

Skills and Post-16 Education Bill [HL]

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Education, are published separately as Bill 176—EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Nadhim Zahawi has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Skills and Post-16 Education Bill [HL] are compatible with the Convention rights.

Skills and Post-16 Education Bill [HL]

[AS BROUGHT FROM THE LORDS]

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[AS BROUGHT FROM THE LORDS]

A

BILL

TO

Make provision about local skills improvement plans; to make provision relating to further education; to make provision about functions of the Institute for Apprenticeships and Technical Education and relating to technical education qualifications and apprenticeships; to make provision about student finance and fees; to make provision about assessments by the Office for Students; to make provision about the funding of certain post-16 education or training providers; to create offences relating to completing assignments on behalf of students; to make provision about designating 16 to 19 Academies as having a religious character; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of

the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Part 1

SKILLS AND EDUCATION FOR WORK

Chapter 1

EDUCATION AND TRAINING FOR LOCAL NEEDS

Local skills improvement plans

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1 Local skills improvement plans

- (1) This section applies to a relevant provider that provides English-funded post-16 technical education or training that is material to a specified area. 10
- (2) English-funded post-16 technical education or training is “material” to a specified area if it could reasonably be regarded as material or potentially material to the skills, capabilities or expertise that are, or may in the future be, required by employers operating within 15

the specified area, having regard to all the circumstances and any guidance published by the Secretary of State.

- (3) If there is no approved local skills improvement plan for the specified area, the relevant provider must co-operate with the employer representative body for that area for the purposes of assisting the body to develop a local skills improvement plan for submission to the Secretary of State for approval and publication. 5 10
- (4) If there is an approved local skills improvement plan for the specified area, the relevant provider must— 15
- (a) co-operate with the employer representative body for that area for the purposes of assisting the body to— 20
- (i) keep the plan under review, and
- (ii) where appropriate, develop a replacement plan for submission to the Secretary of State for approval and publication, and

- (b) have regard to the plan so far as it is relevant to any decision that the relevant provider is making in relation to the provision of English-funded post-16 technical education or training that may be relevant to the skills, capabilities or expertise that are, or may in the future be, required in the area. 5
- (5) The relevant provider must have regard to any guidance published by the Secretary of State in connection with this section, including in relation to— 10
- (a) co-operation with an employer representative body under subsections (3) and (4), and 15
- (b) the matters to which the Secretary of State might have regard (including for the purposes of complying with subsection (6)) in deciding whether to approve and publish a plan. 20
- (6) The Secretary of State may approve and publish a local skills improvement plan only if satisfied that in the development

of the plan due consideration was given to, amongst other things, the skills, capabilities or expertise required in relation to jobs that directly contribute to, or indirectly support, the following—

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(a) compliance with the duty imposed by section 1 of the Climate Change Act 2008 (UK net zero emissions target),

(b) adaptation to climate change, or

(c) meeting other environmental goals (such as restoration or enhancement of the natural environment).

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(7) A “local skills improvement plan”, in relation to a specified area, means a plan which—

(a) is developed by an employer representative body in partnership with local authorities, including the Mayoral Combined Authorities and further education providers for the specified area,

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(b) draws on the views of—

(i) employers operating within the specified area,

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- (ii) regional and local authorities, including the Mayoral Combined Authorities, within the specified area with specific reference to published plans and strategies which have been developed by these authorities to inform the distribution of funding and prioritisation of resources, 5
 - (iii) post-16 education providers active in the specified area, including schools, further education institutions, community learning providers, specialist designated institutions and universities, 10
15
- such sources of information on long-term national skills needs as the Secretary of State may specify, and any other evidence, to summarise the skills, capabilities or expertise that are, or may in the future be, required by people resident in the specified area, and 20
- (c) identifies actions that relevant providers and other local bodies can

take regarding any post-16 technical education or training that they provide so as to address the requirements mentioned in paragraph (b).

- (8) An “approved local skills improvement plan” means a local skills improvement plan that has been approved and published by the Secretary of State. 5

2 Designation of employer representative bodies 10

- (1) The Secretary of State may designate an eligible body as the employer representative body for an area in England (the “specified area”) if—
- (a) the Secretary of State is satisfied that— 15
- (i) the body is capable of developing and keeping under review a local skills improvement plan for the area, in an effective and impartial manner, and 20

- (ii) the body is reasonably representative of the employers operating within the specified area, and
- (b) the body has consented in writing to being so designated (and to any terms and conditions to which the designation is subject). 5
- (2) A designation under subsection (1) may be made subject to such terms and conditions as the Secretary of State considers appropriate. 10
- (3) If the Secretary of State decides to designate an eligible body under subsection (1), the Secretary of State must— 15
 - (a) notify the body of the designation before the date on which the designation takes effect (“the effective date”), and 20
 - (b) publish the notice of the designation before that date.
- (4) The notice of the designation must state—

- (a) the name of the body,
 - (b) the specified area for which the body has been designated,
 - (c) the effective date, and
 - (d) any terms and conditions to which the designation is subject. 5
- (5) The Secretary of State may from time to time modify the terms and conditions to which a designation is subject, in which case the Secretary of State must— 10
 - (a) notify the employer representative body of the modification before the date on which the modification takes effect, and
 - (b) amend the notice of designation accordingly, and publish it as amended, before that date. 15

3 Removal of designations

- (1) The Secretary of State may by notice remove the designation of a body under section 2 if— 20
 - (a) the body no longer meets the requirements in section 2(1)(a),

- (b) the body is no longer an eligible body,
 - (c) the body does not comply with a term or condition to which the designation is subject,
 - (d) the body does not have regard to any relevant guidance published by the Secretary of State or departs from any such guidance without good cause, or 5
 - (e) the Secretary of State considers that removing the designation is otherwise necessary or expedient. 10
- (2) The Secretary of State must by notice remove a designation of a body under section 2 if the body requests the removal in writing. 15
- (3) A notice under this section must—
- (a) include reasons for the removal of the designation, and
 - (b) specify when the designation is to be removed. 20
- (4) The Secretary of State must publish a notice under this section.

4 Interpretation

(1) In sections 1 to 3 and this section—

“combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;

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“eligible body” means a body corporate that—

(a) is not a servant or agent of the Crown,

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(b) is not a body to which the Secretary of State appoints members, and

(c) is not a public authority;

“employer” means a person that engages, or intends to engage, an individual under—

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(a) a contract of service or apprenticeship, or

(b) a contract for services,

for the purposes of a business, trade or profession or the activities of a public

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authority or charitable institution (within the meaning given by section 58(1) of the Charities Act 1992), and “employee” is to be construed accordingly;

“employer representative body” means
an eligible body that is designated as
the employer representative body for
a specified area under section 2(1); 5

“independent training provider” means
a provider of post-16 technical
education or training— 10

(a) that provides English-funded post-
16 technical education or training
to which Chapter 3 of Part 8 of the
Education and Inspections Act 2006 15
(inspection of further education
and training etc) applies, but

(b) that is not—

(i) an employer who provides
the education or training 20
mentioned in paragraph (a)
only to its employees,

(ii) a 16 to 19 Academy,

- (iii) a school,
 - (iv) a local authority in England,
 - (v) an institution within the further education sector (within the meaning given by section 91(3) of the Further and Higher Education Act 1992), or 5
 - (vi) a higher education provider (within the meaning given by section 83(1) of the Higher Education and Research Act 2017); 10
- “local authority in England” has the same meaning as in the Education Act 1996 (see sections 579(1) and 581 of that Act); 15
- “local skills improvement plan” has the meaning given by section 1(7);
- “notice” means written notice (and to “notify” means to give written notice);
- “post-16 technical education or training” 20
means any technical education or training provided to individuals over compulsory school age;

“public authority” includes—

- (a) a court or tribunal, and
- (b) any person certain of whose functions are functions of a public nature;

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“relevant provider” means a provider of post-16 technical education or training which is—

- (a) an institution within the further education sector (within the meaning given by section 91(3) of the Further and Higher Education Act 1992),
- (b) a higher education provider (within the meaning given by section 83(1) of the Higher Education and Research Act 2017),
- (c) an independent training provider, or
- (d) a local authority in England, a 16 to 19 Academy or a school that is specified or described in regulations made by statutory instrument by the Secretary of State;

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“school” has the meaning given by section 4(1) of the Education Act 1996;

“specified area” has the meaning given by section 2(1).

- (2) For the purposes of sections 1 to 3 and this section, education or training is “English-funded” if it is funded, wholly or partly, by—
- (a) the Secretary of State,
 - (b) a combined authority,
 - (c) the Greater London Authority, or
 - (d) a local authority in England.
- (3) For those purposes, education or training funded by the Secretary of State includes education or training in respect of which amounts are paid directly to the provider of the education or training by the Secretary of State in accordance with provision in regulations made under section 22(1) of the Teaching and Higher Education Act 1998 (financial support for students) by virtue of section 22(2)(h) or (i) of that Act.

- (4) Where a relevant provider that provides English-funded post-16 technical education or training enters into arrangements under which all or part of that education or training is provided by another relevant provider, the education or training provided under the arrangements is to be treated as English-funded post-16 technical education or training provided by the second relevant provider (as well as by the first). 5 10
- (5) A statutory instrument containing regulations under paragraph (d) of the definition of “relevant provider” in subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament. 15

Further education institutions: duty in relation to local needs

5 Institutions in England within the further education sector: local needs 20

In the Further and Higher Education Act 1992, after section 52A insert—

“52B Duty to review provision in relation to local needs: England

- (1) The governing body of an institution in England within the further education sector must— 5
- (a) from time to time review how well the education or training provided by the institution meets local needs, and
- (b) in light of that review, consider 10
what action the institution might take (alone or in conjunction with action taken by one or more other educational institutions) in order to 15
meet those needs better.
- (2) In carrying out its review, the governing body must have regard to any guidance published under this section by the Secretary of State. 20
- (3) The governing body must publish its review on the institution’s website.”

Chapter 2

TECHNICAL EDUCATION QUALIFICATIONS, APPRENTICESHIPS, ETC

Functions of the Institute for Apprenticeships and Technical Education

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6 Functions of the Institute: oversight etc

(1) The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.

(2) In section ZA2 (general duties),
in subsection (6)—

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(a) for “section” substitute “Chapter”;

(b) omit the word “or” at the end of
paragraph (b);

(c) after paragraph (c) insert “or

(d) to enable a person to
enter work within a
published occupation
(whether in the course of
training or otherwise).”

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(3) After section ZA2 insert—

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“ZA2A Oversight

- (1) The Institute must keep under review—
 - (a) education and training within the Institute’s remit, and 5
 - (b) the effect that the exercise of the Institute’s functions has had, or might have, on the range and availability of that education and training. 10
- (2) The Institute may provide a report to the Secretary of State on anything arising from the exercise of the Institute’s functions under subsection (1). 15
- (3) Subsection (2) does not affect the Institute’s functions under section ZA3.”
- (4) In section ZA3 (provision of advice and assistance to the Secretary of State etc)— 20

- (a) in subsection (1), after paragraph (a) (but before the word “or” at the end of it) insert—

“(aa) technical education qualifications,”;

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- (b) in subsection (2), for “and (b)” substitute “to (b)”.

Technical education qualifications

7 Additional powers to approve technical education qualifications

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- (1) The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.
- (2) Before section A2D3 (as renumbered by section 13) insert—

“A2D1 Approval of technical education qualifications: overview

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- (1) Sections A2D3 and A2D5 provide for the approval of technical education qualifications.
- (2) Section A2D3 provides for the approval of technical education

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- qualifications which (in conjunction with any approved steps towards occupational competence determined under section A2D4) can lead to the award of technical education certificates under section A3A. 5
- (3) Section A2D5 provides for the approval of other technical education qualifications.
- (4) For further provision about approval of technical education qualifications see, in particular— 10
- (a) section A2D2 (provision about the categories of technical education qualification that may be approved under section A2D3 or A2D5), 15
- (b) sections A2D6 to A2D11 (further provision about approval and withdrawal of approval), 20
- (c) section A2HA (list of technical education qualifications), and

- (d) section A2IA (transfer of copyright relating to technical education qualifications approved under section A2D3).

A2D2	Categories of technical education qualification	5
(1)	The Institute—	
(a)	may specify one or more categories of technical education qualification in relation to England that may be approved under section A2D3, and	10
(b)	may specify one or more categories of technical education qualification in relation to England that may be approved under section A2D5.	15
(2)	The Institute may specify a category under subsection (1)(b) only if it considers that it would not be appropriate for qualifications in the	20

- category to be approved under section A2D3.
- (3) For any category specified under subsection (1)(b), the Institute must specify which of the following is the appropriate test for the purposes of section A2D5—
- (a) the alternative approval test (see section A2D5(3));
 - (b) the additional specialist competence test (see section A2D5(4));
 - (c) the significant outcomes test (see section A2D5(5)).
- (4) The Institute may revise or withdraw any category specified under subsection (1).
- (5) A technical education qualification does not cease to be approved merely because the category is revised or withdrawn under subsection (4).

- (6) The Institute must publish information showing—
- (a) the categories of technical education qualification that are for the time being specified under subsection (1), and 5
 - (b) for each category, whether qualifications in the category may be approved under section A2D3 or A2D5 and, if under section A2D5, the appropriate test. 10
- (7) Before specifying a category of qualification under this section, the Institute must consult— 15
- (a) the Secretary of State, and
 - (b) such other persons as the Institute considers appropriate."
- (3) In section A2D3 (as renumbered by section 13: approved technical education qualifications), in subsection (3), after “satisfied that” insert “— 20

- (a) the qualification falls within a category specified under section A2D2(1)(a), and
 - (b) ”.
- (4) After section A2D4 (as renumbered by section 13) insert—

“A2D5 Further powers to approve technical education qualifications
 - (1) The Institute may, if it considers it appropriate, approve a technical education qualification under this section in respect of one or more published occupations (each a “related” occupation). 10
 - (2) But it may approve a qualification under this section only if—
 - (a) the Institute is satisfied that the qualification falls within a category specified under section A2D2(1)(b), 20
 - (b) the qualification meets each of the following tests

in respect of the related
occupation or occupations—

- (i) the appropriate test specified for the category under section A2D2(3), and 5
 - (ii) the employer demand test (see subsection (6)), and
 - (c) the Institute is not prevented from approving the qualification by virtue of a moratorium under section A2D9. 10
- (3) The alternative approval test is met in respect of an occupation if—
- (a) a standard is published under section ZA11 for the occupation, and 15
 - (b) the Institute is satisfied that by obtaining the qualification a person demonstrates attainment of as many of the outcomes set out in the standard as may 20

reasonably be expected to be attained by undertaking a course of education.

- (4) The additional specialist competence test is met in respect of an occupation if— 5
- (a) a standard is published under section ZA11 for the occupation, and
 - (b) the Institute is satisfied that— 10
 - (i) by obtaining the qualification, a person demonstrates attainment of particular outcomes which are additional to those set out in the standard, and 15
 - (ii) attaining all those outcomes (together with attainment of the outcomes set out in the standard) would enable 20

a person to specialise
within the occupation.

- (5) The significant outcomes test is met in respect of one or more occupations if— 5
- (a) the Institute is satisfied that—
- (i) by obtaining the qualification a person demonstrates attainment of particular outcomes in relation to the occupations, and 10
- (ii) attaining those outcomes would enable a person to work in the occupations at a particular level of competence (whether in the course of training or otherwise) or to improve competence in the occupations, and 15 20
- (b) where standards are published under section ZA11 for any of the occupations, the

outcomes are set out in the standards (whether or not all in the same standard).

- (6) The employer demand test is met in respect of one or more occupations if the Institute is satisfied that there is, or is likely to be, demand from employers in the occupations for employees who have obtained the particular qualification. 5 10

A2D6 Approved technical education qualifications: approval and withdrawal

- (1) The Institute may make any arrangements that it considers appropriate— 15
- (a) to secure that suitable technical education qualifications are available for approval under section A2D3 or A2D5, or 20
- (b) in connection with the approval, or continued approval, of a

technical education qualification under either of those sections.

- (2) The Institute may withdraw approval of a technical education qualification.
- (3) Subsection (2) does not apply to the withdrawal of level three courses for the period of four years beginning with the day on which this Act is passed. 5
- (4) But no student will be deprived of the right to take two BTECs, AGQ or a Diploma or an extended Diploma. 10
- (5) The Institute is not required to withdraw approval of a technical education qualification in a specified category merely because— 15
- (a) the qualification is modified, or
 - (b) the category is revised or withdrawn under section A2D2(4).
- (6) The Institute must publish information about matters that 20

- it takes into account when deciding whether or not—
- (a) to approve a qualification under section A2D3 or A2D5, or
 - (b) to withdraw approval of it. 5
- (7) The matters may differ for different purposes and may, in particular, be different for—
- (a) qualifications in different categories specified under section A2D2, or 10
 - (b) qualifications relating to different occupations.
- (8) When making a decision of the kind mentioned in subsection (6) (a) or (b) in a particular case, the Institute may also take into account such other matters as it considers appropriate in the case in question. 15
- (9) Information published under subsection (6) may be revised or replaced, and the Institute must 20

publish under that subsection any revised or replacement information.

A2D7 Approved technical education qualifications: publication and fees

- (1) Where a technical education qualification is approved in respect of an occupation, the Institute must publish, with the information published under section ZA10(5) in relation to the occupation, information indicating—
- (a) that a technical education qualification has been approved in respect of it, and
 - (b) whether the qualification (in conjunction with any steps approved under section A2D4) could lead to a technical education certificate.
- (2) If approval of the technical education qualification is withdrawn, the Institute must publish, with the information published under section ZA10(5) in

relation to the occupation, information indicating that the approval of the qualification has been withdrawn.

- (3) The Secretary of State may by regulations authorise the Institute (subject to any restrictions prescribed by the regulations) to charge fees for things done in connection with approval, or continued approval, of qualifications under section A2D5.

A2D8 Reviews of approval of technical education qualifications

- (1) The Institute must maintain arrangements for reviewing approved technical education qualifications at regular intervals with a view to determining, for each qualification, whether—
- (a) it should continue to be approved,
 - (b) it should be revised, or
 - (c) approval should be withdrawn.

- (2) The Institute must publish information about the intervals at which those reviews are to be conducted.

A2D9 Moratorium on further approvals under section A2D5

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- (1) This section applies where the Institute determines that there is an appropriate number of approved technical education qualifications of a particular kind.

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- (2) The Institute may decide that it should not approve further technical education qualifications of that kind under section A2D5 for a period (a “moratorium”).

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- (3) Where the Institute decides that there should be a moratorium in relation to technical education qualifications of a particular kind, it—

(a) must publish that decision, and

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(b) during the moratorium, may not approve any further technical

education qualification of that kind under section A2D5.

- (4) A moratorium ends when the Institute decides to end it.
- (5) Where the Institute decides to end a moratorium, it must publish that decision. 5
- (6) The Institute must consult the Secretary of State before—
 - (a) deciding whether there should be a moratorium in relation to qualifications of a particular kind; 10
 - (b) deciding to end a moratorium.”
- (5) In section A2D4 (as renumbered by section 13: additional steps towards occupational competence), in subsection (1)— 15
 - (a) for “an approved” substitute “a”;
 - (b) after “qualification” insert “that is approved under section A2D3”. 20

- (6) In section A3A (power to issue technical education certificates), in subsection (1)(a)—
- (a) for “an approved” substitute “a”;
 - (b) after “qualification” insert “approved under section A2D3”. 5
- (7) After section A11 insert—
- “A12 Interpretation of Chapter A1**
- (1) In this Chapter—
- “approved technical education qualification” means a technical education qualification that is approved by the Institute under section A2D3 or A2D5; 10
 - “Ofqual” means the Office of Qualifications and Examinations Regulation; 15
 - “published occupation” means an occupation which the Institute has determined falls within section ZA10(1)(a) and in relation to 20

which information is published
under section ZA10(5);

“specified category”, in relation to a
qualification, means a category
specified under section A2D2;

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“technical education certificate” has
the meaning given by section A3A;

“technical education qualification”
means a qualification that relates
to one or more occupations.

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(2) References in this Chapter
to approval, in relation to a
technical education qualification
approved under section A2D3
or A2D5, are to approval under
the section in question.”

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8 Functions of the Institute: availability of qualifications outside England

In the Apprenticeships, Skills,
Children and Learning Act 2009,
after section A2IA insert—

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“A2IB Availability of approved technical education qualifications outside England

The Institute may provide advice and assistance, or take other steps that it considers appropriate, for the purpose of enabling approved technical education qualifications to be made available to be obtained by persons outside England.”

9 Technical education qualifications: co-operation between the Institute and Ofqual

In the Apprenticeships, Skills, Children and Learning Act 2009, after section A2D10 (as renumbered by section 13) insert—

“A2D11 Co-operation between the Institute and Ofqual

- (1) The Institute and Ofqual must co-operate with one another in the exercise of—
- (a) their respective functions relating to technical education qualifications, and

- (b) any other functions of theirs where the exercise is relevant to functions mentioned in paragraph (a).
- (2) Each of the Institute and Ofqual— 5
- (a) may provide advice and assistance to the other in relation to the exercise by the other of any function within subsection (1), and 10
- (b) must, in exercising any function within subsection (1), have regard to any advice or information provided to it by the other, so far as relevant to the exercise of that function.” 15
- 10 Application of accreditation requirement in relation to technical education qualifications**
- In section 138 of the Apprenticeships, Skills, Children and Learning Act 2009 (qualifications subject to the accreditation requirement)— 20

(a) after subsection (1) insert—

“(1A) But Ofqual may not make a determination under subsection (1) in relation to a technical education qualification if—

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(a) the qualification is an approved technical education qualification, or

(b) the Institute—

(i) has notified Ofqual that the Institute is considering whether or not to approve the qualification as an approved technical education qualification, and

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(ii) has not notified Ofqual of its decision.”;

(b) after subsection (6) insert—

“(7) Where the Institute has notified Ofqual under subsection (1A)(b)(i) that it is considering whether or not

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to approve the qualification, it must also notify Ofqual of its decision.

(8) In this section—

“the Institute” means the Institute for Apprenticeships and Technical Education;

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“approved technical education qualification” and “technical education qualification” have the meanings given by section A12(1).”

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11 Information sharing in relation to technical education qualifications

(1) The Apprenticeships, Skills, Children and Learning Act 2009 is amended as follows.

(2) After section 40AA insert—

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“40AB Sharing of technical education information by or with Ofqual

(1) Ofqual may disclose information to a relevant person for the purpose of a relevant function of—

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(a) Ofqual, or

- (b) the relevant person.
- (2) A relevant person may disclose information to Ofqual for the purpose of a relevant function of—
 - (a) Ofqual, or 5
 - (b) the relevant person.
- (3) In this section “relevant person” means—
 - (a) the Secretary of State;
 - (b) the OfS; 10
 - (c) Ofsted;
 - (d) a prescribed person.
- (4) In this section “relevant function” means—
 - (a) in relation to the Secretary of State, Ofqual, the OfS or Ofsted, a technical education function of that body so far as the function relates to England; 15
 - (b) in relation to a prescribed person, a prescribed technical 20

education function of that person, so far as the function relates to England.

- (5) In this section—
- “Ofqual”, the “OfS” and “Ofsted”
have the same meanings
as in section 40AA; 5
 - “technical education function” means
a function that relates to technical
education qualifications approved,
or that may be approved, by
the Institute for Apprenticeships
and Technical Education under
section A2D3 or A2D5.” 10
- (3) In the heading of Part 1A, after
“Apprenticeships” insert “, Technical
Education Qualifications”. 15
- (4) In section 262 (orders and
regulations), in subsection (6),
after paragraph (aza) insert— 20
- “(azb) regulations under
section 40AB;”.

12 Technical education qualifications: minor and consequential amendments

- (1) The Apprenticeships, Skills, Children and Learning Act 2009 is amended as set out in subsections (2) to (9). 5
- (2) After section ZA8 insert—
- “ZA8A Interpretation of Chapter ZA1**
- In this Chapter, the following terms have the same meanings as in Chapter A1— 10
- technical education qualification (see section A12(1));
 - approved technical education qualification (see section A12(1)); 15
 - approved steps towards occupational competence (see section A2D4(5));
 - published occupation (see section A12(1)).” 20

- (3) In section A2D3 (as renumbered by section 13: approved technical education qualifications)—
- (a) in subsection (1), after “qualification” insert “under this section”; 5
 - (b) omit subsection (2);
 - (c) omit subsections (8) to (13);
 - (d) for the heading substitute “Technical education certificate: approval of technical education qualifications”. 10
- (4) In section A2D10 (as renumbered by section 13: directions), for “section A2DA or A2DB” substitute “sections A2D2 to A2D9 or A2IB ”.
- (5) In section A2HA (list of technical education qualifications)— 15
- (a) after subsection (1), insert—
- “(1A) For each qualification, the list must indicate whether (in conjunction with any steps determined under section A2D4) it could lead to the issue of a technical education certificate.”; 20

- (b) in subsection (2)(a), for “the standards” substitute “any standards”.
- (6) In section 100 (funding), in subsection (5), in the definition of “approved technical education qualification”, for “A2DA” substitute “A12(1)”. 5
- (7) In section 121 (interpretation of Part 4), in subsection (1)—
- (a) in the definition of “approved technical education qualification”, for “A2DA” substitute “A12”; 10
- (b) in the definition of “technical education qualification”, for “A2DA” substitute “A12”.
- (8) In section 122 (sharing of information for education and training purposes), in subsection (5)(ba), for “the IfA” substitute “the Institute for Apprenticeships and Technical Education”. 15
- (9) In paragraph 9(2) of Schedule A1 (exercise of Institute’s functions)— 20
- (a) after “sections” insert “ZA2A,”;

(b) for “A2DA, A2DB” substitute
“A2D2 to A2D9”;

(c) for “A2IA” substitute “A2IB”.

(10) In section 42B of the Education Act 1997
(information about technical education:
access to English schools), in subsection
(10), for “A2DA” substitute “A2D3 or A2D5”. 5

13 Renumbering of provisions relating to technical education qualifications

(1) The Apprenticeships, Skills, Children and
Learning Act 2009 is amended as follows. 10

(2) Sections A2DA to A2DC are
renumbered as follows—

<i>Existing section number</i>	<i>New section number</i>	
A2DA	A2D3	15
A2DB	A2D4	
A2DC	A2D10	

(3) In section A2HA (list of technical
education qualifications), in subsection
(2)(b), for “A2DB” substitute “A2D4”. 20

- (4) In section A2IA (transfer of copyright relating to technical education qualifications)—
- (a) in subsection (1), for “A2DA” substitute “A2D3”; 5
 - (b) in subsection (4), for “A2DA(4)(a)” substitute “A2D3(4)(a)”. 5
- (5) In section A3A (power to issue technical education certificate), in subsection (1)(b), for “A2DB” substitute “A2D4”. 10
- (6) In section 100 (provision of financial resources), in subsection (5), in the definition of “approved steps towards occupational competence”, for “A2DB” substitute “A2D4”. 15
- (7) In section 121 (interpretation of Part 4), in subsection (1), in the definition of “approved steps towards occupational competence”, for “A2DB” substitute “A2D4”. 15
- (8) Nothing in subsection (2) alters the effect of anything done under or for the purposes of a provision renumbered by that subsection, and accordingly— 20

- (a) anything done under or for the purposes of such a provision (a “renumbered provision”) that has effect immediately before that subsection comes into force continues to have effect after that time as done under the provision as renumbered; 5
- (b) any reference in an instrument or other document to such a provision is (so far as the context permits) to be read after that time as including a reference to the provision as renumbered; 10
- (c) any reference in an instrument or other document to a provision as so renumbered is (so far as the context permits) to be read after that time as including a reference to the provision as previously numbered. 15

Information about technical education and training

14 Amendments to section 42B of the Education Act 1997 20

- (1) Section 42B of the Education Act 1997 is amended as follows.

(2) After subsection (1) insert—

“(1A) In complying with subsection (1), the proprietor must give a representative range of education and training providers (including, where reasonably practicable, a university technical college) access to registered pupils on at least three occasions during each of the first, second and third key phase of their education.”

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(3) After subsection (2) insert—

“(2A) The proprietor of a school in England within subsection (2) must—

- (a) ensure that each registered pupil meets, during both the first and second key phase of their education, with a representative range of education and training providers to whom access is given, and
- (b) ask providers to whom access is given to provide information that includes the following—

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- (i) information about the provider and the approved technical education qualifications or apprenticeships that the provider offers, 5
 - (ii) information about the careers to which those technical education qualifications or apprenticeships might lead, 10
 - (iii) a description of what learning or training with the provider is like, and 15
 - (iv) responses to questions from the pupils about the provider or technical education qualifications and apprenticeships. 20
- (2B) Access given under subsection (1) must be for a reasonable period of time during the standard school day.”
- (4) After subsection (5)(a), insert—

- “(aa) a requirement to provide access to a representative range of education and training providers to include where practicable a university technical college;” 5
- (5) In subsection (5)(c), after “access” insert “and the times at which the access is to be given;”.
- (6) After subsection (5)(c), insert— 10
- “(d) an explanation of how the proprietor proposes to comply with the obligations imposed under subsection (2A).”
- (7) After subsection (9), insert— 15
- “(9A) For the purposes of this section—
- (a) the first key phase of a pupil’s education is the period—
- (i) beginning at the same time as the school year in which the majority of 20

- pupils in the pupil's class attain the age of 13, and
- (ii) ending with 28 February in the following school year; 5
- (b) the second key phase of a pupil's education is the period—
- (i) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 15, and 10
- (ii) ending with 28 February in the following school year; 15
- (c) the third key phase of a pupil's education is the period—
- (i) beginning at the same time as the school year in which the majority of pupils in the pupil's class attain the age of 17, and 20

- (ii) ending with 28 February in the following school year.”

Chapter 3

LIFELONG LEARNING

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15 Support for lifelong learning

- (1) After section 28 of the Teaching and Higher Education Act 1998 insert—

“28A Modules of courses: modification of Chapter in relation to powers of the Secretary of State

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- (1) Section 22 has effect, so far as it confers power exercisable by the Secretary of State, as if—

- (a) in subsection (1), after paragraph (b) there were inserted “or

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- (c) modules of higher education courses or further education courses,”;

- (b) in subsections (2) to (3) and (4B), references to a higher

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- education course or further education course (however expressed) included references to a module of such a course;
- (c) in subsection (2), after paragraph (b) there were inserted— 5
- “(ba) prescribing, or providing for the determination of, a maximum (a “lifetime limit”) in relation to a person in respect of all such loans or alternative payments made, or made available, under this section as may be prescribed, taken together (whether by reference to a monetary amount, course characteristics or otherwise);” 10 15
- (d) in subsection (2), after paragraph (c) there were inserted—
- “(ca) for two or more modules of a higher education course or further education course to be treated as a single 20

module of that course for any purpose of the regulations;”;

(e) after that subsection, there were inserted—

“(2ZA) Regulations under this section may prescribe the meaning of “module” in relation to a higher education course or further education course (and may, in particular, provide for it to include—

(a) a module lasting less than one full academic year, or comprising less than the equivalent of one full academic year of study;

(b) a module undertaken otherwise than as part of the higher education course or further education course of which it forms part).

(2ZB) Nothing in subsection (2)(b) is to be taken to limit the power conferred by this section to prescribe a maximum amount in relation to any grant, loan

or alternative payment otherwise than in relation to an academic year.”;

(f) after subsection (2A) there were inserted—

- “(2B) The provision which may be made by virtue of subsection (2)(ba) includes provision for amending any lifetime limit that has effect in relation to a person.” 5
- (2) Section 23 has effect, so far as it relates to a function exercisable by virtue of regulations under section 22 made by the Secretary of State, as if the reference in subsection (1)(b) to courses included a reference to modules of higher education courses or further education courses. 10 15
- (3) Section 28(2) has effect, so far as it confers power exercisable by the Secretary of State, as if— 20
- (a) after “courses” in the first place where it occurs there were inserted “or modules”;

- (b) after “higher education courses” there were inserted “or modules of such courses”.
- (2) Until section 86(2) of the Higher Education and Research Act 2017 (power to make alternative payments) comes into force— 5
- (a) the following provisions that are treated as inserted into section 22 of the Teaching and Higher Education Act 1998 by section 28A(1) of that Act have effect with the omission of references to alternative payments— 10
- (i) paragraph (ba) of subsection (2);
- (ii) subsection (2ZB);
- (b) section 28A(1)(b) of that Act has effect 15 with the omission of the reference to section 22(4B) of that Act.

16 Lifelong learning: amendment of the Higher Education and Research Act 2017

- (1) The Higher Education and Research Act 2017 is amended as follows. 20

- (2) In section 9 (mandatory transparency condition for certain providers), after subsection (3) insert—
- “(3A) The OfS must not request information relating to modules of full courses by virtue of a transparency condition more frequently than it requests information relating to full courses by virtue of the condition.” 5
- (3) In section 83(1) (meaning of “English higher education provider” etc), for the definition of “higher education course” substitute— 10
- ““higher education course” means—
- (a) a course of any description mentioned in Schedule 6 to the Education Reform Act 1988, or 15
- (b) a module of such a course, where it is undertaken otherwise than as part of that course;” 20
- (4) In section 85 (definitions)—

(a) in subsection (1), at the appropriate place insert—

““full course” means a higher education course that is not a module of another higher education course;”;

5

(b) after subsection (1) insert—

“(1A) References in this Part to modules (except in relation to references to the full course of which the module forms part) are to modules which are—

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(a) modules of full courses, but

(b) undertaken otherwise than as part of those courses.”

17 Universal credit conditionality

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The Secretary of State must review universal credit conditionality with a view to ensuring that adult learners who are—

(a) unemployed, and

(b) in receipt of universal credit,

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remain entitled to universal credit if they enroll on an approved course for a qualification which is deemed to support them to secure sustainable employment.

18 Lifelong learning: review

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- (1) Within one year of the commencement of either section 15 or section 16, and each year thereafter, the Secretary of State must prepare and publish a report on the impact on the overall levels of skills in England and Wales of the rules regarding eligibility for funding for those undertaking further or higher education courses. 10
- (2) The report under subsection (1) must in particular examine the impact of restricting funding for those who wish to pursue a qualification at a level equivalent to or lower than one they already hold. 15
- (3) The report under subsection (1) must be laid before both Houses of Parliament. 20

Part 2

QUALITY OF PROVISION

Initial teacher training for further education

19 Initial teacher training for further education

- (1) The Secretary of State may make regulations for the purpose of securing or improving the quality of courses of initial teacher training for further education (“ITT(FE) courses”) provided by educational institutions in England. 5 10
- (2) Regulations under subsection (1) may (among other things) make provision for and in connection with—
- (a) accrediting an institution as a provider of specified ITT(FE) courses; 15
 - (b) accrediting specified ITT(FE) courses;
 - (c) prohibiting the provision of specified ITT(FE) courses by an institution;
 - (d) setting conditions that must be complied with by an institution that provides specified ITT(FE) courses; 20

- (e) requiring the governing body of an institution that provides specified ITT(FE) courses, or other specified person in relation to such an institution, to have regard to guidance issued by the Secretary of State; 5
- (f) requiring the governing body of an institution that provides specified ITT(FE) courses, or other specified person in relation to such an institution, to give the Secretary of State specified information about— 10
- (i) the ITT(FE) courses provided by the institution;
 - (ii) the individuals who are commencing, are undertaking or have completed an ITT(FE) course provided by the institution. 15
- (3) Regulations under subsection (1) must include provision to require ITT(FE) courses to include special educational needs awareness training relevant to the students of ITT(FE) courses within an institution. 20

- (4) The provision mentioned in subsection (2) (c) may include provision for a prohibition by reference to (among other things)—
- (a) the accreditation of an institution under provision included in regulations under subsection (1) by virtue of subsection (2)(a); 5
 - (b) the approval of the Secretary of State;
 - (c) a failure to meet conditions set in regulations under subsection (1) by virtue of subsection (2)(d). 10
- (5) Regulations under this section—
- (a) may make provision for enforcement of obligations or prohibitions imposed by the regulations; 15
 - (b) may make different provision for different cases;
 - (c) may make provision generally or only in relation to specified cases;
 - (d) may confer a function (including the exercise of a discretion) 20

- on the Secretary of State or another specified person;
- (e) may make such incidental, consequential, supplemental, transitional or saving provision as the Secretary of State thinks fit; 5
- (f) are to be made by statutory instrument.
- (6) A statutory instrument containing the first regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 10
- (7) Any other statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 15
- (8) In this section—
- “courses” includes programmes;
- “enforcement” includes—
- (a) monitoring compliance; 20
- (b) investigating non-compliance;

(c) dealing with non-compliance;

“further education” has the same meaning as in the Education Act 1996 (see section 2 of that Act);

“specified” means specified, or of a description specified, by or under the regulations.

5

Quality assessments of higher education

20 Office for Students: power to assess the quality of higher education by reference to student outcomes

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In section 23 of the Higher Education and Research Act 2017 (assessing the quality of, and the standards applied to, higher education), at the end insert—

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“(4) The factors that may be taken into account for the purposes of an assessment, under subsection (2) (a) or (b), of the quality of higher education provided by an institution include the student outcomes of the institution.

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- (5) The student outcomes of an institution may be measured by any means (whether qualitative or quantitative) that the OfS considers appropriate, including by reference to the extent to which—
- (a) persons who undertake a higher education course with the institution continue to undertake that course, or another course at the same or a similar level, after a period of time, 10
 - (b) persons who undertake a higher education course with the institution are granted an award of a particular description by that institution, 15
 - (c) persons who are granted an award by the institution undertake further study of a particular description, or 20
 - (d) persons who are granted an award by the institution

find employment of a particular description by virtue of that award.

- (6) The OfS may, from time to time, determine and publish a minimum level in relation to a measure of student outcomes which all institutions to whom the measure is applicable are expected to meet. 5
- (7) The OfS is not required to determine and publish different minimum levels in relation to a measure of student outcomes in order to reflect differences in— 10
- (a) particular student characteristics; 15
 - (b) the particular institution or type of institution which is providing higher education;
 - (c) the particular higher education course or subject being studied; 20
 - (d) any other such factor.

- (8) In taking into account the student outcomes of an institution as mentioned in subsection (4), account may be taken of whether the institution has met any minimum level determined and published under subsection (6) which is applicable to the institution. 5
- (9) In this section—
- “award” means a taught award or research award (see section 42); 10
- “student outcomes”, in relation to an institution, means outcomes for persons to whom the institution provides or has provided higher education or has granted an award.” 15

Part 3

PROTECTION FOR LEARNERS

Chapter 1

REGULATION OF POST-16 EDUCATION OR TRAINING PROVIDERS 5

Funding arrangements with post-16 education or training providers

21 List of relevant providers

- (1) The Secretary of State may by regulations make provision— 10
- (a) for the Secretary of State to keep a list of relevant providers in respect of relevant education or training who meet conditions specified in the regulations for being on the list in respect of that education or training; 15
- (b) in connection with the keeping of the list.
- (2) “Relevant provider” means a post-16 education or training provider who is not— 20

- (a) a school;
 - (b) a 16 to 19 Academy;
 - (c) an institution within the further education sector;
 - (d) a registered higher education provider who provides only higher education; 5
 - (e) the responsible body for an institution within any of paragraphs (a) to (d) when acting in its capacity as such;
 - (f) a local authority in England; 10
 - (g) a combined authority;
 - (h) the Greater London Authority.
- (3) “Relevant education or training” means education or training that falls within one or more of the following paragraphs— 15
- (a) further education;
 - (b) education or training provided by means of a further education course, or a module of a further education course, designated for the purposes of section 22 of the Teaching and Higher Education Act 1998; 20

- (c) training for persons over compulsory school age which is funded by the Secretary of State under section 2 of the Employment and Training Act 1973;
 - (d) education or training for persons over compulsory school age provided as part of an approved technical education qualification or approved steps towards occupational competence; 5
 - (e) training for persons over compulsory school age provided in connection with an English statutory apprenticeship. 10
- (4) The Secretary of State may by regulations amend subsection (3) so as to add, vary or remove a category of education or training. 15
- (5) A condition may be specified in regulations under subsection (1)(a) only where the Secretary of State considers that specifying the condition in relation to a relevant provider may assist in preventing, or mitigating the adverse effects of, a disorderly cessation in the provision of education or training by the relevant provider. 20

- (6) Regulations under subsection (1) may—
- (a) specify different conditions in relation to different descriptions of relevant education or training;
 - (b) provide for a relevant provider to be on the list only in respect of one or more descriptions of relevant education or training; 5
 - (c) confer functions (including functions involving the exercise of a discretion) on the Secretary of State or any other person. 10
- (7) The conditions that may be specified include conditions—
- (a) relating to the relevant provider having a student support plan and making it available; 15
 - (b) relating to the relevant provider having insurance cover;
 - (c) for ensuring that persons having general control and management of, or legal responsibility and accountability for, the relevant 20

- provider are fit and proper persons to be involved in that activity;
- (d) relating to the relevant provider giving access to, or providing, information (including information about persons for whom the relevant provider is, or has been, providing relevant education or training) to the Secretary of State; 5
- (e) relating to the relevant provider taking action specified in directions given by the Secretary of State. 10
- (8) For the purposes of subsection (7)(a), a “student support plan” means a plan for supporting students in the event of a cessation in the provision of education or training. 15
- (9) Different conditions may be specified—
- (a) for being added to, or remaining on, the list;
- (b) for different descriptions of relevant provider. 20
- (10) Regulations under subsection (1)(b) may, among other things, make provision—

- (a) for the charging of fees in connection with entries on the list;
 - (b) about the procedure for applications to be added to, or remain on, the list;
 - (c) about the removal of entries from, or the restoration of entries to, the list; 5
 - (d) about appeals against decisions relating to the list;
 - (e) permitting or requiring the disclosure of information; 10
 - (f) about publication of the list.
- (11) The provision mentioned in subsection (10)(e) includes provision about information relating to—
- (a) persons for whom relevant education or training is or has been provided; 15
 - (b) persons having general control and management of, or legal responsibility and accountability for, a relevant provider. 20

22 Prohibitions on entering into funding arrangements with providers

- (1) If the Secretary of State makes regulations under section 21(1)(a) for the keeping of a list, the following provisions apply in relation to the making of funding arrangements while the regulations are in force. 5
- (2) A funding authority must not enter into relevant funding arrangements with a relevant provider unless— 10
 - (a) the relevant provider is on the list in respect of the education or training to which the funding arrangements relate, and
 - (b) the funding arrangements include provision allowing the funding authority to terminate the funding arrangements if the relevant provider ceases to be on the list in respect of that education or training. 15
- (3) A funding authority must not enter into relevant funding arrangements with a post-16 education or training provider 20

(“P1”) unless the funding arrangements include the provision in subsection (4).

(4) The provision in this subsection is—

- (a) in the case of relevant funding arrangements that prohibit P1 from entering into a relevant sub-contract, provision allowing the funding authority to terminate the funding arrangements if P1 enters into a relevant sub-contract in breach of that prohibition, and 5 10
- (b) in the case of relevant funding arrangements that allow P1 to enter into a relevant sub-contract, provision allowing the funding authority to terminate the funding arrangements if P1 enters into a relevant sub-contract with a relevant provider (“P2”) unless— 15
- (i) P2 is on the list in respect of the education or training to which the relevant sub-contract relates, and 20

- (ii) the relevant sub-contract includes provision allowing P1 to terminate the sub-contract if P2 ceases to be on the list in respect of that education or training. 5
- (5) Nothing in this section—
 - (a) may be relied on by a provider with whom a funding authority has entered into relevant funding arrangements as a reason for not carrying out the provider’s obligations under those arrangements, or 10
 - (b) limits the discretion of a funding authority not to enter into funding arrangements with a person where that person does not meet conditions of a scheme created by the funding authority in connection with the making of funding arrangements. 15
- (6) The following provisions apply for the interpretation of this section. 20
- (7) “Funding authority” means—
 - (a) the Secretary of State;

- (b) a local authority in England;
 - (c) a combined authority;
 - (d) the Greater London Authority.
- (8) “Funding arrangements” in relation to a funding authority and a provider are— 5
- (a) arrangements for a grant to be given by the funding authority to the provider for the provision of education or training wholly or mainly in England;
 - (b) an agreement for the funding authority to provide funding to the provider for the provision of education or training wholly or mainly in England. 10
- (9) The reference in subsection (8)(b) to funding provided to a provider by a funding authority includes a reference to amounts paid directly to the provider in accordance with provision in regulations made under section 22(1) of the Teaching and Higher Education Act 1998 (financial support for students) by virtue of section 22(2)(h) or (i) of that Act. 15 20

- (10) Funding arrangements are “relevant funding arrangements” if—
- (a) the education or training to which the arrangements relate is relevant education or training, and 5
 - (b) the arrangements have any other characteristics specified in regulations made by the Secretary of State.
- (11) A “relevant sub-contract”, in relation to relevant funding arrangements, is a contract— 10
- (a) for the provision of all or part of the education or training to which the relevant funding arrangements relate, and 15
 - (b) that has any other characteristics specified in regulations made by the Secretary of State.

23 Funding arrangements: interpretation

- (1) This section applies for the interpretation of sections 21, 22 and this section. 20
- (2) In those sections—

- “approved technical education qualification” and “approved steps towards occupational competence” have the same meanings as in section 100 of the Apprenticeships, Skills, Children and Learning Act 2009; 5
- “combined authority” means a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009; 10
- “English statutory apprenticeship” has the meaning given by section 40A(3) of the Apprenticeships, Skills, Children and Learning Act 2009;
- “further education” has the same meaning as in the Education Act 1996 (see section 2 of that Act); 15
- “higher education” has the meaning given by section 579(1) of the Education Act 1996; 20

- “institution within the further education sector” has the same meaning as in the Further and Higher Education Act 1992 (see section 91(3) of that Act);
- “local authority in England” has the same meaning as in the Education Act 1996 (see sections 579(1) and 581 of that Act); 5
- “post-16 education or training provider” means an institution or person who provides or intends to provide relevant education or training for persons over compulsory school age; 10
- “registered higher education provider” has the same meaning as in Part 1 of the Higher Education and Research Act 2017 (see section 3(10) of that Act); 15
- “relevant education or training” has the meaning given by section 21(3);
- “relevant provider” has the meaning given by section 21(2); 20
- “responsible body” means—
- (a) in relation to a school or a 16 to 19

Academy, the proprietor (within the meaning given by section 579(1) of the Education Act 1996);

- (b) in relation to an institution within the further education sector, the governing body (within the meaning given by section 90(1) of the Further and Higher Education Act 1992); 5
- (c) in relation to a registered higher education provider, the governing body (within the meaning given by section 85(1) of the Higher Education and Research Act 2017); 10
- “school” has the same meaning as in the Education Act 1996 (see section 4 of that Act). 15

- (3) In the following provisions, references to a provider include references to a person having general control and management of, or legal responsibility and accountability for, a provider— 20
- (a) section 21(7)(a), (b), (d) and (e);

- (b) section 22(2) to (4) where the reference is to entering into relevant funding arrangements, or a relevant sub-contract, with a provider;
- (c) section 22(5)(a); 5
- (d) section 22(8);
- (e) section 22(9).

24 Regulations under sections 21 or 22

- (1) Any power to make regulations under section 21 or 22 includes power to make consequential, supplemental, incidental, transitional or saving provision. 10
- (2) The provision that may be made in regulations by virtue of subsection (1) includes provision amending an Act (including this Act). 15
- (3) Before making the first regulations under section 21(1) the Secretary of State must consult such persons as the Secretary of State considers appropriate. 20
- (4) Regulations under section 21 or 22 are to be made by statutory instrument.

- (5) A statutory instrument containing the following (whether alone or with other provision) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament—
- (a) regulations under section 21(1);
 - (b) regulations under section 21(4);
 - (c) regulations under section 21 or 22 that, by virtue of subsections (1) and (2), amend an Act. 10
- (6) Any other statutory instrument containing regulations under section 21 or 22 is subject to annulment in pursuance of a resolution of either House of Parliament. 15

25 Provision of opportunities for education and skills development

- (1) Any person of any age has the right to free education on an approved course up to Level 3 supplied by an approved provider of further or technical education, if he or she has not already studied at that level. 20

- (2) Any approved provider must receive automatic in-year funding for any student covered by subsection (1), and supported by the Adult Education Budget, at a tariff rate set by the Secretary of State. 5
- (3) Any employer receiving apprenticeship funding must spend at least two thirds of that funding on people who begin apprenticeships at Levels 2 and 3 before the age of 25. 10

Further education in England: intervention

26 Further education in England: intervention

- (1) The Further and Higher Education Act 1992 is amended as follows.
- (2) In section 56A (intervention: England)— 15
- (a) in subsection (2), after paragraph (d) insert—
- “(e) that the education or training provided by the institution did not, or does not, adequately meet local needs.”; 20

- (b) after subsection (2) insert—
- “(2A) For the purposes of subsection (2) (e), the Secretary of State must take into account any approved local skills improvement plan that applied to the institution when the education or training was provided. 5
- (2B) An approved local skills improvement plan applies to an institution if the institution provides English-funded post-16 technical education or training that is material to a specified area and the plan is for that area. 10
- (2C) Terms used in subsection (2A) or (2B) and in section 1 of the Skills and Post-16 Education Act 2021 have the same meaning in those subsections as in that section.”; 15
- (c) in subsection (7)—
- (i) in paragraph (b), after “section 27A(1)” insert “, or take such other steps specified in the direction as may be required,”; 20

(ii) after paragraph (b) insert—

“(c) a direction requiring a governing body to transfer property, rights or liabilities specified in the direction, and take any other steps specified in the direction in connection with the transfer in relation to property, rights or liabilities so specified.”;

(d) for subsection (7A) substitute—

“(7A) A governing body to which a direction is given requiring the body to make a resolution under section 27A(1)—

(a) is to be taken for the purposes of section 27A(1) to have complied with section 27 before making the resolution required by the direction, and

(b) must, unless the Secretary of State directs otherwise, exercise its powers under section 27B to transfer

property, rights or liabilities
on the dissolution date.”;

(e) after subsection (7A) insert—

“(7B) A direction under subsection (7)(c)
requiring the transfer of property,
rights or liabilities to a person
specified in the direction may
only be given with the consent
of the person so specified.”; 5

(f) after subsection (9) insert— 10

“(9A) Before giving a direction for the
transfer of property, rights or
liabilities under subsection (7)(c), the
Secretary of State must consult the
Competition and Markets Authority. 15

(9B) Part 3 of the Enterprise Act 2002
does not apply in relation to a merger
that will result or has resulted from
a direction under this section.

(9C) The Secretary of State may give
financial assistance (by way of
grant, loan, guarantee or any
other form) to any person in 20

connection with the giving of a direction under this section.”

(3) In section 56E (intervention by the Secretary of State: sixth form colleges)—

(a) in subsection (2), after paragraph (d) insert— 5

“(e) that the education or training provided by the sixth form college did not, or does not, adequately meet local needs.”; 10

(b) after subsection (2) insert—

“(2A) For the purposes of subsection (2) (e), the Secretary of State must take into account any approved local skills improvement plan that applied to the sixth form college when the education or training was provided. 15

(2B) An approved local skills improvement plan applies to a sixth form college if the college provides English-funded post-16 technical education or training that is material to a specified area and the plan is for that area. 20

- (2C) Terms used in subsection (2A) or (2B) and in section 1 of the Skills and Post-16 Education Act 2021 have the same meaning in those subsections as in that section.”; 5
- (c) in subsection (7), after paragraph (b) insert—
- “(c) a direction requiring a governing body to transfer property, rights or liabilities specified in the direction, and take any other steps specified in the direction in connection with the transfer in relation to property, rights or liabilities so specified.”; 10 15
- (d) for subsection (7A) substitute—
- “(7A) A governing body to which a direction such as is mentioned in subsection (7)(b) is given— 20
- (a) is to be taken for the purposes of section 33O(1) to have complied with section 33N

before making the resolution required by the direction, and

- (b) must, unless the Secretary of State directs otherwise, exercise its powers under section 33P to transfer property, rights or liabilities on the dissolution date.”; 5
- (e) after subsection (7A) insert—
- “(7B) A direction under subsection (7)(c) requiring the transfer of property, rights or liabilities to a person specified in the direction may only be given with the consent of the person so specified.”; 10 15
- (f) after subsection (9) insert—
- “(9A) Before giving a direction for the transfer of property, rights or liabilities under subsection (7)(c), the Secretary of State must consult the Competition and Markets Authority. 20
- (9B) Part 3 of the Enterprise Act 2002 does not apply in relation to a merger

that will result or has resulted from a direction under this section.

- (9C) The Secretary of State may give financial assistance (by way of grant, loan, guarantee or any other form) to any person in connection with the giving of a direction under this section.” 5

Chapter 2

EDUCATION ADMINISTRATION AND ADMINISTRATION OF FURTHER EDUCATION BODIES 10

27 Further education bodies in education administration: application of other insolvency procedures

In section 33 of the Technical and Further Education Act 2017 (application of other insolvency law), after subsection (2) insert— 15

- “(2A) Regulations under subsection (1) may in particular provide for any provision of the Insolvency Act 1986 to apply (with or without modifications) in relation to a further 20

education body in connection with the education administration procedure created by this Chapter.

- (2B) Nothing in Schedule 3 or 4 limits the provision that may be made by virtue of subsection (2A), and provision made by virtue of that subsection may amend Schedules 3 and 4.”

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28 Further education bodies in education administration: transfer schemes

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- (1) The Technical and Further Education Act 2017 is amended as follows.

- (2) In Schedule 2 (education administration: transfer schemes), after paragraph 6 insert—

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“6A (1) A transfer scheme may not transfer property which is subject to a security (other than a floating charge) free of that security except—

- (a) in accordance with an order of the court under paragraph 71 of Schedule B1 to the

20

Insolvency Act 1986 as applied
by Schedule 3 or 4, or

(b) where—

(i) an amount is attributed
to the transfer of
the property in the
transfer scheme,

5

(ii) the secured creditor
agrees with that
amount, and

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(iii) the secured creditor
is paid that amount.

(2) In sub-paragraph (1), “floating
charge” means a charge which is a
floating charge on its creation.”

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(3) In Schedule 3 (conduct of
education administration: statutory
corporations), in paragraph 19—

(a) for “sub-paragraph (1),” substitute
“sub-paragraph (1)—

20

- (a) after “dispose” there were inserted
“(whether by way of a transfer
scheme under Schedule 2 to the
Technical and Further Education
Act 2017 or otherwise)”, and”; 5
- (b) the text from “the words” to the end of
the paragraph becomes paragraph (b).
- (4) In Schedule 4 (conduct of education
administration: companies),
after paragraph 17 insert— 10
- “17A Paragraph 71 is to have effect as if in
sub-paragraph (1), after “dispose” there
were inserted “(whether by way of a
transfer scheme under Schedule 2 to
the Technical and Further Education Act 15
2017 or otherwise)”. ”

Part 4

MISCELLANEOUS AND GENERAL

Chapter 1

CHEATING SERVICES PROVIDED FOR POST-16 STUDENTS AT ENGLISH INSTITUTIONS

5

29 Meaning of “relevant service” and other key expressions

- (1) This section applies for the purposes of this Chapter.
- (2) “Relevant service” means a service of completing all or part of an assignment on behalf of a student where the assignment completed in that way could not reasonably be considered to have been completed personally by the student. 10
15
- (3) References to completing all or part of an assignment on behalf of a student include references to providing material to the student in connection with the assignment where— 20

- (a) the student could use the material in completing the assignment or part, and
- (b) the material—
 - (i) is prepared in connection with the assignment, or 5
 - (ii) has not been published generally.
- (4) For this purpose—
 - (a) where, in connection with an assignment, a student seeks the provision of a relevant service, any material provided as a result is to be regarded as provided in connection with the assignment; 10
 - (b) material is published generally if it—
 - (i) is available generally without payment, or 15
 - (ii) is included in a publication that contains other educational or training material and is available generally (such as a text book or study guide). 20

- (5) A person who provides, or arranges the provision of, a relevant service does so “in commercial circumstances” if—
- (a) the person is acting in the course of business, or 5
 - (b) in the case of a person who provides a relevant service, its provision was arranged by another person acting in the course of business, whether the person’s own business or that of the person’s employer. 10
- (6) “Student” means—
- (a) a person who is undertaking a relevant course at a post-16 institution or sixth form in England, or 15
 - (b) any other person over compulsory school age who has been entered to take an examination relating to a regulated qualification at a place in England. 20
- (7) A “relevant assignment”, in relation to a student, is an assignment (which may have

been chosen by the student) which the student is required to complete personally—

- (a) as part of the relevant course which the student is undertaking, or
 - (b) in order to obtain the qualification to which the course leads or for which the student has been entered. 5
- (8) In relation to an assignment that is a relevant assignment—
- (a) “personally” includes with any assistance permitted as part of the requirement (whether or not the assignment, if completed with that assistance, would otherwise be considered to be completed personally), and 10
 - (b) that assistance is “permitted assistance”. 15
- (9) Section 33 sets out the meanings of other terms used in this Chapter (including in this section). 20

30 Offence of providing or arranging a relevant service

- (1) It is an offence for a person to provide, or arrange for another person to provide, in commercial circumstances, a relevant service for a student in relation to a relevant assignment. 5
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine. 10
- (3) In proceedings for an offence under subsection (1) it is a defence for the defendant to prove, in relation to any of the matters mentioned in subsection (4), that the defendant did not know, and could not with reasonable diligence have known, the matter. 15
- (4) Those matters are—
- (a) if material is provided to the student as a result of the relevant service, that the student would or might use the material in completing all or part of the assignment; 20

- (b) that the student was required to complete the assignment personally;
 - (c) that the relevant service was not permitted assistance.
- (5) A statement in the form of a written standard term of the contract or arrangement under which the relevant service was provided or arranged—
 - (a) that the student would not use any material provided as a result of the relevant service in completing all or part of the assignment, 10
 - (b) that the student was not required to complete the assignment personally, or
 - (c) that the relevant service was permitted assistance, 15

is not, of itself, to be taken as sufficient evidence of a matter to be proved under subsection (3).
- (6) A student does not commit either of the following merely by making use of a relevant service to complete all or part of an assignment— 20

- (a) an offence under Part 2 of the Serious Crime Act 2007 where the offence that the student intended or believed would be committed is an offence under this section; 5
- (b) an offence under this section committed by aiding, abetting, counselling or procuring the commission of an offence under this section.

31 Offence of advertising a relevant service 10

- (1) A person who advertises a relevant service to students commits an offence.
- (2) It does not matter for the purposes of subsection (1) whether the persons to whom the relevant service is advertised are only students, or only a particular category of students, or include persons other than students. 15
- (3) For this purpose a person advertises a relevant service if, and only if, the person makes arrangements for an advertisement in which the person— 20
 - (a) offers, or

(b) is described or presented as available or competent, to provide or arrange for another person to provide a relevant service.

- (4) A person guilty of an offence under this section is liable on summary conviction to a fine. 5

32 Offences: bodies corporate and unincorporated associations

- (1) If an offence under this Chapter committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of— 10
- (a) a director, manager, secretary or other similar officer of the body corporate, or 15
- (b) a person who was purporting to act in any such capacity,
- that person (as well as the body corporate) is guilty of that offence and liable to be proceeded against and punished accordingly. 20

- (2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with the member's functions of management as it applies to a director of the body corporate. 5
- (3) Proceedings for an offence alleged to have been committed under this Chapter by an unincorporated body are to be brought in the name of that body (and not in the name of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents have effect as if that body were a corporation. 10
- (4) A fine imposed on an unincorporated body on its conviction of an offence under this Chapter is to be paid out of the funds of that body. 15
- (5) If an unincorporated body is charged with an offence under this Chapter, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 apply as they apply in relation to a body corporate. 20

- (6) Where an offence under this Chapter committed by an unincorporated body other than a partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, any officer of the body or any member of its governing body, that person (as well as the body) is guilty of the offence and liable to be proceeded against and punished accordingly. 5 10
- (7) Where an offence under this Chapter committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a partner, that partner (as well as the body) is guilty of the offence and liable to be proceeded against and punished accordingly. 15

33 Interpretation of Chapter

In this Chapter, the following terms have the following meanings— 20

“assignment” includes an examination and any piece of work;

- “examination” includes any form of assessment;
- “permitted assistance”, in relation to a relevant assignment, has the meaning given by section 29(8); 5
- “personally”, in relation to an assignment that is a relevant assignment, has the extended meaning given by section 29(8);
- “post-16 institution” means— 10
- (a) a higher education provider, within the meaning of Part 1 of the Higher Education and Research Act 2017 (see section 83(1) of that Act);
 - (b) an institution within the further education sector, within the meaning of the Further and Higher Education Act 1992 (see section 91(3) of that Act); 15
 - (c) a 16 to 19 Academy; 20
 - (d) any other institution or person, other than a school, that is principally concerned with the provision of

education or training suitable to the requirements of pupils who are over compulsory school age;

“regulated qualification” means a qualification regulated by the Office of Qualifications and Examinations Regulation; 5

“relevant assignment” has the meaning given by section 29(7);

“relevant course” means— 10

(a) a course of any description mentioned in Schedule 6 to the Education Reform Act 1988, or

(b) a course—

(i) providing education or training in preparation for an examination relating to a regulated qualification, or 15

(ii) which a person is required to complete in order to obtain a regulated qualification; 20

“relevant service” has the meaning given by section 29(2);

“school” has the same meaning as in the Education Act 1996;

“sixth form” means a school, or part of a school, that is principally concerned with the provision of full-time education suitable to the requirements of pupils who are over compulsory school age;

5

“student” has the meaning given by section 29(6).

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Chapter 2

MISCELLANEOUS PROVISIONS

16 to 19 Academies: designation as having a religious character

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34 16 to 19 Academy: designation as having a religious character

After section 8 of the Academies Act 2010 insert—

“16 to 19 Academies designated as having a religious character

8A Designation of 16 to 19 Academy as having a religious character

- (1) The Secretary of State may by order designate a 16 to 19 Academy as having a religious character. 5
- (2) The Secretary of State may designate an Academy under this section only if the proprietor of the Academy is a qualifying Academy proprietor within the meaning given by section 12(2). 10
- (3) The order must specify the religion or religious denomination in relation to which the Academy is designated. 15
- (4) The Secretary of State may make regulations about the procedure to be followed in connection with—
- (a) the designation of an Academy in an order under this section, and 20

- (b) the inclusion in such an order of the specification required by subsection (3).
- (5) Despite section 568(3) of EA 1996 (orders to be made by statutory instrument subject to the negative procedure), as applied by section 17(4) of this Act, a statutory instrument containing an order under this section is not subject to annulment in pursuance of a resolution of either House of Parliament. 5 10
- 8B Constitution of Academy proprietor, collective worship and religious education 15**
- (1) The articles of association of the proprietor of an Academy designated under section 8A must provide for a majority of the directors of the proprietor to be persons appointed for the purposes of securing, so far as practicable, that— 20

- (a) the character of the designated Academy reflects the tenets of the religion or religious denomination in relation to which the Academy is designated, and 5
- (b) in a case where there is a trust deed affecting the designated Academy, the Academy is conducted in accordance with it. 10
- (2) The proprietor of an Academy designated under section 8A may (accordingly) conduct the Academy in a way that secures that the character of the Academy reflects the tenets of the religion or religious denomination in relation to which the Academy is designated (and, in particular, in a way that is in accordance with any trust deed affecting the Academy). 15 20
- (3) The proprietor of an Academy designated under section 8A must ensure that at an appropriate time on at least one day in each week

during which the Academy is open an act of collective worship is held at the Academy which pupils at the Academy may attend.

- (4) The act of collective worship must— 5
- (a) be in such form as to comply with the provisions of any trust deed affecting the Academy, and
 - (b) reflect the traditions and practices of the religion or religious denomination in relation to which the Academy is designated. 10
- (5) The proprietor of an Academy designated under section 8A must ensure that religious education is provided at the Academy for all pupils who wish to receive it. 15
- (6) The proprietor of an Academy is to be treated as complying with subsection (5) if religious education is provided at a time or times at 20

which it is convenient for the majority of full-time pupils to attend.

- (7) For the purposes of this section religious education may take the form of a course of lectures or classes, or of single lectures or classes provided on a regular basis, and may include a course of study leading to an examination or the award of a qualification. 5 10
- (8) The form and content of religious education provided under this section—
- (a) must be in accordance with the provisions of any trust deed affecting the Academy, and 15
- (b) must not be contrary to the traditions of the religion or religious denomination in relation to which the Academy is designated, 20

but is otherwise to be determined from time to time by the proprietor of the Academy.

- (9) Notwithstanding section 17(4), in this section— 5
- (a) “pupil” means a person receiving education at the 16 to 19 Academy;
- (b) “trust deed” includes any instrument (other than the articles or memorandum of association) regulating the constitution of the proprietor of the Academy or the maintenance, management or conduct of the Academy.” 10
15

*Institutions within the further education sector:
procedure for designation*

35 Institutions within the further education sector: designation

- (1) The Further and Higher Education Act 1992 is amended in accordance with subsections (2) and (3). 5
- (2) In section 28 (designated institutions)—
- (a) in subsections (1) and (3A), for “The Secretary of State” substitute “The appropriate authority”; 10
- (b) after subsection (3A) insert—
- “(3B) In this section “the appropriate authority”—
- (a) in relation to an educational institution in England, means the Secretary of State; 15
- (b) in relation to an educational institution in Wales, means the Welsh Ministers.” 20

- (3) In section 89 (orders, regulations and directions)—
- (a) in subsection (2), after “the excepted provisions are” insert “sections 28 and 29(1)(b) so far as the power under each of those provisions is exercisable by the Secretary of State, and”; 5
- (b) after subsection (3B) insert—
- “(3C) An order made by the Secretary of State under section 28 or 29(1)(b) is to be published in such manner as the Secretary of State considers appropriate.”; 10
- (c) after subsection (5) insert—
- “(6) This section applies in relation to an order made by the Secretary of State under section 28 or 29(1)(b) that revokes or varies an order under those provisions made before the coming into force of section 35(3) of the Skills and Post-16 Education Act 2021 as if— 15 20

(a) in subsection (2), the words “sections 28 and 29(1)(b) so far as the power under each of those provisions is exercisable by the Secretary of State, and” were omitted, and

5

(b) subsection (3C) were omitted.”

Higher education course fee limits: administration

36 Relevant date for purposes of fee limit for certain higher education courses

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In paragraph 3(3) of Schedule 2 to the Higher Education and Research Act 2017 (the fee limit where the provider has no access and participation plan), omit “before the calendar year”.

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Chapter 3

GENERAL PROVISIONS

37 Extent

(1) This Act extends to England and Wales.

- (2) The following provisions extend also to Scotland—
- (a) section 11;
 - (b) section 15, so far as it modifies sections 22 and 23 of the Teaching and Higher Education Act 1998 as those sections extend to Scotland; 5
 - (c) section 16(3);
 - (d) this Chapter.
- (3) The following provisions extend also to Northern Ireland— 10
- (a) section 10;
 - (b) section 11;
 - (c) section 15, so far as it modifies sections 22 and 23 of the Teaching and Higher Education Act 1998 as those sections extend to Northern Ireland; 15
 - (d) section 16(3);
 - (e) this Chapter.

38 Commencement

- (1) This Chapter comes into force on the day on which this Act is passed.
- (2) Sections 1 to 5, 20 and 26 to 36 come into force at the end of the period of two months beginning with the day on which this Act is passed. 5
- (3) Except as provided by subsections (1) and (2), this Act comes into force on such day as the Secretary of State may by regulations appoint. 10
- (4) Different days may be appointed for different purposes.
- (5) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act. 15
- (6) The power to make regulations under subsection (5) includes power to make different provision for different purposes. 20
- (7) Regulations under this section are to be made by statutory instrument.

39 Short title

- (1) This Act may be cited as the Skills and Post-16 Education Act 2021.
- (2) Nothing in this Act shall impose any charge on the people or on public funds, or vary the amount or incidence of or otherwise alter any such charge in any manner, or affect the assessment, levying, administration or application of any money raised by any such charge.

5

10

Skills and Post-16 Education Bill [HL]

[AS BROUGHT FROM THE LORDS]

A BILL TO

Make provision about local skills improvement plans; to make provision relating to further education; to make provision about functions of the Institute for Apprenticeships and Technical Education and relating to technical education qualifications and apprenticeships; to make provision about student finance and fees; to make provision about assessments by the Office for Students; to make provision about the funding of certain post-16 education or training providers; to create offences relating to completing assignments on behalf of students; to make provision about designating 16 to 19 Academies as having a religious character; and for connected purposes.

Brought from the House of Lords on 26th October 2021

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