

TECHNICAL AND FURTHER EDUCATION BILL

EXPLANATORY NOTES ON LORDS AMENDMENTS

What these notes do

- 1 These Explanatory Notes relate to the Lords Amendments to the Technical and Further Education Bill as brought from the House of Lords on 4 April 2017.
- 2 These Explanatory Notes have been prepared by the Department for Education 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.
- 3 These Explanatory Notes, like the Lords amendments themselves, refer to HL Bill 88, the Bill as first printed for the Lords.
- 4 These Explanatory 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 Lords amendments.
- 5 All Lords Amendments apart from Amendments 1, 2, 4 and 6 were tabled in the name of the Minister, Lord Nash.
- 6 Lords Amendment 1 was tabled by Lord Watson of Invergowrie and Lord Hunt of Kings Heath, and was opposed by the Government. Lords Amendment 6 was tabled by Lord Storey, Lord Watson of Invergowrie and Baroness Garden of Frognal, and was also opposed by the Government.
- 7 Lords Amendment 2 was tabled by Lord Baker of Dorking, and was supported by the Government. Lords Amendment 4 was tabled by Lord Stevenson of Balmacara and Lord Watson of Invergowrie, and was also supported by the Government.
- 8 In the following Commentary, an asterisk(*) appears in the heading of any paragraph that deals with a non-Government amendment.

Commentary on Lords amendments

Lords Amendments (New Clauses) after Clause 1

Lords Amendment 1*

- 9 Lords Amendment 1 would require the Secretary of State to make regulations which would have the effect of making a young person under 20 years of age undertaking a statutory apprenticeship a qualifying person for the purposes of Child Benefit.
- 10 Subsection (1)(b) would also require the Secretary of State to extend the bursary currently payable to care-leavers and former looked-after children ("former relevant children") who are in higher education to former relevant children who are undertaking a statutory

apprenticeship. This bursary is payable by local authorities in England.

Lords Amendment 2*

- 11 Lords Amendment 2 would require maintained schools, academies and pupil referral units in England to allow a range of education and training providers access to their pupils in order to inform pupils directly about approved technical education qualifications or apprenticeships. In practice this will mean each provider informing pupils in school years 8 to 13 about the courses and qualifications that they offer.
- 12 Under subsections (3) to (7), the school must prepare, publish and follow a policy statement which sets out the circumstances in which a provider will be allowed access to pupils.
- 13 Subsection (8) gives the Secretary of State a regulation-making power to make further provision if sufficient numbers of schools fail to comply with the duty.

Lords Amendment (New Clause) after Clause 6

Lords Amendment 3

- 14 Lords Amendment 3 would allow the Secretary of State to make regulations to ensure that there is a workable system for filing and record keeping for insolvent further education bodies that are statutory corporations and for further education bodies in education administration. The power would allow the Secretary of State to make regulations which applied certain provisions of the Companies Act 2006 ("the 2006 Act") to further education bodies, with or without modifications.
- 15 Under subsection (3)(b), the power could also be used to confer power on the registrar of companies to make rules about documents, as the registrar can under the 2006 Act. Amendment 3 is needed so that there can be an accessible public record of insolvency procedures, including the special administration regime established by the Bill, for FE colleges which are not companies and are therefore not currently subject to any part of the company registration regime.

Lords Amendment to Clause 22: general function of education administrator

Lords Amendment 4*

- 16 Lords Amendment 4 would leave out the words "if possible" from subsection (2) of clause 22. This phrase was included to provide reassurance to Insolvency Practitioners and creditors that where, in an extreme situations, it was not possible to achieve the special objective, the education administration could be ended. However, during the Bill's passage through both Houses concern was expressed that it could be interpreted as lessening the protection available to students. As the law cannot require action that is impossible, the Government agreed to remove the phrase.

Lords Amendment to Clause 35: disqualification of officers

Lords Amendment 5

- 17 Lords Amendment 5 would amend the Company Directors Disqualification Act 1986 so that it applies to further education bodies that are statutory corporations. This will mean that, like company directors, members (i.e. governors) of those corporations can be disqualified from

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acting as such in the future and from being company directors, and that persons disqualified as a director of a company can be prohibited from acting as a member of a further education body which is a statutory corporation.

Lords Amendment (New Clause) after Clause 38

Lords Amendment 6*

- 18 Lords Amendment 6 would require Ofsted to take into account the careers advice made available by a further education college when making an overall judgement on that college. Under subsection (2), careers advice could mean a combination of face-to-face and advice that was provided remotely.

Lords Amendment to Clause 43: extent

Lords Amendment 7

- 19 Lords Amendment 7 updates the Bill's extent clause in consequence of Amendment 5. The effect of this amendment would be to ensure that section 426 of the Insolvency Act 1986, which is about cooperation between the courts in different jurisdictions in relation to insolvency matters, extends to England and Wales, Scotland and Northern Ireland. This reflects the fact that section 426 itself extends to England and Wales, Scotland and Northern Ireland.

Lords Amendments to Schedule 1

Lords Amendments 8, 9 and 10

- 20 Existing provision in the Bill (new section 40AA in Schedule 1) allows for information sharing between the Institute for Apprenticeships and Technical Education and other quality bodies and vice versa (in particular Ofsted, Ofqual and the future Office for Students).
- 21 Amendments 8, 9 and 10 would allow the Secretary of State to make regulations to allow the Institute to share information for a specified purpose with other persons not stated on the face of the Bill and vice versa. There are also other powers for the Institute to share information. The persons with which the Institute is likely to need to share information are expected to change from time to time. This amendment provides flexibility to take into account future changes, and ensures that the Institute can carry out its functions effectively, and properly work with all the persons it needs to in the future.
- 22 The regulations would have to be approved by Parliament through the affirmative procedure. The amendment would also clarify that the sharing of information does not breach other restrictions and that all the necessary safeguards in the Data Protection Act would apply.

Lords Amendments to Schedule 3

Lords Amendments 11 to 14

- 23 Amendments 11 to 14 would require that where a further education body which is a statutory corporation goes into education administration, a copy of the education administrator's proposals would be sent to the Director of Children's Services at a relevant local authority (or combined authority, where appropriate), so that where a care leaver, for whom the Director of Children's Services has responsibility, is affected by the proposals suitable consideration

can be given to any particular steps to be taken, or duties to be fulfilled, in relation to that care leaver.

Lords Amendments to Schedule 4

Lords Amendments 15 to 18

- 24 Amendments 15 to 18 would require that where a further education body which is a company goes into education administration, a copy of the education administrator's proposals would be sent to the Director of Children's Services at a relevant local authority (or combined authority, where appropriate), so that where a care leaver, for whom the Director of Children's Services has responsibility, is affected by the proposals suitable consideration can be given to any particular steps to be taken, or duties to be fulfilled, in relation to that care leaver.

Financial Effects of Lords Amendments

- 25 The estimated annual cost of Amendment 1(a) is over £200m by the Financial Year 2020/21. This is an initial, non- OBR-certified estimate based on Child Benefit rates and projected levels of Apprenticeships.
- 26 Amendment 1(b) would provide a one-off bursary of £2,000 to an apprentice who was formerly in the care of their Local Authority. The estimated annual cost of this amendment is £10.5m in Financial Year 2017/18, and £6m per year thereafter. This estimate is based on current Apprenticeship data.

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