

LORDS AMENDMENTS TO THE  
APPRENTICESHIPS, SKILLS, CHILDREN AND LEARNING BILL

*[The page and line references are to HL Bill 42, the bill as first printed for the Lords.]*

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**Before Clause 1**

**1** Insert the following new Clause –

**“Meaning of “completing an English apprenticeship”**

- (1) This section applies for the purposes of this Chapter.
- (2) A person completes an English apprenticeship in relation to an apprenticeship framework if –
  - (a) the standard English completion conditions are met, or
  - (b) the alternative English completion conditions are met.
- (3) The standard English completion conditions are –
  - (a) that the person has entered into an apprenticeship agreement in connection with the apprenticeship framework,
  - (b) that at the date of that agreement the framework was a recognised English framework,
  - (c) that the person has completed a course of training for the competencies qualification identified in the framework,
  - (d) that, throughout the duration of the course, the person was working under the apprenticeship agreement, and
  - (e) that the person meets the requirements specified in the framework for the purpose of the issue of an apprenticeship certificate.
- (4) In subsection (3)(d) –
  - (a) the reference to the apprenticeship agreement mentioned in subsection (3)(a) includes a reference to any apprenticeship agreement which the person subsequently entered into in connection with the same apprenticeship framework;
  - (b) the reference to the course of training for the competencies qualification is to be read, in a case where the person has followed

two or more courses of training for the competencies qualification, as a reference to both or all of them.

- (5) The alternative English completion conditions are conditions which—
  - (a) apply in cases where a person works otherwise than under an apprenticeship agreement, and
  - (b) are specified in regulations.
- (6) The kinds of working in relation to which provision may be made under subsection (5) include—
  - (a) working as a self-employed person;
  - (b) working otherwise than for reward.”

2 Insert the following new Clause—

**“Meaning of “completing a Welsh apprenticeship”**

- (1) This section applies for the purposes of this Chapter.
- (2) A person completes a Welsh apprenticeship in relation to an apprenticeship framework if—
  - (a) the standard Welsh completion conditions are met, or
  - (b) the alternative Welsh completion conditions are met.
- (3) The standard Welsh completion conditions are—
  - (a) that the person has entered into an apprenticeship agreement in connection with the apprenticeship framework,
  - (b) that at the date of that agreement the framework was a recognised Welsh framework,
  - (c) that the person has completed a course of training for the competencies qualification identified in the framework,
  - (d) that, throughout the duration of the course, the person was working under the apprenticeship agreement, and
  - (e) that the person meets the requirements specified in the framework for the purpose of the issue of an apprenticeship certificate.
- (4) In subsection (3)(d)—
  - (a) the reference to the apprenticeship agreement mentioned in subsection (3)(a) includes a reference to any apprenticeship agreement which the person subsequently entered into in connection with the same apprenticeship framework;
  - (b) the reference to the course of training for the competencies qualification is to be read, in a case where the person has followed two or more courses of training for the competencies qualification, as a reference to both or all of them.
- (5) The alternative Welsh completion conditions are conditions which—
  - (a) apply in cases where a person works otherwise than under an apprenticeship agreement, and
  - (b) are specified in regulations made by the Welsh Ministers.
- (6) The kinds of working in relation to which provision may be made under subsection (5) include—
  - (a) working as a self-employed person;
  - (b) working otherwise than for reward.”

**Clause 1**

- 3 Page 1, line 10, leave out “applicable conditions are satisfied,” and insert “person has completed an English apprenticeship in relation to the apprenticeship framework,
- (aa) in a case within section (Meaning of “completing an English apprenticeship”)(2)(a), it appears to the authority that the condition in subsection (3)(e) of that section was met at the date of the person’s application,”
- 4 Page 2, line 3, leave out subsections (2) to (7)

**Clause 5**

- 5 Page 3, line 21, leave out “applicable conditions are satisfied,” and insert “person has completed a Welsh apprenticeship in relation to the apprenticeship framework,
- (aa) in a case within section [(Meaning of “completing a Welsh apprenticeship”)](2)(a), it appears to the authority that the condition in subsection (3)(e) of that section was met at the date of the person’s application,”
- 6 Page 3, line 28, leave out subsections (2) to (6)
- 7 Page 4, line 22, leave out subsection (8)

**Clause 11**

- 8 Page 6, line 15, leave out paragraph (a)

**Clause 12**

- 9 Page 6, line 31, leave out “that” and insert “only if”
- 10 Page 6, line 32, after “satisfied” insert “that the framework”

**Clause 15**

- 11 Page 7, line 38, leave out “principal” and insert “competencies”

**Clause 16**

- 12 Page 8, line 13, leave out paragraph (a)

**Clause 17**

- 13 Page 8, line 29, leave out “that” and insert “only if”
- 14 Page 8, line 30, after “satisfied” insert “that the framework”

**Clause 20**

- 15 Page 9, line 36, leave out “principal” and insert “competencies”

**Clause 21**

- 16 Page 10, line 14, leave out “such” and insert “–

- (a) each person designated under section 11,
- (b) persons who appear to the Chief Executive to represent –
  - (i) employers,
  - (ii) institutions within the further education sector, and
  - (iii) any other providers of training,
- (c) any other persons or descriptions of persons specified in regulations, and
- (d) such other”

17 Page 10, line 19, at end insert –

- “(5) “Institution within the further education sector” has the same meaning as in the Education Act 1996 (see section 4(3) of that Act).”

#### Clause 25

18 Page 11, line 35, after “them,” insert –

- “(aa) requirements for a recognised English framework to include, as an English certificate requirement, the requirement that an apprenticeship certificate relating to the framework may be issued to a person only if the person has received both on-the-job training and off-the-job training,”

19 Page 11, line 38, after “held,” insert –

- “(ia) include, as an English certificate requirement, the requirement that the qualification, or the qualifications taken together, demonstrate the relevant occupational competencies and the relevant technical knowledge,”

20 Page 11, line 39, leave out “that qualification, or one of those qualifications,” and insert “the qualification that demonstrates the relevant occupational competencies”

21 Page 11, line 40, leave out “principal” and insert “competencies”

22 Page 12, line 2, at end insert –

““off-the-job training” in relation to a recognised English framework, is training which –

- (a) is received for the purposes of the skill, trade or occupation to which the framework relates, and
- (b) is not on-the-job training;

“on-the-job training” in relation to a recognised English framework, is training received in the course of carrying on the skill, trade or occupation to which the framework relates;

“the relevant occupational competencies”, in relation to a recognised English framework, means the competencies required to perform the skill, trade or occupation to which the framework relates at the level required in the framework;

“the relevant technical knowledge”, in relation to a recognised English framework, means the technical knowledge required to perform the skill, trade or occupation to which the framework relates at the level required in the framework.”

#### Clause 29

23 Page 13, line 9, after “them,” insert –

“(aa) requirements for a recognised Welsh framework to include, as a Welsh certificate requirement, the requirement that an apprenticeship certificate relating to the framework may be issued to a person only if the person has received both on-the-job training and off-the-job training,”

- 24 Page 13, line 12, after “held,” insert –  
 “(ia) include, as a Welsh certificate requirement, the requirement that the qualification, or the qualifications taken together, demonstrate the relevant occupational competencies and the relevant technical knowledge,”
- 25 Page 13, line 13, leave out “that qualification, or one of those qualifications,” and insert “the qualification that demonstrates the relevant occupational competencies”
- 26 Page 13, line 14, leave out “principal” and insert “competencies”
- 27 Page 13, line 17, after “section” insert –  
 ““off-the-job training” in relation to a recognised Welsh framework, is training which –  
 (a) is received for the purposes of the skill, trade or occupation to which the framework relates, and  
 (b) is not on-the-job training;  
 “on-the-job training” in relation to a recognised Welsh framework, is training received in the course of carrying on the skill, trade or occupation to which the framework relates;  
 “the relevant occupational competencies”, in relation to a recognised Welsh framework, means the competencies required to perform the skill, trade or occupation to which the framework relates at the level required in the framework;  
 “the relevant technical knowledge”, in relation to a recognised Welsh framework, means the technical knowledge required to perform the skill, trade or occupation to which the framework relates at the level required in the framework;”

### Clause 30

- 28 Page 14, line 5, leave out “principal” and insert “competencies”
- 29 Page 14, line 12, leave out “principal” and insert “competencies”
- 30 Page 14, line 14, leave out “principal” and insert “competencies”

### Clause 35

- 31 Leave out Clause 35

### Clause 38

- 32 Page 17, line 5, leave out “principal” and insert “competencies”
- 33 Page 17, line 7, leave out “principal” and insert “competencies”

### Clause 40

- 34 Page 23, line 10, leave out “persons in their area”

- 35 Page 23, line 11, at beginning insert “persons in their area”
- 36 Page 23, line 11, leave out “or” and insert “and”
- 37 Page 23, line 12, at beginning insert “persons in their area”
- 38 Page 23, line 36, leave out from beginning to end of line 41
- 39 Page 24, line 24, leave out from “section” to end of line 25 and insert “(*Meaning of “completing an English apprenticeship”*)(5) of that Act (meaning of “completing an English apprenticeship”);”
- 40 Page 24, line 31, leave out from “The” to “not” in line 35 and insert “references in subsection (1) to—
- (a) persons in a local authority’s area who are over compulsory school age but under 19, and
  - (b) persons in a local authority’s area who are aged 19 or over but under 25 and are subject to learning difficulty assessment,
- do”

#### Clause 43

- 41 Page 26, line 1, at end insert—
- “(3A) Before giving a notice under subsection (2) imposing a requirement on a governing body, a local education authority must consult—
- (a) the governing body, and
  - (b) such other persons as the authority think appropriate.”

#### Clause 44

- 42 Page 27, line 43, leave out “subject” and insert “additional entitlement area”

#### Clause 47

- 43 Page 29, line 21, leave out “children” and insert “persons”
- 44 Page 29, line 46, after “person” insert “(“P”)”
- 45 Page 29, line 47, leave out from beginning to end of line 2 on page 30 and insert “within subsection (5A).
- (5A) The information within this subsection is—
- (a) information provided under section 562E by a local education authority as to the level of P’s literacy and numeracy skills;
  - (b) any other information provided under section 562E by P’s home authority (within the meaning of Chapter 5A of Part 10) for the purpose of assisting a determination such as is mentioned in subsection (5).”

#### Clause 49

- 46 Page 31, line 9, at end insert—
- “(1A) The power conferred by subsection (1) may not be exercised to modify the application of a provision of this Act if—
- (a) the provision makes special provision in relation to detained persons, or a description of detained persons,

- (b) the application of the provision in relation to detained persons, or a description of detained persons, is excluded by provision made by this Act, or
- (c) the provision has effect in relation to detained persons, or a description of detained persons, subject to modifications made by this Act.”

47 Page 31, line 35, leave out “any” and insert “–

- (a) any information provided under section 562E by a local education authority as to the level of the person’s literacy and numeracy skills;
- (b) any other”

48 Page 32, line 24, at end insert –

**“562DA Literacy and numeracy assessments**

- (1) This section applies in relation to a detained person who is detained in particular relevant youth accommodation.
- (2) The host authority must arrange for the level of the detained person’s literacy and numeracy skills to be assessed as soon as reasonably practicable after the beginning of the period during which the person is detained in that accommodation.
- (3) Subsection (2) does not apply if the authority are satisfied that they have evidence of the current level of the person’s literacy and numeracy skills.
- (4) The “current level” of a detained person’s literacy and numeracy skills is the level of those skills at the beginning of the period during which the person is detained in the relevant youth accommodation in question.”

49 Page 33, line 15, at end insert –

- “(6A) Subsection (6B) applies in relation to a detained person if it appears to the host authority that the person is to be released from detention in relevant youth accommodation.
- (6B) The host authority must provide to the home authority any information they hold which –
  - (a) relates to the detained person, and
  - (b) may be relevant for the purposes of, or in connection with, the provision of education or training for the detained person after the release.
- (6C) The information required to be provided under subsection (6B) must be provided at such time as the host authority think reasonable for the purpose of enabling education or training to be provided for the detained person after the release.
- (6D) Nothing in subsections (6A) to (6C) requires the host authority to provide to the home authority information which it appears to the host authority that the home authority already have.”

50 Page 35, line 10, leave out “that” and insert “such”

51 Page 35, line 15, leave out from second “accommodation” to end of line 17

52 Page 35, line 18, at end insert –

““detained person” has the meaning given by section 562A(2);”

53 Page 35, line 40, at end insert –

“(1A) For the purposes of the definition of “beginning of the detention” in subsection (1), it is immaterial whether or not a period of detention is pursuant to a single order.”

#### Clause 51

54 Page 37, line 21, leave out from “accommodation” to end of line 23

55 Page 37, line 24, at end insert –

“(4A) For the purposes subsection (4), it is immaterial whether or not a period of detention is pursuant to a single order.”

#### Before Clause 52

56 Insert the following new Clause –

#### **“Provision of transport etc for persons of sixth form age: duty to have regard to section 15ZA duty**

In section 509AB(3) of the Education Act 1996 (provision of transport etc for persons of sixth form age in England: matters to which LEAs must have regard) after paragraph (b) insert –

“(ba) what they are required to do under section 15ZA(1) in relation to persons of sixth form age.”

#### Clause 54

57 Page 38, line 34, leave out “mentioned in that subsection” and insert “of the arrangements specified under the subsection in question”

58 Page 39, line 20, after “local” insert “education”

59 Page 39, line 25, leave out subsections (3) to (5)

#### Clause 55

60 Page 40, line 20, at end insert –

“(4A) In considering what arrangements it is necessary to make under subsection (1) in relation to relevant young adults, a local education authority must have regard to what they are required to do under section 15ZA(1) in relation to those persons.”

61 Page 41, line 1, leave out “**certain young adults**” and insert “**young adults subject to learning difficulty assessment**”

62 Page 41, leave out lines 35 to 37

63 Page 42, line 2, at end insert –

#### **“508GA Guidance: sections 508F and 508G**

In making arrangements under section 508F(1) and preparing and publishing a statement under section 508G, a local education authority



must have regard to any guidance issued by the Secretary of State under this section.”

64 Page 42, line 2, at end insert –

**“508H Complaints about transport arrangements etc for young adults subject to learning difficulty assessment: England**

- (1) A local education authority may revise a statement prepared under section 508G to change any matter specified under subsection (3) of that section if, as a result of a relevant young adult transport complaint, they have come to consider the change necessary for a purpose mentioned in section 508F(2) or (3).
- (2) A local education authority must revise a statement prepared under section 508G to change any matter specified in subsection (3) of that section if, as a result of a relevant young adult transport complaint, the Secretary of State has directed them to do so.
- (3) An authority that revise a statement under subsection (1) or (2) must publish the revised statement and a description of the revision as soon as practicable.
- (4) The Secretary of State need not consider whether to exercise any power under sections 496 to 497A (powers to prevent unreasonable exercise of functions, etc) or subsection (2) of this section in response to a matter that is, or could have been, the subject of a relevant young adult transport complaint made to him or her unless satisfied that –
  - (a) the matter has been brought to the notice of the local education authority concerned, and
  - (b) the authority have had a reasonable opportunity to investigate the matter and respond.
- (5) In this section “relevant young adult transport complaint” means a complaint that is –
  - (a) about a local education authority’s exercise of, or failure to exercise, a function under section 508F or 508G in relation to relevant young adults, and
  - (b) made by a person who is, or will be, a relevant young adult when the matter complained of has effect, or by a parent of such a person, and “relevant young adult” has the meaning given in section 508F.
- (6) For the purposes of sections 508G(8) and 508GA, the revision of a statement under this section is to be treated as the preparation of a statement under section 508G.
- (7) Where a local education authority have published in a single document a statement prepared under section 509AA and a statement prepared under 508G, the requirement to publish a revised statement under subsection (3) is to be treated as a requirement to publish a version of the document that includes the revised statement.”

**Clause 59**

65 Page 43, line 43, leave out from “resources” to end of line 2 on page 44

**Clause 63**

66 Page 45, line 36, leave out “to a person providing” and insert “in respect of”

**Clause 64**

67 Page 46, line 11, at end insert –

“(4) In exercising its powers under subsection (1) in relation to persons who are within section 15ZA(1)(a) or (b) of the Education Act 1996, the YPLA must have regard to things done by local education authorities in the performance of their duties under section 15ZA(1) of that Act.

(5) In exercising its powers under this section in relation to persons subject to youth detention, the YPLA must have regard to things done by local education authorities in the performance of their duties under section 18A(1) of the Education Act 1996.”

**Clause 65**

68 Page 46, line 26, leave out from “YPLA” to end of line 27 and insert “may give a direction under this section only with the approval of the Secretary of State.”

69 Page 46, line 28, leave out subsection (5)

**Clause 70**

70 Page 48, line 34, after “15ZA(1)” insert “, 15ZB, 15ZC(1)(b)”

71 Page 48, line 37, at end insert –

“(2A) Before issuing guidance under subsection (1) the YPLA must consult –  
 (a) local education authorities in England, and  
 (b) such other persons as it thinks appropriate.”

**Clause 75**

72 Page 50, line 41, leave out subsection (4) and insert –

“(3A) But Academy functions do not include –  
 (a) the function of entering into an agreement under section 482(1) of the Education Act 1996, or  
 (b) functions of making, confirming or approving subordinate legislation.

(3B) Academy arrangements must include provision about the procedure for complaints to be made to the Secretary of State about what the YPLA has done, or failed to do, under the arrangements.”

73 Page 51, line 3, at end insert –

“( ) “Subordinate legislation” has the same meaning as in the Interpretation Act 1978 (c. 30) (see section 21(1) of that Act).”

**Clause 78**

74 Page 52, line 23, leave out “child” and insert “person”

75 Page 52, line 37, leave out “1(5)” and insert “(Meaning of “completing an English

*apprenticeship”)(5)”*

#### Clause 81

- 76 Page 55, line 9, leave out “1(5)” and insert “(Meaning of “completing an English apprenticeship”)(5)”

#### Clause 84

- 77 Page 55, line 38, leave out from “requirements” to end of line 41 and insert “of persons who are aged 19 or over, other than persons aged under 25 who are subject to learning difficulty assessment,  
(aa) education suitable to the requirements of persons who are subject to adult detention, and”

- 78 Page 55, line 42, leave out “such persons” and insert “persons within paragraphs (a) and (aa)”

- 79 Page 56, line 24, leave out from “resources” to end of line 27

#### Clause 85

- 80 Page 57, line 28, leave out from “resources” to end of line 31

#### Clause 88

- 81 Page 59, line 12, after “84(1)(a)” insert “and (aa)”

- 82 Page 59, line 16, leave out “84(1)(a)(i)” and insert “84(1)(a)”

#### Clause 89

- 83 Page 59, line 29, leave out “scheme” and insert “offer”

- 84 Page 59, line 31, leave out “scheme” and insert “apprenticeship offer”

- 85 Page 59, line 40, leave out “scheme” and insert “offer”

- 86 Page 59, line 43, leave out from “resources” to end of line 4 on page 60

#### Clause 90

- 87 Page 60, line 7, leave out “or (3)” and insert “, (3) or (3A)”

- 88 Page 60, line 8, leave out “scheme” and insert “offer”

- 89 Page 60, line 10, leave out “may” and insert “is entitled to”

- 90 Page 60, line 10, leave out “scheme” and insert “offer”

- 91 Page 60, line 21, at end insert –

“(3A) A person within this subsection is one who –

- (a) is not within subsection (2), and
- (b) is of a prescribed description.

(3B) If regulations under subsection (3A)(b) describe a person by reference to an age or an age range, the age, or the upper age of the age range, must be less than 25.”

- 92 Page 60, line 22, leave out “scheme” and insert “offer”
- 93 Page 60, line 24, leave out “scheme” and insert “offer”
- 94 Page 60, line 25, leave out “scheme” and insert “offer”

#### Clause 91

- 95 Page 60, line 41, after second “the” insert “standard”
- 96 Page 60, line 42, leave out from “section” to “to” and insert “(*Meaning of “completing an English apprenticeship”*)(3) in relation”
- 97 Page 61, line 1, leave out “English”
- 98 Page 61, line 4, leave out “principal” and insert “competencies”

#### Clause 92

- 99 Page 61, line 19, leave out “scheme” and insert “offer”
- 100 Page 61, line 22, leave out “scheme” and insert “offer”
- 101 Page 61, line 24, leave out “scheme” and insert “offer”

#### Clause 93

- 102 Page 62, line 4, leave out “scheme” and insert “offer”
- 103 Page 62, line 12, leave out “scheme” and insert “offer”
- 104 Page 62, line 20, after “any” insert “specified”
- 105 Page 62, line 28, at end insert –
- “(4A) Regulations may make provision as to circumstances in which a person who appears to the Chief Executive to have a learning difficulty is to be treated as meeting the requirements set out in subsection (1)(a) or (2)(a).
- (4B) Subsections (7) and (8) of section 15ZA of the Education Act 1996 (meaning of learning difficulty) apply for the purposes of subsection (4A) of this section as they apply for the purposes of that section.”

#### Clause 94

- 106 Page 63, line 8, at end insert –
- “(6A) In forming an opinion for the purposes of any of subsections (3) to (6), the Secretary of State must consult the Office of Qualifications and Examinations Regulation.”
- 107 Page 63, line 13, at end insert –
- “(9) The Secretary of State must consult the Office of Qualifications and Examinations Regulation before exercising the power conferred by subsection (8).”

#### Clause 95

- 108 Page 63, line 15, leave out “scheme” and insert “offer”

109 Page 63, line 21, leave out “scheme” and insert “offer”

110 Page 63, line 22, leave out “scheme” and insert “offer”

#### Clause 97

111 Page 63, line 29, at end insert –

““apprenticeship agreement” has the meaning given by section 30(1);”

112 Page 63, leave out line 33

#### Clause 98

113 Page 64, line 27, at end insert –

“(1A) In performing the functions under this section the Chief Executive must make the best use of the Chief Executive’s resources.”

#### After Clause 102

114 Insert the following new Clause –

#### “Promoting progression from level 2 to level 3 apprenticeships

- (1) The Chief Executive must promote the desirability of persons within subsection (2) undertaking apprenticeship training at level 3.
- (2) The persons are those who –
  - (a) are undertaking apprenticeship training at level 2,
  - (b) have completed an English apprenticeship in relation to an apprenticeship framework at level 2, or
  - (c) hold an apprenticeship certificate at level 2.
- (3) For the purposes of this section apprenticeship training is at a particular level if it might reasonably be expected to lead to the issue of an apprenticeship certificate at that level.
- (4) The following provisions of Chapter 1 of Part 1 apply for the purposes of this section –
  - section (*Meaning of “completing an English apprenticeship”*) (meaning of “completing an English apprenticeship”);
  - section 10 (meaning of apprenticeship framework and level of an apprenticeship framework).
- (5) Section 93(4) (meaning of apprenticeship certificate and level of an apprenticeship certificate) applies for the purposes of this section.”

#### Clause 112

115 Page 71, line 12, at end insert “, and  
(b) persons who are subject to adult detention.”

116 Page 71, line 19, leave out “or (b)” and insert “, (aa) or (b)”

#### Clause 118

117 Page 73, line 12, after “84(1)(a)” insert “or (aa)”

**Clause 126**

118 Page 77, line 34, at end insert –

“(6A) The Secretary of State must publish a direction given under subsection (6).”

**Clause 133**

119 Page 81, line 9, at end insert –

“(A1) Ofqual may impose a fee capping condition limiting the amount of a particular fee only if satisfied that the limit is necessary in order to secure value for money.”

120 Page 81, line 23, leave out from “arrangements” to end of line 30 and insert “must require the decision on review to be made by a person within subsection (5A).

(5A) A person within this subsection is one who –

- (a) appears to Ofqual to have skills likely to be relevant to decisions to impose fee capping conditions, and
- (b) is independent of Ofqual.

(5B) A person is independent of Ofqual for the purposes of subsection (5A) if the person is –

- (a) an individual who is not a member of Ofqual or Ofqual’s staff, or
- (b) a body none of whose members is a member of Ofqual or Ofqual’s staff.”

121 Page 81, line 37, at end insert –

“(8) The Secretary of State must publish any guidance given under subsection (7).”

**Before Clause 138**

122 Insert the following new Clause –

**“Power to determine minimum requirements**

- (1) The Secretary of State may by order specify minimum requirements in respect of a specified qualification, or description of qualification, to which this section applies.
- (2) But the Secretary of State may make an order under subsection (1) only if satisfied that it is necessary to do so for the purpose of ensuring that the curriculum studied by persons taking a course leading to the qualification, or a qualification of the description, is appropriate, having regard to the likely ages of those persons.
- (3) This section applies to a qualification, or description of qualification, if –
  - (a) the qualification, or each qualification of the description, is one to which this Part applies, and
  - (b) the condition in subsection (4) is met in relation to the qualification or each qualification of the description.
- (4) The condition is that –
  - (a) one or more forms of the qualification is (or are) approved under section 98 of the Learning and Skills Act 2000, or

- (b) the Secretary of State reasonably expects approval under that section to be sought for one or more forms of the qualification.
- (5) A minimum requirement in respect of a qualification or description of qualification is a requirement which relates to the knowledge, skills or understanding which a person must demonstrate in order to obtain the qualification or a qualification of the description.”

**123** Insert the following new Clause –

**“Consultation before making determination of minimum requirements**

- (1) Before making an order under section (*Power to determine minimum requirements*)(1) the Secretary of State must consult Ofqual and such other persons as the Secretary of State considers appropriate.
- (2) For the purposes of consulting under subsection (1) the Secretary of State must publish a document setting out –
  - (a) the grounds on which the Secretary of State is satisfied of the matter specified in section (*Power to determine minimum requirements*)(2),
  - (b) the proposed minimum requirements, and
  - (c) the Secretary of State’s reasons for proposing those minimum requirements.
- (3) The Secretary of State must provide a copy of the document to Ofqual and any other persons the Secretary of State proposes to consult under subsection (1).”

**124** Insert the following new Clause –

**“Effect of determination of minimum requirements**

- (1) This section applies in relation to a qualification or description of qualification in respect of which minimum requirements specified in an order under section (*Power to determine minimum requirements*)(1) have effect.
- (2) Ofqual must perform its functions under sections 130, 131 and 137 in relation to the qualification or description of qualification in a way which secures that the minimum requirements in respect of the qualification or description of qualification are met.
- (3) But Ofqual is not required to comply with the duty imposed by subsection (2) if it appears to Ofqual that complying with that duty would result in the level of attainment (in terms of depth of knowledge, skills or understanding) indicated by the qualification or description of qualification not being consistent with that indicated by comparable regulated qualifications.”

**125** Insert the following new Clause –

**“Revocation and amendment of orders specifying minimum requirements**

- (1) Subsection (2) applies if –
  - (a) the Secretary of State has made an order under section (*Power to determine minimum requirements*)(1) in respect of a qualification or description of qualification, and

- (b) the qualification or description of qualification ceases to be one to which section (*Power to determine minimum requirements*) applies.
- (2) The Secretary of State may by order –
  - (a) revoke the order, or
  - (b) amend it for the purpose of removing the qualification or description of qualification from the application of the order.
- (3) Subsections (1) and (2) do not affect the power of the Secretary of State to revoke or amend an order under section (*Power to determine minimum requirements*)(1) in other circumstances.
- (4) Sections (*Power to determine minimum requirements*)(2) and (*Consultation before making determination of minimum requirements*) do not apply to an order –
  - (a) revoking an order under section (*Power to determine minimum requirements*)(1), or
  - (b) amending an order under section (*Power to determine minimum requirements*)(1) for the purpose only of removing a qualification or description of qualification from the application of the order.”

#### Clause 138

126 Leave out Clause 138

#### Clause 146

127 Page 88, line 8, leave out from “(8)” to end of line 15 and insert “must require the decision on review to be made by a person who is independent of Ofqual.

- (10) A person is independent of Ofqual for the purposes of subsection (9) if the person is –
  - (a) an individual who is not a member of Ofqual or Ofqual’s staff, or
  - (b) a body none of whose members is a member of Ofqual or Ofqual’s staff.”

#### After Clause 148

128 Insert the following new Clause –

#### “Review of system for allocating values to qualifications

- (1) Ofqual must keep under review any system used by the Secretary of State for allocating values to qualifications to which this Part applies by reference to the level of attainment indicated by the qualifications.
- (2) The duty in subsection (1) applies only if the values are to be allocated for the purpose of a qualifications-based performance management system.
- (3) A qualifications-based performance management system is a system for measuring the relative performance of schools by reference to the performance of pupils at the schools in qualifications to which this Part applies.
- (4) Ofqual may at any time require the Secretary of State to provide it with any information which Ofqual considers it necessary or expedient to have for



the purposes of, or in connection with, the performance by Ofqual of its duty under subsection (1).”

#### Clause 151

- 129 Page 90, line 7, leave out “has the meaning given by section 138” and insert “means a qualification in respect of which the persons who are, or who may reasonably be expected to be, seeking to obtain the qualification are, will be or may reasonably be expected to be assessed for those purposes wholly in Northern Ireland;”

#### Clause 164

- 130 Page 95, line 28, leave out from “must” to end of line 29 and insert “include –
- (a) a statement of what Ofqual has done in performing its functions in the reporting period;
  - (b) an assessment of the extent to which Ofqual has met its objectives in that period;
  - (c) details of any information obtained by Ofqual in that period on the levels of attainment in relevant regulated qualifications.
- (2A) “Relevant regulated qualifications” are regulated qualifications that are taken wholly or mainly by pupils at schools in England.
- (2B) An assessment under subsection (2)(b) in respect of the qualifications standards objective must in particular explain how, in making the assessment, Ofqual has taken account of any information within subsection (2)(c) obtained in the reporting period or an earlier reporting period.”

#### Clause 173

- 131 Page 99, line 8, leave out from “setting” to end of line 11 and insert “criteria under section 130 or 137 which relate to a qualification or description of qualification within subsection (1A).
- (1A) A qualification or description of qualification is within this subsection if Ofqual is required to comply with the duty imposed by section (*Effect of determination of minimum requirements*)(2) in relation to it.”

- 132 Page 99, line 22, leave out first “the”

- 133 Page 99, line 22, leave out second “the”

#### Clause 187

- 134 Page 108, line 34, leave out from “subsection” to end of line 38 and insert “(9) for paragraph (a) (but not the “and” immediately after it) substitute –
- “(a) in relation to a school in England, any plan published by the relevant Children’s Trust Board under section 17 of the Children Act 2004 (children and young people’s plans: England),”;

#### Clause 188

- 135 Page 109, line 23, at end insert –
- “(1A) In section 66 of that Act (regulations and orders) –
- (a) in subsection (4) after “containing” insert “the first regulations under section 9A or”;

- (b) in subsection (5)(a) for “to which subsection (3) does not apply” substitute “to which neither of subsections (3) and (4) applies”.

#### Clause 200

- 136 Page 121, line 5, at end insert “; or  
(b) if satisfied that the complaint is vexatious.”

#### Clause 211

- 137 Page 128, line 20, at end insert –  
“(3) The information published under subsection (2)(b) must include details of assistance available to each of the following –  
(a) a pupil at a qualifying school (see section 199(6)(d)) who is, or has been, looked after by a local authority (within the meaning given by section 22(1) of the Children Act 1989);  
(b) a person who has a disability (within the meaning of section 1(1) of the Disability Discrimination Act 1995);  
(c) a person who has special educational needs (within the meaning of section 312 of the Education Act 1996).”

#### Clause 235

- 138 Page 140, line 14, at end insert –  
“(f) an article of a kind specified in regulations.”
- 139 Page 141, line 8, leave out “and”
- 140 Page 141, line 10, leave out “of the same sex as P” and insert “; and”
- 141 Page 141, line 10, at end insert –  
“(d) must ensure that the other member of staff is of the same sex as P if it is reasonably practicable to do so.”
- 142 Page 142, line 4, at end insert –  
“(6A) Regulations may prescribe what must or may be done by a person who, under subsection (1), seizes an article of a kind specified in regulations under section 550ZA(3)(f) (or an article which the person has reasonable grounds for suspecting to be such an article).”
- 143 Page 142, line 12, at end insert “and regulations made under subsection (6A)”
- 144 Page 142, line 34, at end insert –  
“( ) Regulations under section 550ZC(6A) may make provision corresponding to any provision of this section.”
- 145 Page 142, line 34, at end insert –  
“( ) In section 569 of the Education Act 1996 (c. 56) (regulations) –  
(a) in subsection (2) after “this Act,” insert “other than one falling within subsection (2A),” and  
(b) after subsection (2) insert –  
“(2A) A statutory instrument which contains (whether alone or with other provision) regulations under section 550ZA or

550ZC may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.””

#### Clause 237

- 146** Page 143, line 24, at end insert –  
“(f) an article of a kind specified in regulations.”
- 147** Page 144, line 20, leave out “and”
- 148** Page 144, line 22, leave out “of the same sex as S” and insert “; and”
- 149** Page 144, line 22, at end insert –  
“(d) must ensure that the other member of staff is of the same sex as S if it is reasonably practicable to do so.”
- 150** Page 145, line 17, at end insert –  
“(6A) Regulations may prescribe what must or may be done by a person who, under subsection (1), seizes an article of a kind specified in regulations under section 85AA(3)(f) (or an article which the person has reasonable grounds for suspecting to be such an article).”
- 151** Page 145, line 25, after “and (5)” insert “and regulations made under subsection (6A)”
- 152** Page 146, line 3, at end insert –  
“( ) Regulations under section 85AC(6A) may make provision corresponding to any provision of this section.”
- 153** Page 146, line 3, at end insert –  
“(2) In section 89 of the Further and Higher Education Act 1992 (c. 13) (regulations etc) –  
(a) in subsection (3) after “other than” insert “one falling within subsection (3A) or”, and  
(b) after subsection (3) insert –  
“(3A) A statutory instrument which contains (whether alone or with other provision) regulations under section 85AA or 85AC may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.””

#### Clause 239

- 154** Page 146, line 21, leave out “or over)” and insert “or over or provision made under subsection (4A) applies)”
- 155** Page 146, line 29, at end insert –  
“(4A) A procedure under subsection (1) must include provision to the effect –  
(a) that a person (“R”) who would otherwise be required by the procedure to report an incident to a parent must not report it to that parent if it appears to R that doing so would be likely to result in significant harm to the pupil; and

- (b) that if it appears to R that there is no parent of the pupil to whom R could report the incident without that being likely to result in significant harm to the pupil, R must report the incident to the local authority (within the meaning of the Children Act 1989) within whose area the pupil is ordinarily resident.
- (4B) In deciding for the purposes of provision made under subsection (4A) whether reporting an incident to a parent would be likely to result in significant harm to the pupil, R must have regard to any guidance issued by the Secretary of State about the meaning of “significant harm” for those purposes.”

#### Clause 240

156 Page 147, line 11, leave out “or over)” and insert “or over or provision made under subsection (4A) applies)”

157 Page 147, line 19, at end insert –

- “(4A) A procedure under subsection (1) must include provision to the effect –
- (a) that a person (“R”) who would otherwise be required by the procedure to report an incident to a parent must not report it to that parent if it appears to R that doing so would be likely to result in significant harm to the student; and
  - (b) that if it appears to R that there is no parent of the student to whom R could report the incident without that being likely to result in significant harm to the student, R must report the incident to the local authority (within the meaning of the Children Act 1989) within whose area the student is ordinarily resident.
- (4B) In deciding for the purposes of provision made under subsection (4A) whether reporting an incident to a parent would be likely to result in significant harm to the student, R must have regard to any guidance issued by the Secretary of State about the meaning of “significant harm” for those purposes.”

#### Before Clause 243

158 Insert the following new Clause –

##### “Careers education in schools: England

- (1) Section 43 of the Education Act 1997 (provision of careers education in schools) is amended as follows.
- (2) After subsection (2) insert –
  - “(2ZA) Subsection (2ZB) applies to a programme of careers education provided in pursuance of subsection (1) to registered pupils at a school in England that is within subsection (2)(a), (c) or (e).
  - (2ZB) The programme must include information on –
    - (a) options available in respect of 16-18 education or training, and
    - (b) apprenticeships.”
- (3) In subsection (3) for “subsection (2B)) is” substitute “subsections (2ZB) and (2B)) is (or are)”

- (4) In subsection (6), at the appropriate place insert—  
 ““apprenticeship” includes employment and training leading to the issue of an apprenticeship certificate under section 1 or 2 of the Apprenticeships, Skills, Children and Learning Act 2009;”.

#### Clause 254

- 159 Page 157, line 11, leave out “subsection (6)” and insert “subsections (6) to (6B)”
- 160 Page 157, line 13, leave out “37 or”
- 161 Page 157, line 17, at end insert—  
 “(za) regulations under section (*Meaning of “completing an English apprenticeship”*)(5);”
- 162 Page 157, line 20, at end insert—  
 “(ca) an order under section (*Power to determine minimum requirements*)(1);”
- 163 Page 157, line 22, leave out paragraph (e)
- 164 Page 157, line 25, at end insert—  
 “(6A) Subsections (5) and (6) do not apply to a statutory instrument which contains only—  
 (a) an order revoking an order under section (*Power to determine minimum requirements*)(1), or  
 (b) an order amending an order under section (*Power to determine minimum requirements*)(1) for the purpose only of removing a qualification or description of qualification from the application of the order.  
 (6B) A statutory instrument within subsection (6A) must be laid before Parliament.”
- 165 Page 157, line 26, at beginning insert “Subject to subsection (7A),”
- 166 Page 157, line 29, at end insert—  
 “(7A) A statutory instrument which contains (whether alone or with other provision) regulations under section (*Meaning of “completing a Welsh apprenticeship”*)(5) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.”

#### Clause 255

- 167 Page 157, line 43, leave out “by the Secretary of State”
- 168 Page 157, line 44, leave out “Secretary of State” and insert “person or body by whom it is given”

#### Clause 261

- 169 Page 159, line 32, after “sections” insert “(*Meaning of “completing a Welsh apprenticeship”*) and”
- 170 Page 159, line 37, leave out “50” and insert “51”

171 Page 160, line 6, at end insert “(and the associated entry in Schedule 16)”

172 Page 160, line 9, leave out “and (i)” and insert “, (i) and (l)”

### Schedule 1

173 Page 161, line 34, at end insert –

“ In section 236(3) (orders and regulations subject to affirmative Parliamentary procedure), after “47C,” insert “63D, 63F(7),”.

### Schedule 2

174 Page 164, line 33, leave out paragraph 6 and insert –

“6 (1) Section 312 (meaning of “special educational needs”, “learning difficulty” etc) is amended as follows.

(2) In subsection (2) for the words from “subsection (3)” to “section 507B)” substitute “subsections (3) and (3A)”.

(3) After subsection (3) insert –

“(3A) Subsection (2) does not apply –

(a) for the purposes of sections 15ZA, 15A, 15B and 507B, or

(b) for the purposes of sections 18A and 562H (except for the purpose of determining, for the purposes of those sections, whether a child has special educational needs).”

175 Page 164, line 34, at end insert –

“6A In section 496 (power of Secretary of State to prevent unreasonable exercise of functions) after subsection (4) (as inserted by section 214(1) of this Act) insert –

“(5) This section is subject to sections 508H and 509AE (complaints about transport arrangements etc).”

6B In section 497 (general default powers of Secretary of State) after subsection (5) (as inserted by section 214(2) of this Act) insert –

“(6) This section is subject to sections 508H and 509AE (complaints about transport arrangements etc).”

6C In section 497A (power of Secretary of State to secure proper performance of LEA’s functions) at the end insert –

“(8) This section is subject to sections 508H and 509AE (complaints about transport arrangements etc).”

176 Page 165, line 15, leave out “and 508G” and insert “, 508G and 508H”

### Schedule 3

177 Page 166, line 3, leave out “6” and insert “10”

178 Page 166, line 8, leave out sub-paragraph (3) and insert –

“(3) In appointing the ordinary members, the Secretary of State must have regard to the desirability of the ordinary members, taken together, having experience relevant to—

- (a) the full range of the YPLA’s functions, and
- (b) any functions that may be conferred or imposed on the YPLA under Academy arrangements.

(4) “Academy arrangements” has the meaning given by section 75(2).”

179 Page 166, line 38, after “The” insert “first”

180 Page 166, line 39, at end insert —

“(1A) Later chief executives are to be appointed by the YPLA, on conditions of service determined by the YPLA.

(1B) The appointment and conditions of service of a later chief executive are subject to the approval of the Secretary of State.”

#### Schedule 6

181 Page 178, line 25, leave out “to be treated, on and after that date,” and insert “, on and after that date, to be treated for the purposes of subsection (2) of this section”

#### Schedule 8

182 Page 188, line 23, leave out “five” and insert “two”

183 Page 197, line 3, at end insert —

“(2A) Before exercising the power conferred by subsection (1) in relation to a governing body, the responsible local education authority must consult the governing body.”

184 Page 197, line 7, leave out “to be treated, on and after that date,” and insert “, on and after that date, to be treated for the purposes of subsection (2) of this section”

185 Page 199, line 12, at end insert —

“(2A) Before exercising the power conferred by subsection (1) in relation to a governing body, the YPLA must consult the governing body.”

186 Page 199, line 16, leave out “to be treated, on and after that date,” and insert “, on and after that date, to be treated for the purposes of subsection (2) of this section”

#### Schedule 9

187 Page 202, line 5, at end insert —

“(1A) The person appointed by Her Majesty to chair Ofqual is to be known as the Chief Regulator of Qualifications and Examinations (“the Chief Regulator”).”

188 Page 202, line 6, leave out “The Secretary of State” and insert “Ofqual”

189 Page 202, line 7, leave out “person appointed to chair Ofqual” and insert “Chief Regulator”

190 Page 202, line 7, at end insert —

“(2A) Before appointing a person as an ordinary member, the Secretary of State must consult the Chief Regulator or the deputy (subject to sub-paragraph (2C)).

(2B) The Secretary of State may consult the deputy instead of the Chief Regulator only if satisfied that—

- (a) it is not practicable to consult the Chief Regulator, and
- (b) it is necessary to make the appointment before it would be practicable to do so.

(2C) The Secretary of State may appoint a person as an ordinary member without consulting either the Chief Regulator or the deputy if satisfied that—

- (a) it is not practicable to consult either of those persons, and
- (b) it is necessary to make the appointment before it would be practicable to do so.”

**191** Page 202, line 12, leave out sub-paragraphs (1) and (2)

**192** Page 202, line 34, leave out “and other” and insert “may resign from office at any time by giving written notice to Ofqual.

(3A) The”

**193** Page 202, line 36, leave out from beginning to “thinks” in line 37 and insert “Ofqual may remove the deputy from office if Ofqual”

**194** Page 203, line 2, at end insert—

“(5A) Before removing an ordinary member from office, the Secretary of State must consult the Chief Regulator or the deputy (subject to sub-paragraph (5C)).

(5B) The Secretary of State may consult the deputy instead of the Chief Regulator only if—

- (a) the ordinary member to be removed from office is not the deputy, and
- (b) the Secretary of State is satisfied that—
  - (i) it is not practicable to consult the Chief Regulator, and
  - (ii) it is necessary to remove the ordinary member from office before it would be practicable to do so.

(5C) The Secretary of State may remove an ordinary member from office without consulting either the Chief Regulator or the deputy if satisfied that—

- (a) if the ordinary member to be removed from office is the deputy, sub-paragraph (5D) applies;
- (b) in any other case, sub-paragraph (5E) applies.

(5D) This sub-paragraph applies if—

- (a) it is not practicable to consult the Chief Regulator, and
- (b) it is necessary to remove the ordinary member from office before it would be practicable to do so.

(5E) This sub-paragraph applies if—

- (a) it is not practicable to consult either the Chief Regulator or the deputy, and



- (b) it is necessary to remove the ordinary member from office before it would be practicable to do so.”

#### Schedule 12

- 195** Page 222, line 39, after “provisions” insert “(other than provisions conferring or imposing functions as mentioned in subsection (7)(a) or (b))”
- 196** Page 222, line 41, leave out from first “order” to end of line 43
- 197** Page 225, line 12, after “provisions” insert “(other than provisions conferring or imposing functions on persons mentioned in subsection (2)(a) to (c))”
- 198** Page 225, line 14, leave out from first “order” to end of line 16

#### Schedule 13

- 199** Page 229, line 10, after “60” insert “on those grounds”

#### Schedule 16

- 200** Page 236, line 27, column 2, at end insert –

“In Schedule 7A –

- (a) in paragraph 1, the words “approved or” and “approval or”, wherever occurring;
- (b) in paragraph 3(4), paragraph (a);
- (c) paragraphs 5(1), 6(1) and 7(1) and (2).”

- 201** Page 239, line 23, at end insert –

“FOUNDATION DEGREES: WALES

<i>Title</i>	<i>Extent of repeal</i>
Further and Higher Education Act 1992 (c. 13)	In section 76(1)(b), the words “in England”.

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LORDS AMENDMENTS TO THE  
APPRENTICESHIPS, SKILLS,  
CHILDREN AND LEARNING BILL

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