

**LORDS AMENDMENTS TO THE
EDUCATION AND INSPECTIONS BILL**

[The page and line references are to HL Bill 116, the bill as first printed for the Lords.]

Clause 2

- 1** Page 2, line 11, leave out “powers” and insert “functions”

Clause 6

- 2** Page 4, line 41, after “activities” insert “which are”

- 3** Page 4, line 44, after “activities” insert “which are”

- 4** Page 5, line 6, at end insert—

“() For the purposes of subsection (1)(a)—

(a) “sufficient educational leisure-time activities” which are for the improvement of the well-being of qualifying young persons in the authority’s area must include sufficient educational leisure-time activities which are for the improvement of their personal and social development, and

(b) “sufficient facilities for such activities” must include sufficient facilities for educational leisure-time activities which are for the improvement of the personal and social development of qualifying young persons in the authority’s area.”

Clause 8

- 5** Page 7, line 45, leave out from “include” to end of line 2 on page 8 and insert “prescribed matters”

Clause 19

- 6** Page 14, line 2, at end insert “under this subsection”

- 7** Page 14, line 3, leave out “and”

- 8** Page 14, line 4, leave out “or a foundation special school”

- 9** Page 14, line 6, at end insert—

“() an increase in the number of pupils in any relevant age group,”

- 10 Page 14, line 10, at end insert “, and
 (c) in the case of a foundation special school, it consists of any one or more of the following –
 (i) an enlargement of the premises,
 (ii) an increase in the number of pupils for whom the school is organised to make provision, and
 (iii) a change in the type of special educational needs for which the school is organised to make provision.”
- 11 Page 14, line 24, at end insert –
 “(4A) This section has effect subject to section (*Restriction on power of governing body to publish foundation proposals*).”
- 12 Page 14, line 26, at end insert –
 ““relevant age group” has the same meaning as in SSFA 1998.”

After Clause 19

- 13 Insert the following new Clause –

“Restriction on power of governing body to publish foundation proposals

- (1) The governing body of a school specified in the first column of the Table below may not publish proposals under section 19 for a prescribed alteration of a kind specified in the second column, except with the consent of –
 (a) the trustees of the school, and
 (b) the person or persons by whom the foundation governors are appointed.

TABLE

<i>School</i>	<i>Prescribed alteration</i>
1. A foundation school which, immediately before the commencement date, was a foundation school having a foundation.	A relevant change in the instrument of government.
2. A voluntary school.	A change of category from voluntary controlled school or voluntary aided school to foundation school.
3. A foundation school which, having been a voluntary school immediately before the commencement date, changed category to foundation school on or after that date.	A relevant change in the instrument of government.

(2) For the purposes of this section, a “relevant change” in the instrument of government of a school is a change which results in the majority of governors being foundation governors.

(3) In this section –

“the commencement date” means the day on which this Part comes into force, otherwise than merely for the purpose of enabling orders or regulations to be made;

“prescribed alteration”, in relation to a maintained school, means an alteration prescribed under section 18.”

Clause 21

14 Page 15, line 27, leave out from “foundation” to end of line 28

15 Page 16, line 1, leave out from “foundation” to end of line 2 and insert “or together with both the acquisition of a foundation and a relevant change in the instrument of government”

Clause 23

16 Page 18, line 25, after “by” insert “, or that which may be made by regulations under,”

Clause 24

17 Page 18, line 32, leave out subsection (1) and insert –

“(1) This section applies to any foundation or foundation special school having a foundation if either or both of the following conditions is met.

(1A) Condition A is that the school was established (whether or not as a foundation or foundation special school) in pursuance of proposals falling to be implemented under Schedule 2.

(1B) Condition B is that the school acquired its foundation in pursuance of proposals falling to be implemented under regulations under section 23.”

18 Page 19, line 8, leave out from “which” to “or” in line 9 and insert –

“(i) proposals for the establishment of the school were implemented under Schedule 2, or

(ii) proposals for the acquisition of a foundation, for a relevant change in the instrument of government or for a change of category to foundation school or foundation special school were implemented under regulations under section 23,”

19 Page 19, line 13, at end insert –

“() In subsection (4)(a)(ii) “relevant change”, in relation to the instrument of government of a school, is to be read in accordance with section 21(2).”

Clause 25

20 Page 19, line 40, leave out subsection (3) and insert –

“(3) Regulations under this section may in prescribed cases –

(a) require the governing body to ensure that matters relating to –

- (i) any transfer which may be required by virtue of subsection (2)(b) of section 26, or
 - (ii) any payment which might be required by virtue of subsection (3) or (4) of that section,
- are agreed or determined before the proposals are published, and
- (b) enable or require any such matter to be referred to the adjudicator for determination before the proposals are published.”

Clause 26

- 21** Page 20, line 10, at end insert –
- “(2A) Regulations made by virtue of subsection (2)(b) may make provision about any of the matters mentioned in section 23(5)(a) to (i).”
- 22** Page 20, line 30, leave out subsection (5)
- 23** Page 20, line 37, at end insert –
- “(6A) The implementation of proposals under section 24 is not to be taken as authorising any change in the religious character of the school or the loss of religious character.”

Clause 32

- 24** Page 22, leave out lines 23 to 30 and insert –
- “(1) This section applies to any foundation or foundation special school having a foundation if any one or more of the following conditions is met.
- (1A) Condition A is that the school was established as a foundation or foundation special school in pursuance of proposals falling to be implemented under Schedule 2 to the Education and Inspections Act 2006.
- (1B) Condition B is that the school –
- (a) acquired its foundation, or
 - (b) became a school whose instrument of government provides for the majority of governors to be foundation governors,
- in pursuance of proposals falling to be implemented under regulations under section 23 of that Act.
- (1C) Condition C is that the school changed category from voluntary aided school to foundation school in pursuance of proposals falling to be implemented under regulations under section 23 of that Act and has an instrument of government providing for the majority of governors to be foundation governors.”

Clause 33

- 25** Page 24, leave out line 12
- 26** Page 24, line 18, after “members” insert “of a parent council”
- 27** Page 24, line 21, at end insert –
- “(4A) Regulations –
- (a) must require the majority of members of a parent council to be parent members, and

- (b) may enable a person who is not the parent of a registered pupil to be a member of a parent council if appointed in accordance with the regulations by the parent members.”

28 Page 24, line 30, at end insert –

- “(8) In this section “parent member”, in relation to a parent council, means a member of the council who is the parent of a registered pupil at the school.”

Before Clause 36

29 Insert the following new Clause –

“Staff at foundation or voluntary schools with religious character

- (1) In section 58 of SSFA 1998 (appointment and dismissal of certain teachers at schools with a religious character), omit subsection (4) (which prevents the head teacher of a foundation or voluntary controlled school being a reserved teacher).
- (2) In section 60 of SSFA 1998 (staff at foundation or voluntary school with religious character) –
- (a) in subsection (4), after “(whether foundation or voluntary controlled)” insert “in a case where the head teacher is not to be a reserved teacher”, and
- (b) in subsection (6), after “voluntary aided school” insert “in Wales”.”

Clause 36

30 Page 26, line 11, at end insert –

- “() The governing body of a maintained school shall, in discharging their functions relating to the conduct of the school –
- (a) promote the well-being of pupils at the school, and
- (b) in the case of a school in England, promote community cohesion.”

31 Page 26, line 12, leave out from “discharging” to “have” in line 13 and insert “those functions”

32 Page 26, line 17, at end insert –

- “() In this section “well-being” –
- (a) in relation to a pupils at a school in England, means their well-being so far as relating to the matters mentioned in section 10(2) of the Children Act 2004, and
- (b) in relation to pupils at a school in Wales, means their well-being so far as relating to the matters mentioned in section 25(2) of that Act.”

Clause 39

33 Page 29, line 19, after “bodies” insert “or persons”

34 Page 29, line 33, after “body” insert “or person”

After Clause 40

35 Insert the following new Clause –

“Duty of governing body to implement decisions relating to admissions

- (1) In section 88 of SSFA 1998 (admission authorities and admission arrangements), after subsection (1) insert –
- “(1A) Where the admission authority for a community or voluntary controlled school is the local education authority, it is the duty of the governing body to implement any decision relating to the admission of pupils to the school which is taken by or on behalf of the admission authority.
- (1B) Subsection (1A) does not affect –
- (a) any right of appeal which the governing body may have by virtue of arrangements made in pursuance of section 95(2) (appeals in relation to children to whom section 87(2) applies, other than looked after children in England),
 - (b) any right to refer the matter to the adjudicator which the governing body may have by virtue of section 95A(3) (references to the adjudicator in relation to looked after children in England to whom section 87(2) applies), or
 - (c) the application of section 101(2A) or section 109(2).”
- (2) In section 86(2) of SSFA 1998 (duty to comply with parental preference) for “a local education authority and the governing body of a maintained school” substitute “the admission authority for a maintained school”.
- (3) In section 89C of SSFA 1998 (co-ordinated schemes for admission arrangements) –
- (a) in subsection (3) for “by virtue of this section” substitute “by virtue of section 89B”, and
 - (b) after subsection (3) insert –
- “(3A) Where any decision as to whether a child is to be granted or refused admission to a maintained school is (by virtue of regulations under subsection (3)) made by the local education authority although they are not the admission authority, the governing body of the school must implement the decision.”
- (4) In section 94(1) of SSFA 1998 (responsibility of local authority to make appeal arrangements) in paragraph (b) for the words from the beginning to “the authority” substitute “in a case where the governing body of a community or voluntary controlled school maintained by the authority are the admission authority”.

After Clause 41

36 Insert the following new Clause –

“Admission arrangements for schools with religious character: consultation and objections

In section 89 of SSFA 1998 (procedure for determining admission arrangements) in subsection (2) –

- (a) omit the “and” at the end of paragraph (c), and
- (b) after paragraph (d) insert “and

- (e) in the case of a foundation or voluntary school which has a religious character for the purposes of Part 2, such body or person representing the religion or religious denomination in question as may be prescribed.” ”

Clause 42

37 Page 31, leave out lines 46 to 48 and insert –

“(1) Where in accordance with section 90(8) the admission authority for a maintained school in England have revised any provisions of admission arrangements for a school year, this section applies except to the extent that the adjudicator or the Secretary of State determined under section 90(5B)(bb), in relation to any change required, that this section was not to apply.”

38 Page 32, line 4, at end insert –

““the required number” means such number as may be prescribed or such lesser number as is specified by the adjudicator or the Secretary of State under section 90(5B)(bb) in relation to a particular change.”

39 Page 32, line 7, leave out “a prescribed” and insert “the required”

Clause 43

40 Page 32, line 45, after “otherwise” insert –

“(bb) if, in relation to a maintained school in England, he considers that any change required ought not to be protected under section 90A for the number of school years prescribed under section 90A(2), that section 90A is not to apply to that change or that the change will be protected only for such lesser number of school years as he may specify,”

41 Page 33, line 1, leave out “and (b)” and insert “, (b) and (bb)”

After Clause 48

42 Insert the following new Clause –

“Schools with pre-1998 arrangements for selection by ability or aptitude

- (1) Section 100 of SSFA 1998 (permitted selection: pre-existing arrangements) is amended as follows.
- (2) In subsection (1) for the words from “so long as” to the end of the subsection substitute “so long as –
 - (a) the proportion of selective admissions in any relevant age group does not exceed the permitted proportion (as defined by subsection (1A)), and
 - (b) there is no significant change in the basis of selection.”
- (3) After subsection (1) insert –

“(1A) In subsection (1)(a), “the permitted proportion”, in relation to any relevant age group, means the lowest proportion of selective

admissions provided for by the school's admission arrangements at any time since the beginning of the 1997-1998 school year." "

Clause 49

- 43 Page 38, line 29, leave out "subsection (2)" and insert "subsections (2) and (2A)"
- 44 Page 39, line 11, leave out "make" and insert "introduce"
- 45 Page 39, line 12, at end insert "(1) or"

Before Clause 50

- 46 Insert the following new Clause –

“Right of sixth-form pupils to be excused from attendance at religious worship

- (1) Section 71 of SSFA 1998 (which, in relation to religious education and attendance at religious worship, makes provision for exceptions and special arrangements, and for special schools) is amended as follows.
- (2) For subsection (1) substitute –
 - “(1) If the parent of a pupil at a community, foundation or voluntary school requests that he may be wholly or partly excused from receiving religious education given at the school in accordance with the school's basic curriculum, the pupil shall be so excused until the request is withdrawn.
 - (1A) If the parent of any pupil at a community, foundation or voluntary school other than a sixth-form pupil requests that he may be wholly or partly excused from attendance at religious worship at the school, the pupil shall be so excused until the request is withdrawn.
 - (1B) If a sixth-form pupil requests that he may be wholly or partly excused from attendance at religious worship at a community, foundation or voluntary school, the pupil shall be so excused.”
- (3) In subsection (2), for “subsection (1)” substitute “subsections (1) to (1B)”.
- (4) In subsection (3), after “subsection (1)” insert “or (1A)”.
- (5) In subsection (5), after “voluntary school” insert “and is not a sixth-form pupil”.
- (6) After subsection (5) insert –
 - “(5A) Where a sixth-form pupil who is a boarder at a community, foundation or voluntary school requests that he be permitted –
 - (a) to receive religious education in accordance with the tenets of a particular religion or religious denomination outside school hours, or
 - (b) to attend worship in accordance with such tenets on Sundays or other days exclusively set apart for religious observance by the religious body to which the pupil belongs,
 the governing body shall make arrangements for giving the pupil reasonable opportunities for doing so.”

- (7) In subsection (6), after “subsection (5)” insert “or (5A)”.
- (8) For subsection (7) substitute –
- “(7) Regulations shall make provision for ensuring that, so far as practicable, every pupil attending a community or foundation special school –
- (a) receives religious education unless withdrawn from receiving such education in accordance with the wishes of his parent, and
- (b) attends religious worship unless withdrawn from attendance at such worship –
- (i) in the case of a sixth-form pupil, in accordance with his own wishes, and
- (ii) in any other case, in accordance with the wishes of his parent.”
- (9) After subsection (7) insert –
- “(8) In this section “sixth-form pupil” means any pupil who –
- (a) has ceased to be of compulsory school age, and
- (b) is receiving education suitable to the requirements of pupils over compulsory school age.””

47 Insert the following new Clause –

“Charges for music tuition

- (1) In section 451 of EA 1996 (prohibition of charges for provision of education) for subsection (3) substitute –
- “(3) Regulations may prescribe circumstances in which subsection (2) does not apply in relation to tuition in singing or in playing a musical instrument.”
- (2) In section 456 of EA 1996 (regulation of permitted charges), in subsection (6), after “tuition in” insert “singing or in”.

Clause 60

48 Page 45, line 43, leave out “in relation to a voluntary aided school”

49 Page 45, line 44, at end insert –

- “() the local education authority,
() the governing body of the school,”

50 Page 46, line 1, after first “of” insert “a foundation or voluntary school which is”

51 Page 46, line 2, leave out from “authority” to end of line 3 and insert “, and

- (b) in the case of any other foundation or voluntary school, the person or persons by whom the foundation governors are appointed.”

Clause 61

52 Page 46, line 45, leave out from “school” to end of line 46 and insert “the person or persons by whom the foundation governors are appointed,”

Clause 70

- 53 Page 56, line 8, leave out “and 11” and insert “, 11 and 11A”

Clause 81

- 54 Page 65, line 18, leave out “a sample of the”

Clause 84

- 55 Page 67, line 37, leave out “normal school hours” and insert “school sessions”

Clause 85

- 56 Page 68, line 5, leave out “normal school hours” and insert “school sessions”

- 57 Page 68, line 14, leave out “normal school hours” and insert “school sessions”

- 58 Page 68, line 19, at end insert –

“() The additional conditions set out in subsection (3)(a), (c) and (d) do not apply in the case of a detention during a break between school sessions on the same day.”

Clause 96

- 59 Page 75, line 30, leave out from “means” to end of line 31 and insert “any time during a school session of the school referred to in subsection (1)(a) or during a break between sessions of that school on the same day”

After Clause 99

- 60 Insert the following new Clause –

“Penalty notices: amendments of Police Reform Act 2002

- (1) The Police Reform Act 2002 (c. 30) is amended as follows.
- (2) In paragraph 1(2) of Schedule 4 (powers of community support officers to issue fixed penalty notices), after paragraph (aa) insert –
 - “(ab) the power of a constable to give a penalty notice under section 98 of the Education and Inspections Act 2006 (penalty notice in respect of presence of excluded pupil in public place);”.
- (3) In paragraph 1(4) of that Schedule, after “sub-paragraph (2)(aa)” insert “or (ab)”.
- (4) In paragraph 1(2) of Schedule 5 (powers of accredited persons to issue fixed penalty notices), after paragraph (ab) insert –
 - “(ac) the power of a constable to give a penalty notice under section 98 of the Education and Inspections Act 2006 (penalty notice in respect of presence of excluded pupil in public place);”.
- (5) In paragraph 1(4) of that Schedule, after “sub-paragraph (2)(ab)” insert “or (ac)”.

- (6) In paragraph 2(4) of that Schedule, after “paragraph 1(2)(ab)” insert “or (ac)”.

Clause 100

- 61 Page 78, line 31, leave out from “means” to end of line 32 and insert “any time during a school session of the school referred to in paragraph (b) of that subsection or during a break between sessions of that school on the same day”

Before Clause 146

- 62 Insert the following new Clause –

“Duty to report on contribution of certain schools to community cohesion

In section 5 of EA 2005 (duty to inspect certain schools in England at particular intervals), in subsection (5) (which lists matters on which the Chief Inspector is under a general duty to report) –

- (a) omit the word “and” at the end of paragraph (e), and
- (b) at the end insert –
 - “(g) the contribution made by the school to community cohesion.”

Clause 151

- 63 Page 104, line 14, leave out from beginning to “is” in line 15 and insert “Regulations may enable the Chief Inspector to determine that a condition prescribed for the purposes of subsection (2)(c) by virtue of subsection (3)”

After Clause 155

- 64 Insert the following new Clause –

“Power of members of staff of further education institutions to use force

After section 85B of the Further and Higher Education Act 1992 (c. 13) insert –

“85C Power of members of staff to use force

- (1) A member of the staff of an institution which is within the further education sector may use such force as is reasonable in the circumstances for the purpose of preventing a student at the institution from doing (or continuing to do) any of the following, namely –
 - (a) committing any offence,
 - (b) causing personal injury to, or damage to the property of, any person (including the student himself), or
 - (c) prejudicing the maintenance of good order and discipline at the institution or among any of its students, whether during a teaching session or otherwise.
- (2) The power conferred by subsection (1) may be exercised only where –

- (a) the member of the staff and the student are on the premises of the institution, or
 - (b) they are elsewhere and the member of the staff has lawful control or charge of the student.
- (3) Subsection (1) does not authorise anything to be done in relation to a student which constitutes the giving of corporal punishment within the meaning of section 548 of the Education Act 1996.
- (4) The powers conferred by subsection (1) are in addition to any powers exercisable apart from this section and are not to be construed as restricting what may lawfully be done apart from this section.
- (5) In this section, “member of the staff”, in relation to an institution within the further education sector, means any person who works at that institution whether or not as its employee.””

After Clause 156

65 Insert the following new Clause –

“Consultation with young pupils

In section 176 of EA 2002 (consultation with pupils), in subsection (3) –

- (a) in the definition of “maintained school”, for “or a community or foundation special school” substitute “, a community or foundation special school or a maintained nursery school”, and
- (b) omit the definition of “pupil” (which excludes children who are being provided with nursery education).”

After Clause 157

66 Insert the following new Clause –

“Prohibition on participation in management of independent school

After section 167 of EA 2002 insert –

“Prohibition on participation in management of independent schools

167A Prohibition on participation in management of independent schools

- (1) The appropriate authority may direct that a person –
 - (a) may not take part in the management of an independent school;
 - (b) may take part in the management of an independent school only in circumstances specified in the direction;
 - (c) may take part in the management of an independent school only if conditions specified in the direction are satisfied.
- (2) A direction under this section may be given in respect of a person only on one or more prescribed grounds connected with the suitability of persons to take part in the management of an independent school.

- (3) Regulations may prescribe the procedure for giving a direction under this section (including provision about notification of persons who are subject to directions).
- (4) The appropriate authority may vary or revoke a direction under this section in prescribed cases.
- (5) Regulations may prescribe the grounds on which a person subject to a direction under this section may seek to have it varied or revoked under subsection (4).
- (6) In this section and sections 167B to 167D, “appropriate authority” means—
 - (a) in relation to England, the registration authority or such other public authority as may be prescribed;
 - (b) in relation to Wales, the registration authority or such other public authority as may be prescribed.

167B Directions under section 167A: appeals

- (1) A person in respect of whom a direction has been given under section 167A may appeal to the Tribunal established under section 9 of the Protection of Children Act 1999—
 - (a) against the decision to give the direction;
 - (b) against a decision not to vary or revoke the direction.
- (2) Regulations may—
 - (a) provide that the Tribunal may not entertain an appeal under this section insofar as the appellant’s case is inconsistent with his having been convicted of an offence;
 - (b) prescribe circumstances in which the Tribunal shall allow an appeal under this section;
 - (c) prescribe the powers available to the Tribunal on allowing an appeal under this section.

167C Directions under section 167A: information

- (1) The Secretary of State may provide to the appropriate authority any information relating to a person which is held by the Secretary of State in connection with his functions—
 - (a) under the Protection of Children Act 1999, except section 9 (the Tribunal);
 - (b) under Part 7 of the Care Standards Act 2000;
 - (c) under sections 142 to 144 of this Act;
 - (d) as registration authority under this Part.
- (2) The National Assembly for Wales may provide to the appropriate authority any information relating to a person which is held by the Assembly in connection with its functions as registration authority under this Part.
- (3) The Independent Barring Board may provide to the appropriate authority any information relating to a person which is held by the Board in connection with its functions and which appears to it to be relevant to the exercise by the appropriate authority of its functions under sections 167A to 167C.

- (4) The appropriate authority may provide to the Independent Barring Board, the General Teaching Council for England, the General Teaching Council for Wales, the Secretary of State or the National Assembly for Wales any information relating to a person which is held by the appropriate authority in connection with its functions under section 167A.

167D Directions under section 167A: notification

- (1) Where the appropriate authority in relation to England gives a direction under section 167A(1), or varies or revokes any such direction, it must notify –
- (a) the registration authority in relation to England (unless the appropriate authority is the registration authority), and
 - (b) the registration authority in relation to Wales and (if different) the appropriate authority in relation to Wales.
- (2) Where the appropriate authority in relation to Wales gives a direction under section 167A(1), or varies or revokes any such direction, it must notify –
- (a) the registration authority in relation to Wales (unless the appropriate authority is the registration authority), and
 - (b) the registration authority in relation to England and (if different) the appropriate authority in relation to England.”.”

67 Insert the following new Clause –

“Prohibition on participation in management: supplementary

- (1) In section 169 of EA 2002 (unsuitable persons), for the words from “any work” onwards substitute “work of a prescribed kind is subject to a direction, order or decision of a prescribed description made under any prescribed enactment having effect in any part of the United Kingdom”.
- (2) In section 113BA of the Police Act 1997 (c. 50) (suitability information relating to children), at the end of subsection (2) insert –
- “(e) whether the applicant is subject to a direction under section 167A of the Education Act 2002 (prohibition on participation in management of independent school).”
- (3) In section 9 of the Protection of Children Act 1999 (c. 14) (the Tribunal), in subsection (2) after paragraph (b) insert –
- “(ba) on an appeal under section 167B of the Education Act 2002;”.”

68 Insert the following new Clause –

“Prohibition on participation in management: transitional provision

- (1) A person falls within this subsection if –
- (a) immediately before the relevant day he is subject to a direction under section 142 of EA 2002 given on grounds prescribed for the purposes of this section, and
 - (b) prescribed conditions (which may include conditions relating to decisions taken on or after the relevant day by the Independent

Barring Board under the Safeguarding Vulnerable Groups Act 2006) are satisfied in relation to him.

- (2) Regulations may provide that, as from a time specified in or determined in accordance with the regulations, persons who fall within subsection (1) are to be treated for prescribed purposes as if the direction given under section 142 of EA 2002 were a direction given by the appropriate authority under section 167A of that Act.
- (3) Regulations may make provision in connection with the determination of any appeal under subsection (1) of section 144 of EA 2002, or application for review under subsection (2) of that section, which is pending on the relevant day.
- (4) Regulations under subsection (3) may, in particular, provide for an appeal, or application for review, under section 144 of EA 2002 to be treated as an appeal under section 167B of that Act.
- (5) In this section –
 - “appropriate authority” has the same meaning as in section 167A of EA 2002;
 - “prescribed” means prescribed by regulations under this section;
 - “regulations” means regulations made –
 - (a) in relation to England, by the Secretary of State, or
 - (b) in relation to Wales, by the Assembly;
 - “the relevant day” means the day on which section 167A of EA 2002 comes into force.”

After Clause 158

69 Insert the following new Clause –

“Special educational needs co-ordinators

In section 317 of EA 1996 (duties of governing body or LEA in relation to pupils with special educational needs) after subsection (3) insert –

- “(3A) The governing body of a community, foundation or voluntary school or a maintained nursery school shall designate a member of the staff at the school (to be known as the “special educational needs co-ordinator”) as having responsibility for co-ordinating the provision for pupils with special educational needs.
- (3B) Regulations may –
 - (a) require the governing bodies of schools falling within subsection (3A) to ensure that special educational needs co-ordinators have prescribed qualifications or prescribed experience (or both), and
 - (b) confer on the governing bodies of those schools other functions relating to special educational needs co-ordinators.”

Clause 164

70 Page 116, line 2, leave out “this section” and insert “section 163”

Clause 165

- 71 Page 116, line 37, at end insert –
“section (*Charges for music tuition*) (charges for music tuition);”
- 72 Page 116, line 42, at end insert –
“section (*Special educational needs co-ordinators*) (Special educational needs co-ordinators);”

Clause 167

- 73 Page 117, line 21, after “provisions)” insert –
“(aa) an order under section 153 (power to repeal references to “local education authority” and “children’s services authority” etc) which amends or repeals any provision of a public general Act,”

Clause 174

- 74 Page 120, line 10, at end insert –
“in section (*Staff at foundation or voluntary schools with religious character*) (staff at foundation or voluntary schools with religious character), subsections (1) and (2)(a);”
- 75 Page 120, line 13, at end insert –
“section (Duty of governing body to implement decisions relating to admissions) (duty of governing body to implement decisions relating to admissions);”
- 76 Page 120, line 14, at end insert –
“section (*Admission arrangements for schools with religious character: consultation and objections*) (admission arrangements for schools with religious character: consultation and objections);”
- 77 Page 120, line 15, at end insert –
“section (*Schools with pre-1998 arrangements for selection by ability or aptitude*) (schools with pre-1998 arrangements for selection by ability or aptitude);”
- 78 Page 120, line 15, at end insert –
“section (*Right of sixth-form pupils to be excused from attendance at religious worship*) (right of sixth-form pupils to be excused from attendance at religious worship);”
- 79 Page 120, line 15, at end insert –
“section (*Charges for music tuition*) (charges for music tuition);”
- 80 Page 120, line 22, at end insert –
“section (*Power of members of staff of further education institutions to use force*) (power of members of staff of further education institutions to use force);”
- 81 Page 120, line 24, at end insert –
“section (*Consultation with young pupils*) (consultation with young pupils);”
- 82 Page 120, line 24, at end insert –

“sections (*Prohibition on participation in management of independent schools*) to (*Prohibition on participation in management: transitional provision*) (prohibition on participation in management of independent schools);”

83 Page 120, line 24, at end insert—

“section (*Special educational needs co-ordinators*) (Special educational needs co-ordinators);”

Clause 175

84 Page 121, line 3, after “Act” insert “, other than any amendment made by paragraph 2 of Schedule 10,”

Schedule 2

85 Page 130, line 5, after “12” insert “, sections 15 and 16”

86 Page 133, line 7, leave out sub-paragraph (7)

87 Page 133, line 24, after “paragraphs” insert “A1 to A16 or”

88 Page 133, leave out lines 45 to 47

Schedule 3

89 Page 135, leave out lines 15 and 16 and insert—

“(1) Section 3 of the Diocesan Boards of Education Measure 1991 (transactions for which advice or consent of the Board is required) is amended as follows.

(2) In subsection (1)—”

90 Page 135, line 37, at end insert—

“(3) After subsection (1) insert—

“(1A) The governing body of a church school in England shall not, unless it has obtained the consent in writing of the Board for the diocese in which the school is situated, publish proposals under section 19 of the 2006 Act—

(a) where the school is a voluntary school, for a change of category to foundation school, or

(b) where the school is a foundation school, for a change in the instrument of government which results in the majority of governors being foundation governors.

(1B) Subsection (1)(a)(i) does not apply in any case where by virtue of subsection (1A) the consent of the Board is required.”

(4) In subsection (6), for “subsection (2)” substitute “subsection (1A) or (2)”.”

91 Page 137, line 10, after “10” insert “, 11”

92 Page 142, line 8, at end insert—

“27A In section 82 of SSFA 1998 (modification of trust deeds), in subsection (1), for “or the Education Act 2002” substitute “, the Education Act 2002 or the Education and Inspections Act 2006”.”

- 93 Page 142, line 28, after ““promoters”” insert –
 “(i) after “Part II” insert “in relation to Wales”, and
 (ii) “
- 94 Page 142, line 30, leave out from beginning to “in” in line 31 and insert –
 “(1) Schedule 3 to SSFA 1998 (funding of foundation, voluntary and
 foundation special schools) is amended as follows.”
- 95 Page 142, line 45, at end insert –
 “(3) At the beginning of Part 2 insert –
 “*Interpretation of Part*
 2A In this Part of this Schedule “promoters”, in relation to a school
 in England, means persons who are for the purposes of
 Schedule 2 to the Education and Inspections Act 2006 the
 proposers in relation to proposals for the establishment of the
 school.””

Schedule 4

- 96 Page 150, line 3, leave out “A6” and insert “A6A”
- 97 Page 150, line 3, at end insert “and paragraph A22”
- 98 Page 150, line 11, after “the” insert “publicly funded”
- 99 Page 150, line 12, leave out “those proceeds” and insert “the proceeds of disposal”
- 100 Page 150, line 12, at end insert –
 “() For the purposes of this paragraph and paragraphs A3 and A4,
 the “publicly funded proceeds of disposal” means the
 proceeds of disposal which are attributable to the land having
 been acquired or enhanced in value, or both, as the case may
 be, as mentioned in the relevant paragraph or paragraphs of
 sub-paragraph (1) of paragraph A1.”
- 101 Page 150, line 17, at end insert “publicly funded”
- 102 Page 150, line 19, after second “the” insert “publicly funded”
- 103 Page 150, line 30, leave out “(6)” and insert “(6)(a)”
- 104 Page 150, line 32, leave out from “where” to second “are” in line 34 and insert “the
 authority give notice of their objection to the disposal in accordance with sub-
 paragraph (6)(a), the relevant requirements in relation to such a notice”
- 105 Page 150, line 38, leave out from “disposal” to end of line 42 and insert “on or after
 the expiry of the requisite period until the relevant requirements in relation to such
 a notice are met.”
- 106 Page 150, line 42, at end insert –
 “() The “relevant requirements” in relation to a notice given under
 sub-paragraph (6)(a) are met if –
 (a) the adjudicator has approved the disposal on a
 reference made under paragraph A3(1), or

- (b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (8).”

107 Page 150, line 43, leave out from beginning to end of line 13 on page 151 and insert—

“(11) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (6)—

- (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (6)(b);
- (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (6)(c),

the governing body may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.

(12) The “relevant requirements” in relation to a notice given under sub-paragraph (6)(b) are met if—

- (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A3(2), or
- (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (8).

(13) The “relevant requirements” in relation to a notice given under sub-paragraph (6)(c) are met if—

- (a) the “appropriate amount” has been determined in accordance with paragraph A3(3), or
- (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (8).”

108 Page 151, line 20, after second “the” insert “publicly funded”

109 Page 151, line 22, leave out “the proceeds of disposal” and insert “those proceeds”

110 Page 151, line 33, after second “the” insert “publicly funded”

111 Page 151, line 34, leave out “the proceeds of disposal” and insert “those proceeds”

112 Page 151, line 48, at end insert—

“() On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.”

113 Page 151, line 49, leave out from beginning to end of line 5 on page 152 and insert—

“A4 (1) This paragraph applies where the disposal is made.

(1A) The governing body must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.

(1B) Where—

- (a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A2(6)(c), and
 - (b) the “appropriate amount” has been determined in accordance with paragraph A3(3) to be an amount greater than zero,
- the governing body must pay the “appropriate amount” to the authority.”

114 Page 152, line 6, after “remaining” insert “publicly funded”

115 Page 152, line 8, after “remaining” insert “publicly funded”

116 Page 152, line 14, at end insert “publicly funded”

117 Page 152, line 24, after “the” insert “publicly funded”

118 Page 152, leave out line 26 and insert –

“() The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded”

119 Page 152, line 29, leave out from “A3(3),” to end of line 31

120 Page 152, line 32, after “Sub-paragraphs” insert “(1B),”

121 Page 152, line 32, leave out from “paragraph” to end of line 33 and insert “A2(11) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A2(6)(b) or (c)).”

122 Page 152, line 34, leave out from beginning to end of line 28 on page 154

123 Page 154, line 28, at end insert –

“A6A(1) This paragraph applies where –

- (a) the authority gave notice of their objection to the disposal in accordance with paragraph A2(6)(a), and
 - (b) the adjudicator has determined that he does not approve the disposal.
- (2) The governing body may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.
- (3) Before making an application under sub-paragraph (2), the governing body must give the local education authority notice of their intention to make the application.”

124 Page 156, line 24, leave out “A13” and insert “A13A”

125 Page 156, line 24, at end insert “and paragraph A22”

126 Page 156, line 32, after “the” insert “publicly funded”

127 Page 156, line 33, leave out “those proceeds” and insert “the proceeds of disposal”

128 Page 156, line 33, at end insert –

“() For the purposes of this paragraph and paragraphs A10 and A11, the “publicly funded proceeds of disposal” means the

proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1) of paragraph A8.”

- 129** Page 156, line 38, at end insert “publicly funded”
- 130** Page 156, line 40, after second “the” insert “publicly funded”
- 131** Page 157, line 4, leave out “(6)” and insert “(6)(a)”
- 132** Page 157, line 6, leave out from “where” to second “are” in line 8 and insert “the authority give notice of their objection to the disposal in accordance with sub-paragraph (6)(a), the relevant requirements in relation to such a notice”
- 133** Page 157, line 12, leave out from “disposal” to end of line 16 and insert “on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.”
- 134** Page 157, line 16, at end insert –
- “() The “relevant requirements” in relation to a notice given under sub-paragraph (6)(a) are met if –
- (a) the adjudicator has approved the disposal on a reference made under paragraph A10(1), or
- (b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (8).”
- 135** Page 157, line 17, leave out from beginning to end of line 32 and insert –
- “(11) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (6) –
- (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (6)(b);
- (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (6)(c),
- the foundation body may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.
- (12) The “relevant requirements” in relation to a notice given under sub-paragraph (6)(b) are met if –
- (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A10(2), or
- (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (8).
- (13) The “relevant requirements” in relation to a notice given under sub-paragraph (6)(c) are met if –
- (a) the “appropriate amount” has been determined in accordance with paragraph A10(3), or

- (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (8).”
- 136** Page 157, line 39, after second “the” insert “publicly funded”
- 137** Page 157, line 41, leave out “the proceeds of disposal” and insert “those proceeds”
- 138** Page 158, line 2, after second “the” insert “publicly funded”
- 139** Page 158, line 3, leave out “the proceeds of disposal” and insert “those proceeds”
- 140** Page 158, line 17, at end insert –
“() On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.”
- 141** Page 158, leave out lines 18 to 23 and insert –
“A11(1) This paragraph applies where the disposal is made.
(1A) The foundation body must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.
(1B) Where –
(a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A9(6)(c), and
(b) the “appropriate amount” has been determined in accordance with paragraph A10(3) to be an amount greater than zero,
the foundation body must pay the “appropriate amount” to the authority.”
- 142** Page 158, line 24, after “remaining” insert “publicly funded”
- 143** Page 158, line 26, after “remaining” insert “publicly funded”
- 144** Page 158, line 32, at end insert “publicly funded”
- 145** Page 158, line 42, after “the” insert “publicly funded”
- 146** Page 158, leave out line 44 and insert –
“() The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded”
- 147** Page 158, line 47, leave out from “A10(3),” to end of line 49
- 148** Page 159, line 1, after “Sub-paragraphs” insert “(1B),”
- 149** Page 159, line 1, leave out from “paragraph” to end of line 2 and insert “A9(11) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A9(6)(b) or (c)).”
- 150** Page 159, line 3, leave out from beginning to end of line 47 on page 160
- 151** Page 160, line 47, at end insert –
“A13A(1) This paragraph applies where –
(a) the authority gave notice of their objection to the disposal in accordance with paragraph A9(6)(a), and

- (b) the adjudicator has determined that he does not approve the disposal.
- (2) The foundation body may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.
- (3) Before making an application under sub-paragraph (2), the foundation body must give the local education authority notice of its intention to make the application.”
- 152 Page 162, line 40, after “by” insert “the trustees from”
- 153 Page 162, line 40, at end insert “which was land acquired by the governing body”
- 154 Page 163, line 30, after “non-playing” insert “field”
- 155 Page 163, line 34, leave out “A20” and insert “A20A”
- 156 Page 163, line 34, at end insert “and paragraph A22”
- 157 Page 164, line 3, after “the” insert “publicly funded”
- 158 Page 164, line 4, leave out “those proceeds” and insert “the proceeds of disposal”
- 159 Page 164, line 4, at end insert –
- “() For the purposes of this paragraph and paragraphs A17 and A18, the “publicly funded proceeds of disposal” means the proceeds of disposal which are attributable to the land having been acquired or enhanced in value, or both, as the case may be, as mentioned in the relevant paragraph or paragraphs of sub-paragraph (1), (2) or (3) of paragraph A15.”
- 160 Page 164, line 9, at end insert “publicly funded”
- 161 Page 164, line 11, after second “the” insert “publicly funded”
- 162 Page 164, line 21, leave out “(8)” and insert “(8)(a)”
- 163 Page 164, line 23, leave out from “where” to second “are” in line 25 and insert “the authority give notice of their objection to the disposal in accordance with sub-paragraph (8)(a), the relevant requirements in relation to such a notice”
- 164 Page 164, line 28, leave out from “disposal” to end of line 32 and insert “on or after the expiry of the requisite period until the relevant requirements in relation to such a notice are met.”
- 165 Page 164, line 32, at end insert –
- “() The “relevant requirements” in relation to a notice given under sub-paragraph (8)(a) are met if –
- (a) the adjudicator has approved the disposal on a reference made under paragraph A17(1), or
- (b) the authority have withdrawn notice of their objection to the disposal in accordance with sub-paragraph (10).”
- 166 Page 164, leave out lines 33 to 48 and insert –

- “(13) If the authority give either or both of the following notices in relation to the disposal in accordance with sub-paragraph (8) –
- (a) notice of their objection to the proposed use of the publicly funded proceeds of disposal under sub-paragraph (8)(b);
 - (b) notice of their claim to the whole or a part of the publicly funded proceeds of disposal under sub-paragraph (8)(c),
- the trustees may not use the publicly funded proceeds of disposal until the relevant requirements in relation to each notice so given are met.
- (14) The “relevant requirements” in relation to a notice given under sub-paragraph (8)(b) are met if –
- (a) the relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has been determined in accordance with paragraph A17(2), or
 - (b) the authority have withdrawn notice of their objection to the proposed use of the publicly funded proceeds of disposal in accordance with sub-paragraph (10).
- (14A) The “relevant requirements” in relation to a notice given under sub-paragraph (8)(c) are met if –
- (a) the “appropriate amount” has been determined in accordance with paragraph A17(3), or
 - (b) the authority have withdrawn notice of their claim in accordance with sub-paragraph (10).”

167 Page 165, line 10, after “the” insert “publicly funded”

168 Page 165, line 12, leave out from “used”,” to end of line 19 and insert –

- () in sub-paragraph (13) –
 - (i) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”, and
 - (ii) for “use the publicly funded proceeds of disposal” substitute “use the land for purposes not connected with the provision of education in maintained schools”, and
- () in sub-paragraph (14) –
 - (i) for “relevant capital expenditure upon which the publicly funded proceeds of disposal are to be used has” substitute “purposes for which the land is to be used have”, and
 - (ii) for “proposed use of the publicly funded proceeds of disposal” substitute “proposed purposes for which the land is to be used”.”

169 Page 165, line 25, after second “the” insert “publicly funded”

170 Page 165, line 27, leave out “the proceeds of disposal” and insert “those proceeds”

171 Page 165, line 36, after “the” insert “publicly funded”

172 Page 165, line 37, leave out “the proceeds of disposal” and insert “those proceeds”

- 173 Page 165, line 50, at end insert –
“() On a reference under sub-paragraph (1), (2)(b) or (3)(b), the adjudicator may determine the proportion (if any) of the proceeds of disposal that are or will be the publicly funded proceeds of disposal.”
- 174 Page 166, line 5, after “the” insert “publicly funded”
- 175 Page 166, line 7, leave out “the proceeds of disposal” and insert “those proceeds”
- 176 Page 166, leave out lines 10 to 15 and insert –
“A18(1) This paragraph applies where the disposal is made.
(1A) The trustees must notify the authority that the disposal has been made and of the amount of the proceeds of disposal.
(1B) Where –
(a) the authority gave notice of their claim to the whole or a part of the publicly funded proceeds of disposal in accordance with paragraph A16(8)(c), and
(b) the “appropriate amount” has been determined in accordance with paragraph A17(3) to be an amount greater than zero,
the trustees or their successors must pay the “appropriate amount” to the authority.”
- 177 Page 166, line 16, at end insert “publicly funded”
- 178 Page 166, line 19, after “remaining” insert “publicly funded”
- 179 Page 166, line 25, at end insert “publicly funded”
- 180 Page 166, line 35, after “the” insert “publicly funded”
- 181 Page 166, leave out line 37 and insert –
“() The “remaining publicly funded proceeds of disposal” means the amount of the publicly funded”
- 182 Page 166, line 40, leave out from “A17(3),” to end of line 42
- 183 Page 166, line 43, after “Sub-paragraphs” insert “(1B),”
- 184 Page 166, line 43, leave out from “paragraph” to end of line 44 and insert “A16(13) (restriction on use of publicly funded proceeds of disposal where notices given under paragraph A16(8)(b) or (c)).”
- 185 Page 167, line 1, leave out “(1)” and insert “(1A)”
- 186 Page 167, line 3, after ““remaining” insert “publicly funded”
- 187 Page 167, line 10, after “the” insert “publicly funded”
- 188 Page 167, line 15, at end insert “publicly funded”
- 189 Page 167, line 18, leave out from beginning to end of line 6 on page 169
- 190 Page 169, line 6, at end insert –
“A20A(1) This paragraph applies where –
(a) the authority gave notice of their objection to the disposal in accordance with paragraph A16(8)(a), and

- (b) the adjudicator has determined that he does not approve the disposal.
- (2) The trustees may apply to the adjudicator for an order to be made by him requiring the land or any part of the land to be transferred to such local authority as he may specify subject to the payment by that authority of such sum by way of consideration (if any) as he determines to be appropriate.
- (3) Before making an application under sub-paragraph (2), the trustees must give the local education authority notice of their intention to make the application.”
- 191** Page 169, line 25, after “reference” insert “or application”
- 192** Page 169, line 26, leave out “A20” and insert “A20A”
- 193** Page 169, line 27, after “determining” insert “the publicly funded proceeds of disposal or”
- 194** Page 169, line 27, leave out from “amount” to “in” in line 28
- 195** Page 169, line 28, leave out “in accordance with” and insert “for the purposes of”
- 196** Page 169, line 30, leave out “on a reference made under” and insert “for the purposes of”
- 197** Page 169, line 33, at end insert—
- “(3) In addition to having regard to guidance as required under sub-paragraph (1)(b) or (2), a local education authority, a governing body, a foundation body, trustees and the adjudicator, must also have regard, in particular, to the factors mentioned in sub-paragraph (4) in determining any of the following for the purposes of any of paragraphs A2 to A20A—
- (a) the publicly funded proceeds of disposal;
 - (b) the “appropriate amount”;
 - (c) the amount of the consideration (if any) to be paid under paragraph A6A, A13A or A20A.
- (4) The factors referred to in sub-paragraph (3) are—
- (a) in the case of any disposal, the value of the land as at the date of the determination,
 - (b) in the case of any disposal, any enhancement in value of the land attributable to expenditure on the land by the local education authority or a relevant person,
 - (c) in the case of any disposal, any expenditure on the land by a relevant person,
 - (d) in the case of any disposal, any relevant payments made by a relevant person to the local education authority or the Secretary of State,
 - (e) in the case of any disposal, to the extent that they do not fall within paragraph (c) or (d), any payments in respect of the acquisition of the land, and
 - (f) in the case of a disposal falling within paragraph A1(1)(i), paragraph A8(1)(h) or paragraph A15(1)(h) or (k), (2)(a)(iii) or (b), or (3)(a)(ii), the extent to which the proceeds of disposal mentioned in the provision in

question were publicly funded proceeds of disposal as defined for the purposes of paragraph A2, A9 or A16, as the case may be.

- (5) A “relevant person” means –
- (a) in the case of a disposal to which paragraph A2 or A16 applies, the governing body or the trustees of the school in question, and
 - (b) in the case of a disposal to which paragraph A9 applies, the foundation body in question.
- (6) A “relevant payment” means –
- (a) in the case of any disposal, a payment in respect of the current school site or sites to which the land relates,
 - (b) in the case of any disposal, a payment under any of the following provisions –
 - paragraph 2(6) of Schedule 3;
 - paragraph 16(5) of Schedule 6 (including that provision as applied by any enactment);
 - section 60(4) of the Education Act 1996;
 - paragraph 28(5) of Schedule 2 to the Education and Inspections Act 2006 (including that provision as applied by any enactment), and
 - (c) in the case of a disposal of land falling within any of the following provisions –
 - paragraph A1(1)(f) or (g);
 - paragraph A8(1)(e) or (f);
 - paragraph A15(1)(g), (i) or (j),a payment in respect of the grant mentioned in the provision in question.
- (7) The reference in sub-paragraph (5)(a) to the governing body or the trustees of the school in question includes –
- (a) where the school was established in pursuance of proposals published under section 28(2) or 28A(2), the persons who published the proposals,
 - (b) where the school was established in pursuance of proposals published under section 70 of the Education Act 2002 or section 66 of the Education Act 2005 which were made by persons other than a local education authority, the persons by whom the proposals were made, and
 - (c) where the school was established in pursuance of proposals published under any of sections 7, 10 and 11 of the Education and Inspections Act 2006, any persons, other than a local education authority, by whom the proposals were treated for the purposes of Schedule 2 to that Act as having been made.
- (8) The reference in sub-paragraph (5)(b) to the foundation body in question includes –
- (a) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under section 28(2) or 28A(2), the persons who published the proposals,

- (b) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under section 70 of the Education Act 2002 or section 66 of the Education Act 2005 which were made by persons other than a local education authority, the persons by whom the proposals were made, and
- (c) where the school or any of the schools to which the land in question relates was established in pursuance of proposals published under any of sections 7, 10 and 11 of the Education and Inspections Act 2006, any persons, other than a local education authority, by whom the proposals were treated for the purposes of Schedule 2 to that Act as having been made.”

198 Page 169, line 36, leave out “A20” and insert “A17”

199 Page 169, line 47, at end insert –

“() In determining whether to make a reference to the adjudicator under sub-paragraph (1)(a), a relevant person must have regard, in particular, to any guidance given from time to time by the Secretary of State.”

200 Page 169, line 47, at end insert –

- “(3) An order made by the adjudicator on an application under paragraph A6A, A13A or A20A may be varied or revoked by a further order made by him if –
- (a) an application for its variation or revocation is made to him by an appropriate person in relation to the order, and
 - (b) before making the further order, the adjudicator consults such persons as he considers appropriate.
- (4) An “appropriate person” in relation to an order made under paragraph A6A, A13A or A20A means –
- (a) the governing body, the foundation body or the trustees, as the case may be, who applied for the order,
 - (b) the local education authority, or
 - (c) if different from that authority, the local authority to whom land is required to be transferred under the order.
- (5) In determining whether to make an application to the adjudicator under sub-paragraph (3)(a), an appropriate person must have regard, in particular, to any guidance given from time to time by the Secretary of State.”

201 Page 169, line 47, at end insert –

“() Paragraph A22 applies in relation to the further determination by the adjudicator, by virtue of sub-paragraph (1) or (3), of any matter for the purposes of any of paragraphs A2 to A20A as it applies in relation to the original determination of the matter.”

202 Page 173, line 5, at end insert –

- “() In determining whether to make an application to the adjudicator under sub-paragraph (13)(a), a relevant person must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- () Sub-paragraph (11) applies in relation to the making of a further order by virtue of sub-paragraph (13) as it applies in relation to the making of the original transfer order.”
- 203** Page 178, line 6, at end insert –
- “() In sub-paragraph (1A)(b) for “falling within section 21(1)(a)” substitute “established otherwise than under this Act”.”
- 204** Page 182, line 31, leave out “falling within sub-paragraph (2)” and insert “to which section 23A (requirements as to foundations) applies”
- 205** Page 182, leave out lines 33 to 40
- 206** Page 183, line 17, leave out “the school or schools falling within sub-paragraph (2)” and insert “one or more foundation or foundation special schools to which section 23A applies”
- 207** Page 183, line 32, leave out “and”
- 208** Page 183, line 34, at end insert “and for the purpose of sub-paragraph (1) section 23A is to be taken to apply to the proposed school if it would apply to the school when it is established”
- 209** Page 183, line 40, leave out ““A26,”” and insert ““A6A, A13A, A20A, A26,””
- 210** Page 184, line 14, at end insert –
- “() In sub-paragraph (4) for the words from “, either by agreement” to the end substitute “–
- (a) by agreement between the authority and the relevant body, or
- (b) by the adjudicator where –
- (i) the authority or the relevant body refer the matter to him for determination, and
- (ii) by the time of his determination, the matter has not been determined by agreement between the authority and the relevant body.””
- 211** Page 184, line 14, at end insert –
- “() After sub-paragraph (4) insert –
- “(4A) In determining whether to make a reference to the adjudicator under sub-paragraph (4)(b), the authority or, as the case may be, the relevant body, must have regard, in particular, to any guidance given from time to time by the Secretary of State.
- (4B) Before making a reference to the adjudicator under sub-paragraph (4)(b), the authority or, as the case may be, the relevant body, must give the other notice of their intention to make the reference.””
- 212** Page 184, line 14, at end insert –
- “() In sub-paragraph (5) –

- (a) for “Secretary of State” substitute “adjudicator”, and
- (b) after “particular” insert “to any guidance given from time to time by the Secretary of State and”.

213 Page 184, line 14, at end insert –

“() After sub-paragraph (5) insert –

“(5A) A determination made by the adjudicator on a reference made to him under sub-paragraph (4)(b) may be varied or revoked by a further determination made by him if –

- (a) the matter is referred to him by the local education authority or the relevant body, and
- (b) before making the further determination, the adjudicator consults such persons as he considers appropriate.

(5B) In determining whether to make a reference to the adjudicator under sub-paragraph (5A)(a), the local education authority or the relevant body must have regard, in particular, to any guidance given from time to time by the Secretary of State.

(5C) Sub-paragraph (5) applies in relation to the further determination of any matter by the adjudicator, by virtue of sub-paragraph (5A), as it applies in relation to the original determination of the matter.”

214 Page 185, line 21, after “apply” insert “(a)”

215 Page 185, line 22, at end insert “, or

- (b) to a disposal to which paragraph 5 or 6 of Schedule 22 (disposals on discontinuance) applies”.

216 Page 185, leave out lines 27 and 28 and insert –

“(c) for “falling within subsection (1)” substitute “which falls within subsection (1) or is excluded from that subsection by subsection (2B)(a) or (b)”.

217 Page 186, line 7, leave out from “2,” to end of line 10 and insert “in sub-paragraph (10), after “paragraphs” insert “A1 to A18 or”.

Schedule 8

218 Page 203, line 18, at end insert –

“11A A child falls within this paragraph if –

- (a) he has attained the age of 11,
- (b) he is a registered pupil at a qualifying school which is more than two miles, but not more than fifteen miles, from his home,
- (c) his parent has expressed a wish, based on the parent’s religion or belief, for him to be provided with education at that school,
- (d) having regard to the religion or belief on which the parent’s wish is based, there is no suitable qualifying school which is nearer to the child’s home, and
- (e) the appropriate condition is met in relation to him.”

219 Page 204, line 16, at end insert –

“() “Religion” and “belief” are to be read in accordance with section 509AD(3).”

Schedule 9

220 Page 206, line 40, after “11” insert “, 11A”

221 Page 206, line 45, leave out “and 11” and insert “, 11 and 11A”

Schedule 10

222 Page 210, line 34, leave out sub-paragraphs (2) and (3) and insert—

“() In subsection (1) after “London local service” insert “nor a service which falls within subsection (1A) below”.

() After subsection (1) insert—

“(1A) A service falls within this subsection if conditions A and B are satisfied in relation to it.

(1B) Condition A is satisfied if the service is provided in pursuance of—

- (a) the obligation placed on a local education authority by section 508B(1), section 508F(1), section 509(1) or (1A), or section 509AA(7)(b) or (9)(a) of the Education Act 1996 (provision of transport etc);
- (b) the exercise of the power of a local education authority under section 508C(1) of that Act; or
- (c) arrangements made by a local education authority in pursuance of a scheme made by them under Schedule 35C to that Act (school travel schemes).

(1C) Condition B is satisfied if the service is for the carriage of any of the following persons (and no other)—

- (a) a person receiving education or training at premises to or from which transport is provided in pursuance of the obligation, the exercise of the power or the arrangements, as the case may be, mentioned in paragraph (a), (b) or (c) of subsection (1B);
- (b) a person supervising or escorting any such person while he is using such transport;
- (c) a person involved with the provision of education or training at any such premises.””

Schedule 13

223 Page 219, leave out lines 19 and 20 and insert—

“(1) In this Schedule references to inspection authorities are to be read in accordance with sub-paragraph (1A) or (1B), as the case may be.

(1A) For the purposes of paragraph 4 or 5 the inspection authorities are—

- () Her Majesty’s Chief Inspector of Prisons,
- () Her Majesty’s Chief Inspector of Constabulary,
- () Her Majesty’s Chief Inspector of the Crown Prosecution Service,

- () Her Majesty’s Chief Inspector of the National Probation Service for England and Wales,
- () Her Majesty’s Chief Inspector of Court Administration,”

224 Page 219, line 24, at end insert –

- “(1B) For the purposes of paragraph 6 the inspection authorities are –
- () Her Majesty’s Chief Inspector of Prisons,
 - () Her Majesty’s Inspectors of Constabulary,
 - () Her Majesty’s Chief Inspector of the Crown Prosecution Service,
 - () Her Majesty’s Inspectorate of the National Probation Service for England and Wales,
 - () Her Majesty’s Inspectorate of Court Administration, and
 - () the bodies mentioned in sub-paragraph (1A)(b) to (d).”

225 Page 219, line 25, leave out sub-paragraph (2)

Schedule 14

226 Page 232, line 4, at end insert –

“*Courts Act 2003 (c. 39)*

The Courts Act 2003 has effect subject to the following amendments.

In section 58 (inspectors of court administration etc.) omit subsection (6).

(1) Section 59 (functions of inspectors) is amended as follows.

(2) In subsection (1) for paragraphs (b) and (c) substitute –

“(b) discharge any other particular functions which may be specified in connection with the courts listed in subsection (2) in a direction given by the Lord Chancellor.”

(3) In subsection (4) for the words from “subsection (1)(c)(i)” to “subsection (1)(c)(ii),” substitute “subsection (1)(b).”

In section 60 (functions of Chief Inspector) for subsection (4) substitute –

“(4) The Chief Inspector must report to the Lord Chancellor on any matter which the Lord Chancellor refers to him and which is connected with the courts listed in section 59(2).”

In section 61 (rights of entry and inspection) for subsections (1) and (2) substitute –

“(1) An inspector exercising functions under section 59 may enter any place of work occupied by persons provided under a contract made by the Lord Chancellor by virtue of section 2(4).

(2) An inspector exercising functions under section 59 may inspect and take copies of any records kept by persons provided under such a contract which he considers relevant to the discharge of his functions.””

227 Page 232, line 24, at end insert –

“For section 96 substitute –

“96 Additional functions

- (1) The Assembly shall have such additional functions in relation to the provision of Welsh local authority social services as –
 - (a) correspond to functions within subsection (2), and
 - (b) are specified by the Assembly in regulations.
- (2) The functions within this subsection are –
 - (a) functions conferred on the CSCI by or under this Act, and
 - (b) functions relating to the provision of relevant services and assigned to Her Majesty’s Chief Inspector of Education, Children’s Services and Skills under section 110(4) of the Education and Inspections Act 2006.
- (3) In subsection (2)(b) “relevant services” means services which immediately before the coming into force of Chapter 4 of Part 8 of the Education and Inspections Act 2006 were English local authority social services for the purposes of this Part of this Act.””

228 Page 233, line 9, at end insert –

“In section 133(1)(a) (failure in discharge of functions: CSCI) omit “or the Children Act 1989 (c. 41)”.”

229 Page 234, line 41, at end insert –

“In section 61 (report of inspections) omit subsection (4).”

230 Page 235, leave out lines 22 to 34

Schedule 18

231 Page 246, line 41, at end insert –

“Courts Act 2003 (c. 39)

| Section 58(6).”

232 Page 246, line 48, column 2, at end insert –

| “In section 133(1)(a), the words “or the Children Act 1989 (c. 41)”.”

233 Page 247, line 7, column 2, at end insert –

| “In section 5(5), the word “and” at the end of paragraph (e).”

234 Page 247, line 15, column 2, at end insert –

| “Section 61(4).”

235 Page 247, leave out lines 21 and 22

236 Page 247, line 38, column 2, at end insert –

“Section 58(4).”

237 Page 248, column 2, leave out lines 2 to 4 and insert –

“In section 89 –

(a) in subsection (1A) the words “(within the meaning of section 22 of the Children Act 1989)”, and

(b) in subsection (2) the word “and” at the end of paragraph (c).”

238 Page 248, line 22, column 2, at beginning insert –

“In section 176(3), the definition of “pupil”.”

239 Page 248, line 26, at end insert –

“Childcare Act 2006 (c. 21)

“In Schedule 2, paragraph 42.”

LORDS AMENDMENTS TO THE
EDUCATION AND
INSPECTIONS BILL

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