

Technical and Further Education Bill

SECOND
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN GRAND COMMITTEE

The amendments have been marshalled in accordance with the Instruction of 21st February 2017, as follows –

Clause 1	Clause 24
Schedule 1	Schedules 3 and 4
Clauses 2 to 23	Clauses 25 to 45
Schedule 2	Title.

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

After Clause 1

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

12

Insert the following new Clause –

“International students and staff

- (1) The Secretary of State has a duty to encourage international students to attend further education providers covered by this Act.
- (2) The Secretary of State shall ensure that no student who has received an offer to study at such a further education provider shall be treated for public policy purposes as a long term migrant to the UK, for the duration of their studies at such an establishment.
- (3) Persons, who are not British citizens, who receive an offer to study as a student or who receive an offer of employment as a member of academic staff at a further education provider, shall not, in respect of that course of study, or that employment, be subject to more restrictive immigration controls or conditions than were in force for a person in their position on the day on which this Act was passed.”

12A★

Insert the following new Clause –

“Apprentices as qualifying young persons for the purposes of child benefit

- (1) The Child Benefit (General) Regulations 2006 are amended as follows.

After Clause 1 - continued

(2) In Regulation 3 (education and training condition) –

(a) after paragraph (2)(a) insert –

“(aa) is undertaking a statutory apprenticeship as defined under section A11 of the Apprenticeships, Skills, Children and Learning Act 2009 (only statutory apprenticeships to be described as apprenticeships);”;

(b) in paragraph (4) after “(2)(a)” insert “, (2)(aa),”.

Schedule 1

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

13 Page 21, line 6, at end insert –

“() After subsection (1)(d) insert –

“(da) local authority secured provision made under section 15ZA of the Education Act 1996 (duty in respect of education and training for persons over compulsory school age: England).”

14 Page 21, line 7, at end insert –

“(4) After subsection (5) insert –

“(5A) The Institute for Apprenticeships and Technical Education, in performing its functions, must have regard to the need to promote equality of opportunity in connection with access to, and participation in, education or training provided in a form specified in subsection (6).”

15 Page 21, line 7, at end insert –

“() After subsection (5) insert –

“(5A) In the exercising of its functions, the Institute must cooperate with –

- (a) Ofqual,
- (b) Ofsted,
- (c) The Office for Students,
- (d) The Skills Funding Agency, and

any other body identified by the Secretary of State as having an interest in the delivery or monitoring of apprenticeships.”

16 Page 21, line 13, at end insert –

“() After subsection (6), insert –

“(6A) In performing its functions, the Institute must make provision to ensure that those undertaking education, training or apprenticeships as specified within subsection (6) have representation within its structures, which may include but shall not be limited to establishing –

Schedule 1 - continued

- (a) a panel of persons undertaking approved English apprenticeships to inform and advise the Board of the Institute; and
- (b) a panel of persons undertaking study towards approved technical education qualifications to inform and advise the Board of the Institute.””

LORD LUCAS

- 17 Page 23, line 1, after “outcomes” insert “, including at least one recognised technical qualification,”

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

- 18 Page 23, line 6, at end insert “and must include –
- (a) a number of employers who, taken together, comprise a broad range of employer types within the given occupation or occupations, and
 - (b) at least one person engaged in delivering relevant education linked to the standard being assessed.”

- 19 Page 24, line 6, leave out “as it considers appropriate”

- 20 Page 25, line 23, at end insert –
- “(1A) A technical education qualification approved under this section, which is undertaken by a person over compulsory school age but under 19, must support the person’s entitlement to the core entitlement under section 17C of the Education Act 1996 (the core entitlement).”

BARONESS GARDEN OF FROGNAL

- 21 Page 25, line 35, leave out from beginning to end of line 13 on page 26

LORD LUCAS

- 22 Page 25, line 37, leave out “the qualification to which it considers section A2IA” and insert “relevant standards or common qualification criteria”

- 23 Page 25, line 42, leave out “transferred” and insert “assigned”

BARONESS WOLF OF DULWICH

- 23A★ Page 26, line 31, at end insert –
- “() The Institute may, if it considers it appropriate, create a class or classes of approved technical education qualifications at a given level or levels, all of which bear a common name or label, as is the case for GCSEs or A-Levels.
 - () The Institute may assign that name or label to specific approved technical qualifications, but is not obliged to do so.”

Schedule 1 - continued

BARONESS GARDEN OF FROGNAL

24 Page 27, line 29, at end insert “which will replace the Ofqual Regulated Qualifications Framework”

25 Page 28, leave out lines 4 to 14 and insert –
 “() The originator of the technical education qualification, and parties entitled to a right or interest in any copyright in those documents, shall retain full ownership of the copyright for a period of 5 years from the date of first registration, unless the parties agree to licence or sell the intellectual property to the Institute.”

LORD LUCAS

26 Page 28, line 6, leave out “a relevant course document is” and insert “relevant standards or common qualification criteria are”

27 Page 28, line 7, leave out from “section,” to end of line 8 and insert “retained by the Institute at the time the approval is given”

28 Page 28, line 9, leave out “another person” and insert “other persons”

29 Page 28, line 10, leave out “another person” and insert “other persons”

30 Page 28, leave out lines 12 to 14

BARONESS GARDEN OF FROGNAL

LORD WATSON OF INVERGOWRIE

31 Page 28, leave out lines 27 to 32 and insert –
 “(b) about permission for the use of the DfE logo and standard wording on technical education certificates.”

LORD LUCAS

32 Page 28, line 32, at end insert –
 “(d) for communicating, and securing the means of communicating, with any person who it appears to the Secretary of State may be entitled to a technical education certificate;
 (e) for permitting a person in receipt of a technical education certificate to signify this by the use of letters or words appended to his or her name.”

LORD NASH

33 Page 28, line 37, leave out from beginning to end of line 13 on page 29 and insert –
 “**40AA Sharing of information by or with the Institute**
 (1) The Institute for Apprenticeships and Technical Education may disclose information to a relevant person for the purpose of a relevant function of that person.

Schedule 1 - continued

- (2) For disclosure of information by the Institute for the purposes of its own functions, see paragraph 10 of Schedule A1.
- (3) A relevant person may disclose information to the Institute for the purpose of—
 - (a) a function of the Institute, or
 - (b) a relevant function of that person.
- (4) In this section “relevant person” means—
 - (a) Ofqual,
 - (b) the OfS,
 - (c) Ofsted, or
 - (d) a prescribed person.
- (5) In this section “relevant function” means—
 - (a) in relation to Ofqual, the OfS or Ofsted, a function of that body, so far as the function relates to England;
 - (b) in relation to a prescribed person, a prescribed function of that person, so far as the function relates to England.
- (6) In this section—
 - “Ofqual” means the Office of Qualifications and Examinations Regulation;
 - “OfS” means the Office for Students;
 - “Ofsted” means—
 - (a) the Office for Standards in Education, Children’s Services and Skills, and
 - (b) Her Majesty’s Chief Inspector of Education, Children’s Services and Skills.
- (7) Regulations under this section prescribing functions of a person may prescribe all of the person’s functions.”

34 Page 29, line 13, at end insert—

“27A In section 40D(3)(interpretation of Part 1A)—

- (a) the words from “affects” to the end become paragraph (a);
- (b) after that paragraph insert—
 - “(b) authorises the disclosure of any information in contravention of any provision made by or under any Act which prevents disclosure of the information.””

LORD LUCAS

34A Page 29, line 14, at end insert—

- “() After subsection (1)(j) insert—
 - “(k) schools;
 - (l) persons involved in recruiting persons to undertake education or training.””

Schedule 1 - continued

LORD NASH

35 Page 29, line 33, at end insert –

“29A In section 262(6)(orders and regulations subject to affirmative procedure), after paragraph (aa) insert –
“(aza) regulations under section 40AA;”. ”

After Clause 6

LORD NASH

36 Insert the following new Clause –

“Records etc

- (1) The Secretary of State may by regulations make provision for or in connection with –
 - (a) the delivery to the registrar of companies of documents that relate to the insolvency of further education bodies;
 - (b) the registrar’s function of keeping records of information contained in such documents under section 1080(1) of the Companies Act 2006;
 - (c) the publication of, or access to, those records or related information.
- (2) The regulations may, in particular, provide for any provision made by or under the following sections of the Companies Act 2006 to apply (with or without modifications) in relation to those documents or records.

Provision of Companies Act 2006	Description
sections 29 and 30	copies of resolutions etc to be forwarded to the registrar
section 859K	registration of enforcement of security
sections 1077 and 1079	public notice of receipt of certain documents
sections 1081, 1084 and 1085 to 1091	keeping and inspection of register of companies
sections 1093 to 1097	correction or removal of material on companies register
section 1104	documents relating to Welsh companies
sections 1112 to 1113	supplementary provisions

- (3) The power under subsection (1) includes power –
 - (a) to impose requirements on a person who delivers a document to the registrar in relation to the insolvency of a further education body to provide supplementary information;
 - (b) to confer power on the registrar to make rules in accordance with section 1117 of the Companies Act 2006 imposing such requirements.
- (4) Provision made under this section is in addition to any applicable provision made by Part 35 of the Companies Act 2006 or elsewhere.

After Clause 6 - continued

- (5) Regulations under this section are subject to the affirmative resolution procedure.
- (6) Section 1114(1) of the Companies Act 2006 (meaning of document etc) applies for the purposes of this section.”

Clause 13

BARONESS WOLF OF DULWICH

- 36A★ Page 7, line 26, after “body” insert “or training provider offering publicly funded apprenticeship training or offering publicly funded education or training for students aged 18 or over,”

Clause 14

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

- 37 Page 7, line 38, at end insert –
“() minimise the risk to a local community of a long-term loss of technical and further education provision.”

- 38 Page 8, line 4, at end insert –
“(3) Before an education administrator may perform functions specified in subsection (2), they must ensure an appropriate assessment is made and published of the impact of performing such functions, including, but not restricted, to –
 - (a) the impact on the quality of education provided to existing students of the further education body;
 - (b) the capacity of another body or institution to undertake any additional functions or provide education to additional students;
 - (c) the infrastructure of the local area, in particular transport;
 - (d) the ability of students to travel to another body or institution; and
 - (e) any financial impact on those students, including the cost of travel incurred by students to attend another body or institution, and steps to mitigate those impacts.
- (4) The Secretary of State must make regulations to specify suitable bodies for making the assessments outlined in subsection (3).
- (5) Regulations made under subsection (4) –
 - (a) must be made by statutory instrument; and
 - (b) are subject to annulment in pursuance of a resolution of either House of Parliament.”

- 39 Page 8, line 4, at end insert –
“(3) The education administrator must not make any decisions in respect of subsection (2) without first consulting –
 - (a) existing students of the further education body;

Clause 14 - continued

- (b) existing staff of the further education body;
- (c) all recognised trade unions at the further education body.”

Clause 15

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

- 40 Page 8, line 11, at end insert “, and has relevant experience and knowledge of the further education sector.”

Clause 18

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

- 41 Page 9, line 15, at end insert –
“() suspend the Office for Students' protection action for students.”

Clause 22

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

- 42 Page 10, line 6, leave out “for the” and insert “with the primary”
- 43 Page 10, line 7, leave out “(if possible)”
- 44 Page 10, line 7, at end insert –
“() The education administrator may, in performing his or her functions for the purpose of achieving the objective of the education administration, request information, advice or guidance from practitioners with an understanding of education regarding the management of a further education body.”

THE EARL OF LISTOWEL

- 45 Page 10, line 10, after “of” insert –
“(a) existing students who are eligible, relevant or former relevant children,
and
(b) ”
- 46 Page 10, line 10, at end insert –
“() In subsection (3)(a) “eligible, relevant or former relevant children” is to be read in accordance with sections 23A and 23C and Part II of Schedule 2 of the Children Act 1989.”

Schedule 2

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

- 47 Page 30, line 39, at end insert –
“3A The education administrator may not transfer assets of any further education body to a for-profit private company where he or she considers that more than half of the funding of the acquisition of the asset came from public funds.”

Schedule 3

LORD NASH

- 48 Page 34, line 34, after “authority,” insert –
“() to the director of children’s services at the local authority or combined authority in whose area the relevant institution is based, and to any other director of children’s services that the education administrator thinks appropriate,”
- 49 Page 34, line 44, at end insert –
“() to any director of children’s services to whom the statement of proposals was sent under paragraph 49,”
- 50 Page 39, line 38, at end insert –
“““combined authority” means an authority established under section 103(1) of the Local Democracy, Economic Development and Construction Act 2009;”,
““director of children’s services” means –
(a) in respect of a local authority, a person appointed under section 18 of the Children Act 2004;
(b) in respect of a combined authority, a person appointed to discharge functions corresponding to those of a person appointed under section 18 of the Children Act 2004;”,”
- 51 Page 40, line 12, at end insert –
“““local authority” has the meaning given in section 65 of the Children Act 2004;”,”

Schedule 4

LORD NASH

- 52 Page 42, line 28, after “authority,” insert –
“() to the director of children’s services at the local authority or combined authority in whose area the relevant institution is based, and to any other director of children’s services that the education administrator thinks appropriate,”
- 53 Page 42, line 38, at end insert –
“() to any director of children’s services to whom the statement of proposals was sent under paragraph 49,”

Schedule 4 - continued

- 54 Page 47, line 33, at end insert –
 “““combined authority” means an authority established under section 103(1) of the Local Democracy, Economic Development and Construction Act 2009;”,
 ““director of children’s services” means –
 (a) in respect of a local authority, a person appointed under section 18 of the Children Act 2004;
 (b) in respect of a combined authority, a person appointed to discharge functions corresponding to those of a person appointed under section 18 of the Children Act 2004;”,”

- 55 Page 47, line 45, at end insert –
 “““local authority” has the meaning given in section 65 of the Children Act 2004;”,”

Clause 28

LORD WATSON OF INVERGOWRIE
 LORD HUNT OF KINGS HEATH
 BARONESS WOLF OF DULWICH

- 56 Page 13, line 2, at end insert –
 “() Sums guaranteed under subsection (1) shall include statutory pension obligations payable to staff employed by a further education body subject to an education administration order.”

Clause 37

LORD WATSON OF INVERGOWRIE
 LORD HUNT OF KINGS HEATH

- 57 Page 18, line 14, at end insert –
 “() The Secretary of State must ensure that the list of disqualified officers is made publicly available.”

LORD NASH

- 58 Leave out Clause 37 and insert the following new Clause –

“Disqualification of officers

In the Company Directors Disqualification Act 1986, after section 22F insert –

“22G Application of Act to further education bodies

- (1) This Act applies to further education bodies as it applies to companies.
 (2) Accordingly, in this Act –
 (a) references to a company are to be read as including references to a further education body;
 (b) references to a director or an officer of a company are to be read as including references to a member of a further education body;

Clause 37 - continued

- (c) any reference to the Insolvency Act 1986 is to be read as including a reference to that Act as it applies to further education bodies.
- (3) As they apply in relation to further education bodies, the provisions of this Act have effect with the following modifications—
 - (a) in section 2(1), the reference to striking off is to be read as including a reference to dissolution;
 - (b) sections 9A to 9E are to be disregarded;
 - (c) references to any of sections 9A to 9E are to be disregarded.
- (4) In this section—
 - “further education body” means—
 - (a) a further education corporation, or
 - (b) a sixth form college corporation;
 - “further education corporation” means a body corporate that—
 - (a) is established under section 15 or 16 of the Further and Higher Education Act 1992, or
 - (b) has become a further education corporation by virtue of section 33D or 47 of that Act;
 - “sixth form college corporation” means a body corporate—
 - (a) designated as a sixth form college corporation under section 33A or 33B of the Further and Higher Education Act 1992, or
 - (b) established under section 33C of that Act.”

Clause 38

BARONESS GARDEN OF FROGNAL
LORD STOREY

59

Page 19, line 4, at end insert—

- “(2A) Information given under subsections (1) and (2) may include, but is not limited to, information related to—
- (a) the quality of further education courses provided;
 - (b) the diversity of persons entering further education with regard to gender and ethnicity; and
 - (c) the geographical location of the home of persons relative to the further education body that they attend.”

After Clause 38

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

60 Insert the following new Clause—

“Duty to have regard to the contribution of the technical and further education sectors

In discharging, through the provisions established or amended by this Act, its responsibility to ensure a high quality of apprenticeship programmes and of technical and further education, the Government must have full regard to the need to—

- (a) promote and support the technical and further education sectors in helping to address skills shortages, increase social mobility and increase productivity;
- (b) ensure a high quality of apprenticeship programmes;
- (c) support the financial stability and good governance of further education bodies;
- (d) support good quality careers advice.”

LORD STOREY
BARONESS GARDEN OF FROGNAL

61 Insert the following new Clause—

“Further education colleges: careers advice

- (1) In carrying out inspections of further education colleges, Ofsted has a duty to take into account the careers advice provided to students by colleges.
- (2) Ofsted may only give a good or outstanding rating to a college if it considers that the careers advice provided by the college is of a good or outstanding standard.”

THE EARL OF LIVERPOOL
BARONESS GARDEN OF FROGNAL

62 Insert the following new Clause—

“Duty on the Institute to ensure the promotion of soft skills

- (1) The Institute must ensure that the teaching of soft skills is offered by persons, organisations, or bodies as part of the offer, or provision, of-
 - (a) further education qualifications;
 - (b) technical education qualifications; and
 - (c) apprenticeships.
- (2) For the purposes of this section, “soft skills” means a combination of interpersonal skills, social skills, communication skills, and character traits and attitudes that enable people to work well with others, and achieve goals.”

After Clause 38 - continuedBARONESS GARDEN OF FROGNAL
LORD STOREY

63 Insert the following new Clause –

“Refund of VAT to further education bodies

- (1) This section applies where –
 - (a) VAT is chargeable on –
 - (i) the supply of goods or services to a further education body,
 - (ii) the acquisition of any goods from another member State by a further education body, or
 - (iii) the importation of any goods from a place outside the member States by a further education body, and
 - (b) the supply, acquisition or importation is not for the purposes of any business carried on by the further education body.
- (2) The Commissioners shall, on a claim made by a further education body at such time and in such form and manner as the Commissioners may determine, refund to that body the amount of VAT so chargeable.
- (3) Subject to subsection (4), the claim must be made before the end of the period of 4 years beginning with the day on which the supply is made or the acquisition or importation takes place.
- (4) If the Commissioners so determine, the claim period is such shorter period beginning with that day as the Commissioners may determine.
- (5) Subsection (6) applies where goods or services supplied to, or acquired or imported by, a further education body cannot be conveniently distinguished from goods or services supplied to, or acquired or imported by, it for the purpose of a business carried on by that body.
- (6) The amount to be refunded under this section is the amount that remains after deducting from the whole of the VAT chargeable on any supply to, or acquisition or importation by, the further education body such proportion of that VAT as appears to the Commissioners to be attributable to the carrying on of the business.
- (7) References in this section to VAT do not include any VAT which, by virtue of an order under section 25(7), is excluded from credit under section 25.
- (8) In this section –
 - (a) references to the further education body are to the further education body acting in that capacity, and
 - (b) “Further education body” has the same meaning as in the Technical and Further Education Act 2017 (see section 3 of that Act).”

Before Clause 39

LORD WATSON OF INVERGOWRIE
LORD HUNT OF KINGS HEATH

64 Insert the following new Clause—

“Constitution of further education corporations

- (1) Section 20 of the Further and Higher Education Act 1992 is amended as follows.
- (2) After subsection (4) insert—
 - “(5) An instrument must provide for the role of the Clerk to include providing advice to the corporation with regard to matters including—
 - (a) the operation of its powers,
 - (b) the conduct of its business,
 - (c) matters of governance practice, and
 - (d) general procedural matters.””

Clause 43

LORD NASH

65 Page 20, line 4, leave out “extends” and insert “and section 5 so far as it relates to section 426 of the Insolvency Act 1986 extend”

Technical and Further Education Bill

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23 February 2017
