes. This amendment would introduce, in relation to England, a time limit for a person to disclose to Ofsted that they have been disqualified from private fostering.

Lords Amendment 135

93. Lords Amendment 135 would amend Part 9 of the Education Act 1996 in relation to the provision of school lunches. It would ensure that all state-funded schools – both maintained schools and Academies – have an obligation to provide free school lunches on request for all pupils in reception, year one and year two. It would also create an enabling power for the Secretary of State to extend this obligation to other school year groups or to children in maintained nursery schools and other state-funded early years settings, if desired.

94. For maintained schools, this new obligation would sit alongside the existing statutory obligations imposed on them in respect of the provision of school lunches. For Academies, the amendment inserts a new provision requiring all future Academies (where funding agreements are entered into after this amendment comes into effect) to have a clause in their funding agreement that mirrors the school lunch obligations placed on maintained schools; and all funding agreements entered into before this amendment comes into effect must be read as if they have this requirement in them.

Lords Amendments to Part 5 – The Children’s Commissioner

Lords Amendments 136

95. Lords Amendment 136 would require the Children’s Commissioner to have ‘particular regard’ to the United Nations Convention on the Rights of the Child. This would still allow the Commissioner to consider rights contained in other treaties and domestic legislation.

Lords Amendment 137

96. Lords Amendment 137 would require the Children’s Commissioner to give an account in his or her annual report of the steps taken to consult children or involve children in other ways in the discharge of his or her functions.

Lords Amendment 138

97. Lords Amendment 138 would require the Commissioner to give an account in his or her annual report of how the views of children or any other involvement of children have been taken into account by the Commissioner in carrying out his or her functions.

Lords Amendments to Part 6 – Statutory rights to leave and pay

Lords Amendments 139 to 142

98. It is intended that the Secretary of State will make regulations, under the provisions being inserted into the Social Security Contributions and Benefits Act 1992 by clause 92, enabling a person to reduce the duration of the person’s maternity allowance period, maternity pay period or adoption pay period so as to allow access to the new system of shared parental leave and statutory shared parental pay. Lords Amendments 139, 141 and 142 would allow the Secretary of State, in addition, to make regulations providing for a reduction of such a period to be revoked (or treated as revoked), subject to certain restrictions and conditions being satisfied. Revocation of the curtailment notice may be permitted for example in some circumstances where a woman’s partner has died.

Lords Amendments to Part 9 – General provisions

Lords Amendment 144

99. Lords Amendment 144 would amend clause 107 to set out which regulation-making powers are subject to the affirmative resolution procedure. These include: the first regulations to be made under clause 49 (Personal budgets), an order made under clause 54(1) or 55(1) (Appeals and claims by children) and regulations made under the new clause about the application of Part 3 to detained persons.

Lords Amendments 145 to 148

100. Lords Amendments 145 to 148 would amend clause 111 (commencement). Lords Amendment 145 would make it clear that the new clause on contact between prescribed persons and adopted persons' relatives comes into force in so far as it relates to England on a day appointed by the Secretary of State by order and as it relates to Wales on a day appointed by Welsh Ministers by order. Lords Amendment 146 would extend the provisions which come into force 2 months after Royal Assent to include new clauses about the extension of licensing of child performance to children under 14, intervening in local authorities functions relating to children, the application of suspension powers to establishments and agencies in England, the objectives and standards for establishments and agencies in England and the national minimum standards for establishments and agencies in England.

101. Lords Amendment 147 would provide for Part 5 of the Bill to be commenced on 1 April 2014, within the usual two month convention following Royal Assent. This would provide certainty on the timing of the transfer of functions from the Office of the Children's Rights Director to the Office of the Children's Commissioner, which is currently scheduled to happen at the beginning of the financial year.

102. Lords Amendment 149 would provide that the new clause about duties to support pupils with medical conditions is to be included in the list of Education Acts under section 578 of the Education Act 1996.

103. Lords Amendment 150 would provide that the new clause about the regulation of retail packaging of tobacco products extends to the whole of the United Kingdom.

104. Lords Amendment 151 would amend clause 112 of the Bill. It is consequential on amendment 120 (extension of licensing of child performances to children under 14) and provides that section 38 of the Children and Young Persons Act 1963 is repealed for England and Wales only.

Lords Amendments to the Title

Lords Amendment 176

105. Lords Amendment 176 would update the long title of the Bill to include children and young people with disabilities.

LORDS AMENDMENTS TO THE CHILDREN AND FAMILIES BILL

EXPLANATORY NOTES

*These notes refer to the Children and Families Bill as first printed for the
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