williams lea | tso
An RRD Company

Published by TSO (The Stationery Office), part of Williams Lea, and available from:

Online
www.tsoshop.co.uk

Mail, Telephone & E-mail
TSO
PO Box 29, Norwich, NR3 1GN
Telephone orders/General enquiries: 0333 202 5070
E-mail: customer.services@tso.co.uk
Textphone: 0333 202 5077

ISBN 978-0-10-561119-6

9 780105 611196

EXPLANATORY NOTES

Children's Wellbeing and Schools Act 2026

Chapter 21

£28.20

CHILDREN'S WELLBEING AND SCHOOLS ACT 2026

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Children's Wellbeing and Schools Act 2026, which received Royal Assent on 29 April 2026 (c. 21).

- These Explanatory Notes have been prepared by the Department for Education in order to assist the reader of the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

Table of Contents

Page of these Notes

Overview of the Act 6

Policy background 11

Keeping families together and children safe 11

Family group decision-making 11

Child protection and Safeguarding 12

Support for children with care experience to thrive 15

Support for children in care, leaving care or in kinship care and carers 15

Intentional Homelessness 17

Sibling Contact 17

Accommodation of children 18

Make the care system child-centred 19

Regulation of children's homes, fostering agencies etc. 19

Care workers 20

Corporate Parenting 21

Employment of children 22

VPN Services and Social Media 22

Remove barriers to opportunity in schools 23

School Meals, Breakfast clubs etc. 23

Allergy safety provisions in schools 24

School Uniforms 24

Guidance about mobile phones in schools 25

Create a safer and higher quality education system for every child 26

Children not in school 26

Independent educational institutions and inspections of schools and colleges 30

Teacher misconduct 34

Drive high and rising standards for every child 34

School teachers' qualifications and induction 34

Academies 35

Teachers' pay and conditions 36

School places and admissions 37

Establishment of new schools 39

Territorial extent and application 43

Commentary on provisions of Act 44

Part 1: Children's Social Care 44
Family group decision-making 44
Section 1: Family group decision-making 44
Child protection and safeguarding 44
Section 2: Inclusion of childcare and education agencies in safeguarding arrangements 44
Section 3: Multi-agency child protection teams for local authority areas 45
Section 4: Information Sharing and Consistent Identifiers 46
Support for children in care, leaving care or in kinship care and carers 48
Section 5: Information: children in kinship care and their carers 48
Section 6: Promoting educational achievement 49
Section 7: Provision of advice and other support 50
Section 8: Local offer for care leavers 50
Section 9: Care leavers not to be regarded as becoming homeless intentionally 50
Section 10: Sibling contact with children in care 51
Accommodation of children 51
Section 11: Children in temporary accommodation 51
Section 12: Accommodation of looked after children: regional care co-operation arrangements 51
Section 13: Use of accommodation for deprivation of liberty 52
Regulation of children's homes, fostering agencies etc. 53
Section 14: Powers of CIECSS in relation to parent undertakings 53
Section 15: Power of CIECSS to impose monetary penalties 54
Section 16: Financial oversight 55
Section 17: Power to limit profits of relevant providers 56
Section 18: Power of Secretary of State to impose monetary penalties 57
Section 19: Procedure for imposing monetary penalties 57
Section 20: Information sharing 58
Care workers 58
Section 21: Use of agency workers for children's social care work 58
Section 22: Ill-treatment or wilful neglect of children 59
Corporate parenting 60
Section 23: Corporate parenting responsibilities 60
Section 24: Cases in which duty under section 23(1) does not apply 60
Section 25: Corporate parenting duty: collaborative working 60
Section 26: Duty to have regard to guidance 60
Section 27 Reports by Secretary of State 60
Schedule 1: Relevant Authorities 60
Employment of children 61
Section 28: Employment of children in England and Wales 61
Section 29: Employment of children in Scotland 61
Part 2: Schools 62
School meals, breakfast clubs etc. 62
Section 30: Free breakfast club provision in primary schools in England 62
Section 31: Food and drink provided at Academies 64
Section 32: Free school lunches: eligibility 64
Section 33: Free school meals etc. information sharing 65
Section 34: Allergy safety provisions in schools 65
School uniforms 65
Section 35: School uniforms: limits on branded items 65

Section 36: Guidance on use of mobile phones etc in schools in England 66
Children not in school 67
Section 37: Local authority consent for withdrawal of certain children from school 67
Section 38: Registration 69
Section 39: School attendance orders 73
Section 40: Children not in school: processing of information 77
Section 41: Guidance on children not in school and school attendance orders 77
Section 42 and Schedule 2: Children not in school: consequential amendments 77
Independent educational institutions 78
Section 43: Expanding the scope of regulation 78
Section 44: Independent educational institution standards 79
Section 45: Unregistered independent educational institutions: prevention orders 84
Section 46: Material changes 85
Section 47: Deregistration by agreement 87
Section 48: Imposition of relevant restrictions 87
Section 49: Powers of entry and investigation etc. 88
Section 50: Application of schools provision to independent educational institutions 91
Section 51: Inspectors and inspectorates: reports and information sharing 92
Teacher misconduct 92
Section 52: Teacher misconduct 92
School teachers' qualifications and induction 93
Section 53: School teachers' qualifications and induction 93
Academies 94
Section 54: Academy schools: duty to follow National Curriculum 94
Section 55: Academy schools: educational provision for improving behaviour 95
Section 56: Academies: power to secure performance of proprietor's duties 96
Section 57: Inspection of Academy proprietors 97
Section 58: Repeal of duty to make Academy order in relation to school causing harm 102
Teachers' pay and conditions 102
Section 59 and Schedule 3: Pay and conditions of Academy teachers 102
Section 60: Application of pay and conditions orders to education action zones 104
School places and admissions 104
Section 61: Co-operation between schools and local authorities 104
Section 62: Power to direct admission: extension to Academies 106
Section 63 Power to direct admission: additional triggers 106
Section 64: Functions of adjudicator in relation to admission numbers 107
Establishment of new schools 109
Section 65: Amendments to invitation process for establishment of new schools 109
Section 66: Certain proposals to establish new schools: publication requirements etc. 110
Section 67: Establishment of pupil referral units 110
Section 68: Process for considering, approving and implementing proposals for establishment of new schools and Schedule 4: Establishment of new schools: Amendments to Schedule 2 to the Education and Inspections Act 2006 111
Section 69: Transitional provision 111
Section 70: Power to require internet service providers to prevent or restrict access by children to internet services 111
Section 71: Progress statement 113
Section 72: Age of consent in relation to process of a child's personal data: information society services 114

Part 3: General 115
Section 73: Power to make consequential provision 115
Section 74: Power to make consequential provision: Wales 115
Section 75: Power to make consequential provision: Scotland 115
Section 76: Financial provision 115
Section 77: Extent 115
Section 78: Commencement 115
Section 79: Short title 115
Commencement 116
Data Protection 116
Related documents 116
Annex A - Territorial extent and application in the United Kingdom 117

Overview of the Act

1 The Children's Wellbeing and Schools Act (2026) ("the Act") helps deliver the Labour Party's 2024 commitments to remove barriers to opportunity in schools and improve the education system to make it safer for every child.

2 It also delivers commitments in the Labour Party's 2024 manifesto on Children's Social Care by strengthening regulation, improving quality of care to ensure it meets children's needs and keeping children rooted in their families and local communities where possible.

3 These explanatory notes should assist the reader to understand what each part of the Act means in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.

4 The Act makes provision relating to education in England and, in some cases, Wales and Scotland. Further details on extent and application are set out in the section on territorial extent and application. The Act is structured in 3 parts. These are:

Part	**Summary**
Part 1: Children's Social Care	This Part makes provision in relation children's social care, in particular to: *Offer Family Group Decision Making, by:* • Mandating local authorities to offer a 'family group decision making' meeting at the point the local authority is seriously considering applying for a care or supervision order, to give all families an opportunity to come together and make a proposal in response to concerns regarding the child's welfare. *Ensure child protection and safeguarding, by:* • Strengthening the role of education by automatically including education and childcare agencies in multi-agency safeguarding arrangements. • Requiring safeguarding partners to make arrangements to establish and run one or more multi-agency child protection teams for the local area. • Improving information-sharing across multi-agency services with an information sharing duty and making provision for the specification of a single unique identifier (also known as a Consistent Identifier), to better support children and families. *Provide support for children in care, leaving care or in kinship care and carers, by:* • Requiring local authorities to publish a kinship local offer. • Promoting education achievement by extending the role of Virtual School Heads to children in need and children in kinship care on a statutory basis. • Requiring local authorities to provide staying close support to eligible care leavers under the age of 25 where their welfare requires it. Staying close means support to find and keep accommodation and to access services relating to health and wellbeing, relationships, education and training, employment and participation in society.

	• Requiring local authorities to include information setting out their process and procedures to ensure a planned and supportive transition between care and independent living for care leavers as part of their published local offer for care leavers. • Ensuring care leavers are not to be regarded as intentionally homeless. • Placing a duty on local housing authorities to notify educational institutions, GP practices and health visiting services in England when a child is placed in temporary accommodation. *Ensure accommodation of children, by:* • Legislating for accommodation of looked after children: regional co-operation arrangements to harness local authority buying power. • Providing a statutory framework to authorise a deprivation of liberty for children who need it to keep them safe, in accommodation other than a Secure Children's Home, designed with the primary purpose of care and treatment. *Regulation of children's homes, fostering agencies etc, by:* • Establishing powers of Chief Inspector of Education, Children's Services and Skills ("CIECSS") in relation to parent undertakings (also referred to as "provider groups" in these Notes) by strengthening Ofsted's powers to hold provider groups in relation to children's homes and other children's social care accommodation providers to account. • Establishing powers of CIECSS in relation to imposing monetary penalties expanding their powers for breaches of the Care Standards Act 2000, including for unregistered children's homes. • Introducing financial oversight of registered persons and their parent undertakings. • Legislating for the power to limit profits of registered persons in the future, if other market intervention measures do not have the desired effect. • Introducing the power for the Secretary of State to impose monetary penalties and the procedure for imposing such penalties. *Legislating in relation to care workers, by:* • Regulating the use of agency workers in local authority children's social care. • Ensuring that the legislation on protection against ill-treatment or wilful neglect applies to children aged 16 and 17 in certain care and detention settings in England. *Legislating in relation to corporate parenting responsibilities, by:* • Introducing new corporate parenting responsibilities for Secretaries of State and public bodies that impact on the lives of looked after children and care leavers. *Legislating in relation to the employment of children, by:* • Introducing new arrangements on the employment of children in England and Wales, and in Scotland.

Part 2: Schools	*School meals, breakfast clubs etc. by:* • Legislating to provide free breakfast clubs in primary schools in England. • Legislating in relation to food and drink to be provided at Academies. • Expanding eligibility for free meals to all children from households in receipt of Universal Credit from September 2026, lifting 100,000 children out of poverty. • Extending an existing duty to make arrangements for supporting pupils with medical conditions to include statutory allergy safety duties and conferring powers on the Secretary of State to make regulations imposing specific duties relating to the management of allergies. *School Uniform, by:* • Legislating to set a limit on branded items of school uniforms. *Guidance about mobile phones in schools, by:* • Requiring all schools in England to have regard to guidance issued by the Secretary of State on pupils' use and access of mobile phones and other personal interactive communication devices during school hours. *Children not in school, by:* • Registration: introducing a duty on local authorities in England and Wales to have and maintain Children Not in School registers and provide support to home-educating parents. • Requiring local authorities in England and Wales to take into account the suitability of the home and other learning environments when children are first registered on Children Not in School registers and when determining whether children should be required to attend school; and empowering local authorities to request to visit children in their homes. • Improving the efficiency of the school attendance order process in England and Wales. • Introducing a local authority consent mechanism for withdrawal of the following children from school: children on child protection plans or who were on child protection plans in the last five years, children subject to current section 47 enquiries, and children at special schools. • Empowering local authorities in England and Wales to require that children who are being home educated and are subject to the aforementioned child protection processes (or were on a child protection plan in the last five years) attend school when school is in their best interests. • Introducing a requirement for mandatory meetings between parents and local authorities to be piloted in up to 30% of local authorities in England and 30% of local authorities in Wales before children can be withdrawn from school for home education, with the power to roll this requirement out nationally.

	Independent educational institutions, by: • Expanding the scope of regulation under Chapter 1 of Part 4 of the Education and Skills Act 2008 to cover more settings that provide a full-time education to children. • Strengthening the powers to make independent educational institution standards by allowing for standards to be set by reference to whether the Secretary of State considers a proprietor to be a fit and proper person. • Creating powers to allow the Secretary of State to temporarily suspend the registration of an institution and to impose a stop-boarding requirement. • Placing the burden of proof on a proprietor to demonstrate future compliance with regulatory standards, where a proprietor appeals an enforcement decision to de-register to their institution. • Making changes to the material change regime, which requires registered institutions to seek the Secretary of State's approval before making specified changes to their operations (for example, by introducing a new category of material change related to the buildings made available for student use). • Giving the Secretary of State express power to remove an institution from the register, where the proprietor has agreed to this in writing. • Giving the Secretary of State the power to impose a relevant restriction on a proprietor that makes an unapproved material change. • Increasing Ofsted's powers to investigate certain criminal offences connected with independent educational institutions and introducing a new sentencing power in the form of prevention orders. *Inspections of schools and colleges, by:* • Making technical changes related to when Ofsted needs to report on the quality of certain other inspectorates and to give Ofsted powers to share information with them. *Teacher misconduct, by:* • Strengthening the system for regulating the teaching profession, including making changes to enable serious teacher misconduct to be investigated, regardless of when the misconduct occurred, the setting the teacher is employed in and how the misconduct is uncovered. *School teachers and qualification, by:* • Reaffirming the professional status of teaching by ensuring that new teachers entering the classroom have, or are working towards, Qualified Teacher Status, which will ensure children benefit from professionally qualified, well-trained teachers. This measure will also extend the statutory induction requirement to newly qualified teachers working in academies. *Academies, by:* • Introducing a duty to follow the new National Curriculum following the expert-led curriculum and assessment review. • Making provision for academy school pupils to be educated outside their school to improve behaviour.

	• Introducing a power to secure performance of proprietor's duties. • Repealing a duty to make an academy order in relation to schools causing concern. • Introducing trust inspections and an associated intervention power. *Pay and conditions of academy teachers, by:* • Requiring academy schools and alternative provision academies to follow a minimum level of remuneration set out in secondary legislation at the same level as maintained schools. • Requiring these academies to have regard to the School Teachers' Pay and Conditions Document in determining conditions of employment of academy teachers, which means they must follow it unless they have a good reason not to. • Repealing the exemption which allows schools in education action zones to depart from the School Teachers' Pay and Conditions Document. *School places and admissions, by:* • Requiring co-operation between schools and local authorities. • Introducing a power to direct admission of an individual child to all types of school: extension to Academies and additional triggers. • Providing greater powers in relation to the functions of the schools adjudicator in relation to admission numbers. *Establishment of new schools, by:* • Amending processes for the establishment of new schools, including removing the requirement for academy proposals to be sought in the first instance, and making changes to other processes for inviting and publishing proposals to establish new academies and schools maintained by local authorities.
Part 3: General	*This part sets out general provisions:* • Power for the Secretary of State to make consequential provision in connection with any provision in this Act, including in other Acts passed before this or later in the same session. • Power for Welsh and Scottish Ministers to make provision that is consequential on certain provisions made by the Act in relation to matters that are within the legislative competence of the Senedd Cymru and the Scottish Parliament respectively. • Regulations. • Financial provision. • Extent. • Commencement. • Short title.

Policy background

Keeping families together and children safe

5 The Act contains a number of changes to the Children's Social Care system aimed at keeping families together and children safe. Over the last three decades there has been incremental progress, collective learning and improving practice across children's social care. However, too many children still grow up in poverty and in households that struggle to afford the necessities which provide a secure home environment. The external landscape has also fundamentally changed. There are several factors which might mean children are unable to grow up in a safe and loving home. Despite welcome improvements, there is still significant variation in the outcomes and support children and families receive, driven in part by the years of austerity imposed on local government finances, which must be addressed. Keeping children safe is everyone's responsibility and the government has published a policy paper[1] setting out their plan to reset the children's social care system. The Act includes several changes to keep families together and children safe, support children with care experience to achieve and thrive and make the care system child-centered.

Family group decision-making

6 Family Group Decision Making (FGDM) is an umbrella term to describe family-led meetings that allow a family network to come together and make a plan in response to concerns about a child's safety and wellbeing. These meetings help to ensure a family network is engaged and empowered throughout the decision-making process of a child's social care journey, and can include identifying practical support for parents, while prioritising the wellbeing of the child. A Family Group Conference (FGC) is a specific model of FGDM. Research shows that FGC at the pre-proceedings stage significantly reduces the likelihood of a child becoming looked-after and significantly reduces the likelihood of care proceedings being issued[2].

7 Local government spending on children's social care has risen by £4.4 billion over the last decade whilst preventative services, such as FGDM have been hollowed out, in part reflecting a greater number of children in care. Research shows that 82% of English local authorities (LAs) report that they provide an FGC service but the number of FGCs annually ranges from five to 800[3] indicating that FGDM practice is inconsistent.

8 This Act places a duty on all LAs in England to offer a FGDM meeting to all parents, or those with parental responsibility, of the child(ren) involved in cases which have reached the pre-proceedings stage (i.e. are on the 'edge of care'), unless it would not be in the child's best interests for the meeting to be offered. If this offer is accepted, the LA must arrange for the FGDM meeting to be held, unless it would not be in the child's best interests.

9 Therefore, unless it would not be in the child's best interests for the FGDM meeting to be offered or held, a care or supervision application should only be made to the court with a family having been given the opportunity to engage in an FGDM meeting at the pre-proceedings stage and to make a plan for the child with their family network.

[1] https://assets.publishing.service.gov.uk/media/67375fe5ed0fc07b53499a42/Keeping_Children_Safe__Helping_Families_Thrive_.pdf

[2] https://foundations.org.uk/our-work/publications/family-group-conferencing-at-pre-proceedings-stage/

[3] A UK-wide survey of family group conference provision (2022) - https://cascadewales.org/wp-content/uploads/sites/3/2022/12/CASCADE-Family-VOICE-survey-findings.pdf

10 The purpose of the meeting is to provide practical support to the parents so that concerns around the child's safety and wellbeing can be addressed. Where it is not possible for the child to stay with their parents, the FGDM meeting can be used to identify potential alternative carers for the child within the family network, and any support they may require.

11 The Independent Review of Children's Social Care (2022)[4] cited studies which found that, too often, care proceedings commence without a FGDM meeting having taken place (Harwin et al, 2019; Masson et al, 2019). Therefore, opportunities may have been missed in identifying family network members who could act as carers or a support system. This measure will ensure that this evidence-backed offer of a FGDM meeting is offered consistently at this crucial time and potentially divert children from care.

12 FGDM was introduced into the UK in 1991 and has been in statutory guidance since 2014. By legislating, we will ensure that there is a consistent offer to families that reach the pre-proceedings stage when the local authority is contemplating care proceedings.

13 We know that when families engage in FGDM, this can divert children from care. Foundations (What Works Centre for Children and Families) used a randomised control trial to evaluate the impact of the most prevalent model, Family Group Conferences (FGC), at the pre-proceedings stage. It found that children whose families were referred for FGC were less likely to have had care proceedings issued (59%) compared to those not referred (72%) and were less likely to be in care one year later (36%) compared to those not referred (45%). This measure ensures that FGDM is offered consistently to families at the pre-proceedings stage to keep more children within their family networks and improve their outcomes.

Child protection and Safeguarding

14 The 2017 Children and Social Work Act amended the Children Act 2004 to strengthen multi-agency cooperation, creating new statutory safeguarding partners (comprised of the police, integrated care boards (ICBs), and the local authority) with a duty to work together and with other relevant organisations, to determine the safeguarding arrangements in their local area. This approach was considered necessary to improve joint working and to introduce greater accountability and flexibility at the local level. Section 16E(3) of the Children Act 2004 does not provide for a statutory safeguarding partner from the education or childcare sectors. Instead, education providers and childcare settings, alongside other organisations, are listed as "relevant agencies" in the Child Safeguarding Practice Review and Relevant Agency (England) Regulations, 2018. Under the current statutory provisions safeguarding partners only need to make arrangements to work with a relevant agency if they consider it appropriate to do so (section 16E (1)(b) CA 2004). This legislation will amend the Children Act 2004 s16E to require safeguarding partners to include education and childcare agencies in their safeguarding arrangements automatically as relevant agencies, removing the discretion for safeguarding partners to name particular education providers and childcare settings in their multi-agency safeguarding arrangements. The legislation will also introduce a new duty that will require safeguarding partners to enable the representation of education providers and childcare settings' views in respect of the operational and strategic priorities set out in the local safeguarding arrangements. Often, teachers and educators are the ones that spend the most direct time with children, and education leaders can offer valuable insight into trends and concerns at a local level. Schools were the second largest 'referrer' of cases into children's social care after the police in 2025, making over 130,000 referrals nationally. Although education providers and childcare settings are considered relevant agencies in multi-agency safeguarding arrangements, multiple national reviews into child protection and safeguarding

[4] Independent review of children's social care (2022) - https://www.gov.uk/government/publications/independent-review-of-childrens-social-care-final-report

systems have found that the contribution and voice of education is missing in arrangements, which can lead to missed opportunities help children and protect them from harm, exploitation, neglect, and abuse. Existing safeguarding partners have the infrastructure in place that allows a single point of accountability for the organisations they represent – they can contribute resource, make decisions, and speak on behalf of their sector. The education sector is not set up in this way and therefore there is not currently an organisation nor individual who can take on the role of a safeguarding partner. The aims of this legislation are to create the systems for:

a. Better join-up between children's social care, police, and health services with education and childcare.

b. Improved understanding of the thresholds for referrals and intervention and the roles of each agency in supporting children and families.

c. More effective information sharing agreements and practice.

d. A clear signal that it is the responsibility of local leadership to enable the right level of engagement from education and childcare both operationally and strategically.

15 These measures also support other measures in the Act such as multi-agency child protection teams and improved information sharing – all of which will require a strengthened role for education providers and childcare settings.

16 The Act also amends section 16E of the Children Act 2004, by placing a duty on safeguarding partners to put a specific form of safeguarding arrangements in place, to establish and run one or more multi-agency child protection teams in their area. The primary purpose of the multi-agency child protection team is to support the local authority in delivering its responsibilities under section 47 of the Children Act 1989 in relation to child protection. Local authorities, police and health will be required to nominate representatives to be part of the multi-agency child protection team. A local authority can then ask any other individuals to be part of the team after consulting with the other safeguarding partners. This will enable the right practitioners to work together day-to-day to make joint decisions and co-ordinate support to protect children from harm. The Act makes provision for two or more local authorities to work together to deliver multi-agency child protection teams. This enables police and health services, who work on a different geographical footprint to local authorities to make best use of their resources and reflects flexibility in the framework for areas to deliver their child protection activity in the most effective way possible. Regulations will set out: the support multi-agency child protection teams are required to provide to local authorities to discharge their section 47 duties under the Children Act 1989; what knowledge, skills and experience these practitioners need; and the relevant agencies that safeguarding partners can approach to facilitate the operation of multi-agency child protection teams. Relevant agencies already have a duty to work alongside safeguarding partners under section 16E(1) and 16G(4) of the Children Act 2004. Safeguarding partners will be able to require that a relevant agency, prescribed in regulations, sets out in a memorandum how they will co-operate with the multi-agency child protection team. The purpose of multi-agency child protection teams is to ensure an expert, multi-agency response to child protection concerns, addressing the current lack of joint working across agencies that often leads to missed opportunities to protect children in a timely way. The government wants local areas to bring a clear focus to child protection, where practitioners across agencies work together to take protective and decisive action where children are suffering, or likely to suffer, significant harm. Ten local areas are implementing multi-agency child protection teams as part of the Families First for Children Pathfinder, testing whole-system reform to children's social care to help families overcome challenges, stay together and thrive, and keep children safe. The Pathfinder was announced in

February 2023 and the programme started in July 2023, with wave two areas joining in April 2024. Government committed to the national rollout of Family Help, multi-agency child protection and Family Networks, building on the work of the Families First for Children Pathfinder. The reforms are being delivered through the Families First Partnership programme, which launched in April 2025. Learning from national roll out and the independent evaluation of the pathfinder areas will inform the regulations, expected to come into force in 2027.

17 The Act amends the Children Act 2004, creating a duty to share information for safeguarding and welfare purposes and provide a power for the Secretary of State to specify a consistent identifier for children to address long standing barriers to information sharing. The duty to share information will apply to those persons listed in s.11(1) of the Children Act 2004 and designated education and childcare agencies. Where such persons engage others to provide services relating to safeguarding or promoting the welfare of children, such as primary care providers, the duty will extend to the providers of those services. As such, the duty is not intended to cover such providers engaged by the persons listed in s.11(1) of the Children Act 2004 or education and childcare relevant agencies for other purposes, but which may incidentally engage the relevant functions (for example, IT service providers or interpreters) and who do not independently hold information that is not already available to the agencies in scope. The Act also makes provision for a consistent child identifier (also known as a Single Unique Identifier or SUI). Designated persons (and persons engaged by them to provide services that relate to safeguarding or promoting the welfare of children) must include the consistent identifier when processing information about a child for safeguarding and promotion of welfare purposes.

18 The Independent Review of Children's Social Care (the care review) and the Child Safeguarding Practice Review Panel report (the Panel report), Child Protection in England – National review into the murders of Arthur Labinjo-Hughes and Star Hobson, both published in 2022, found that ineffective multi-agency working is a key factor where child protection activity fails to keep children safe.

19 The care review identified a lack of social worker expert knowledge and skills as a significant problem in child protection. The Panel report identified a need for better information sharing, risk assessment and decision-making within and across agencies, recommending the introduction of multi-agency child protection units.

20 Multi-agency child protection teams are underpinned by learning from the Families First for Children pathfinder evaluation. The interim report published in July 2025 showed positive early feedback. Pathfinders reported quicker, better multi-agency information seeking and sharing; improved partner input to strategy discussions and conferences; and increased Family Help practitioner confidence and awareness in identifying significant harm. Published evaluations on Multi-Agency Safeguarding Hubs, the Strengthening Families, Protecting Children and Supporting Families Programmes and Youth Offending Teams all show how effective multi-agency working can improve outcomes for children and their families.

21 The Act amends the Children Act 2004, creating a duty to share information for safeguarding and welfare purposes and provides a power for the Secretary of State to publish information standards, specify a consistent identifier for children, and publish a Code of Practice on the consistent identifier to address long standing barriers to information sharing.

22 The duty to share information will apply to those persons listed in s.11(1) of the Children Act 2004 and designated education and childcare agencies. Where such persons engage others to provide services relating to safeguarding or promoting the welfare of children, such as primary care providers, the duty will extend to the providers of those services. As such, the

duty is not intended to cover such providers engaged by the persons listed in s.11(1) of the Children Act 2004 or education and childcare relevant agencies for other purposes, but which may incidentally engage the relevant functions (for example, IT service providers or interpreters) and who do not independently hold information that is not already available to the agencies in scope. Publication of information standards, which agencies must have regard to, will help to ensure interoperability and support effective information sharing.

23 The Act also makes provision for a consistent child identifier (also known as a Single Unique Identifier or SUI). Designated persons (and persons engaged by them to provide services that relate to safeguarding or promoting the welfare of children) must include the consistent identifier when processing information about a child for safeguarding and promotion of welfare purposes. Regulations will set out the consistent identifier, require the person or agency who holds or manages the consistent identifier on a national basis to provide it to named agencies, as opposed to those who may hold the identifier for a child or group of children for their own purposes (for example, a person to whom the consistent identifier has been disclosed further to the duty in section 16LC(5)) and which agencies from the specified list must use it.

24 Publication of a Code of Practice, which agencies must have regard to, which would complement the statutory guidance and support implementation of the consistent identifier by covering technical and practical matters, such as accessing, storing, and using the identifier effectively, and could be updated regularly to reflect technical developments and process changes. The code of practice would be informed by piloting and testing of the consistent identifier, which will involve user testing, as well as engagement with relevant sector bodies, the Information Commissioner's Office, and relevant Government departments.

Support for children with care experience to thrive

Support for children in care, leaving care or in kinship care and carers

25 The Act adds sections 22H and 22I to the Children Act 1989 to ensure parity of access to information across England so that all children living in kinship care and kinship carers have information about support services they can receive in their local area. The government is therefore placing a duty on local authorities to publish information about services in their area for children who live in kinship care and kinship carers, which will be known as a kinship local offer. Local authorities will be required to consult relevant persons about any services offered or that may be offered which may assist to improve outcomes for children living in the authority's area who live in kinship care prior to publishing its kinship local offer, and to publish a report on consultation. The existing statutory guidance will be replaced to include an expectation to publish a kinship local offer. The duty to consult has been created to help ensure that local offers reflect the needs of kinship families living in an area. The government expects that as a result of this legislation, there will be an increase in local authorities publishing a kinship local offer. The department will also be putting in place a programme of work to improve the quality of kinship local offers.

26 Local authorities have a duty under section 22(3A) of the Children Act 1989 to safeguard and promote the welfare of the children they look after, including their educational achievement, wherever they live or are educated. To support the discharge of this duty, local authorities must appoint at least one person, known as a Virtual School Head (VSH) to act as the lead responsible officer for ensuring that arrangements are in place to support improved educational outcomes for these children, including those placed out of the area of the local authority.

27 The Children and Social Work Act 2017 amended the Children Act 1989 to require local authorities to promote the educational achievement of the previously looked-after children in their area. These are children no longer in care due to adoption, special guardianship, child arrangements orders, and children adopted from state care outside of England and Wales. This is because these children can still face similar challenges and barriers to educational achievement as those who are in care. To discharge this duty, local authorities must appoint an officer – in practice the VSH, as for looked-after children - who provides information and advice, upon request, to those with parental responsibility, educators, and others, for the purpose of promoting these children's educational achievement.

28 In June 2021, the VSH role was extended on a non-statutory basis to include a strategic leadership role in relation to all children and young people with a social worker, recognising that these children experience poorer educational outcomes compared to their peers. In this role, the VSH supports local authorities in taking steps to promote the educational attendance and achievement of children with a social worker in their area. This VSH does not work directly with individual children or families, but supports partnership working between local authorities, schools, and other professionals.

29 In September 2024, the VSH role was further extended on a non-statutory basis to include promoting the educational achievement of children living in kinship care, following a government commitment to strengthen educational support for this group. This includes raising awareness of barriers to educational achievement and providing information and advice, upon request, to kinship carers who have responsibility for children under a special guardianship order or a child arrangements order, regardless of whether the child has previously been looked after.

30 This measure places these extended VSH functions on a statutory footing by inserting new section 23ZZZA into the Children Act 1989 and amending section 23ZZA. This provides clarity and consistency about the role of the VSH in relation to children with a social worker and children in kinship care and ensures that each local authority appoints an officer to discharge the duty to promote the educational achievement of these groups.

31 The Act will introduce section 23CZAA to the Children Act 1989 to add "Staying Close" to the duties that local authorities have towards former relevant children.[5] Care leavers continue to have some of the worst outcomes nationally compared with their peers and research indicates that they are over-represented in the adult prison population and in homelessness and rough sleeping statistics. Care leavers are also more likely to experience loneliness and challenges to their emotional health and wellbeing. These new duties are intended to strengthen the support available to young people as they leave care, helping to ensure a more stable and well-supported transition into adulthood. They will require local authorities to assess whether former relevant children (under the age of 25) require the provision of staying close support (if it is in the interests of that young person's welfare) and where assessed to be required to provide advice, information and representation the local authority considers appropriate. Staying close support means support to find and keep suitable accommodation and support to access services relating to health and wellbeing, relationships, education and training, employment and participating in society. The new section makes clear that these duties are in addition to those already required under Part 3 of the Children Act 1989. It is the government's intention to issue guidance to local authorities under section 7 of the Local Authority Social Services Act 1970 to aid local authorities in the set up and delivery of this duty.

[5] A Former Relevant Child is defined in section 23C(1) of the 1989 Act as a young person who is aged 18 or above, and either has been a relevant child and would be one if they were under 18, or immediately before they ceased to be looked after at age 18, was an eligible child.

32 The Act amends section 2 of the Children and Social Work Act 2017 which relates to the local offer for care leavers in England. Expert reviews have shown that many care leavers still face significant barriers to securing and maintaining affordable housing. Therefore, this section will require each local authority to publish the arrangements it has in place to support and assist care leavers in their transition to adulthood and independent living. This must include information about the authority's arrangements for anticipating the future needs of care leavers for accommodation, co-operating with the local housing authorities in its area, information on services relating to financial literacy, arrangements around financial support and providing assistance to eligible care leavers who are at risk of homelessness.

Intentional Homelessness

33 This Act amends section 191 of the Housing Act 1996 to disapply the intentional homelessness test for care leavers who are in scope of the local authority's corporate parenting duty and who are not looked after by a local authority. This means that they cannot be found to have become homeless intentionally.

34 This section will ensure that, so long as all other criteria are met, local housing authorities will have a duty under section 193 of the Housing Act 1996 to secure settled accommodation for in-scope care leavers, even in circumstances where their actions may have caused or contributed to their homelessness.

35 Care leavers continue to have some of the worst long-term life outcomes nationally across health, education and employment. This is also the case in relation to housing, where care leavers are particularly vulnerable to becoming homeless. Since 2018/19, homelessness duties owed to households with a 'care leaver' support need, where the care leaver is aged 18-20, have increased at almost three times the rate of households overall. Young care leavers are more likely to be found intentionally homelessness by local housing authorities, meaning that they are not required to secure settled accommodation for them. This measure is intended to ensure the system is able to better facilitate a successful transition from care to adulthood and to help address the "cliff edge" of support that such young people experience. This flows naturally from the existing requirement on Local Housing Authorities to have regard to the corporate parenting principles under s.1 of the Children and Social Work Act 2017.

36 As per the Act generally, this amendment extends to England and Wales and applies in England.

Sibling Contact

37 During the passage of the Act, contact between children in the care of the local authority and their siblings was raised multiple times.

38 There are existing duties on local authorities set out in the Children Act 1989 to endeavour to promote contact between looked after children and their relatives, including siblings, friends and other connected people, unless it is not reasonably practicable or consistent with their welfare.

39 Regulations relating to care planning make clear that arrangements to promote and maintain contact with siblings must be included in a child's care plan. This prioritises consistency, stability, and lifelong loving relationships with those who are important to children and young people.

40 Statutory guidance and regulations in relation to foster carers and children's homes, for example, also require those involved in the day-to-day care of children, to promote positive family relationships.

41 Despite these duties, children repeatedly report and share stories to demonstrate their difficulties in being separated from their siblings, with insufficient support to maintain good contact and promote a strong relationship.

42 Under existing duties, LAs are required to endeavour to promote contact between looked after children and "any relative, friend or other connected person", unless it is not reasonably practicable or consistent with the child's welfare. However, research and stakeholders working directly with children report that contact between siblings can often be inconsistent and insufficient to meet the needs of the child.

43 This change will strengthen the duty placed on LAs and emphasise the priority of sibling relationships for children in the care of the local authority. It will also ensure that LA's place the same emphasis on contact between children in care and their siblings as with their parents.

44 This change will not apply to looked after children, it only relates to children in care of the LA. A child could be accommodated by the LA in many different circumstances, and a LA does not have parental responsibility for all looked after children, in the way it does for all children in care. However, looked after children are still subject to contact arrangements set out in paragraph 15 of Schedule 2 to the Children Act 1989.

Accommodation of children

45 The temporary accommodation measure places a duty on local housing authorities to notify educational institutions, GP practices and health visiting services in England when a child is placed in temporary accommodation. There are record numbers of children in temporary accommodation and the Government is determined to address this. Living in temporary accommodation can have a detrimental impact on a child's health, wellbeing and education outcomes. The change in legislation is intended to strengthen information sharing so that educational institutions and specified health providers are aware where children may require additional or different support. It will require an amendment to Part 7 of the Housing Act 1996 which is the legislative framework that governs local authorities' homelessness functions. The notification will only be made with consent from the parent, those with parental responsibility or care of the child, or the child themselves where they are aged 16-17 and living independently from their parents.

46 The Act gives the Secretary of State powers to direct local authorities to establish regional co-operation arrangements. Such arrangements will support local authorities with their strategic accommodation functions. This will include analysing future accommodation needs for looked after children across the region, publishing strategies to meet those accommodation needs, commissioning accommodation for looked after children, recruiting and supporting local authority foster parents, and developing or facilitating the development of new provision for accommodating looked after children. The arrangements could be established either as joint arrangements between local authorities; with one local authority carrying out functions on behalf of the others; or as a separate corporate body.

47 The Act also amends section 25 of the Children Act 1989 to provide a statutory framework for the local authorities to seek authorisation for the deprivation of liberty of children in a different type of accommodation within England - one that is not a secure children's home ("SCH"), but which is primarily to be used to provide care and treatment for a vulnerable, complex cohort who may need restrictions which deprive them of their liberty (i.e. that the totality of the restrictions means that the person is under continuous supervision and control and not free to leave of their own accord). Currently, the only statutory framework for depriving a child of their liberty on welfare grounds (outside other relevant legal frameworks such as in relation to mental health) for English local authorities is via section 25 of the

Children Act 1989. This power authorises the deprivation of liberty of children in accommodation provided for the purpose of restricting liberty (a SCH). A core feature of a SCH is that it should be designed for, or has as its primary purpose, prevention of a child from absconding or causing harm to his/herself or others. Other, highly therapeutic accommodation designed for a child would have as its primary purpose the care and/or treatment of the child, as opposed to prevention of absconding or harm, and so cannot currently be used to deprive a child of their liberty via section 25 of the Children Act 1989. This legislative change provides a statutory route to authorise the deprivation of liberty of a child in a more flexible form of accommodation, bringing more deprivation of liberty cases under a statutory framework via s.25 Children Act 1989, with clear criteria for access, require regular re-authorisation from the courts, and bring parity with SCH in terms of access to legal aid.

Make the care system child-centred

Regulation of children's homes, fostering agencies etc.

48 The Act introduces a provider oversight regime to help safeguard and protect vulnerable children, reduce risks and improve their experience. Currently, across children's social care, the CIECSS' registration and enforcement powers are limited to persons carrying on or managing establishments, agencies, residential holiday schemes for disabled children and supported accommodation. Where the CIECSS has reasonable grounds to believe that there are concerns in more than one setting owned or controlled by the same private or voluntary provider group (organisations that own the providers who run children's social care settings, referred to as a parent undertaking in the Act), Ofsted cannot act at pace and scale. It is important for Ofsted to be able to intervene rapidly and at scale to keep children safe where there are concerns which relate to more than one establishment or agency within the same provider group. The Act places a duty on parent undertakings to develop and implement an improvement plan where the CIECSS has identified quality issues in multiple settings under the ownership or control of the same parent undertaking and reasonably suspect there are grounds for cancellation of registration in relation to those settings. Should parent undertakings not comply with these requirements, the CIECSS will have the power to issue an unlimited monetary penalty which would be used proportionately and depending on the circumstances. The Act also gives the Secretary of State the power to make regulations to provide that a person who is carrying on an establishment (e.g. a children's home) or an agency (e.g. an independent fostering agency) is not to be treated as a fit and proper person where their parent undertaking has failed to comply with requirements imposed on them under the new measures relating to provider oversight and the financial oversight scheme.

49 Section 37 of the Care Standards Act 2000 (CSA) required all notices and documents served under Part 2 of the Act to be served on persons carrying on or managing an establishment or agency, by hand or by recorded mail (post). This requirement was an inefficient mandatory administrative requirement, which does not align with government's wider aims of using more efficient technological services. Section 16(5) of the Act amends Section 37 of the Care Standards Act to allow any notices and documents that are to be served under Part 2 of the Care Standards Act (i.e. by the CIECSS (Ofsted for shorthand), the Secretary of State, or Welsh Ministers, to be served by post, hand and/or by email. The Act eliminates costly and time-consuming practice requirements to only serve notice by post or hand that could delay relevant action being taken to resolve concerns identified in establishments and agencies. This ensures that the notices can be served without delay, and allows the relevant authority to contact parent undertakings (the organisations that own providers who run children's social care settings) in relation to the financial and provider oversight measures, as well as registered managers and providers.

50 Previous legislation gave the CIECSS a range of regulatory powers in relation to the provision of children's social care accommodation. Whilst Ofsted have general powers of inspection (e.g. to enter a setting and inspect or take copies of relevant documents), they are unable to enforce regulatory requirements in unregistered settings to ensure children's needs are being met and that there is a suitable workforce. The only power the CIECSS has in respect of unregistered settings is prosecution for the offence of carrying on or managing an establishment or agency without being registered. This does not allow Ofsted to take appropriate targeted action, or act in an agile and proportionate manner given the length of time and costs involved. It is for these reasons that government is giving the CIECSS the power to issue a monetary penalty to persons operating provision in respect of which they are not registered and to registered persons who are in breach of the offence provisions of the Care Standards Act. This would be an alternative to prosecution and sit alongside other enforcement powers against registered providers, and allow the CIECSS to act in a targeted, agile, proportionate way which allows for consideration of the circumstances. Issuing a monetary penalty will be much less resource intensive and costly than prosecution. This will also act as a greater deterrent to those potential providers considering operating an unregistered setting or those who are otherwise not complying with the Care Standards Act, thereby committing offences.

51 This Act introduces a Financial Oversight Scheme that will increase financial and corporate transparency of 'difficult to replace' children's social care providers and their parent owners within their wider corporate group, and allow for an accurate, real-time assessment of financial risk. This will provide advance warning to local authorities if there is a real possibility that establishments or agencies will cease to be carried on due to risks to the financial sustainability of persons subject to financial oversight and where local authority or children looked after by the local authority may be adversely affected if services were to cease. Previously, local authorities had no way of knowing if a provider of placements for children was at risk of failing financially or if a parent company within the same corporate group was. If a large or 'difficult to replace' provider were to have failed, it could have led to them closing their provision suddenly, causing disruption to children who could lose their home. The previous system left open the risk of provider financial difficulty and business failure going undetected. The Secretary of State will be under a duty to provide advance warning to local authorities where the criteria set out above apply. This will give local authorities more time to plan and find new homes that are the best fit for impacted children and young people.

52 The Act includes new powers for the Secretary of State to be able to limit profits of specified non-local authority Ofsted-registered providers of children's homes and fostering agencies by regulations. This will enable the Secretary of State to take action in the future if the other market intervention measures outlined in Keeping Children Safe, Helping Families Thrive do not sufficiently improve the functioning of the market and reduce profiteering in the children's social care placements market.

Care workers

53 Although the use of agency workers can be helpful in allowing local authorities to manage fluctuations in demand in their children's social care services, it is costly, and evidence from Ofsted indicates that higher levels of agency workers and workforce instability can negatively impact on both the quality of social work support provided to children and families and the care provided to looked after children in residential settings. There is a need to alleviate significant affordability and stability challenges that have arisen within the local authority children's social care workforce due to an increase in the use and cost of agency workers. The Act introduces a new power to allow the Secretary of State to make regulations on the use of the agency workers in local authority children's social care services. The new regulations will

strengthen the existing regulatory framework for the use of agency workers in local authority children's social care services currently set out in statutory guidance. Such regulations may make provision relating to local authority oversight and accountability for direct work with children and families, pay and labour costs, and quality assurance provisions such as pre-employment checks and minimum experience needed. This brings a benefit to local authorities through cost control measures and those in receipt of its children's social care services by improving the quality and stability of the temporary workforce.

54 The Children and Young Persons Act 1933 protects those under 16 from cruelty by those 16 or over who have responsibility for them. The Criminal Justice and Courts Act 2015 ("the 2015 Act") protects against ill-treatment or wilful neglect by care workers that provide social care for adults, and health care for an adult or child. It also contains offences for care providers relating to the same cohorts, however there are no offences pertaining to care providers within the 1933 Act. This Act closes a gap in existing legislation by extending care worker and care provider offences within the 2015 Act. The care worker offence is extended to include 16 and 17 year olds in regulated establishments and youth detention accommodation in England and Wales. Care provider offences are extended within the same establishments to include all under 18s. The government wants to create a system that affords the same protection to children as given to adults in social care settings. Currently there are greater protections in place against ill-treatment by care workers for under 16s and adults within social care. Care workers in social care settings cannot be prosecuted for the same offences against a 16 or 17 year old as they can for someone under 16 or over 18. Equally, under the 2015 Act, care providers can be held liable where there has been a gross breach of a relevant duty of care contributing to the ill-treatment or wilful neglect of adults within social care. However, there is no equivalent protection covering children's social care either within the 2015 Act or s1 of the 1933 Act. The government wants to ensure that where care providers breach their duties resulting in the ill-treatment or wilful neglect of a child, they can be held to proper account. This will ensure under 18s are protected in the same way as adults.

Corporate Parenting

55 The Act introduces new corporate parenting responsibilities on relevant authorities which include Secretaries of State and certain public bodies (referred to in this document as "corporate parents"). These new responsibilities aim to ensure that corporate parents take account of factors that could impact negatively on looked after children and care leavers when designing policies and delivering services; take steps to help looked after children and care leavers to access the services they provide; and seek to provide opportunities that support them to thrive. Corporate parenting refers to the state's role in supporting looked after children and care leavers in recognition that they do not have the family support networks that other children and young people benefit from. While local authorities have the primary responsibility for caring for and accommodating looked after children and supporting care leavers to transition to independence (including by having regard to a set of corporate parenting principles set out in the Children and Social Work Act 2017), the Government believes that they do not have all of the levers needed to ensure good outcomes for these cohorts of vulnerable children and young people. The corporate parenting measures in this Act seek to address this by introducing a new set of corporate parenting responsibilities for a wider set of public sector organisations which have an impact on the lives and outcomes of children in care and care leavers.

Employment of children

56 The Act will amend the Children and Young Persons Act 1933 ("CYPA 1933") and the Children and Young Persons (Scotland) Act 1937 ("CYPSA 1937"), including to enable children to work more hours on Sundays and before or after school. This will give children and employers more flexibility and give children more opportunities to take up suitable employment while ensuring their health, development and education are not adversely affected. The main restrictions in relation to child employment found in CYPA 1933 and CYPSA 1937 will remain, including the restriction on the number of hours a child is allowed to work in a week and children only being able to carry out light work. Therefore, existing safeguards which were already in place to ensure that, if a child is employed, their employment is not harmful to their health, development and education will still be in place. The Act also gives new powers to the Secretary of State, Welsh Ministers and Scottish Ministers to make regulations in relation to child employment, replacing powers previously conferred on local authorities to make byelaws. This will ensure greater consistency as the same regulations will apply within each country, rather than having an approach which could lead to variation across different local authorities.

VPN Services and Social Media

57 The Act provides a delegated power enabling the Secretary of State to make regulations to strengthen protections for children from online harm, following Department for Science, Innovation and Technology's (DSIT) public consultation: Growing up in the online world: a national conversation.

58 While the Online Safety Act 2023 established a strong framework for protecting children online, the government has sought to build on its foundations and considers that further, more targeted measures are required to address emerging harms and specific service features to ensure children's online safety and wellbeing.

59 The power allows the Secretary of State to make regulations to require providers of internet services to prevent or restrict children's access either to entire services or to specific features and functionalities for the purpose of preventing risks of harm to children.

60 The power can be used to regulate "internet services", which means any service made available by means of the internet. This includes "user to user services" and "search services" already regulated by the Online Safety Act 2023 as well other services. Using this power, the Secretary of State can for example require a provider to limit the amount of time per day or the times of day at which children may access the service or a specified feature or functionality of the service. The Act also requires Ofcom, insofar as reasonably practicable, to provide research or advice at the request of the Secretary of State for the purpose of making these regulations.

61 The first regulations made under these powers must have regard to the findings of the government consultation Growing up in the online world: a national conversation.

62 The consultation seeks evidence on where harms arise and how best to address them, including questions on minimum age requirements for social media, anti-circumvention measures, the role of compulsive design features, use of emerging services such as AI chatbots, and whether changes to the digital age of consent are appropriate.

63 The regulation making power ensures that the government must act on the outcomes of this consultation. Following Royal Assent of this Act, this government must provide a progress report within three months and then must make first regulations within 12 months of the report.

Remove barriers to opportunity in schools

School Meals, Breakfast clubs etc.

64 The Act aims to give all children, regardless of their circumstances, a supportive start to the school day with access to a free breakfast club. This will mean many more children are settled and ready to learn at the start of the school day, helping to drive improvements to behaviour, attendance and attainment. The clubs will also support parents and carers with the cost-of-living. This is part of the Labour Party's 2024 manifesto commitment to introduce free breakfast clubs in every state-funded primary school.

65 As a minimum, the duty on a school is to secure a club that is at least 30 minutes in duration, includes food, and is free and open to all pupils in reception to year 6 on roll at the school. The government knows that some families need more support, so schools will have flexibility to go further and offer more than the minimum standards to meet the needs of their school, pupils and parents. Early adopter schools (delivered from April 2025) have helped the Government to test and learn how best to deliver these new breakfast clubs.

66 The duty allows flexibility for schools over how they secure a breakfast club. Given the primary aim of the policy is to support pupils into the school day, the government's expectation is that pupils will transfer seamlessly from the breakfast club to the first morning session on each school day. Schools will, however, have flexibility over whether to deliver on site, or any other suitable location within the vicinity of the school premises (such as a nearby village hall). Private, voluntary, and independent (PVI) childcare providers can support schools to deliver on their duty.

67 The government recognises that some schools will face barriers in securing breakfast club provision that meet the minimum expectation in the duty. The Department for Education will work with these schools in order to support them to overcome any such barriers. In April 2025, the government launched the early adopter scheme to test and learn from the model, and developed a comprehensive support package for these schools. Early adopter schools were chosen as a representative sample of the existing school landscape, which allows the Government to test the programme in all school types. Alongside non-statutory guidance, there was a toolkit to support the early adopters throughout their journey. The Government also facilitated peer-to-peer support networks between early adopter schools, and ensured access to specialist advisors to help them work through implementation barriers. The learning from early adopters has fed into the government's ongoing breakfast club delivery support programme for schools. The national rollout of free breakfast clubs began in April 2026. In exceptional circumstances, it may be necessary to exempt a school from the duty and so provision exists in the Act for the Secretary of State to grant such exemptions following a robust process against stringent criteria.

68 The government believes that it is important to ensure food served at breakfast clubs is healthy and nutritious. The government's policy is that schools should play a role in helping pupils to develop healthy eating habits and ensure that they have the energy and nutrition they need to get the most from their whole school day. The existing school food standards - The Requirements for School Food Regulations 2014 - prescribe the foods and drinks that must be provided, which foods are restricted, and those which must not be provided. They apply to food and drink provided to pupils on school premises and during an extended school day (up to 6pm), including, breakfast clubs, tuck shops, mid-morning break, lunch, vending and after school clubs. The Children and Families Act 2014 inserted a provision in the Education Act 1996, extending the school food lunch obligations to all academy arrangements that do not already contain a provision in the funding agreement (including those with agreements entered into before 2014). This includes the duty to ensure the school food

standards are complied with for lunchtime provision. The government is now seeking to extend the statutory duty to comply with the school food standards, to ensure the Requirements for School Food Regulations 2014 apply in their entirety (including to breakfast), to all academies (primary and secondary) and mirror the regulatory framework for maintained schools. It is a long-standing policy position that all academies should follow the regulations in full and this amendment seeks to formalise this position.

69 State-funded schools in England are under a duty to provide free school meals (FSM) to eligible children. Currently, FSM are provided to 2.2 million disadvantaged children, 90,000 low-income students in Further Education and around 1.3 million infants through the Universal Infant Free School Meal policy. Children from families receiving certain income-related benefits, including those on Universal Credit whose annual income is no more than £7400 are eligible for FSM. Transitional protections for FSM, in place since 2018, have ensured no one who has gained FSM eligibility would lose it while Universal Credit was rolled out. In June 2025, the government announced its decision to expand eligibility for free meals to all children from households in receipt of Universal Credit from September 2026, alongside ending transitional protections for FSM. This will mean that all children whose families are in receipt of Universal Credit will be eligible for FSM.

70 Under the old system, children from families receiving Universal Credit whose annual income is more than £7400 are not eligible for FSM. Expanding FSM eligibility means over half a million more pupils will become eligible for free school meals. Ensuring children from the most disadvantaged backgrounds receive a free, nutritious lunchtime meal every school day will lead to higher attainment, improved behaviour and better outcomes, meaning children get the best possible education and chance to succeed in work and life. The expansion will also provide significant financial relief for families. Families that receive universal credit could save £500 per child per year on school lunches. For families with multiple children, these savings could make a substantial difference to household budgets. Ultimately, the expansion will help lift 100,000 children out of poverty by the end of this Parliament. This is a cornerstone of the government's Child Poverty Strategy, designed to reduce hardship and deliver lasting improvements for children and families.

Allergy safety provisions in schools

71 LA-maintained schools, Academies and pupil referral units have an existing duty under section 100 of the Children and Families Act 2014 to make arrangements for supporting pupils with medical conditions. The Act extends this duty to introduce statutory allergy safety duties. It also requires the Secretary of State to place equivalent allergy safety requirements on the proprietors of independent or non-maintained special schools through amendments to the Education Act 1996 and Education and Skills Act 2008.

72 The Act confers powers on the Secretary of State to make regulations imposing specific duties relating to the management of allergies, for example requirements on schools to stock adrenaline devices, to secure allergy awareness training, the recording and reporting of incidents and the content of allergy safety policies.

School Uniforms

73 The Act creates a limit in primary legislation on the number of branded uniform items that a school can require. The cost of school uniforms has long been a matter of public concern. Uniforms can play a valuable role in helping to set an appropriate tone for learning, reflect the ethos of a school, instil a sense of belonging and act as a social leveller. However families can struggle to afford expensive uniforms, which can act as a disincentive for some parents to apply for certain schools or to pupils participating in school or in school activities or clubs. Research has found that almost half of parents are concerned about the cost of school

uniforms[6] and that 12% of parents (16% of parents with children in secondary school) had suffered financial hardship as a result of purchasing their child's school uniform[7]. Concerns about cost usually focus on excessive use of branded items, which are often more expensive than generic alternatives available from a range of retailers, and which restrict parents' ability to buy items of their choice. The decision on whether there should be a school uniform policy and, if so, what it should be and how the uniform should be sourced, rests with school governing boards. The term governing boards includes the board of trustees for an academy trust, the governing body of a maintained school or non-maintained special school, or the local authority for pupil referral units.

74 Where schools choose to have a uniform, they must have regard to the statutory cost of school uniforms guidance which was designed to ensure the cost of school uniforms is reasonable and secures the best value for money.

75 Although the statutory guidance published in 2021 has had some impact, too many schools still have an excessive number of compulsory branded items, e.g. a survey in November 2023 found that in secondary schools the most common number of compulsory branded items was five and the median figure was just over six[8]. There was also a clear pattern of significantly lower uniform costs for parents where items could be bought from somewhere other than a designated shop or from school. In some cases, parents/carers buying from a designated shop or from school paid around twice that of parents/carers able to buy items from anywhere[9]. The limit removes any ambiguity about the expectations placed on schools and thereby helps to reduce the cost of school uniform for parents.

Guidance about mobile phones in schools

76 In January 2026, the Department for Education published updated guidance on 'mobile phones in schools' which is clear that all schools should implement a policy whereby pupils do not have access to their mobile phone throughout the school day including during lessons, the time between lessons, breaktimes and lunchtime.

77 The Act legally requires all schools in England to have regard to guidance issued by the Secretary of State on pupils' use and access of mobile phones and other personal interactive communication devices at school.

78 This makes the existing guidance published by the Department for Education on this issue 'statutory'. This means schools are legally required to have regard to it, and creates a clear legal expectation that the guidance must be followed unless there is a legally justifiable reason for schools not to do so.

[6] https://www.parentkind.org.uk/research-and-policy/parent-research/parent-voice-reports/national-parent-survey-2024

[7] https://assets.publishing.service.gov.uk/media/677ea36522a085c5ff5c04db/Cost_of_school_uniform_survey_2023.pdf

[8] https://assets.publishing.service.gov.uk/media/677ea36522a085c5ff5c04db/Cost_of_school_uniform_survey_2023.pdf

[9] https://assets.publishing.service.gov.uk/media/677ea36522a085c5ff5c04db/Cost_of_school_uniform_survey_2023.pdf

Create a safer and higher quality education system for every child

Children not in school

79 The Act contains several changes aimed at ensuring children receive a safe and broad education that supports them to thrive. Parents play a crucial role in ensuring their child receives a suitable, full-time education, through their child attending an educational institution or otherwise.

80 All parents have a legal responsibility to ensure their child receives a suitable, efficient, full-time education. Most parents choose to fulfil this responsibility by sending them to school, whilst others choose to fulfil it by undertaking education otherwise than at a school (for example, home educating their children).

81 The number of home-educated children in England is increasing[10]. Most parents who home educate do so in their children's best interests, and many home educated children receive a suitable education that supports them to thrive. However, local authorities have expressed concerns during regular engagement with the Department that not all children educated at home are being educated properly and some are at risk of or suffering harm. Increasingly, parents of children with complex needs are choosing to home educate and may not be well prepared or equipped to provide a suitable education. As there is currently no duty on parents to notify local authorities when they are home educating, local authorities are unlikely to be aware of all the children not in school in their areas, including those who are not receiving a suitable education or those who are at risk of harm. Therefore, some children may be spending long periods of time receiving unsuitable education or, in some cases, no education at all, without intervention; and there are also children who may be in unsafe home environments and under the radar of practitioners that are there to protect them. There is an urgent need for local authorities to be able to better identify these children and, if a child is not receiving a suitable education or is at risk of harm, to take action to help them back into school or to take other necessary steps to safeguard them.

82 Between April and June 2019, the Department for Education's Children Not in School consultation[11] sought views on proposals for creating a local authority-administered system of registration for children not attending school and a duty on local authorities to provide support to home-educating families. Local authorities[12] and safeguarding and children's organisations[13] were overwhelmingly supportive of the proposals and continue to be in favour of introducing Children Not in School registers. In contrast, most home educating parents who responded to the consultation indicated that they were not in favour of introducing registers – citing concerns about privacy and registers being used to "criminalise" parents.

---

[10] In autumn 2025, an estimated 126,000 children were in elective home education (EHE). This is an increase from an estimated 111,700 in the previous autumn term: https://explore-education-statistics.service.gov.uk/find-statistics/elective-home-education/2025-26-autumn-term

[11] https://www.gov.uk/government/consultations/children-not-in-school

[12] 96% of the 145 local authorities who responded to the 2019 Children Not in School consultation agreed that local authorities should be obliged to keep registers of children not in school.

[13] Rachel de Souza, Children's Commissioner said in February 2024 "We have found that over 10,000 children left the state education system to destinations unknown to their local authorities … they have fallen through the cracks of our education system." Former His Majesty's Chief Inspector, Amanda Spielman, also stated in 2019: "Ofsted has long had concerns about the increasing numbers of school-age children not attending a registered school, many of whom may not be receiving a high quality education or being kept safe. We are especially concerned about children 'off-rolled' from schools, and those in illegal schools. The new register will make it easier to detect and tackle these serious problems."

83 The measures will introduce in England and Wales:

- Compulsory Children Not in School registers in each local authority area.
- A duty on local authorities to provide support to the parents of children on their registers (should a parent request this).
- Changes to the School Attendance Order (SAO) process to make it more efficient, reducing the time children may spend in unsuitable education (this process may also be used where parents do not comply with their new duty to provide information for Children Not in School registers) by:
    - Introducing statutory timeframes for issuing and processing SAOs.
    - Aligning the SAO process for academies with maintained schools, creating consistency and simplifying the process.
    - Making it an offence for parents to withdraw a child subject to an SAO from school without following the proper procedure. Parents convicted of breaching an SAO can be prosecuted again if they continue to breach it without local authorities having to begin the process again.
    - Aligning the maximum penalty for breaching an SAO with the offence of knowingly failing to ensure a child attends school.
- A requirement whereby local authority consent to home educate will be needed by parents of children who:
    - Are on child protection plans or were previously on child protection plans in the previous five years,
    - Are subject to Section 47 child protection enquiries, or
    - Attend special schools.
- Create a power whereby if a child is subject to a s.47 Children Act 1989 enquiry or on a child protection plan or has been on a child protection plan in the last five years and is already being home educated, the local authority will have the power to review whether it is in the best interests of the child to be in school and can then insist that the child be registered at a school.
- A requirement for local authorities to consider the home and other learning environments at the point of Children Not in School registration and when considering whether children should be required to attend school.
- The piloting of mandatory meetings in selected local authorities, for parents wishing to withdraw their child from school for home education, with the power to roll this out nationally after two years. The pilots of mandatory meetings are not the same as the consent requirement. Once the mandatory meeting has taken place, the school must delete the child's name from the school roll (unless the child falls within the consent requirement) – the local authority will not be able to prevent this from happening.

84 A child is eligible to be registered on a local authority Children Not in School register if they are of compulsory school age, living in the authority's area, and are either:

- Not registered at a relevant school.
- Registered as a pupil at a relevant school but it has been agreed or arranged by the school's proprietor that they can be absent for some or all of the time and receive some or all of their education otherwise than at a relevant school.
- Registered at a further education setting that provides education for children aged 14 and above and attends that setting on a part-time basis and does not also attend a school.

85 For many children who may be at risk of harm, education settings are a protective factor. Children who are not regularly in school and therefore not visible to teachers or other practitioners, who are considered at risk of actual or likely significant harm, are a priority group. The intention is for local authorities to proactively identify children not in school in their local area and which of those children are known to children's social care. The Act will require some parents to obtain local authority consent before removing a child from school for home education. This is where there is reasonable cause to suspect that the child is suffering or likely to suffer significant harm and so is subject to section 47 enquiries, or, where the child is judged to be suffering or likely to suffer significant harm and so is on a child protection plan; or children who have recently (in the last five years) had their child protection plan discharged and therefore may be more vulnerable if they are removed from school. The Act will also mean that a consent requirement will apply to children at a special school maintained by a local authority, special academy or non-maintained special school, or at an independent special school which, in the case of a school in England, is specially organised to make educational provision for pupils with special educational needs; or in the case of a school in Wales, makes additional learning provision for pupils with additional learning needs, under arrangements made by a local authority. Children in special schools have complex needs and the removal of this school support could in some cases result in a child not receiving a suitable education or the best interests of the child not being met. The special school consent requirement in the Act builds on an existing requirement in secondary legislation that has existed for many years.

86 There have been cases where a child has been seriously harmed or died as a result of abuse or neglect whilst not in school. Between April 2022 and March 2023, the Child Safeguarding Practice Review Panel ("CSPRP") received 393 serious incident notifications and rapid reviews. A high proportion of school aged children who died or were seriously harmed were either not in school (11%) or reported to be regularly absent (29%).[14] In May 2024 the CSPRP published a thematic review of 27 serious safeguarding incidents involving 41 school aged children (six of whom died and 35 were seriously harmed as a result of abuse and/or neglect). Data available to the panel suggested that 29 of these children were home educated and six appeared to be children missing education. Of these 41 children, only 17 were known to local authority children's services at the time of the incident.[15]

87 Children in social care, including those on child protection plans, also experience poorer educational outcomes than the overall general pupil population. As of 31 March 2024, children in the key social care groups were half as likely to achieve the expected standard at

[14] https://assets.publishing.service.gov.uk/media/65bce1df7042820013752116/Child_Safeguarding_Review_Panel_annual_report_2022_to_2023.pdf

[15] https://assets.publishing.service.gov.uk/media/66febd0630536cb927482bec/CSPRP_Elective_Home_Education_Oct_2024.pdf

Key Stage 2 and performed less well than their peers across all Key Stage 4 measures. Children on child protection plans also had the highest proportion of pupils (57.5%) who were persistent absentees.[16]

88 In November and December 2025, education and safeguarding reports were published that underlined the importance of ensuring there are appropriate touchpoints for children who are being home educated or whose parents are considering home education. These reports included the Local Child Safeguarding Practice Review into the murder of Sara Sharif[17], NSPCC's "Tipping Point" report into safeguarding children educated at home[18], and Ofsted and CQC's thematic review of Children Not in School and SEND[19]. In response to the findings of these reports, the government introduced the following measures to the Act:

a. Extension of the home education consent requirement to children previously subject to a child protection plan within 5 years, and amendment of the School Attendance Order process to enable local authorities to require home educated children that meet these criteria to attend school if it is in their best interests.

b. A requirement to pilot mandatory meetings in selected local authorities, for parents wishing to withdraw their child from school for home education. Parents (and the child who is to be removed from school-unless exceptional circumstances apply) will be required to attend this meeting prior to their child being removed from the school roll. These pilots will assess whether mandatory attendance at an initial meeting can help parents make more informed choices about home education, foster stronger collaboration between families and local authorities, improve early identification of educational or wellbeing needs so that suitable support can be provided, and provide an opportunity to discuss safeguarding. Findings from these pilots will inform whether this approach offers clear benefits for children and parents, and guide decisions on whether to discontinue or expand the initiative at a national level. Any decision to roll out the meetings nationally will be subject to a public consultation and affirmative regulations, ensuring sufficient scrutiny.

c. A requirement on local authorities to consider a child's home and a power for local authorities to request a home visit within 15 days of Children Not in School registration; and a requirement for local authorities to consider other settings where the child is being educated within 15 days of this information being recorded on their registers. This will enable local authorities to identify risks that may mean the child is not receiving a safe, suitable education, at the earliest opportunity.

d. A requirement on local authorities to consider a child's home and other learning environments which they are aware of and a power for them to request a home visit when deciding whether a preliminary notice should be served. This provides another opportunity as part of the School Attendance Order process for the suitability of the child's learning environments to be carefully considered and a home visit requested.

---

[16] https://explore-education-statistics.service.gov.uk/find-statistics/outcomes-for-children-in-need-including-children-looked-after-by-local-authorities-in-england/2025

[17] https://www.surreycc.gov.uk/community/news/categories/your-council/sara-sharif-safeguarding-practice-review-published

[18] https://learning.nspcc.org.uk/research-resources/2025/tipping-point-tackling-challenges-safeguarding-children-educated-at-home

[19] https://www.gov.uk/government/publications/the-experiences-of-children-with-send-who-are-not-in-school-a-thematic-review

e. A requirement for registers to include information on any additional address at which the child lives. This will help local authorities to properly consider the suitability of the child's learning and home environments.

f. A power to prescribe that Children Not in School registers must include information on the outcomes of any home visits and must include the outcome of the Local Authority consideration of the child's home and any other education settings.

g. Inclusion of Young Carers in the list of information that local authorities will be required to include on their Children Not in School registers, if prescribed. This will help ensure local authorities identify young carers and provide them with support and consider the children's caring responsibilities when determining whether the child is receiving a suitable, full-time education.

89 Together, these measures will ensure that fewer children are out-of-sight of the services that are there to support them and more are afforded safe, suitable education.

Independent educational institutions and inspections of schools and colleges

90 The following sets of changes aim to ensure that children in independent educational institutions receive a safe and broad education.

91 The first set is to ensure that more independent settings providing a full-time education to children of compulsory school age are registered and subject to regular inspection against standards covering, amongst other things, the quality of education provided and safeguarding the health, safety and welfare of pupils. In October 2020, the Department for Education consulted on a number of issues related to the regulatory regime affecting independent schools – including how the definition of "independent school" is not sufficiently wide. The definition of "independent school" does not encompass settings which provide full-time education but teach a very narrow curriculum, meaning some settings do not need to register with the Secretary of State because they do not meet the legal definition of an "independent school" found in the Education Act 1996. The Department for Education published its consultation response in May 2022. The Act redefines what constitutes an "independent educational institution" (the category of institution regulated under Chapter 1 of Part 4 of Education and Skills Act 2008 - "the 2008 Act"), to support the principle that institutions which are likely most responsible for a child's education should be regulated. In doing so, the Act extends the regulatory regime in the 2008 Act to more full-time settings, beyond independent schools, and so provides greater assurance about the quality and safety of education provided to the children attending these settings. It also enables greater clarity about whether full-time education is being provided and so whether registration is required. It does this by listing factors that are relevant to determining whether full-time education is being provided and by providing regulation-making powers to, amongst other things, effectively prescribe what is, and is not to be treated, as full-time education.

92 The second set relate to the standards for registered independent educational institutions that the Secretary of State can prescribe in regulations. The Secretary of State is required to make standards, under section 94 of the 2008 Act, which the proprietors of independent educational institutions are required to comply with as a condition of registration. Section 94 covers, amongst other things, standards about the suitability of proprietors – and therefore, there are standards about this. Many of the regulatory decisions which the Secretary of State is empowered to take under Chapter 1 of Part 4 relate to compliance with standards made under section 94 and given proprietors are responsible for the management of their institution, proprietors have a central role in assuring compliance with them. Therefore, the Department has a clear interest in ensuring proprietors are suitable for their role, and to do this the government already conducts specified checks about 'suitability' under the standards.

One change extends the existing regulation-making power to make provision about the suitability of proprietors. In particular, it allows via the standards for a discretion to be conferred on the Secretary of State effectively to decide whether someone is fit and proper to participate in the management of an independent educational institution. This will allow for workable decisions to be made, and on a legally certain basis, to exclude from their running those who are unsuitable to be involved in the running of independent educational institutions. This addresses an identified gap in the regulatory regime; it was previously possible for a proprietor to return a positive result on the specified checks and be approved, despite that person not being suitable to be involved in the running of an independent educational institution. The government's planned change is targeted at preventing, in the small number of cases like these that are received annually, unsuitable individuals being involved in the running of independent educational institutions. The government considers that preventing unsuitable individuals from a position of responsibility to bring considerable non-monetizable benefits. This set of changes also allows the Tribunal to make a finding itself that a person is, was or would be fit and proper to be involved in the running of an independent educational institution (even if the Secretary of State is not of the same opinion) where an appeal against a decision of the Secretary of State has been lodged. A second change to the section 94 regulation-making powers expressly permits standards to be made by reference to whether the proprietor of an independent educational institution has regard to guidance issued, or a document published, by the Secretary of State.

93 A third set of changes relate to the enforcement powers which are available to the Secretary of State where registered independent educational institutions fail to meet the independent educational institution standards and in so doing put children at risk of harm. New powers are provided to the Secretary of State to temporarily suspend the registration of an institution (effectively to prohibit the provision of education or supervised activities) and to require that an institution stops providing boarding. This is to enhance the suite of enforcement powers available to the Secretary of State so that appropriate action can be taken to ensure that students receive a safe education. It is already, and continues to be, the case that, to address serious safeguarding failings the Secretary of State may apply to the Magistrates' Court for an order imposing a relevant restriction on the proprietor, or an order that an institution is removed from the register. Where issues relating to an institution are widespread and or very serious, a relevant restriction is unlikely to be appropriate as it allows the institution to remain open. An application for an order for de-registration, an order which effectively forces the institution to close permanently, is a severe step which a court may be reluctant to grant, even more so if it appears that the institution has the capacity to take remedial action. Instead, enforcement action may be taken under sections 115 and 116 of the 2008 Act – but that first requires that the Secretary of State has required an action plan from the proprietor and such enforcement action does not take immediate effect. For example, it is suspended pending the determination of an appeal against it. The new powers enable the Secretary of State to act more quickly, requiring that children do not remain in an unsafe environment but falling short of the impact of permanent closure.

94 The fourth set of changes relate to how appeals are determined by the First-Tier Tribunal against Secretary of State decisions to de-register independent educational institutions for breaches of the relevant standards. An institution may win an appeal, successfully arguing that a decision to de-register should be overturned, by making sufficient improvements to meet the standards by the time of the appeal hearing. However, the improvements may be short-lived, with the Department returning to regulatory and enforcement action because the institution does not have the capacity or willingness to sustain long-term compliance with its regulatory obligations. In fact, case law puts the burden of proof on the Secretary of State to demonstrate to the Tribunal that there is not likely to be compliance with the standards in the future. The Act, therefore, puts the burden of proof on the appealing proprietor

to demonstrate to the Tribunal that the standards will be met on an on-going basis. In addition, it emphasises that this matter is a core consideration for the Tribunal by requiring it, in reaching a decision, to have due regard to the principle that the standards should be met on an on-going basis and the likelihood that they will so be met at the institution which is the subject of the appeal. This is, together, to mitigate against the risk of failing institutions continuing to provide a poor education or to inadequately safeguard their students by not putting in place sufficiently robust measures to continuously meet their regulatory obligations. It is, in any event, an obligation on proprietors to be meeting the standards at all times.

95 The fifth set of changes relate to the regime in the 2008 Act governing the making of material changes – broadly speaking, changes in how a registered institution operates that require prior approval from the Secretary of State. The Act aims to improve the material change regime by, amongst other things, increasing oversight of the changes that institutions may make, ensuring that the Secretary of State has suitable discretion to approve applications for material changes and by allowing proportionate action to be taken if an institution makes an unapproved material change.

96 Prior to this Act, material changes were regulated under provisions in the Education Act 2002 with the provisions on material change in the 2008 Act not fully commenced to regulate material changes of registered institutions. The provisions in the 2008 Act do not cover as many types of material change as the 2002 Act if an institution is not a special institution (see section 101(4) of the 2008 Act). In broad terms, the Act rectifies this by redefining what is a material change for the purposes of the 2008 Act so that those changes (with one exception) that are material changes in the 2002 Act are material changes in the 2008 Act (whether or not an institution is a special institution). This ensures that the level of protection provided by the material change regime is the same across all institutions.

97 The one exception is that it is a material change to admit any pupils with special educational needs under the 2002 Act – which in the Department's view represents too low a threshold and is unnecessarily burdensome. Instead, the changes in the Act mean that it is a material change to start (or cease) to be a "special institution" - to be specially organised to make special educational provision for pupils with special educational needs - and in the case of such an institution, to change the type(s) of special educational needs that it caters for. Regulations may specify the types of special educational needs that are relevant for this latter type of change. This specific set of changes provides greater clarity and transparency to parents, commissioners and inspectorates when either choosing or inspecting independent educational institutions.

98 Furthermore, whilst a change of an institution's registered address is, and will continue to be, a material change, changing what buildings are occupied for students' use, either at or away from the institution's registered address, was previously not. This meant there was no prior assurance that new buildings were safe for pupil use and that the requirements of the independent educational institution standards would be met in relation to them. Therefore, the Act rectifies this by adding a new category of material change to the 2008 Act, for which prior approval must be sought. This is related to where an institution makes a building available for student use, for the purposes of providing meals, education or accommodation for a period of six months or more.

99 Also, the provisions in the 2008 Act would only permit the Secretary of State to approve an application for material change if satisfied that the relevant independent educational institution standards are likely to be met if the change is made. The Act changes the 2008 Act by permitting the Secretary of State to grant approval if satisfied that both the change in question would be beneficial to the education, welfare or safety of students and that the

standards are likely to be met within a reasonable period of time from the change being made. This will enable material change approval to be granted where an institution is not meeting (or is not likely to meet) the standards at the time the application for approval is considered but where making the change would likely assist the institution's performance against the standards to the benefit of students (though compliance with the standards is still central since the Secretary of State needs to be satisfied that they will be met within a reasonable time).

100 The provisions on material change also provide a new power to the Secretary of State to prescribe, by regulations, the manner for making an application for material change approval and what information such an application must contain.

101 Finally, regarding the regime in the 2008 Act on material changes, amendments are made to section 105 of the 2008 Act, providing a new power to the Secretary of State to impose a relevant restriction when an unapproved material change is made. Prior to the Act, the only legislative recourse, directed at unapproved material changes, would be for the Secretary of State to de-register the institution (both under the Education Act 2002 and the 2008 Act). This would have a significant impact, not least to the pupils attending the institution, disrupting their education. Consequently, it is rarely considered except in the most egregious case. A relevant restriction can prevent an institution admitting new pupils, from making use of any part of its premises or from carrying on certain parts of its operations. It is, therefore, a more flexible tool, which has the potential to be a proportionate response to an unapproved material change and is one that may be directed at addressing associated breaches of the standards related to, for example, the quality of education or the safeguarding of pupils.

102 The sixth set of changes strengthen powers available to Ofsted inspectors investigating a suspected criminal offence in relation to unregistered or registered independent educational institutions. Powers previously available in relation to inspections were too limited to allow for the effective investigation of some settings. Under the Act, inspectors now have greater investigatory powers, to enter any premises (in some circumstances under a warrant) and use these powers, where they have reasonable cause to believe that an offence is being or has been committed on the premises or that evidence of an offence may be found on the premises. The need for greater powers to inspect suspected unregistered institutions was identified by the Independent Inquiry into Child Sexual Abuse in its Report Child protection in religious organisations and settings published in September 2021. These investigatory powers in the Act will better enable Ofsted inspectors to gather evidence for the purposes of prosecutions of the "relevant offences" listed in new section 127A(2) in the 2008 Act, leading to better enforcement and deterrence. In addition, a new sentencing power is provided, in the form of a Prevention Order. This may be imposed on any individual found guilty of the offence of conducting an unregistered independent educational institution, for the purpose of preventing that person from providing education or childcare or undertaking certain similar activities.

103 A seventh set of changes is related to the relationship between Ofsted and the Independent Schools Inspectorate ("ISI") (or any other independent inspectorate approved under s106 of the 2008 Act, if there were one). The previous obligation on His Majesty's Chief Inspector of Education, Children's Services and Skills ("HMCI") to report, at least, annually, on any independent inspectorate's performance is being removed and is now replaced with a more flexible power, permitting the Secretary of State to request such a report when she considers it appropriate. The Act also provides a power, for HMCI to pass information directly to ISI (or any other independent inspectorate). This will facilitate joint working between independent inspectorates and Ofsted, leading to improved safeguarding for children. Similar changes are made to provisions in the Children Act 1989 relating to inspectors of boarding provision in colleges and schools.

Teacher misconduct

104 The Education Act 2002 gives the Secretary of State responsibility to regulate teachers' conduct and hold a list of prohibited teachers. It is vital that the system for investigating serious teacher misconduct remains robust and efficient. Since the introduction of the previous regime in 2012, the government has taken all possible steps short of legislation to ensure that this is the case. It was always intended that the regime should capture individuals who have committed serious misconduct even when they were not employed or engaged in teaching work but who may try to return to the classroom, but prior to this Act, interpretation of the legislation only allowed the Secretary of State to consider misconduct committed while the person was undertaking teaching work. The Act broadens the scope of the regime to include persons who commit misconduct when not employed as a teacher, but who have at any time carried out teaching work; to include a wider range of education settings; and to enable the Secretary of State to consider referrals of serious teacher misconduct regardless of how the matter comes to her attention. These clarify that the Secretary of State is able to consider a referral of those who have previously taught and who commit serious misconduct whilst not in teaching, ensuring that they can be prevented from returning to the classroom.

Drive high and rising standards for every child

School teachers' qualifications and induction

105 The government believes that high quality teaching is the most important in-school factor for improving the outcomes of all children, which is why the government considers that Qualified Teacher Status ("QTS") is so important. The Act reaffirms the professional status of teaching and emphasises the importance of high-quality teaching on outcomes for children. QTS is a highly regulated professional status and is currently a legal requirement for teachers to be able to teach in maintained schools and special schools not so maintained in England, subject to limited exceptions set out in The Education (Specified Work) (England) Regulations 2012. Academy trusts have specific powers to make decisions in relation to some matters which are not available to local authority-maintained schools. These include control over teacher qualifications, which means that they are not currently required to employ teachers with QTS.

106 The Act updates section 133 of the Education Act 2002. The approach being taken allows the Secretary of State to specify in regulations the types of academies to which section 133 should apply. The specified primary and secondary academy settings will be subject to the same legal requirement to employ teachers with QTS as currently applies to primary and secondary local authority-maintained schools and special schools not so maintained. The requirement for teachers in academies to have QTS will only apply to teachers employed after the implementation date.

107 Statutory induction is the bridge between initial teacher training (ITT) and a career in teaching. It combines a structured programme of development, support and professional dialogue, underpinned by the Early Career Framework, with monitoring and assessment of performance against the Teachers' Standards. All qualified teachers (holding QTS) in order to be employed lawfully in a relevant school in England (defined by section 135A of the Education Act 2002) are required to have satisfactorily completed a two-year induction period, subject to limited exceptions set out in the Education (Induction Arrangements for School Teachers) (England) Regulations 2012. Statutory induction is not currently a legal requirement in order to be employed as a qualified teacher in Further Education (FE) or in the independent sector, academies and British schools overseas (BSOs), but may be served in these settings should they wish to offer it. This Act sets out powers to update secondary

legislation to ensure both academies and local authority-maintained schools are required to employ teachers with QTS. This means there is an aligned approach on the employment of teachers across all state-funded primary and secondary schools. Children will benefit from professionally qualified, well-trained teachers; and teachers across the state-funded sector will have had access to the same high-quality initial teacher training and induction, establishing a stronger foundation for their ongoing professional development. It will also reinforce the standing of teaching as a profession, through the requirement for an associated professional status (i.e. QTS).

Academies

108 The government wants to drive high and rising standards in every school and to ensure that the school system works for all children. Some of the best multi-academy trusts and other collaborations have shown that schools do best when they work together, sharing their knowledge and expertise and innovating for the benefit of all children in the local area. Measures introduced by the Act will give all children and parents certainty in a national core of high-quality education, creating a floor to guarantee high standards with no ceiling on what schools can achieve. The Act will also introduce measures that will ensure that children have access to a good local school.

109 The Act introduces a requirement for all academies to teach the national curriculum. Currently, local authority-maintained schools are required to follow the national curriculum, as defined by the Education Act 2002. Academies are not required to teach the national curriculum, although they can if they choose. They are obligated to meet the curriculum requirements of section 78 of the Education Act 2002, which requires schools to offer a "balanced and broadly based curriculum". The measure will be commenced after the Curriculum and Assessment Review recommendations have been reflected in the subject Programmes of Study, when they are brought into effect for maintained schools, in September 2028. Academies are not required to teach the national curriculum until commencement.

110 The current discrepancy between maintained schools and academies with regards to teaching the national curriculum leaves potential for inconsistencies in opportunities and outcomes for pupils from different schools. This measure will help to make sure that all children in academies and maintained schools are entitled to a shared core as part of their education. It will also provide assurance and transparency to parents, who will know the details of what their children should be taught, regardless of whether they attend an academy or maintained school.

111 The Act introduces a new power that enables the Secretary of State to issue directions to an academy proprietor that does not comply with a duty contained in their funding agreements. The directions will tell the proprietor how compliance should be secured. A direction issued by the Secretary of State under this power may be enforced by a Court. This measure allows for timely and proportionate intervention in circumstances where previously the only remedy available to the Secretary of State would be to issue a termination warning notice. It will ensure that the Secretary of State will be able to secure compliance with legal requirements more quickly, without the disruption that parents and children would face in the event that the academy's funding agreement was terminated.

112 The policy intention is to provide for routine inspection of trusts. This approach will improve standards. It will help all trusts to identify their strengths and areas for improvement. Where a trust would benefit from support from peers, they will be able to identify strong performers in the relevant area. It will also identify trusts that need urgent improvement and enable intervention. The provisions form the underpinning legislative framework, and the

Department and Ofsted will continue to work closely with the sector to develop the detail and policies that will sit within it, to ensure the system works well, encourages meaningful collaboration, and delivers the benefit that we expect. This will include engaging with the sector on work to overhaul the existing trust quality descriptors to create new Trust Standards that reflect the vision set out in Every Child Achieving and Thriving, and which will inform Ofsted's inspection framework. The legislation also introduces new trust-level intervention powers, so that, where a trust is identified as underperforming, interventions can drive improvement or may include (subject to issuing a termination warning notice) terminating any of an academy trust's funding agreements and moving one or more of the trust's academies into stronger trusts. Together, these measures will ensure action can be targeted at the right level, whether that is the trust or individual academies. These measures are required because the existing inspection regime focuses – and reports - on the quality of education provided in individual academies. Academy trusts play a crucial role in delivering and improving education. As of January 2025, 46.1% of all schools in England, including 84% of secondaries, were academies, educating 58.4% of pupils[20]. Despite continued growth of trusts in the sector, accountability mechanisms have not kept pace. Evidence shows significant variation in trust quality, and decisions made at trust level can have wide-reaching impacts beyond the educational outcomes of pupils. While the 11,764 open academies in England are regularly inspected by Ofsted under the Education Inspection Framework, no similar or equivalent provision exists to inspect academy trusts at a trust level. To address this, the Government manifesto committed to bringing MATs into the inspection system. Extending inspections to academy trusts will help us identify the strongest trusts who are best placed to grow.

113 With over 44% of state schools being run by multi-academy trusts, the government will regularise the legal framework for academy school powers to improve pupil behaviour using off-site direction, so all schools are subject to the same statutory requirements in using off-site direction, including processes to safeguard pupils and review off-site direction placements.

114 The Act converts the duty to issue academy orders to maintained schools in a category causing concern to a discretionary power. There is a strong track record of strong multi academy trusts ("MATs") turning around failing schools. However, since the first academies were introduced, the government have also seen evidence that not all schools' outcomes improve following academisation. This change allows the government to take an active choice about whether the school needs a change in leadership or support. From September 2026, where a school's existing leadership has the capacity to improve, Regional Improvement for Standards and Excellence teams will be deployed to work with responsible bodies to drive forward school improvement with academisation remaining as a backstop if improvement is not secured. Meanwhile, the worst performing schools will generally continue to receive academy orders.

Teachers' pay and conditions

115 The School Teachers Review Body ("STRB") was established in 1991 as an independent body to examine and report on the statutory pay and conditions of school teachers in maintained schools. Following an annual remit from the Department for Education, the STRB collects evidence from its statutory consultees (teaching and headteacher unions, employer representatives, other representative groups and the government) and reports to the Prime Minister and the Secretary of State for Education with advice and recommendations on the pay and conditions of teachers and school leaders' pay in maintained schools (in England as

[20] Data sourced from https://explore-education-statistics.service.gov.uk/find-statistics/school-pupils-and-their-characteristics/2024-25#dataBlock-bebe8287-69dd-427d-8226-74e5c17b9285-charts

of 2018). Following a period of consultation on the STRB report and the government's response to it, the School Teachers' Pay and Conditions Document is published (setting out the current pay and conditions framework for teachers) and given legal effect by an annual Statutory Instrument. Academies are state-funded schools, independent from local authorities, which are funded directly by the Department for Education through contractual funding agreements. Academy trusts have specific academy arrangements on some matters not available to local authority maintained schools. These are commonly referred to as 'freedoms' and currently include control over teacher remuneration and other conditions of employment. In practice we know that the majority of academies choose to follow the statutory pay and conditions framework. The factor in schools that makes the biggest difference to a young person's education is high-quality teaching, but there are severe shortages of qualified teachers across the country. Our teachers are integral to driving high and rising standards and having an attractive pay and conditions framework is vital to recruiting and retaining excellent teachers for every classroom. Academies have made transformational change, and we want them to continue to drive improvement for all pupils, particularly for disadvantaged pupils. That is why the government have created a floor with no ceiling enabling healthy competition and innovation to improve all schools.

116 In summary, the pay and conditions sections and the changes we intend to make by way of secondary legislation following royal assent will mean that:

- All teachers have a guaranteed minimum pay offer;
- In a constrained teacher labour market, all state schools have flexibility to attract and retain teachers;
- Innovations which are making a positive difference can continue and spread.

School places and admissions

117 In the context of falling primary school rolls and changing demographics, the government will ensure school admissions and place planning decisions account for the needs of communities by requiring schools and local authorities to co-operate on these issues and enhancing local authorities' powers to deliver their functions on school admissions.

118 The Act introduces new duties for mainstream state schools and local authorities to co-operate regarding their respective admissions functions, and for mainstream, special and alternative provision state schools to co-operate with local authorities regarding their place planning functions. The onus will be on both schools and local authorities to work constructively with each other on these issues so that statutory responsibilities can be discharged. Whilst there were already specific ways in which local authorities and schools were required, by legislation, to work together and expectations to co-operate set out in non-statutory guidance, there was previously no overarching statutory requirement for local authorities and schools to co-operate on admissions and place planning. As a result, co-operation and collaboration was not always seen as a priority and, in some cases, schools would act in isolation and without considering their local area's needs. Additionally, the absence of an overall duty to co-operate had meant that where a school or local authority refused or failed to co-operate with the other party, for example, where the working relationship broke down, there were limited options for addressing this. The main aim of this measure is to foster greater co-operation between local authorities and schools regarding admissions and place planning. Additionally, by formalising the need for co-operation as a statutory duty, the section provides a mechanism for the Secretary of State to intervene to address serious failures to co-operate. In instances where the Secretary of State determines that one party (the school or local authority) has been so uncooperative or unreasonable in supporting the other party to fulfil its statutory functions that it amounts to a breach of that party's statutory duty of co-operation, she will be able to

take action. In particular, the Secretary of State will be able to direct the party at fault to take specific steps to comply with the co-operation duties, using either her existing powers to direct maintained schools and local authorities (under section 496 or 497 of the Education Act 1996) or the new power to direct academy trusts to comply with legal requirements (which is another policy included in the Act).

119 The Act will extend local authorities' current admissions direction powers and enable them to direct both maintained schools and academies to admit a child, to ensure that unplaced and vulnerable children can secure a new school place more quickly. Currently, local authorities have broad powers to direct maintained schools to admit a looked after child. However, the circumstances in which they can direct schools to admit other children, including previously looked after children, are more limited. For example, directions for such children can only be made where the child has been refused admission or been permanently excluded from every school within a reasonable distance of the child's home that provides suitable education. Where the governing body of a maintained school does not agree with a local authority's decision to direct a child to its school, it can refer the case to the Schools Adjudicator. In relation to academies, local authorities do not have powers to direct such schools to admit a child, rather they must request the Secretary of State uses her direction powers under the academy's funding agreement to direct the admission of a child to the school. This can create a further delay in getting the child into school. Furthermore, this process does not include a formal route of redress for academies where they do not agree with a direction request. It does, however, involve the Secretary of State seeking advice from the Schools Adjudicator, who will seek the school's views before deciding whether or not to issue a direction. These changes will give local authorities stronger levers to fulfil their statutory duties of ensuring children in their area have access to suitable education and provide a stronger safety net for vulnerable children, allowing school places to be secured more quickly and efficiently when the usual admissions processes fall short.

120 These changes will also enable academies, like maintained schools, to appeal to the Schools Adjudicator where they do not agree with the local authority's decision to direct its school to admit a child, providing an effective check and balance on local authorities' new powers to direct admission into academies.

121 The Act also enhances the role of the local authority in the setting of published admission numbers ("PANs") and aims to support local collaboration on place planning issues by giving the Schools Adjudicator powers to set the PAN for a school, where they uphold an objection from a local authority to a PAN set by an admission authority, to ensure it meets the needs of the local community and supports a choice of high quality local school places.

122 Local authorities are responsible for ensuring that there are sufficient schools in their area and that children receive a suitable education, and for managing the school estate effectively. However, the number of places offered at an individual school is informed by their PAN for each entry year group. The PAN is the number of pupils in each relevant age group that it is intended to admit to the school in that year and is determined by the school's admission authority. The Code does not place any requirements on admission authorities on matters they should consider when they are setting their PAN.

123 Any body or person can currently object to the Adjudicator about a school's determined admission arrangements, including where a PAN has been reduced (but not where a PAN has been increased or retained at the same level as the previous year). The Secretary of State can also refer arrangements to the Adjudicator where she considers they do not conform with the statutory requirements for admission arrangements. Where the Adjudicator upholds an objection, the admission authority must amend their arrangements in such a way as to give effect to the Adjudicator's decision. The Adjudicator's decision is binding on all parties.

124 This system has created a lack of alignment between roles, responsibilities and decision-making authority over local place planning, and a lack of co-ordination over the PANs of schools in an area, with negative consequences, both in areas where there are a lack of school places and the local authority is struggling to meet their sufficiency duty, and in areas where there is an excessive surplus of places and this is affecting the provision of high-quality education for other children in the area, by making it harder for the local authority and leaders of other high quality schools to plan effectively. This is particularly significant in the current context, where changing demographics are leading to significantly falling rolls. This trend is national but is particularly acute in certain areas of England, leading to an excessive surplus of school places.

125 Local authorities can, like any other body or person, object to a PAN reduction, but the government intends to amend regulations to enable them also to object where the PAN has been increased or retained at the same level as the previous year. This would give local authorities a route to challenge the PAN which the admission authority has set for the school and help them to meet their sufficiency duty and manage the school estate effectively.

126 To ensure that this is a robust mechanism, the Act gives powers to the independent Adjudicator to specify the revised PAN of the school where they uphold an objection to it. The Adjudicator will take an independent decision, taking into account the requirements of admissions law and the circumstances of the case. The Act requires them to take into account the impact on quality of education and parental preference at the school and at other local schools. It also requires them to consult such bodies as may be specified by regulations, and, before taking a decision to reduce a school's PAN, to consult and have regard to the views of the local authority, admission authority, and the Secretary of State (in practice, the relevant DfE Regional Director), on alternatives to reducing the PAN.. School quality and parental preference will be key considerations throughout. This will ensure that an impartial decision can be taken where there is local disagreement, with a strong focus on ensuring a choice of high-quality school places. It will ensure that that admission authorities, local authorities and parents are all clear on the changes that need to be made where an objection to PAN is upheld, and that the final PAN supports local needs.

127 These measures are not intended to stop good schools from expanding where this is right for the local area, but to help ensure that decisions on PAN best meet the needs of the local community and deliver a choice of high-quality local school places.

Establishment of new schools

128 Local authorities have a statutory duty, under section 14 of the Education Act 1996, to ensure that there are sufficient primary and secondary school places for all children living in their area, with a view to securing diversity of provision and increasing opportunities for parental choice, and having regard to the need to ensure special educational provision for pupils who have special educational needs, among other things. Since 2012, where the need for a new school has been identified, local authorities have been under a duty under section 6A of the Education and Inspections Act 2006 (as amended) to seek proposals for a new academy (free school). This is known as the 'free school presumption' process.

129 At present, new maintained schools – community, community special, voluntary, foundation and foundation special – can only be opened in certain, limited circumstances. In some cases this requires the consent of the Secretary of State. Local authorities can only propose brand new community, community special, foundation or foundation special schools themselves as a last resort where the presumption process and local authority-initiated competition for a new school have failed to yield a suitable proposal. This government's primary concern is that

schools can be opened in the right place at the right time and that local authorities' ability to open new schools is better aligned with their responsibility to secure sufficient school places (the "sufficiency duty").

130 The Act removes the requirement for local authorities to seek proposals for an academy to meet the need for a new school. It instead requires local authorities to invite proposals for voluntary, foundation (or foundation special) and academy schools (including special academies) or Alternative Provision (AP) academies and enable local authorities to put forward their own proposals for a community (or community special) or foundation (or foundation special) school or a pupil referral unit alongside other proposals received. The Act also removes the requirement for local authorities and others to obtain the Secretary of State's consent to propose new schools in certain specific situations.

Legal background

131 The UK's legislative framework in relation to education, children's social care and child employment is governed by many different pieces of legislation, a number of which are amended by this Act. The Act mainly makes textual amendments to other Acts. The following is a list of the main legislation which is amended or referenced by the Act. The commentary on provisions in the Act sets out how previous legislation is referenced and amended.

- Children Act 1989
- Children and Social Work Act 2017
- Children Act 2004
- Criminal Justice and Courts Act 2015
- Care Standards Act 2000
- Sentencing Act 2020
- Companies Act 2006
- Children and Young Persons Act 1933
- Children and Young Persons (Scotland) Act 1937
- Children and Young Persons Act 1963
- Education Act 1996
- School Standards and Framework Act 1998
- Childcare Act 2006
- Children and Families Act 2014
- Education and Skills Act 2008
- Criminal Justice Act 2003
- Serious Crime Act 2007
- Police and Criminal Evidence Act 1984
- Education Act 2002
- Adoption Act 1976
- Adoption and Children Act 2002
- Academies Act 2010
- Education and Adoption Act 2016
- Education and Inspections Act 2006
- Non-Maintained Special Schools (England) Regulations 2015

- Additional Learning Needs and Education Tribunal (Wales) Act 2018
- Child Safeguarding Practice Review and Relevant Agency (England) Regulations 2018
- Housing Act 1996
- Online Safety Act 2023
- Data Protection Act 2018

Territorial extent and application

132 Section 77 sets out the territorial extent of the Act, that is the jurisdictions in which the Act forms part of the law. The extent of an Act can be different from its application. Application is about where an Act produces a practical effect rather than where it forms part of the law.

133 With the exception of sections 13, 22 to 29, 37 to 42 Part 3, and Schedules 1 and 2, the Act extends to England and Wales and applies in England.

134 Section 13 extends to England and Wales, and Scotland and applies in England, Wales and Scotland.

135 Section 22 extends to and applies in England and Wales.

136 Sections 23 to 27 and Schedule 1 (Corporate Parenting) extend to England and Wales, Scotland and Northern Ireland. The duty does not apply to any devolved function of a relevant authority. It applies to any function that is outside the legislative competence of the Scottish Parliament, Senedd Cymru or the Northern Ireland Assembly.

137 Section 28 (Employment of children in England and Wales) extends to and applies in England and Wales. Section 29 (Employment of children in Scotland) extends to Scotland only.

138 Sections 37 to 42 and Schedule 2 relate to Children Not in School. These provisions extend to and apply in England and Wales.

139 Part 3 (General Provisions) extends UK-wide.

140 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

Commentary on provisions of Act

Part 1: Children's Social Care

Family group decision-making

Section 1: Family group decision-making

141 Section 1 places a duty on local authorities, who are considering making a court application for a care or supervision order under section 31 of the Children Act 1989 in respect of a child, to offer a family group decision making process to the child's parents or any person with parental responsibility for the child before making the application. The purpose of the family group decision making meeting is to enable a child's family network to meet to discuss the welfare needs of the child and to make family-led plan in response to concerns about the child's welfare. The duty does not apply if it would not be in the child's best interests to offer a family group decision making process. If the offer is accepted by at least one person to whom it is made, the local authority must arrange for the process to be held, unless it would not be in the child's best interests to do so.

142 In exercising its functions under this section, so far as is reasonably practicable and consistent with the child's welfare, the local authority must ascertain the wishes and feelings of the child and give due consideration to them, having regard to the age and understanding of the child. Where the local authority considers it appropriate, the child may also attend the meeting.

Child protection and safeguarding

Section 2: Inclusion of childcare and education agencies in safeguarding arrangements

143 Section 2(1) amends section 16E of the Children Act 2004, imposing a duty on the three safeguarding partners in each local area defined in section 16E(3) of the Act to include the childcare or education relevant agencies as mandatory participants in their multi-agency safeguarding arrangements.

144 The Child Safeguarding Practice Review and Relevant Agency (England) Regulations 2018 (SI2018/789) specify education and childcare agencies in paragraphs 1 to 14 of the Schedule, which includes early years and childcare settings, schools including academies, further education and alternative provision.

145 The measure seeks to ensure the automatic participation of education and childcare agencies in local safeguarding partner's multi-agency safeguarding arrangements (MASAs) removing the need for local safeguarding partners to name these bodies to secure their participation. This change will ensure consistency in the involvement of education and childcare settings in MASAs nationwide and will mandate the inclusion of education and childcare agencies that might otherwise be excluded. This provision will result in the inclusion of a broader range of education and childcare agencies in the arrangements enabling a fuller participation in MASAs and ensuring that more children receive the appropriate support at the right time.

146 Subsection (2) amends s.16E(2) of the Children Act 2004 to place a duty on the three safeguarding partners in each local area, requiring them to work together with (in addition to themselves and any relevant agencies they consider appropriate) relevant agencies which are designated childcare or education agencies when making safeguarding arrangements. Subsection (4) inserts a definition of "designated childcare or education agency" after subsection (2) of the Children Act 2004. This amendment will ensure that the views of relevant

agencies that are designated childcare or education agencies will be taken into account and represented in respect of the operational and strategic priorities and decisions set out in their multi-agency safeguarding arrangements and identified in statutory guidance.

147 Subsection (5) introduces a delegated power for the Secretary of State to designate relevant agencies that have functions relating to the provision of childcare or education (or both) as a designated childcare or education agency. The power ensures that local safeguarding partners' new duties are applied automatically. These duties include the automatic inclusion of education and childcare agencies as relevant agencies within their local safeguarding arrangements. They also ensure that the views of education providers and childcare settings are represented in both operational and strategic priorities. This power applies only to those agencies which have functions relating specifically to the provision of education and childcare. The added requirement of designation will ensure that it is clear which relevant agencies must be included in the safeguarding partners' safeguarding arrangements.

Section 3: Multi-agency child protection teams for local authority areas

148 Section 3 inserts new sections 16EA and 16EB into the Children Act 2004. Section 16EA(1) and (2) amend section 16E of the Children Act 2004 to require safeguarding partners to establish and run one or more multi-agency child protection teams in their area. The main purpose of these new multi-agency child protection teams is to support the local authority in delivering its child protection duties under section 47 of the Children Act 1989.

149 In this new section 16EA of the Children Act 2004, subsection (2)(b), a delegated power is included to allow the Secretary of State to set out in regulations more detail about the support the multi-agency child protection team is to provide. Any regulations made will be subject to consultation and the affirmative procedure.

150 Subsections (3) and (4) then set out in detail the individuals from each of the safeguarding partner agencies that must be represented in the multi-agency child protection team and who must nominate these individuals. The local authority is required to nominate both a person with experience in education in relation to children and a social worker with experience in relation to children. Subsection (3)(b) also allows for the local authority to appoint any other person it feels appropriate to the multi-agency child protection team, after the other safeguarding partners have been consulted.

151 Subsections (5), (6) and (7) relate to the delegated power for the Secretary of State to set out details about requirements for each member nominated to the multi-agency child protection team, for example, this might be in relation to experience or qualification. Any regulations made will be subject to consultation and, pursuant to section 3 subsection (5), the affirmative procedure.

152 Section 3 also inserts a new section 16EB into the Children Act 2004 which makes provision for safeguarding partners to notify a relevant agency of the requirement to enter a memorandum. The purpose of the memorandum is, to set out how the relevant agency will work with the safeguarding partners, and their multi-agency child protection team, to support the local authority to discharge its duties under section 47 of the Children Act 1989. Section 3 subsection (3) amends section 16G so that the memorandum forms part of the section 16E arrangements and the safeguarding partners and relevant agencies must act in accordance with the memorandum. The term "relevant agencies" has the same meaning given in section 16E(3) of the Children Act 2004. Section 16EB subsection (2)(a), allows the Secretary of State to use regulations to designate a subset of these relevant agencies for the purposes of drawing up a memorandum.

153 Section 3 subsection (4) inserts new subsections in section 16J of the Children Act 2004. This new subsection (6) enables safeguarding partners to combine multi-agency child protection teams for their local areas. However, under subsection (6)(b), local authorities must ensure that they each nominate both a social worker and a person with experience of education to these combined teams. Subsection (6)(a), places a duty on the safeguarding partners to ensure the combined team has enough people to operate effectively, having regard to the size of the area and any other relevant factors.

Section 4: Information Sharing and Consistent Identifiers

154 Section 4 inserts new section 16LA into the Children Act 2004.

155 New section 16LA imposes a duty on "relevant persons" who are specified persons and bodies, along with persons engaged by them to provide services relating to safeguarding or promoting the welfare of children, such as primary care providers, to disclose information that may be relevant to safeguarding or promoting the welfare of a child to other relevant persons in certain circumstances.

156 Where a relevant person holds information about a child or other individual and the person considers that the information is relevant to safeguarding or promoting the welfare of the child, new subsection (2) provides that the person must disclose the information to another relevant person where the person considers that the disclosure may facilitate the exercise by the recipient of any of its functions (or the provision of services by the recipient) that relate to safeguarding or promoting the welfare of children.

157 New subsection (3) provides that the duty to share information under subsection (2) does not apply if the relevant person considers that disclosing the information would be more detrimental to the child than not disclosing it.

158 New subsection (4) defines 'relevant person' as a person listed in section 11(1) of the Children Act 2004 (persons and bodies under a duty to make arrangements to safeguard and promote welfare), a person who is a designated childcare or education agency for the purposes of section 16E (local arrangements for safeguarding or promoting welfare) or a person engaged by section 11(1) bodies or designated education and childcare agencies to provide services relating to safeguarding or promoting the welfare of children.

159 New subsection (5) provides that the duty under subsection (2) also applies where another relevant person requests the information. The same condition set out in subsection (2), along with the qualification in subsection (3), applies to a disclosure in those circumstances.

160 New subsection (6) provides that persons in scope of the duty must have regard to guidance issued by the Secretary of State.

161 New subsection (7) provides that a disclosure of information under new section 16LA does not breach any obligation of confidence owed by the person making the disclosure. This includes the common law duty of confidentiality between patients and healthcare professionals.

162 New subsection (8) provides that new section 16LA does not permit a relevant person to do anything which is prohibited by Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.

163 New section 16LB gives the Secretary of State power to issue information standards that will apply to the processing of data by persons subject to the information sharing duty in section 16LA. Those persons, as specified by the Secretary of State from those listed in section 16LA(4), must have regard to the information standards when processing information for the purposes of safeguarding or promoting the welfare of children. Information standards

set common data rules—such as how names or dates of birth are recorded or data governance requirements—to ensure interoperability and support information sharing. Information standards may be adopted from all or part of existing information standards, may be revised from time to time, must be published and are subject to consultation before publication.

164 Section 4 also inserts new section 16LC into the Children Act 2004.

165 New subsection (1)(a) provides that the Secretary of State may specify a description of consistent identifier by regulations.

166 New subsection (1)(b) provides that the Secretary of State may make regulations authorising or requiring the disclosure of the consistent identifier to designated persons for the purpose of enabling those persons to comply with their duty under section 16LC(5) to include the identifier when processing information about a child.

167 New subsection (2) provides that the identifier can be disclosed to designated persons without breaching confidentiality, which could otherwise be a barrier to disclosure.

168 New subsection (3) defines consistent identifier as any identifier that relates to a child and forms part of a set of similar identifiers that is of general application.

169 New subsections (11) and (12) provide that the Secretary of State may designate a person listed in section 11(1) of the Children Act 2004 (persons and bodies under a duty to make arrangements to safeguard and promote welfare) or a person who is a designated childcare or education agency for the purposes of section 16E (local arrangements for safeguarding and promoting welfare of children) by regulations. New subsection (13) ensures that the requirements in new section 16LC that apply to designated persons also apply to persons engaged by designated persons to provide services relating to safeguarding or promoting the welfare of children, such as primary care providers.

170 New subsections (4) and (5) provide that, where a designated person processes information about a child and the child is one to whom a consistent identifier relates, the person must include the consistent identifier in the information processed, subject to subsections (6) to (8).

171 New subsection (6) provides that the requirement to include the consistent identifier in information processed about a child applies only where the designated person considers that the inclusion of the consistent identifier is likely to facilitate the exercise by any person of a function that relates to safeguarding or promoting the welfare of children.

172 New subsection (7) provides that the requirement to include the consistent identifier does not apply if the designated person considers that including the identifier in the information processed would be more detrimental to the child than not including it.

173 New subsection (8) provides that the designated person does not need to comply with subsection (5) if the person does not know the consistent identifier and reasonably considers that finding it out would cause unreasonable delay to the processing of the information.

174 New subsection (9) provides that compliance with the duty to use the consistent identifier does not breach any obligation of confidence owed by the designated person.

175 New subsection (12) provides that a designated person must have regard to guidance issued by the Secretary of State.

176 New subsection (14) provides that the reference in subsection (6) to the inclusion of a consistent identifier being likely to facilitate the exercise of a function is to it being likely to facilitate that exercise directly, rather than for means of a trial, study, audit or any other indirect means.

177 New section 16LD gives the Secretary of State power to issue a code of practice for persons in scope of the consistent identifier duty under section 16LC (including designated persons in section 16LC(10) and service providers (section16LC(13)). Those in scope must have regard to the code when fulfilling their duties under section 16LC. The code would complement the guidance by covering technical and practical matters such as accessing, storing, and using the identifier effectively, and could be updated regularly to reflect technical developments and process changes. The code must be published and consultation must take place before publication.

Support for children in care, leaving care or in kinship care and carers

Section 5: Information: children in kinship care and their carers

178 Section 5 requires local authorities to publish information for kinship carers and children in kinship arrangements, providing clear guidance on the available support in their area specific to their circumstances.

179 This provision will insert a new section 22H and section 22I into the Children Act 1989. In relation to the section 22H:

- Subsection (1) places a duty on local authorities to publish information about their general approach to supporting children in kinship care and kinship carers in their area, as well as financial support which may be available to them in their area. This will be known as the kinship local offer. Local authorities must take such steps as are reasonably practicable to ensure that children living in kinship care and kinship carers receive information about the kinship local offer.

- Subsection (2) lists the categories of services available in a local authority's area for children in kinship care and kinship carers that must be included in kinship local offer. This includes services relating to, health and well-being, relationships, education and training, and accommodation. This extends to services provided by the local authority and voluntary organisations.

180 Section 22I sets out the interpretation of what constitutes kinship care for the purposes of section 22H and who can be a kinship carer.

- Subsection (1) specifies that a child lives in kinship care if they live with a relative, friend or other person connected to them for all, or most of the time. This extends to both formal and informal arrangements.

- Subsection (2) applies in relation to a child if the child lives with a person mentioned in subsection (1)(a) for more time than they live with a parent, and provides all, or more of the care and support for the child than any other parent. The effect of this provision is that a child will not be living in kinship care if the child's parents remain the primary caregiver. The subsection also ensures that an arrangement where a family, friend or connected person provides childcare support, even on a regular basis, but is not a primary carer, would not be captured by this definition. These Explanatory Notes relate to the Children's Wellbeing and Schools Act (2026) by this definition.

- Subsection (3) applies if a child lives with two or more persons mentioned in subsection (1)(a) all or most of the time and those persons provide all or most of the care and support for the child.

- Subsection (4) clarifies that a connected person is not someone who is (a) a parent of the child, (b) a local authority foster parent of the child who had no connection with the child prior to the child being placed with that person, or (c) a person caring for the child in a professional capacity. This is intended to exclude from the definition a legal parent, local authority foster carer who was not known to or connected with the child prior to the placement, or a person caring for a child in a professional capacity such as a nurse caring for a child in a hospital or a support worker caring for a child in a children's home.

- Subsection (5) clarifies that for the purposes of establishing whether a child lives in kinship care where a child's parents do not live together, and the child lives for part of the time with one parent and part of the time with the other, the child is considered to be as living with a parent for both of those parts of time taken together.

- Subsection (6) explains that a "kinship carer" is someone who provides care and support for the child living in kinship care.

- Subsection (8) places a duty on local authorities to consult relevant persons before publishing their first kinship local offer or any updated version and to publish a report on the consultation. Relevant persons' for the purposes of this section means such children living in kinship care, kinship carers and other persons as appear to the local authority to be representative of children living in kinship care and kinship carers in its area, which may include former kinship carers and children who used to be in kinship care. The duty in this section will not apply to kinship local offers published prior to the Act coming into force.

Section 6: Promoting educational achievement

181 Sections (1), (2) and (3) add a new section 23ZZZA into the Children Act 1989. This section adds a new section 23ZZZA into the Children Act 1989.

182 Subsection (1) explains that local authorities must take appropriate measures to support the educational outcomes of children as set out in subsection (2).

183 Subsection (2) defines children in need as children who are receiving services from a local authority and children who live within the local authority's area who meet the definition of living in kinship care, as defined in section 22I(1).

184 Subsection (3) provides steps of what actions local authorities may take to meet the duty under subsection (1). This may include taking steps to identify what support these children require and the barriers they may face that impact their educational achievement; ensure those who work with these children recognise and understand their needs, disadvantages and barriers; support those working with these children to help them address their needs and overcome disadvantages; and improve the educational attendance and engagement of these children.

185 These are illustrative steps that local authorities might take to meet this duty, but the local authority may take additional or alternative steps as they deem appropriate.

186 Subsection (4) clarifies that while local authorities have a duty to support the educational outcomes of children in need and those living in kinship care, the responsibility does not extend to individual accountability for each child's educational outcomes.

187 Subsections (5) and (6) require local authorities to appoint at least one person to discharge the duty set out in subsection (1) and that person must be employed by them or another local authority.

188 Section (4) amends the definition of "relevant child". to include a child with whom a special guardianship order is in force and a child with respect to whom a child arrangements order is in force, where the order provides that the child is to live with a person who is a kinship carer.

189 Section (5) explains that the measure will come into force 2 months after Royal Assent is granted.

Section 7: Provision of advice and other support

190 Section 7 adds new section 23CZAA into the Children Act 1989 to require each local authority to consider whether former relevant children (under the age of 25) require the following support (known as staying close support) and if it is the local authority's view that their welfare requires it, to offer that support:

a. To find and keep suitable accommodation;

b. To access services relating to health and wellbeing, relationships, education and training, employment and participating in society.

191 Support means the provision of advice, information, and representation. The aim is to help develop confidence and skills for independent living so that young people can feel positive about their future and opportunities as a result of the support they receive. The section makes clear that these duties are in addition to those already required under Part 3 of the Children Act 1989.

Section 8: Local offer for care leavers

192 Section 8 amends section 2 of the Children and Social Work Act 2017 which relates to the local offer for care leavers in England. Currently a local authority in England must publish information about the services which the local authority offers for care leavers as a result of its functions under the Children Act 1989 and what other services the local authority offers that may assist care leavers in, or in preparing for, adulthood and independent living.

193 This section requires each local authority to also publish the arrangements it has in place to support and assist care leavers in their transition to adulthood and independent living. This must include information about the authority's arrangements for anticipating the future needs of care leavers for accommodation, co-operating with the local housing authorities in its area, information on services relating to financial literacy, arrangements around financial support and providing assistance to eligible care leavers who are at risk of homelessness.

Section 9: Care leavers not to be regarded as becoming homeless intentionally

194 Section 9 amends section 191 of the Housing Act 1996 which relates to the circumstances where a local housing authority can find that an applicant has become homeless intentionally.

195 If an applicant is found to have become homeless intentionally, the local housing authority does not have a duty to secure that person settled accommodation under section 193 of that Act, even if all the other criteria for that duty is met. Currently the requirement to have not become homeless intentionally applies to all applicants.

196 This section will remove the application of that requirement for care leavers in scope of the corporate parenting duty who are not being looked after, that being relevant and former relevant children, in order to assist their transition into adulthood and independent living.

Section 10: Sibling contact with children in care

197 This section amends section 34 of the Children Act 1989 to 2015 Act to include siblings in the list of people to which contact with children in the care of the local authority applies.

198 This section amends the duty on local authorities in subsection 1 of the Children Act 1989 to also apply to siblings (whether whole blood, half blood, or step sibling).

199 There are also changes to subsections 4 (which enables the court to make an order refusing contact) and 8 (which enables the Secretary of State to make Regulations in relation to the role of the local authority), to apply to siblings.

Accommodation of children

Section 11: Children in temporary accommodation

200 Section 11 amends Part 7 of the Housing Act 1996. It will insert a new section 213AA "Duty of local housing authority in England to notify in certain cases involving children" after section 213A.

201 New section 213AA will impose a duty on local housing authorities in England to take reasonable steps to notify relevant bodies, which are educational institutions, health visiting services and general medical practices, when a child is placed in temporary accommodation. This duty will arise when the parent (including those who care for the child or have parental responsibility for the child), or the child themselves in cases of 16–17-year-olds living independently from their parents (as set out in subsection (3)) agrees to the notification being made.

202 If agreement to the notification is given, the local housing authority must take reasonable steps to notify each relevant body applicable to the child within 14 days, as set out in subsection (4).

203 The relevant bodies are listed in subsection (6). The educational institutions within scope include all schools (including maintained nurseries) and all providers of publicly funded further education applicable to 16- and 17-year-olds in England. The Secretary of State may add to this current list in regulations in future, as set out in subsection (7).

204 This section will apply where a child is placed in temporary accommodation following an application under Part 7 of the Housing Act 1996 which has been made on or after the date this section comes into force.

Section 12: Accommodation of looked after children: regional care co-operation arrangements

205 Section 12 amends Part III of the Children Act 1989 (Support for Children and Families Provided by Local Authorities in England). It inserts a new section 22J into the Children Act 1989 "Accommodation of looked after children: regional co-operation arrangements" after section 22I of that Act inserted by section 12 of this Act.

206 New section 22J Children Act 1989 provides that the Secretary of State may direct two or more local authorities to make regional co-operation arrangements to carry out their functions in relation to the accommodation of looked after children.

207 The arrangements between two or more local authorities could either be (a) to carry out their strategic accommodation functions jointly, (b) for those functions to be carried out by one of the local authorities on behalf of the others or (c) for a corporate body, of a kind that may be specified in the Secretary of State's direction, to support them in carrying out those functions.

208 The 'strategic accommodation functions' are defined in subsection (3).

209 The Secretary of State may to add to the definition of strategic accommodation functions by regulations, following consultation with local authorities and any other appropriate persons.

210 A direction made by the Secretary of State can either (a) specify which of the three types of arrangements described in subsection (1) must be made, or (b) require local authorities to determine which of the three types of arrangements must be made.

211 Where the arrangements are to be carried out by one of the local authorities on behalf of the others, the direction may either specify (a) which local authority should carry out the functions on behalf of the others or (b) require the local authorities to determine which of them will carry out the functions on behalf of the others.

212 The Secretary of State may direct that a specific kind of body corporate be established for the purpose of complying with the direction. The direction may also (a) specify which of the local authorities should establish the body corporate or (b) require the local authorities to determine which of them will do this.

213 The Secretary of State may terminate a direction made under subsection (1) by means of a further direction.

Section 13: Use of accommodation for deprivation of liberty

214 Section 13 amends the reference in section 25 of the Children Act 1989 from "restricting" liberty to "depriving" children of their liberty, to better reflect the nature and purpose of this section. Consequential amendments are also made to the definition of secure accommodation in Scottish legislation, to account for the change from "restricting" to "depriving" of liberty.

215 This section also introduces amendments to section 25 of the Children Act 1989, to provide a statutory framework to allow local authorities in England and Wales to authorise the deprivation of liberty of children in alternative placement types beyond just a secure children's home within England. It brings into scope of section 25 accommodation provided for the purpose of care and treatment of children, which is capable of being used to deprive a child of their liberty, as defined in the new subsection (1B) ("relevant accommodation").

216 In addition, this section ensures that the amendments to section 25 of the Children Act 1989 made in section 13 extend to Scotland. Accommodation in England which can be used to deprive a child of their liberty in connection with care and treatment will be included in the relevant Scottish legislation as a category of secure accommodation and therefore will be available for use in accordance with Scottish legislation when placing children in England.

217 The section provides the Secretary of State with equivalent powers to those in relation to secure children's homes to set out in regulations the maximum period for which a child may be kept in relevant accommodation both with and without the authority of a court. The section also includes the power to define in regulations the cohort of children who may be placed in relevant accommodation, as well as the power to define in regulations a description of the relevant accommodation.

218 This section also ensures that any statutory instruments under subsection (2) or subsection (7) of section 25 of the Children Act 1989 would be subject to the affirmative procedure, and therefore only be made once a draft of the instrument has been laid before and approved by both Houses of Parliament.

Regulation of children's homes, fostering agencies etc.

Section 14: Powers of CIECSS in relation to parent undertakings

219 The Care Standards Act 2000 is amended to give new powers to the CIECSS in relation to certain parent undertakings (as defined in the Companies Act 2006) in England.

220 The new section 23A of the Care Standards Act 2000 gives the CIECSS powers to issue an improvement plan notice to a parent undertaking when one or more of its subsidiary undertakings are suspected of failing to meet the required standards in two or more establishments or agencies.

221 The CIECSS must reasonably suspect there are grounds for cancelling the registrations of at least two establishments or agencies. When the CIECSS issues an improvement plan notice, it must detail the grounds for issuing the notice, required timings and consequences for the parent undertaking of not producing an improvement plan. The improvement plan must detail the specific actions that the parent undertaking will take to resolve the issue of concern, specify a date by which the action will be taken and give the name of a person in a significant management role in the parent undertaking who can be reasonably expected to ensure the actions are taken.

222 The new section 23B of the Care Standards Act 2000 makes provision for improvement plans to be approved by the CIECSS, a requirement for implementation by parent undertakings and for modifications of improvement plans submitted to the CIECSS.

223 The CIECSS must approve the plan if satisfied that the plan details the matters that are required by section 23A and that it will effectively address the issues identified. The CIECSS must serve a written notice on the parent undertaking and on the subsidiary undertaking identified in the improvement plan notice of the decision to approve or reject it including providing the reasons for rejection as appropriate. Similarly, once the CIECSS is satisfied the parent undertaking has implemented the plan, he must send written confirmation to the same persons.

224 Should the parent undertaking need to modify the improvement plan to change the named person they must modify the plan and notify the CIECSS. If the parent undertaking wishes to modify the improvement plan for any other reason once it has been approved by the CIECSS, it must seek the agreement of the CIECSS before modifying the plan.

225 The new section 23C allows for cancellation by the CIECSS of an improvement plan that has been approved. The CIECSS may notify the parent undertaking in writing when it cancels a plan, and the notice must include the specific date when the cancellation takes effect. All duties on the parent undertaking associated with the plan cease to apply from the date of cancellation. The notice must also be served on the subsidiary undertakings identified in the improvement plan notice.

226 New section 23D makes provision for appeals relating to decisions of the CIECSS under sections 23A and 23B.

227 A parent undertaking may appeal to the First Tier Tribunal the decision of the CIECSS to serve an improvement plan notice and/or a decision to reject an improvement plan within 28 days from the decision. Where a parent undertaking appeals a decision by the CIECSS to serve an improvement plan notice, the duties on the parent undertaking to prepare and submit an improvement plan to the CIECSS are suspended until the appeal has been determined or withdrawn. Where an improvement plan has been submitted to and approved by the CIECSS, the duty to implement it is not suspended pending the outcome of the appeal.

The Tribunal may confirm the CIECSS decision or direct that it ceases to have effect, and similarly, it may confirm the decision to reject an improvement plan or direct the CIECSS to retake the decision.

228 Section 13(4) of the Act provides that regulations under section 22(2)(a) of the Care Standards Act 2000, which impose requirements as to the fitness of persons carrying on an establishment or agency, may make provision by reference to whether a parent undertaking of the person carrying on an establishment or agency is in breach of a provider oversight requirement imposed by or under this section or a financial oversight requirement imposed by or under section 16.

229 Section 14(5) of the Act amends Section 37 of the Care Standards Act 2000 ("the Act") to enable notices and documents issued under Part 2 of the Act to be served by email. It gives the CIECSS (Ofsted for shorthand), the Secretary of State for Education and the relevant Welsh authorities the option to choose between delivering notifications by post, by hand and/or by email.

230 Relevant authorities are able to issue notices to email addresses which:

a. An individual has provided for themselves;

b. Has been identified by the person managing an establishment and agency carried on by the intended recipient, as belonging to the intended recipient; or

c. Where no email address is identified an email address the relevant authority believes is used by the intended recipient.

231 This ensures that the notices can be served without delay, and allows the relevant authority to contact parent undertakings (provider groups) in relation to the new provider and financial oversight measures, as well as registered managers and providers.

Section 15: Power of CIECSS to impose monetary penalties

232 Section 15 inserts two new sections into the Care Standards Act 2000 as follows to give the CIECSS powers to impose monetary penalties:

a. New section 30ZC provides the CIECSS with the power to impose monetary penalties on relevant parent undertakings when they have not complied with requirements in relation to improvement plans, and on persons carrying on or managing an establishment or agency where they have acted or omitted to act in a way which constitutes an offence under the Care Standards Act 2000.

b. The CIECSS cannot issue a monetary penalty if a registered person has been convicted of an offence for the same act or omission, if criminal proceedings for the offence are ongoing or have concluded without conviction. Further, if the CIECSS has imposed a monetary penalty, a person cannot be convicted of an offence in relation to the same behaviour.

c. New section 30ZD gives the Secretary of State the power to require, by regulations, that the CIECSS publish information on the details of monetary penalties issued by the CIECSS.

233 Where the CIECSS has issued a monetary penalty, section 14 of the Care Standards Act 2000 is amended to provide this as a specific ground for cancellation of registration.

234 Changes to Section 30A of the Care Standards Act 2000, will require the CIECSS to notify a local authority when a penalty notice has been issued.

Section 16: Financial oversight

235 Subsection (2) adds six new sections to the Care Standards Act 2000 (CSA 2000). In summary, the section enables the Secretary of State to prescribe a set of conditions in regulations which non-local authority providers (called "relevant providers" in the Act) of children's homes and fostering agencies, and their parent owners may meet. These conditions may, in particular, relate to the number of establishments or agencies they run, their size and market share. If the Secretary of State determines that these providers or their parent undertakings do meet the conditions then they will be subject to a set of requirements for the purposes of enabling the Secretary of State to assess risks to their financial sustainability. If that information causes the Secretary of State to consider that there is a real possibility of cessation of service due to risks to financial sustainability, then an "advance warning notice" must be sent to affected local authorities, enabling forewarning of the need to arrange alternative accommodation and services.

236 New section 30ZE of the CSA 2000 enables the Secretary of State to prescribe a set of conditions which, if any one of them is met by providers of children's homes or independent fostering agencies or their parent undertakings, mean that the subsequent requirements of the financial oversight scheme will apply. When prescribing the conditions, Secretary of State must have a regard to the public interest in ensuring that providers and relevant provider groups (meaning any parent undertakings and their subsidiaries) that have a strategic significance in the children's social care market are covered by the scheme. New section 30ZE also specifies what is meant by a parent undertaking and requires that where the Secretary of State determines that the conditions or any one of them applies, notice must be given to the person. This notice may require the person to name an individual who has a significant management role, or a person who may reasonably be expected to be in a position to ensure that the person complies with the financial oversight requirements.

237 New Section 30ZF provides that a person is subject to the financial oversight scheme for a default period of 12 months after a determination is made by Secretary of State under section 30ZE. In order to continue to apply the oversight requirements, the Secretary of State would then need to make a new determination before the end of that 12-month period, and a notice must be given to the person to inform them of this.

238 New section 30ZG requires a person or undertaking who meets the conditions prescribed under new section 30ZE to submit a RRP upon notice served by the Secretary of State. This is a plan which contains information about the nature and extent of any risks to financial sustainability and plans to reduce those risks, plans to reduce adverse impacts on local authorities and looked after children if the risks to financial sustainability materialise. Where the person required to submit the plan is a parent undertaking, the Secretary of State may require the plan to contain information about the risks to the financial sustainability of any of its subsidiary undertakings. The Secretary of State may also require an explanation of any information included in the plan. This new section further requires a person who has submitted a plan to inform the Secretary of State if there is any material change to risks to financial sustainability or to the adverse impacts should those risks materialise.

239 New section 30ZH of the CSA 2000 provides that the Secretary of State has the power to require information from a registered provider or their parent undertaking, for stated purposes. Those purposes are to assess risks to financial sustainability and the action the person could take to mitigate those risks, to assess the adverse impacts to local authorities and looked after children and the actions which could be taken to reduce those risks. Where the person required to provide information is a parent undertaking, that person may be required to provide information about risks to the financial sustainability of any of its subsidiaries. The

person must update the Secretary of State of any material changes to this information as soon as reasonably practicable. The Secretary of State may also require an explanation of any information that is provided.

240 New section 30ZI of the CSA 2000 provides the Secretary of State with the ability to appoint a qualified person to undertake an Independent Business Review ("IBR") of a provider or undertaking where there is significant risk to their financial sustainability or, where the reviewed person is a parent undertaking, a significant risk to the financial sustainability of a subsidiary. A "qualified person" must be independent of the provider and the Secretary of State and have the skills necessary to carry out a review. An independent business review is a review of the nature and extent of any risks to financial sustainability, the actions which could be taken to mitigate them, the adverse impacts on local authorities and looked after children were those risks to materialise and the action which could be taken to reduce those adverse impacts.

241 This section also requires the person who is the subject of the review to give the qualified person such assistance as is reasonably required and makes the person who is subject to the review liable for the remuneration of the qualified person, which is recoverable by an order of the county court.

242 New section 30ZJ requires the Secretary of State to issue an "advance warning notice" to local authorities if the Secretary of State considers that there is a real possibility that one or more establishments or agencies may cease to be carried on because of risks to the financial sustainability of a person which is subject to the financial oversight scheme, and that a local authority or the children looked after by a local authority might be adversely effected if that happened. The advance warning notice must identify the establishments or agencies which may cease to be carried on if the risks to financial sustainability materialise, inform the local authority of the real possibility of that happening and explain why the local authority might be adversely affected in those circumstances. This new section also provides that the Secretary of State must also provide a copy of the notice to the CIECSS and inform the registered person that the advance warning notice has been served.

243 Section 16(3) applies the affirmative resolution procedure to regulations made under new section 30ZE.

Section 17: Power to limit profits of relevant providers

244 Section 17 will insert two new sections into the Care Standards Act 2000, which will enable the Secretary of State to cap the profits of non-local authority Ofsted-registered providers of children's homes and independent fostering agencies. It will also enable regulations to require those providers to submit an annual return to the Secretary of State, to enable compliance with the profit cap to be assessed.

245 New section 30ZK (1) of the Care Standards Act 2000 will provide the Secretary of State with the power to cap, at a prescribed level, the profits of non-local authority Ofsted-registered providers of children's homes and fostering services by regulations.

246 Subsections (4) and (5) and (6) of new section 30ZK provide for the Secretary of State to prescribe the way in which "profit" will be determined. They also provide specifically for the Secretary of State to use these regulations to make provision for "disguised profit arrangements", which are arrangements made where it is reasonable to conclude that their main purpose, or one of them, is to reduce profit. These arrangements will be further described in regulations, and are intended to refer to arrangements which might be used by relevant providers to artificially reduce the level of profit they may report in order that they might fall within the profit cap.

247 Subsection (7) provides that regulations may only be made under the section if the Secretary of State is satisfied that they are necessary, having regard to the public interest in securing that relevant providers are providing placements on terms which represent value for money, and subsection (8) requires the Secretary of State to have regard to the welfare of looked after children, the interests of local authorities and the interests of relevant providers (including the opportunity to make a profit) before making regulations.

248 Subsection (9) also makes provision for the Secretary of State to be required to consult local authorities in England, representatives of registered providers, and any other appropriate persons before making any profit cap regulations.

249 New section 30ZL of the Care Standards Act 2000 provides for regulations to require relevant providers to submit an annual return of information in order that the Secretary of State can determine compliance with any future cap under new section 30ZK. The Secretary of State may prescribe the content of the annual return and the time by which it must be submitted in regulations. Subsection (3) of the new section enables regulations to give the power to the Secretary of State to require further information from providers about the contents of the annual return.

250 Section 17(3) amends section 25 of the Care Standards Act 2000 to ensure that breaches of regulations made under new sections 30ZK and 30ZL cannot be made a criminal offence by regulations.

251 Section 17(4) requires that regulations prescribing profit caps must adopt the affirmative resolution procedure.

Section 18: Power of Secretary of State to impose monetary penalties

252 Section 18 adds a new section 30ZM to the Care Standards Act 2000 which provides for the Secretary of State to be able to issue a civil monetary penalty in the case of a breach of the financial oversight scheme or the profit cap regime. The new section refers to new Schedule 1A (introduced by section 27) which sets out the processes and procedures which are applicable to the issue of monetary penalties.

253 The section gives the Secretary of State the power to publish information about civil monetary penalties that have been issued, including about the persons they were imposed on, when and the amounts.

Section 19: Procedure for imposing monetary penalties

254 Section 19 adds a new section 30ZN to the Care Standards Act which introduces Schedule 1A which sets out the procedure for the issue of monetary penalties by the CIECSS or the Secretary of State ("the relevant authority"). This includes:

a. The notice requirements on the relevant authority issuing the monetary penalty including detail of what information must be provided to the recipient (paragraph 2). This paragraph also provides that the recipient of an intended penalty may make representations f to the relevant authority within 28 days of being notified of the intended penalty.

b. Time limits for the issue of a penalty notice and the required content of such a notice (paragraph 3).

c. The maximum amount of the penalty that may be imposed and a power to prescribe in regulations a different maximum penalty that may be imposed by the Secretary of State and the factors that the relevant authority must consider when determining the amount of the monetary penalty to be issued (paragraph 4).

d. Provision for the charging of interest on any unpaid monetary penalty and recovery of the unpaid amount including any interest as a civil debt (paragraph 5).

e. Provision for an appeal to the First Tier Tribunal by the recipient of a penalty notice against its issue or against the amount of the monetary penalty (paragraph 6).

255 Section 19(4) provides that any regulations prescribing a maximum level of monetary penalty must follow the affirmative resolution procedure.

Section 20: Information sharing

256 Subsection (1) amends the Care Standards Act 2000 by inserting a new section 30ZO on information sharing between the CIECSS and the Secretary of State. Such information may be shared for the purposes of supporting the exercise of any of the Secretary of State's functions under Part 2 of that Act. Information held by the Secretary of may be shared with CIECSS for use in connection with their functions as an inspectorate.

257 New section 30ZO also provides for information sharing between the Secretary of State and the Care Quality Commission (CQC). The Secretary of State may provide financial oversight information to the CQC for use by them in respect of their functions under sections 54 to 56 of the Care Act 2014 (these functions relate to the market oversight regime for providers of adult social care). Financial oversight information means information held by the Secretary of State in connection with the Secretary of State's functions under sections 30ZE to 30ZJ.

258 Subsection (2) inserts new section 56A in the Care Act 2014, which allows for the CQC to provide market oversight information to the Secretary of State for use in respect of the financial oversight scheme. Market oversight information means information held by the CQC in connection with its functions under sections 54 to 56 of the Care Act 2014.

259 The section provides that the disclosure of information for these purposes does not breach any duty of confidence which may be considered to be owed by the person making the disclosure.

Care workers

Section 21: Use of agency workers for children's social care work

260 Section 21 inserts a new section 32A into the Children and Social Work Act 2017. The new section gives the Secretary of State a regulation making power to place requirements on English local authorities in relation to their use of agency workers for children's social care functions.

261 Subsection (1) enables the Secretary of State to make regulations governing how English local authorities may use agency workers in connection with children's social care functions.

262 Subsection (2) defines an "agency worker" for the purpose of this section. An individual is an agency worker if they are supplied by an agency to work for a local authority and they are not directly employed by that local authority because no "workers contract" exists between them and the local authority.

263 Subsection (3) sets out that the relevant children's social care functions as functions are those set in Schedule 1 to the Local Authority Social Services Act 1970, insofar as they relate to children under 18.

264 Subsection (4) provides examples of what may be included in the regulations made under this section. This includes setting requirements that agency workers must met in order to work on children's social care functions, placing requirements on how local authorities manage agency workers, and specifying the terms on which agency workers may be supplied to local authorities, including amounts which may be paid.

265 Subsection (5) requires the Secretary of State to consult such persons as they consider appropriate before making regulations under this section.

266 Subsection (6) makes regulations under this section subject to the affirmative procedure.

267 Subsection (7) defines “English local authority" for the purpose of this section. The term includes county councils, district councils, London borough councils, the Common Council of the City of London (acting as a local authority), the Council of the Isles of Scilly, and combined authorities.

Section 22: Ill-treatment or wilful neglect of children

268 Section 22 amends section 20 of the Criminal Justice and Court Act 2015 to extend the care worker ill-treatment or wilful neglect offences to children aged 16 or 17 in regulated establishments and youth detention accommodation in England and Wales. It also amends sections 21 and 25 of the same Act to extend the ill-treatment or wilful neglect care provider offence to all children under 18 in regulated establishments and youth detention accommodation.

269 Subsection (2)(a) extends the definition of a care worker in section 20 of the 2015 Act (Ill-treatment or wilful neglect: care worker offence) to include someone who provides "care or support for a child aged 16 or 17 at a regulated establishment in England".

270 Subsection (2)(b) inserts a new subsection (6A) into section 20 of the 2015 Act to define a "regulated establishment". In England, “regulated establishments” are children’s homes, residential family centres, youth detention accommodation and accommodation provided at an establishment in respect of which requirements under Part 2 of the Care Standards Act 2000 are applied by virtue of regulations under section 42 of that Act (that accommodation is residential holiday schemes for disabled children and supported accommodation).

271 Subsection (3) amends section 21 of the 2015 Act (Ill-treatment or wilful neglect: care provider offence) to extend the ill-treatment or wilful neglect: care provider offence to the ill-treatment or wilful neglect of children at regulated establishments.

272 Subsection (3)(a) amends subsection 2(a) to amend the meaning of a "care provider" to define a care provider as someone that provides or arranges for the provision of "regulated care". “Regulated care” is then defined in the new subsection 2A as the provision of health care for an adult or child other than excluded health care, social care for an adult, or care or support for a child provided at a regulated establishment.

273 Subsection (3)(b-h) makes consequential amendments to section 21 to replace the term “health and social care” with “regulated care” throughout.

274 Subsection (3)(g) adds the term "regulated establishment" to the list of terms in subsection 9, which explains the definition of these terms remains the same as in section 20, and defined in subsection 2(b) of this section.

275 Subsection (4) amends subsection 4(c) of the 2015 Act (care provider offence: liability for ancillary and other offences) to extend the definition of a relevant offence to include an offence under an act dealing with the provision of care or support for a child at a regulated establishment.

Corporate parenting

Section 23: Corporate parenting responsibilities

276 Section 23 sets out the new corporate parenting responsibilities and defines the children and young people who are in scope of the new duties. The list of corporate parents (referred to as "relevant authorities") is set out in Part 1 of Schedule 1.

277 Subsections (4) and (5) define which children and young people are in scope of the duty.

Section 24: Cases in which duty under section 23(1) does not apply

278 Section 24 sets out two restrictions on the application of the duty. Firstly, the duty does not apply to any function of the Secretary of State in relation to immigration, asylum, nationality or customs. Secondly, the duty does not apply where a corporate parent is exercising devolved functions in or as regards Scotland, Wales or Northern Ireland.

Section 25: Corporate parenting duty: collaborative working

279 Section 25 outlines the requirement of corporate parents and local authorities in England to collaborate with each other. These provisions are self-explanatory.

280 For local authorities in England the corporate parenting duty is the duty in section 1(1) of the Children and Social Work Act 2017. For all other Corporate Parents, it is the duty in section 23.

Section 26: Duty to have regard to guidance

281 Section 26 provides that corporate parents must have regard to any statutory guidance published by the Secretary of State which relates to performance of the corporate parenting duty. These provisions are self-explanatory.

Section 27 Reports by Secretary of State

282 Section 27 details the reporting requirements of the duty. These provisions are self-explanatory.

Schedule 1: Relevant Authorities

283 Part 1 of the schedule lists the corporate parents which are subject to the corporate parenting responsibilities in section 23.

284 Part 2 of the schedule provides that the Secretary of State can make regulations to amend Part 1 of the Schedule by adding an entry to the list of corporate parents, removing an entry from that list or changing an entry. Such regulations are subject to the affirmative procedure.

285 The power may not be used to add an entity to the list if it:

a. Exercises devolved functions only; or

b. Exercises any devolved functions, unless they are a relevant authority only to the extent that they are exercising functions that are not devolved functions.

286 A devolved function is a function that could be conferred by provision that would be within the legislative competence of the Scottish Parliament, Senedd Cymru or Northern Ireland Assembly.

Employment of children

Section 28: Employment of children in England and Wales

287 Part II of the Children and Young Persons Act 1933 ("CYPA 1933") makes provision for the employment of children in England and Wales. Section 18 of the CYPA 1933 sets out age limits and restrictions on the hours that children can work and the type of work they can do.

288 These restrictions apply to children who are under compulsory school age, construed in accordance with section 8 of the Education Act 1996. They also apply where a child assists in a trade or occupation carried out for profit even where the child is not paid for their work.

289 Section 28 will replace section 18 of the CYPA 1993 and will insert a new section 18A into that Act. The main changes are that a child will be permitted to work:

- until 20:00 (as opposed to 19:00) on any given day;
- for up to an hour before school;
- for more than 2 hours on a Sunday (it will be treated the same as a Saturday).

290 The overall number of hours that a child is permitted to work has not changed.

291 The Secretary of State will have a power to make regulations in relation to child employment in England which will replace the power local authorities currently have to make bylaws. The same will be true for Welsh Ministers in relation to Wales.

292 The regulations may prohibit the employment of a child in certain types of work, make provision in relation to child employment permits, authorise the employment of 13-year-old children and set out the number of hours children can work per day or week, their entitlement to breaks and leave and to specify other conditions of employment that are to apply to children (subject to the minimum safeguards in the CYPA 1933).

293 A child employment permit will be required to employ a child to work. Most local authority bylaws already require a child employment permit, but there is no standard approach.

294 Children are only permitted to do light work which is defined in section 18(8). The definition will be amended to better reflect the circumstances of children who are home educated.

295 Other restrictions that currently apply in relation to the work that children can do and the hours they are permitted to work will remain unchanged. These are set out in the new section 18.

Section 29: Employment of children in Scotland

296 Section 28 of the Children and Young Persons (Scotland) Act 1937 ("CYPSA 1937") makes provision for the employment of children in Scotland and sets out age limits and restrictions on the hours that children can work and the type of work they can do.

297 These restrictions apply to children not over school age for the purposes of the Education (Scotland) Act 1980 for children in Scotland. They also apply where a child assists in a trade or occupation carried out for profit even where the child is not paid for their work.

298 Section 29 will replace section 28 of the CYPSA 1937 and will insert a new section 28A into that Act. The main changes will be that a child is permitted to work:

- until 20:00 (as opposed to 19:00) on any given day;

- for up to an hour before school;
- for more than 2 hours on a Sunday (it will be treated the same as a Saturday).

299 The overall number of hours that a child is permitted to work has not changed.

300 Scottish Ministers will have a power to make regulations in relation to child employment in Scotland which replaces the power local authorities have to make byelaws.

301 The regulations may prohibit the employment of a child in certain types of work, make provision in relation to child employment permits, authorise the employment of 13-year-old children and set out the number of hours children can work per day or week, their entitlement to breaks and leave and to specify other conditions of employment that may apply to children (subject to the minimum safeguards in the CYPSA 1937).

302 A child employment permit will be required to employ a child to work. Most local authority bylaws already require a child employment permit, but there is no standard approach.

303 Children are only be permitted to do light work which is defined in section 28. The definition will be amended to better reflect the circumstances of children who are home educated.

304 Other restrictions that currently apply in relation to the work that children can do and the hours they are permitted to work will remain unchanged. These are set out in the new section 28.

Part 2: Schools

School meals, breakfast clubs etc.

Section 30: Free breakfast club provision in primary schools in England

305 Section 30 inserts sections 551B, 551C and 551D into the Education Act 1996.

306 Section 551B (Education Act 1996): Free breakfast club provision in primary schools in England. New section 551B(1) of the Education Act 1996 as inserted by the Act places a duty on the "appropriate authority" of a "relevant school" in England to "secure" free of charge breakfast club provision for all "qualifying primary pupils" at the school. In this section, "secure" means to arrange the breakfast club provision. It does not mean that the school must provide and run the breakfast club itself.

307 Subsection (2) defines the minimum offer that schools must provide as a result of the duty in this Act, which is at least 30 minutes of childcare (2)(a) and the provision of breakfast (2)(b) ending before the start of the first morning school session on each school day. This means that the appropriate authority of a relevant school must at least offer these two things to qualifying primary pupils from Reception to Year 6. Importantly, this minimum offer does not prohibit them from going further in offering extended clubs or accompanying models to the same eligible children or those not in scope under this duty.

308 Subsection (3) specifies where the breakfast club provision set up as a result of this duty should be located. This is either on the school site itself, or a suitable premises in the "vicinity" of the school. This is to ensure that schools have flexibility to make sensible arrangements and use appropriate local facilities where that is necessary. For example, an infant and junior school might wish to work together to open a single breakfast club on the junior school site, where there is a bigger hall, open to pupils from both schools. The government would not, however, want a school to hold the club in an unreasonable location that would inhibit the policy objective of helping pupils start the school day settled and ready to learn by making

them have a lengthy journey between the club and the school. Specifying "in the vicinity" is also to ensure that parents are not given the task of dropping their children off at a location far from the school that could potentially disrupt the start of the child's school day and the parent's working day.

309 Subsection (4) clarifies that, in the rare event, that the school does not operate a morning session of education they would not be expected to provide a breakfast or childcare.

310 Subsection (5) deals with food standards and the application of the duty under s.114A(4) of the School Standards and Framework Act 1998 (or equivalent) to breakfast clubs introduced as a result of 551B(1), ensuring that breakfast provided is in accordance with school food standards. As the application of the school food standards have different locations in law depending on the type of school, in this measure it is referred to as "the applicable food standards duty". This is defined in subsection (7).

311 Subsection (6) of 551B defines the meanings of "appropriate authority", "qualifying primary pupil", and "relevant school" that are applied throughout 551B, 551C, and 551D. The "appropriate authority" is who is to be held responsible to "secure" the breakfast club provision at a "relevant school", and the "relevant school" is a list of the types of school that must secure breakfast club provision as a result of this duty. A "qualifying primary pupil" is who the "appropriate authority" of a "relevant school" must "secure" the breakfast club provision for. This means a pupil on roll at the school who is in Reception to Year 6.

312 Subsection (7) defines the legal meanings of "childcare", "maintained school", "non-maintained special school", "reception", and "SSFA 1998" used in this provision of the Act. This subsection also defines the meaning of "the applicable food standards duty", which points to where the school food standards apply to different types of schools in law.

313 Section 551C (Education Act 1996): Power to exempt schools from duty under section 551B(1).

314 New section 551C(1) of the Education Act 1996 as inserted by the Act gives the Secretary of State the power to exempt the appropriate authority from the duty under section 551B(1) to secure breakfast club provision for qualifying primary pupils of a relevant school.

315 Subsection (2) provides that the appropriate authority of a relevant school must consult parents of qualifying primary pupils at the school before applying to the Secretary of State for an exemption to the duty. Except for pupil referral units, they must also consult their local authority before applying for an exemption to the duty. Pupil referral units need not do this, as the appropriate authority is the local authority which maintains the unit.

316 Subsection (3) requires an application for exemption to be made in accordance with requirements prescribed by the Secretary of State by regulations.

317 Subsection (4) details the two tests, whereby either one or both must be satisfied for the Secretary of State to exempt the appropriate authority of a relevant school from needing to comply with the duty.

318 Subsection (5) is concerned with how long an exemption may apply to the appropriate authority of a relevant school once designated under subsection (1) by the Secretary of State.

319 Subsection (6) clarifies that any exemption to the duty to secure breakfast club provision may be varied or revoked by the Secretary of State.

320 Subsection (7) requires that, in the interest of transparency and accountability, the Secretary of State keeps a list of relevant schools exempted from the breakfast club duty and makes that list publicly available.

321 Section 551D (Education Act 1996): Guidance in connection with breakfast club provision.

322 New section 551D (1) of the Education Act 1996 as inserted by the Act states that the Secretary of State must issue guidance to the appropriate authorities of relevant schools setting out: (1)(a) how to meet the duty to secure breakfast club provision for qualifying primary pupils of the relevant school, (1)(b) how to apply for an exemption to the duty to secure breakfast club provision for qualifying primary pupils of a relevant school, and (1)(c) how the Secretary of State will exercise the power to exempt the appropriate authority to secure breakfast club provision for qualifying primary pupils of a relevant school.

323 Subsection (2) specifies that the appropriate authorities of relevant schools must "have regard" to guidance issued by the Secretary of State under subsections (1)(a) and (1)(b). To "have regard" in this section means that the appropriate authority of a relevant school has a duty to consider the guidance issued by the Secretary of State and not depart from the recommendations set out in that guidance without very good reasons.

324 Subsection (3) gives the Secretary of State the power to revise the guidance issued under this section.

Section 31: Food and drink provided at Academies

325 Section 31 of the Act inserts section 512C into the Education Act 1996.

326 Section 512C (Education Act 1996): School food standards: Academies.

327 New section 512C of the Education Act 1996 as inserted by the Act ensures The Requirements for School Food Regulations 2014 ('the School Food Standards') apply to Academies across the full school day, up to 6pm.

328 Subsection (1)(a) requires Academy arrangements to include provisions that are equivalent to the School Food Standards with respect to food and drink provided and (1)(b) requires Academy arrangements to impose duties on the proprietor of an Academy that are equivalent to those imposed by the school food standards on the local authority or governing body of maintained schools.

329 Subsection (2) clarifies that the provision extends to Academies when the existing Academy arrangements do not already contain the requirement to adhere to the school food standards.

330 Subsection (3) applies this requirement retrospectively.

Section 32: Free school lunches: eligibility

331 This section adds a new subsection (4D) into section 512ZB of the Education Act 1996. This subsection would mean that free school meals (FSM) are to be provided on request to any pupil at a state funded school in England, where that child, or their parent or guardian, is in receipt of Universal Credit and does not fall within subsection (4) of section 512ZB. This subsection establishes a new category of free school meals for pupils at state-funded schools in England who are in households that receive Universal Credit and have an income above £7,400 as set out in the Free School Lunches and Milk, and School and Early Years Finance (Amendments Relating to Universal Credit) (England) Regulations 2018. This new category of free school meals would be known as 'Expanded FSM'.

332 There will be no change to the current category of free school meals, for which pupils remain eligible if they attend a state-funded school in England, they or their parents or guardians are in receipt of Universal Credit, and who meet the other conditions set out in the Free School Lunches and Milk, and School and Early Years Finance (Amendments Relating to Universal Credit) (England) Regulations 2018. This category will, however, be known as 'Targeted FSM'.

Section 33: Free school meals etc. information sharing

333 This section amends section 110 of the Education Act 2005. New subsections (5A) to (5E) would allow for data from other government departments to be shared with the Department for Education, so that the department can identify which category of free school meals a child is eligible for (Targeted FSM or Expanded FSM) and if they are also eligible for other education grants or financial assistance given to local authorities and schools under section 14 of the Education Act 2002, this will include the Pupil Premium grant and the National Funding Formula deprivation funding.

334 New subsection (8A) will clarify the lawful basis for sharing asylum support data amongst public bodies for the purpose of checking eligibility for free school meals and the Pupil Premium grant.

335 New subsections (5B) to (5D) will allow schools and parents to undertake free school meal eligibility checks themselves.

336 New subsection (5E) will enable the Department for Education to communicate which category of free school meals a child fell under with local authorities, schools and parents.

337 New subsection (7)(b) and new subsection (8) will allow the Department for Education to check eligibility for free school meals for children whose expectation of free school meals is set out in guidance or grant conditions, and not via statutory provision.

Section 34: Allergy safety provisions in schools

338 Section 34 amends section 100 of the Children and Families Act 2014 to insert new section 100A and 100B introducing requirements relating to allergy safety in schools. New section 100A requires the appropriate authority for a school to have an allergy safety policy, to review it at least annually, to publicise and publish it on the school's website as well as have regard to statutory guidance. New section 100B confers a power on the Secretary of State to make regulations imposing further duties in connection with the management of allergies, including provision about medicinal products and medical devices, staff training, the recording and reporting of incidents. The section also amends 342 of the Education Act 1996 and section 94 of the Education and Skills Act 2008 to secure corresponding requirements for non-maintained special schools and independent educational institutions.

School uniforms

Section 35: School uniforms: limits on branded items

339 This section amends the Education Act 1996 by inserting a new section 551ZA placing a limit on the number of compulsory branded uniform items that relevant schools can require pupils to have over the course of the school year.

340 Subsection (1) means that relevant schools cannot require a primary pupil to have more than three different branded items of uniform for use during a school year. Relevant schools cannot require a secondary pupil to have more than three different branded items of uniform for use during the school year or more than four if one of the branded items required is a tie. Subsection (6) explains that a primary pupil is a pupil receiving primary education and a secondary pupil is a pupil receiving secondary education. Subsection (2) explains that the limit for secondary pupils applies to all middle school pupils. In effect this means that primary schools have a limit of three compulsory branded items, and secondary schools and middle schools have a limit of four compulsory branded items where a tie is listed as one of the required branded items.

341 Subsection (3) makes clear that an item of school uniform is considered to be required for "use during a school year" if a pupil is required to have it for general use at school, travelling to or from school, or to participate in any lesson, club, activity or event facilitated by the school during that year. It includes items required for PE and sport. This applies whether the lesson, club, event or activity is compulsory or optional (i.e. even if an activity is optional, if a pupil requires a branded item of uniform to participate in that activity, then the item will count towards the limit). The limit covers the total uniform that parents are required to buy over the school year, including items that may only be worn for part of the year (for example, summer dresses). This means that a secondary pupil could not be required to have a branded skirt for the winter months and a branded dress for the summer months where they are also required to buy a branded blazer, tie and PE top because the total number of branded items required for the school year would be five.

342 Subsection (4) defines 'school uniform' to include any item of clothing or bag required for school or for any lesson, club, activity or event facilitated by the school. The limit therefore applies to any branded bookbags, rucksacks or other bags required by schools. In addition, "clothing" is defined in section 579(1) of the Education Act 1996 as including footwear.

343 Subsection (5) provides a definition of a branded item which clarifies that branded items are those with a school name or logo (including an Academy proprietor's name or logo) on or attached to it and also items that have a non-standard design, for example a blazer with coloured piping which means it is only available from a small number of suppliers.

344 Subsection (6) defines which schools are covered by the section. They are: Academy schools (including special academies), alternative provision Academies, maintained schools (which includes community, foundation or voluntary schools and community or voluntary special schools not in a hospital), non-maintained special schools and pupil referral units not established in a hospital. It also explains what ''the appropriate authority' means in the section. For Academy schools, alternative provision Academies and non-maintained special schools, the proprietor; for maintained schools, the governing body; and for pupil referral units, the local authority.

Section 36: Guidance on use of mobile phones etc in schools in England

345 Section 36 inserts a new section 550C into Part 10 of the Education Act 1996, following Chapter 2. New section 550C requires the appropriate person for a school in England to have regard to guidance issued by the Secretary of State when exercising functions relating to the conduct of the school. The guidance to which an appropriate person must have regard is defined in section 550C(2) and is limited to guidance concerning:

a. registered pupils having mobile phones and other personal interactive communication devices with them during school hours and on school premises; and

b. their use of such devices during school hours and on school premises.

346 The 'appropriate person' depends on the type of school. For certain types of school, section 89 of the Education and Inspections Act 2006 places responsibility for determining the school's behaviour policy on the head teacher. In those schools, new section 550C(4) specifies that the appropriate person is the head teacher; for other schools, it is the proprietor.

347 Section 550C(5) defines 'school hours' and 550C(6) provides that the duty to have regard to guidance about mobile phones and other devices does not include devices that the school itself provides for pupils to use.

348 Subsection (2) of section 36 disapplies section 89(2)(b) of the Education and Inspections Act 2006 to the extent that compliance with that duty would be inconsistent with guidance to which a head teacher is required to have regard under section 550C. This prevents a head teacher who is responsible for a school's behaviour policy being placed under conflicting duties in the event that their school's governing body gives guidance or directions that are inconsistent with the guidance to which the head teacher must have regard under section 550C.

Children not in school

Section 37: Local authority consent for withdrawal of certain children from school

349 Section 37 inserts after section 434 of the Education Act 1996, new section 434A which relates to parents of certain children requiring consent from the local authority before they can withdraw them from school to educate them outside of a school setting. The definition of "parent" includes carers or legal guardians by virtue of section 576 of the Education Act 1996.

350 New section 434A(1), (2), (3) and (4) restricts parents from withdrawing certain children from school for the purpose of educating them "otherwise than at school" (for example, home educating them) without the permission of the local authority. The school will be unable to delete the child's name from the school roll unless local authority consent is granted.

351 The categories of children in scope are registered pupils in England and Wales of compulsory school age:

a. Who are at a special school maintained by a local authority, special academy or non-maintained special school, or at an independent school which is specially organised to make special educational provision for pupils with special educational needs, where the child became a registered pupil at that school under arrangements made by the local authority.

b. Who are the subject of an enquiry by the local authority under section 47 of the Children Act 1989, or

c. for whom the local authority is taking action under section 47(8) of the Children Act 1989 because it has been determined that they are suffering or likely to suffer significant harm (i.e. children on child protection plans), or have taken such action in the last five years (i.e. the child was discharged from a child protection plan in the last five years).

352 New section 434A(5) provides that if a parent of a relevant child notifies the child's school that they want to withdraw the child from the school, the school must notify the local authority that is responsible for the area that the school is located in and, if different from that local authority, the local authority that the child lives in. New section 434A (7) states that with the parent's consent, the school can apply on the parent's behalf to the local authority for permission to withdraw the child from school to educate them otherwise than at school. Alternatively, the parent can make the application themself.

353 New section 434A(6) provides that if the parent asks the local authority for permission to withdraw their child from school to educate them outside of a school setting, the local authority must make the decision as promptly as possible. The local authority must refuse permission if they believe that there are no suitable alternative education arrangements in place for the child to be educated outside of a school setting, or if regularly attending school would be in the best interests of the child.

354 New subsection 434A(8) requires the local authority to notify their consent decision to the parent who applied for consent, any other parent of the child (if the local authority has their contact details and unless exceptional circumstances apply), and the proprietor of the school where the child is enrolled.

355 New subsection 434A(9) states that regulations under section 434 must provide that where consent is required, the proprietor of the school must not delete the pupil's name from the register unless consent is obtained. Regulations may also provide for the proprietor to arrange to take other steps in relation to consent and the child's registration as a pupil at the school.

356 New section 434A(10) and (11) provides that the parent can appeal to the Secretary of State or Welsh ministers if they are unhappy with the local authority's decision. If a parent is unhappy with the local authority's decision to grant consent, the Secretary of State or Welsh ministers can either agree with the local authority's decision or refer the question back to the local authority to determine. If a parent is unhappy with the local authority's decision to refuse consent then the Secretary of State can either make a decision on the case as they see fit, or refer the question back to the local authority to determine. The difference in approach is required because the mechanism for getting a child back into school (if it is determined to be in their best interests) is the School Attendance Order process. This process could not be meaningfully followed if the Secretary of State or Welsh ministers had already made a decision that the child should be in school; and therefore, the different approach is necessary so as not to duplicate or undercut existing processes.

357 New section 434A(12) outlines that where local authorities have refused consent, they do not need to consider another application for the same child until 6 months have passed since the date of the previous application.

358 New section 434A(13) provides definitions for key terms used in this section. For example, the definition of "local authority" outlines how this might refer to different authorities depending on the child's situation.

359 New section 434B(1) requires Welsh ministers or the Secretary of State (i.e. the appropriate national authority) to establish a pilot scheme under which parents in specified areas must attend and participate in a meeting with the local authority before withdrawing their child from school for the purpose of home education. The pilot scheme must provide that the local authority discusses with the parent certain matters, including the parent's duty under section 7 of the Education Act 1996 to secure a full-time, efficient and suitable education, and how the parent intends to meet that duty; the local authority's duties in relation to the child, including the duty to provide advice and information under section 436G; the parent's reasons for seeking to educate the child otherwise than at school; any support needs the child may have and how those needs might be met; safeguarding and welfare considerations; and any other matters relevant to the decision to withdraw the child from school. The child must attend the meeting unless exceptional circumstances apply. A representative of the child's school must attend if the parent consents. The proprietor of the school may not remove the child's name from the school register until the local authority confirms that the meeting has taken place. The local authority must record the outcome of the meeting or note where the parent refused to attend and therefore the child remained on the school roll.

360 New section 434B(2) requires the pilot scheme to be established within two years beginning on the day section 31 of the Act 2026 comes fully into force.

361 New sections 434B(3) and (4) require regulations establishing the pilots to specify the local authorities in which the pilots will operate and the duration of them; and will ensure that the number of local authorities that can be included in the pilot scheme must not exceed 30% of all local authorities in England or Wales.

362 New section 434B(5) requires the duration of the pilot scheme to be at least two years and no more than five years.

363 New section 434B(6) enables the regulations to provide for exemptions from the pilot scheme for particular descriptions of children.

364 New sections 434B(7) and (8) allow regulations to make any further provision considered necessary to ensure the pilot scheme can operate effectively. This includes modifying the pilot scheme or amending section 434A so that the scheme can operate in relation to children who fall within the section 434A consent requirement for withdrawal from school.

365 New sections 434B(9), (10), (11) and (12) enable Welsh Ministers and/or the Secretary of State—two years after the pilot scheme has begun and following consultation with appropriate persons—to make regulations to:

- bring the pilot scheme to an end;
- apply the mandatory meeting requirements in subsection (1) to all local authorities after the pilot expires, subject to any exemptions;
- amend new section 434A so that local authority consent to withdraw a child from school is conditional on the parent attending a meeting of the kind described in subsection (1); and
- make any further provision needed to ensure these arrangements can operate.

366 New section 434B(13) disapplies the hybrid instruments procedure for regulations made by the Secretary of State under this section. Without this provision, such regulations could be treated as hybrid instruments because the pilot scheme may affect the private interests of some parents differently from others, depending on whether they live in a pilot area. The subsection will ensure that the regulations proceed as non-hybrid instruments.

367 New subsection (2) of section 39 inserts new section 434B within section 569(2A) of the Education Act 1996, which makes the mandatory meeting regulations subject to the affirmative resolution procedure.

Section 38: Registration

368 Section 38 inserts after section 436A of the Education Act 1996, new sections 436B to 436G and new Schedule 31A, which cover: a duty on local authorities in England and Wales to register children not in school; the contents and maintenance of those registers; a duty on parents of eligible children to provide information to a local authority for inclusion on their register; a duty on persons that a local authority reasonably believes to be providing out-of-school education for more than a prescribed amount of time to eligible children, to supply certain information on request to a local authority (including sanctions for failing to provide requested information – see Schedule 31A); provision about use of information on the register; and a duty on local authorities to provide support to parents of children on the register.

369 New section 436B(1) imposes a duty on a local authority to maintain a register of eligible children. Section 436B(2) to (5) sets out that a child is eligible if they are living in the authority's area, of compulsory school age, and are either not registered at a "relevant school" (defined in subsection (7)), or they are registered as a pupil at a relevant school but it has been agreed by that school's proprietor that they can be absent for some or all of the time and receive some or all of their education otherwise than at a relevant school; or the child is a student registered at a further education institution as defined in subsection (7)(e) but attends the institution on a part-time basis and do not also attend another relevant school. This would

include, for instance children who are flexi-schooled or who attend alternative provision otherwise than at a relevant school while remaining registered at such a school; or children aged 14-16 who attend courses part-time at a Further Education college. Subsection (6) sets out that regulations may be used to clarify whether a child registered at a relevant school is in scope or not, and if so, the cases when they are or are not eligible for registration on a local authority's children not in school register.

370 New sections 436B(8) and (9)) require local authorities to consider the child's home within 15 days of the child being registered on their Children Not in School registers. New subsection (8)(b) empowers local authorities to request to visit the child in their home. The request must be made within 15 days of registration, but the actual visit can take place after that time. New section 436B(9) requires that, if the parent refused a request for a home visit, the local authority must consider this as a relevant factor when determining whether to serve a preliminary notice to a School Attendance Order. New section 4346B(10) places a requirement on local authorities to consider the other settings where the child is being educated that the local authority knows about within 15 days of the information on these settings being recorded on their Children Not in School registers.

371 New section 436C(1) sets out the information that must be contained in the registers. This includes the eligible child's name, date of birth, home address, and (if the child has lived at their current address for less than 12 months) their previous address, any additional address the child lives at, and the names and home addresses of each parent of the child. Registers must also contain the names of each parent providing education to the child, an estimate of the amount of time the child spends being educated by their parent(s), and if someone other than a parent is educating the child for part or all of their education, an estimate of the total amount of time that the child spends receiving education from this person(s).

372 New subsection (g) of 436C(1) requires that if a provider other than the child's parent is providing education to the child for more than a prescribed amount of time (to be set in regulations), then the parent must provide the following information to the local authority: the name and address of the provider, a description of the type of the provider that it is, the postal address of each place where the education is being provided or the website or email address of the provider if education is being provided virtually; and an estimate of the total amount of time the child spends in this education, including how much of it is without supervision or active involvement from their parent. New section 436C(6) makes clear that the "prescribed amount of time" referenced in subsection (1)(g) means an amount of time prescribed by reference to a number of hours in, or a proportion of, a week or other period; by reference to a proportion of time a child spends receiving their education; or in any other way.

373 New section 436C(2) sets out a list of additional types of information that can be prescribed for inclusion in a local authority's register and must then be recorded on the register if the local authority has the information or can reasonably obtain it. Section 436C(3) allows a local authority to also include any additional information they consider appropriate within the register that has not been stipulated in legislation. Parents will not be required to provide the local authority with any of this additional information.

374 New section 436C(4) sets out that regulations may be used to specify how a local authority must maintain their register, the form it should take, registration forms to collect information from parents and out-of-school education providers, how time is to be recorded for the registration provisions about time spent in education and how local authorities should publicise how their registers operate, in order for eligible parents and out-of-school education providers to know what they are required to do.

375 New section 436C(5) prohibits information from a register being published or being made accessible to the public in a way that would include the name or address of a child eligible for registration or their parent, or in a way that would enable identities of an eligible child or their parent to be deduced (either from the information itself or by combining it with other published information).

376 New section 436D sets out parental obligations and deadlines for compliance, described as 'relevant periods'. New section 436D(1) requires a parent of a child that is eligible for registration to inform the local authority that their child is eligible and provide the information specified in new section 436C(1) that the parent has – for example the child's name, date of birth, home address(es), name and home address of each parent of the child, and the required details of the child's education. Parents only have to provide the information they know – for example, there is no expectation for parents to find the details of an estranged parent. New subsection 436D(5)(a) requires parents to provide this information within 15 days from the date the child becomes eligible for registration. New section 436D(2) sets out that parents whose children are already registered with their local authority must provide information to their local authority (as referred to in section 436C(1)) on request. 436D(5)(b) stipulates that the parent must provide the information within 15 days, unless the local authority have extended this period and specified a longer response timeframe for parents in the request.

377 Subsection 436D(2)(b) requires the parent of a registered child to inform the local authority of any change, of which the parent is aware, to any of the following information included on a Children Not in School register: the child's name; date of birth; home addresses; if the child has lived at their current address for less than 12 months, their previous address; the name and home address of each parent of the child, and the name of each parent who is providing education to the child. As set out in 436D(5)(c), the Local Authority must be notified of this change within 15 days of the parent becoming aware of the change.

378 Subsection 436D(2)(c) requires that, if there are changes that a parent is aware of to a child's education since the information was last provided to the local authority, in relation to: (a) the estimate of the overall total amount of time that the child spends receiving education from their parents (b) the estimate of the overall total amount of time that the child spends receiving education from persons other than their parents, (c) any of the required information on providers that are educating the child for more than the prescribed threshold of time, parents will only be required to keep the local authority up-to-date with these changes further to a request being made by the local authority. Upon request parents must provide the Local Authority with information about those changes, or confirm that there have been no changes. New section 436D(3) sets out that local authorities must make a request to parents of a registered child for any of those changes on at least an annual basis, but are disallowed from doing so more frequently than once every 3 months.

379 Subsection436D(2)(d) states that parents must inform the local authority if their child is no longer eligible for registration due to no longer living in the authority's area or becoming a full-time registered pupil at a relevant school. New subsection 436D(5)€ requires that parents provide this information within 15 days beginning on the date on which the child ceases to be eligible to be registered.

380 New sections 436D(6) and (7) provides that parents do not need to provide information if their child is receiving full-time education at one or a combination of different settings. This exempts parents of eligible children from providing information for the register, where those children have been placed in alternative provision (otherwise than at a relevant school) full-time, or where they are placed in alternative provision for part of the time and receive the remainder of their education at a relevant school or where the Local Authority has arranged for special educational provision otherwise than at a school.

381 New section 436E enables local authorities to require information from providers who they reasonably believe provide out-of-school education to eligible children without a parent being actively involved in the tuition or supervision of the child, for more than a prescribed amount of time. New section 436E(3) sets out that a local authority can, by notice, require these providers to confirm if they are educating any child living in England or Wales (whether or not that child lives in the local authority's area) for more than the prescribed time and without a parent being actively involved, or have done so in the past 3 months, and to provide specific information (child's name, date of birth, home address, and time spent in education without parental involvement). This will assist in ensuring register information is accurate and help identify children eligible for registration who have not been identified.

382 New section 436E(4), (5) and (6) provide that a notice is deemed served if it is sent or left at the place where the out-of-school education is provided (in the case of an online provider, this could be the provider's email address); and that those in receipt of a notice have at least 15 days to respond, with the exact period to be specified by the local authority.

383 New section 436E(7) sets out that regulations may provide exceptions so that some out-of-school providers can be exempted from the duty to provide information.

384 New section 436E(8) and (9) enables a local authority to impose a monetary penalty (of an amount to be set out in regulations) on a person that has failed to provide the correct required information, although subsection (10) sets out that local authorities will not be able to impose monetary penalties for the first 3 months after the law coming into effect.

385 New section 436F(1) requires local authorities to provide prescribed information from their registers to the Secretary of State or the Welsh ministers (in practice the Departments for Education in each country), as directed by the Secretary of State or Welsh ministers. Subsection (2) enables the Secretary of State or Welsh ministers (in practice the Departments for Education) to provide information received from local authority registers to prescribed persons (to be set out in regulations) if it is for the purposes of promoting or safeguarding the education or welfare of the child to whom the information relates, or any other person under the age of 18.

386 New sections 436F (3) and (4) authorises local authorities to provide information from their registers to certain persons or organisations if they believe it appropriate to do so for the purposes of promoting or safeguarding the education or welfare of the child to whom the information relates, or any other person under the age of 18. Those persons or organisations include those listed in Section 11(1) of the Children Act 2004, Ofsted, His Majesty's Chief Inspector of Education and Training in Wales, and the Welsh Ministers.

387 New section 436F(5) requires local authorities in England or Wales to share with another local authority in England or Wales the information about an eligible child set out in section 436C(1) or (2) for inclusion in the registers; and they may also share any information contained in their registers under section 436C(3). A local authority's duty to share this information (and power to share the information in that subsection) arises if they become aware that a child included on their register will move, or has moved, to the other local authority area.

388 New sections 436F (6), (7) and (8) enable a local authority in England or Wales to share information from their Children Not in School registers with local authorities in Scotland or Northern Ireland if those authorities request the information and if the English or Welsh local authority consider it appropriate to provide the information for the purposes of promoting or safeguarding the education or welfare of the child to whom the information relates or any other person under the age of 18.

389 New sections 436G(1) and (2) require a local authority to provide support to the parent of a child that is included in their register by giving advice or information about the child's education, if requested by the parent of a child on the register. This includes information about access to GCSE examinations. Local authorities have discretion to provide the advice and information they think is appropriate based on what the parent has requested. This can include, for example, advice about the child's education or information about other sources of support for the child's education. Local authorities can still offer other forms of support if they wish to do so, but this duty places a minimum requirement on authorities to offer advice and information to parents who want it.

390 New sections 436G(3) and (4) require local authorities in England to offer parents of children on Children Not in School registers the opportunity to attend a bi-annual forum. This forum will be an opportunity to discuss the Children Not in School registers and School Attendance Order provisions introduced by sections 40 and 41 of the Act. If at least one parent accepted the offer, the forum must go ahead.

391 New section 436G(5) provides that the local authority support duty and duty to offer the opportunity to attend a forum do not apply to children registered at a relevant school (which would include flexi-schooled children and those who are in alternative provision arranged by their school) or to children for whom the local authority already has a duty to make arrangements under section 19 of the Education Act 1996 (i.e. children who have been placed by the local authority in alternative provision) or where the local authority is required to secure special educational provision under section 42 of Children and Families Act 2014 for children who have an EHC Plan, or where the local authority is required to secure additional learning or other provision for the child under section 14 or 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.

392 Subsections (3), (4), (5) and (6) of section 40 amend section 569 of the 1996 Act, which details various procedural aspects of regulations made under the Act, so that all regulations relating to the Children Not in School registers will be subject to the affirmative procedure.

393 Subsection (7)(4) of section 40 inserts a new Schedule 31A, after Schedule 31 of the Education Act 1996, which sets out details relating to the imposition of monetary penalties relating to the failure to provide information under section 436E. This includes details of the process that the local authority must follow to impose a penalty on a person, how penalty amounts will be increased by a prescribed percentage if the penalty is not paid within the specified timeframe, the grounds on which a person can appeal to a First-Tier Tribunal, and how the penalty will be recovered in the case of non-payment.

Section 39: School attendance orders

394 Section 39 inserts new sections 436H, 436I, 436J, 436K, 436L, 436M, 436N, 436O, 436P, 436Q, 436R and 436S into the Education Act 1996 following section 436G, setting out the requirements for local authorities in England and Wales to issue School Attendance Orders (including preliminary notices), choice and nomination of schools in the notice, amendment and revocation of an Order, and creates an offence of failing to comply with a School Attendance Order served by a local authority in England.

395 Subsection (2) inserts the new section 436H. Section 436H(3) defines a "preliminary notice" as a notice served to a parent of a child requiring them to satisfy the local authority that a suitable education or education that is in the child's best interests is being received by the child named in the notice.

396 New sections 436H(1) requires a local authority to issue a preliminary notice for a School Attendance Order. This notice is to be issued to a child's parent in relation to a child in the local authority area if it appears that the child is of compulsory school age and Condition A and/or Condition B (set out in section 436H(4) to (5)) is met:

a. Condition A: The child is not receiving suitable education, either by attending school regularly or through other means (for example, home education) or;

b. Condition B: The local authority is conducting enquiries in respect of the child under section 47 of the Children Act 1989; or the local authority is taking action under section 47(8) of that Act to protect the child's welfare because they believe the child is suffering or is likely to suffer significant harm, or has taken such action within five years of the preliminary notice being served;

c. and the child is not regularly attending school;

d. and it would be in the child's best interests to receive education by attending school regularly.

397 New section 436H(2) allows a local authority to serve a preliminary notice on a child's parent if it appears either Condition C or Condition D (set out in section 436H(6) to (7)) are met. Condition C is that the child is eligible to be registered by the local authority in their register of children not in school, and the local authority has requested information from the parent to confirm this and asked the parent to provide the required information for the register and the parent has either not provided that information within 15 days of the day on which the child became eligible for the register, or has not provided the correct information. Condition D is that the child's parent who is under a duty to provide information has failed to provide the required or correct information under section 436D(2)(a),(b) or (c), within the relevant period (as defined in Section 436D(5), or provided incorrect information.

398 New section 436H(10) states that this notice must clearly state under which of Conditions A to D it is being served. The notice must be served without delay and in any event within five days beginning with the day on which the local authority establishes that the notice should be served. The recipient is required to respond to the notice within a specified period. The specified period will be set by the local authority and must be at least 15 days (this timeframe commences from the day on which the notice is served).

399 New sections 436H(8) and (9) requires the local authority to consider the settings where the child is being educated that the local authority knows about and where the child lives for the purposes of determining whether a preliminary notice must or may be served. The local authority may also request to visit the child inside any of the homes they live in. If the parent of the child on whom the preliminary notice would be served refuses this request then the local authority must consider that to be a relevant factor in determining whether to serve the notice.

400 The new section 436I sets out the process for the issuing of School Attendance Orders by local authorities. Subsection (1) sets out that a local authority must, following a preliminary notice, issue a School Attendance Order (which requires the parent to ensure their child is registered at a school named in that order) if the recipient of the notice has failed to satisfy them within the specified period in the notice that the child is receiving a suitable education (if Condition A, C, or D is mentioned in the preliminary notice) and/or that it is in the child's best interests to be educated otherwise than at school (if Condition B is mentioned in the notice), and that the local authority believes that it is expedient that the child should attend school.

401 However, subsection (2) makes clear that a local authority must not serve a School Attendance Order if Condition B is the only condition cited in the preliminary notice (i.e. the child is subject to a section 47 enquiry, child protection plan or was subject to a child protection plan in the last five years) and the local authority is no longer conducting enquiries, no other enquiries are being conducted (by any local authority) and/or where the child was on a child protection plan, more than five years have passed since the child was on the plan (ending with the date that the order would be made). Additionally, if Condition B and another condition was cited in the preliminary notice and the parent satisfies the local authority that the child is receiving a suitable education, and Condition B is no longer relevant then the local authority must not serve an Order.

402 Subsections (3) and (4) state that the local authority must consider: the settings where a child is being educated that the local authority knows about and where the child lives to help decide whether they need to issue a School Attendance Order. They must also consider how and what the child is learning (so far as is relevant). The local authority may request to visit the child inside any of the homes where the child lives. This request would be made to the parent on whom the local authority has served the preliminary notice. If the parent refuses the request, then the authority must take this refusal into account when deciding if the parent has failed to prove that: a) the child is receiving a suitable education, and/or b) it is in the child's best interests to be educated otherwise than at school.

403 Subsections (5) and (6) explain that a School Attendance Order requires the person to ensure that the child becomes a registered pupil at the specific school named in the order, and that the Order must be served in the prescribed form within five days of the local authority determining which school is to be named in the order. New section 436I(7) states that a School Attendance Order will remain in force, subject to any amendment made by the local authority, as long as the child named in it is of compulsory school age, unless the order is either revoked by the local authority, or a court.

404 New section 436I(8) sets out that if a School Attendance Order names a maintained school, the local authority must inform the governing body and headteacher within five days of deciding the school is to be named in the Order, and the governing body and headteacher must admit the child. Subsection (9) sets out that the same process applies if an academy school or alternative provision academy is named in an Order, except the proprietor and principal must be informed instead of the governing body and headteacher. These requirements do not affect any power of a headteacher or principal to exclude from the school a pupil who is already registered there, as outlined in Section 436I(10).

405 New section 436J sets out the process for the issue of a School Attendance Order for a child with an education, health and care plan in England and new section 436K sets out the process for the issue of a School Attendance Order for a child with an individual development plan in Wales.

406 New section 436L sets out that, prior to serving a School Attendance Order under section 436I on a person in respect of a child, who does not have an education, health and care plan or Individual Development Plan, the local authority must serve a "school nomination notice".

407 Section 436L(2) provides that the written school nomination notice must inform the person of the local authority's intention to serve the Order and the school that they intend to name in the Order, along with one or more suitable alternative schools if they think fit.

408 Section 436L(3) sets out that if the notice lists multiple schools, the person in receipt of the notice may choose one of them for their child to attend and notify the local authority of that choice within 15 days (which will begin from the day the notice is served). If they do so, the local authority must name that school in the Order.

409 Section 436L(4), (5) and (6) set out the requirements for different types of schools to be named in the Order if a person that the notice is served on applies to them and their child is offered a place.

410 Section 436M sets out certain factors affecting the schools that a local authority may or may not specify in the school nomination notice, such as that a school cannot be specified in an Order if the child is permanently excluded from it (436M(1)) or that a maintained or academy school cannot be named if admitting the child would breach class size limits or exceed the school's admission number (436M (2), (3) and (4)). New section 436M(5) provides that a local authority may name a maintained school in a school attendance order if they are responsible for its admission arrangements, even if it exceeds the pupil limit. New section 436M(6) sets out that a maintained or academy school can be named despite pupil limits if it is a reasonable distance from the child's home and no other suitable school is available nearby.

411 Section 436N imposes a requirement for the local authority to consult and notify the school leadership before naming a maintained school, academy school or alternative provision academy in a school nomination notice and sets out that the notice must be served within five days; and explains how schools can apply to the Secretary of State if they disagree with being named.

412 Section 436O sets out how a School Attendance Order may be amended, on request, when it is in force in relation to a child without an education, health and care plan.

413 Section 436P sets out the procedure for the revocation, on request, of a School Attendance Order. (An Order can also be revoked by a local authority on its own initiative under section 570 of the 1996 Act.).

414 Sections 436P(5) and (6) provide that if a child who is subject to a School Attendance Order has an education, health and care plan (in England) or an individual development plan (in Wales) then this process works differently.

415 Section 436Q(1) creates an offence where a person who is served with a School Attendance Order under section 436I fails to comply with that order.

416 Section 436Q(2) sets out two defences. In both cases the burden of proof is on the person being prosecuted. One applies where the person proves they are providing, otherwise than at school, a suitable education for the child; another applies where they prove that they are providing, otherwise than at school, education that is in the child's best interests. Section 436Q(2)(c) also makes clear that an offence is not committed if Condition B was the only condition cited in the Order and that condition no longer applies (for example, the child is no longer subject to a section 47 enquiry and this enquiry did not end in a child protection plan).

417 Section 436Q(3) sets out that the offence is committed not only if the parent fails to have the child registered at the named school in the first place, but also where the parent causes the child named in the school attendance order to be deregistered at the school named in the order. Subsection (4) provides that the parent does not, however, commit an offence where the school in question is no longer the school named in the school attendance order, because the parent has successfully applied for the order to be amended under section 436J, 436K or 436O or where the order has been revoked under section 436P.

418 New section 436Q(5) sets out that where a person fails to have their child registered at a school in accordance with a School Attendance Order, and is convicted of an offence under subsection (1), they may be found guilty of the same offence again if their failure to register their child at the named school continues. This reverses the effect of a Divisional Court decision in the case of Enfield London Borough Council v Forsyth & Forsyth [1987] 2 FLR,

which held that after a parent had been found guilty of breaching a School Attendance Order then they could not be prosecuted for any further breaches of the same Order, and the local authority had to go through the process of making a new Order before prosecuting them again.

419 Section 436Q(6) sets out that if the parent is acquitted of the offence in subsection (1), the court may direct that the School Attendance Order comes to an end. Subsection (7) clarifies that a court direction under subsection (6) does not affect a local authority's duty to serve a further School Attendance Order under section 436I if they are of the opinion that it is expedient to do so.

420 Section 436Q(8) sets out the trial method and penalty for an offence of failing to comply with a School Attendance Order, which is that the offence is to be tried summarily, and the penalty of the offence of failing to comply with a School Attendance Order will not exceed level 4 on the standard scale, or imprisonment for a term not exceeding the maximum term for a summary offence, or both. Subsection (9) clarifies that "the maximum term for summary offences" is taken to mean six months if the offence is committed prior to section 281(5) of the Criminal Justice Act 2003 coming into force, or 51 weeks if committed after.

421 New section 436R makes clear what the references to "Academy school" and "academy arrangements" mean in section 436I, and 436L to 436O. For example, making clear that it includes a reference to a city technology college and a city college for the technology of arts. In practice, this means these institutions can be named in a School Attendance Order.

422 New section 436S clarifies how references to "regulations" and "prescribed" should be interpreted in sections 40 and 41 to ensure that it is clear that regulations can be made by the Secretary of State for England and the Welsh minsters in Wales.

423 Subsection (3) of this section adds a subsection to section 572 of the 1996 Act. Section 572 sets out the valid ways to serve a notice or order under the Education Act 1996. The new subsection ensures that School Attendance Orders and related notices may also be served by any other effective method. Subsection (4) amends Schedule 1 to the Education Act 1996 (pupil referral units), inserting new paragraph 13A, to set out certain ways in which the new provisions on School Attendance Orders made by local authorities apply differently in relation to pupil referral units.

Section 40: Children not in school: processing of information

424 Section 40 inserts new section 436S into the Education Act 1996 which makes clear that when information is shared under the Children Not in School provisions, disclosure does not breach confidentiality or any other legal restriction on sharing it.

Section 41: Guidance on children not in school and school attendance orders

425 Section 41 inserts new section 436U into the Education Act 1996 which states that, in exercising their functions under sections 434A, 434B and 436B to 436P, local authorities in England and Wales must have regard to guidance issued by the Secretary of State and Welsh ministers respectively. This will set out the administrative expectations of local authorities related to the Children Not in School registers, home education consent requirement, pilots of mandatory meetings, and their conduct of the preliminary notice and School Attendance Order process.

Section 42 and Schedule 2: Children not in school: consequential amendments

426 Section 42 introduces Schedule 2, which makes consequential amendments relating to section 40.

427 Paragraph 1 of the Schedule sets out the amendments to the Children Act 1989, which bring sections 36 and 91 of, and Schedule 3 to, that Act in line with changes related to School Attendance Orders served by local authorities by inserting "436I or" in relevant places. (436I is the new section in the Education Act 1996 for School Attendance Orders).

428 Paragraph 2 amends the Education Act 1996 to ensure that the old school attendance order provisions in the Act are removed and replaced with the new offence structure.

429 Subparagraph (6) of paragraph 2 of this Schedule inserts a new section 447A after section 447 of the Education Act 1996, which defines "maintained school" and "school nomination notice" for the purpose of Chapter 2 of Part 6 of the Education Act 1996. Paragraph 3 sets out the amendments to the School Standards and Framework Act 1998 to ensure cross-references regarding School Attendance Order process changes for local authorities are updated.

430 Paragraph 3 updates the School Standards and Framework Act 1998, which deals with parental preferences for school admissions, to ensure that it aligns with new sections 436L(4) and 436O(2) – which deal with parental preferences within the School Attendance Order process.

431 Paragraph 4 sets out the amendments to the Sentencing Act 2020 to ensure cross-references regarding School Attendance Order process changes for local authorities are updated.

Independent educational institutions

Section 43: Expanding the scope of regulation

432 Chapter 1 of Part 4 of the Education and Skills Act 2008 ("the 2008 Act") concerns the regulation and inspection of independent educational institutions.

433 Section 43 amends section 92 of the 2008 Act by providing, amongst other things, a new definition of "independent educational institution". The result of this change will mean that Chapter 1 of Part 4 of the 2008 Act not only continues to apply in relation to independent schools in England but will also apply in relation to certain other institutions in England that provide full-time education to children of compulsory school age.

434 Specifically, the new definition of "independent educational institution" (to be found in a new section 92(1)) will cover any independent school in England (see paragraph (a)) and any institution (see paragraph (b)) which is neither an independent school nor an excepted institution (see new 92(8) for "excepted institutions") but which provides full-time education for (a) at least five children of compulsory school age, or (b) at least one child of compulsory school age who is looked after by a local authority or who has special educational needs. The meanings of "has special educational needs" and "looked after by a local authority" are provided in subsections (6) and (7) of new section 92, respectively. The definitions of "compulsory school age" and "independent school" are to be found in sections 8 and 463 of the Education Act 1996.

435 Section 92 of the 2008 Act currently provides for the possibility of some part-time educational institutions being regulated under Chapter 1 of Part 4 (though they are not, in fact, currently regulated since the relevant provisions have not been fully brought into effect). This section omits these institutions permanently from the scope of Chapter 1 of Part 4.

436 Given that the new definition of "independent educational institution" covers institutions in England only, section 93(1) of the 2008 Act (which is about the England-only application of Chapter 1 of Part 4) becomes redundant. It is therefore, repealed by section 43(3). The whole of section 93 is, in fact, repealed but the remaining element of section 93 (which signposts that certain provisions in the Education Act 2002 regulate independent schools in Wales) is carried over into a new section 92(9).

437 New sections 92(3) and 92(4) relate to the issue of whether full-time education is provided by an institution falling within new section 92(1)(b).

438 Section 92(3) provides for a number of regulation-making powers. Any regulations made under these powers will be subject to the affirmative resolution procedure because of an amendment made to section 166(2) of the 2008 Act by section 43(9). Amongst other things, regulations may (a) specify an amount of time which is, or is not, to be treated as "full-time" by reference to a number of hours in, or a proportion of, a week or other period, or in any other way; or (b) provide that time spent on a specified activity or activity of a specified description is, or is not, to be treated as time during which education is being provided. Therefore, for example, regulations may provide that a certain number of hours per week of education over a certain number of weeks is to be treated as full-time education which in turn may determine whether an institution falls within section 92(1)(b) and therefore, regulated by Chapter 1 of Part 4 of the 2008 Act.

439 Section 92(4) gives a non-exhaustive list of factors that are to be taken into account in determining whether full-time education is provided by an institution for the purposes of section 92(1)(b) - in the absence of regulations under new section 92(3)(a) or (b) being conclusive about this. In this situation, the factors which section 92(4) lists are: the number of hours per week that education is provided by an institution (section 92(4)(a)(i))); the number of hours per week that activities incidental to that education are provided (section 92(4)(a)(ii)); the number of weeks per academic year education is provided (section 92(4)(b)); and the time of day that education is provided (section 92(4)(c)). Regulations made under section 92(3)(c) or (d) may add, remove or amend these factors in section 92(4) or set out how they are to be interpreted.

440 Section 92(8) contains a list of "excepted institutions". These are settings excluded from being regulated under Chapter 1 of Part 4 of the 2008 Act – despite otherwise meeting the requirements in new section 92(1)(b). As well as the specific institutions listed, "excepted institutions" would include any institution of a description specified in regulations. The regulation-making power here, because of the amendment made by section 43(9) to section 166(2) of the 2008 Act, would also be subject to the affirmative resolution procedure.

Section 44: Independent educational institution standards

441 Section 44, amongst other things, amends section 94 of the 200 Act. Section 94(1) provides the Secretary of State with a regulation-making powers to define standards, which proprietors of independent educational institutions must comply with and against which these institutions are inspected. Independent educational institutions which do not meet the standards may face regulatory action, up to and including de-registration.

442 Section 44(2)(a) expands on the regulation-making power in section 94(1)(d) of the 2008 Act to prescribe standards about the suitability of proprietors of independent educational institutions. It permits the setting of standards requiring that certain persons are, in the opinion of the Secretary of State, fit and proper persons to be involved in the running of an independent educational institution. These persons are either individual proprietors or, where the proprietor is a body of persons (such as a company or a trust), any person having the general control and management of, or legal responsibility and accountability for, that body.

443 Section 44(2)(b) makes an amendment (by inserting a new subsection (3A) into section 94) to expressly permit the Secretary of State to prescribe standards (falling within section 94(1)(a) to (h) of the 2008 Act) which would require the proprietor of an independent educational institution to have regard to guidance issued, or a document published, by the Secretary of State.

444 Section 44(3) is connected to appeals under section 125(1)(a) of the 2008 Act. These are appeals to the First-Tier Tribunal that a proprietor may make where the Secretary of State refuses their application to register an independent educational institution. The provision inserts a new section 99A into the 2008 Act that gives the Secretary of State the power to direct the Chief Inspector (namely, His Majesty's Chief Inspector of Education, Children's Services and Skills) to inspect the institution which is the subject of the appeal and report back on the extent to which any relevant standard is likely to be met following registration. "Relevant standards" (see new section 99A(2)) are those specified by the Secretary of State in a direction or those considered relevant by the person conducting the inspection. Under section 99 of the 2008 Act, the Chief Inspector is obliged to carry out a similar inspection, to inform the Secretary of State's consideration of an application for registration. The new direction-making powers allow for up-to-date information to be obtained where an application is appealed, which should assist the Tribunal.

445 Section 44(4) inserts new sections 118A to 118F into the 2008 Act. Subsection (1) of new section 118A creates a power to suspend, temporarily, the registration of an independent educational institution if the Secretary of State (a) is satisfied that one or more of the independent educational institution standards (see section 94 of the 2008 Act about those standards - "the standards") are breached in relation to it and (b) they have reasonable cause to believe that as a result of a breach or breaches of the standards, one or more students at the institution will or may be exposed to the risk of harm (within the meaning of section 31 of the Children Act 1989 – see new section 118A(11)).

446 Unless the Secretary of State considers that an immediate suspension is necessary to protect one or more students at an institution, the Secretary of State must, before making a decision to suspend the registration of an institution, serve a warning notice on the proprietor of the institution (see subsection (3) of section 118A). The notice must contain the information set out in subsection (3) and new section 118A(4) requires the Secretary of State to have regard to any representations made by the proprietor during the period specified in the warning notice for making representations. Where the Secretary of State decides not to suspend an institution's registration, having considered any representations made in response to a warning notice, the Secretary of State must serve the proprietor of the institution with a notice informing them of that decision (see section 118A(5)).

447 If instead, the Secretary of State decides to suspend the registration of an institution, having considered such representations, they must serve notice on the proprietor of this decision (see section 118A(6)). Such a notice must also set out the start and end dates of the suspension and explain the proprietor's right to appeal to the First-tier Tribunal against the decision. Paragraph (b) of section 118A(6) provides that a suspension may not last for more than 12 weeks (though the period of a suspension can be subsequently extended - see new section 118B(4)).

448 Where a warning notice is not required because the Secretary of State considers immediate suspension is necessary to protect one or more students at an institution from the risk of harm, the Secretary of State must serve on the proprietor of an institution (as soon as reasonably practicable) a notice of a decision to suspend its registration as well as of a number of other matters set out in section 118A(8), including the start and end dates of the suspension and the proprietor's right to appeal to the First-Tier Tribunal against the suspension.

449 Section 118A(9) sets out that the suspension of an institution's registration does not affect the continuation of its registration. This is to ensure that other provisions in or under the 2008 Act (or elsewhere) relating to registered independent educational institutions continue to apply in relation to an institution when its registration is suspended. For example, it would ensure that it would still be possible for the Secretary of State to serve notice on the proprietor of an

affected institution, under section 114 of the 2008 Act, requiring an action plan and for the Secretary of State to request information from a proprietor under regulations made under section 123 of that Act.

450 Section 118A(10) requires the Secretary of State, where an institution's registration is suspended, to include an indication to that effect on the register of independent educational institutions (maintained under section 95 of the 2008 Act).

451 Section 118B makes provision about the period of any suspension of registration. Subsection (1) provides that any suspension takes effect and ends on the date specified in notice under section 118A(6) or (8) - subject to section 118B(2) to (4).

452 Subsection (2) requires the Secretary of State to lift a suspension of an institution's registration if the Secretary of State no longer has reasonable cause to believe that any student at the institution is at risk of harm because of breaches of one or more of the standards.

453 Subsection (3) gives the Secretary of State a power to lift the suspension of an institution's registration if the Secretary of State considers it appropriate to do so, while subsection (4) permits the Secretary of State to extend a suspension if the two conditions for suspending registration (in new section 118A(1)) are still met. However, as subsection (4) also provides, an extension may not be for a period of more than 12 weeks. Subsections (5) to (10) concern the procedures for extending a suspension and are similar to those which apply to an initial suspension.

454 Subsection (11) makes provision about the duration of an extended suspension.

455 Section 118C(1) creates a new criminal offence, making the proprietor of an independent educational institution criminally liable where education or any supervised activity is provided at an institution to one or more students whilst its registration is suspended. The offence, which is a summary offence, is punishable by an unlimited fine and/or a term of up to six months imprisonment (or 51 weeks in the event that section 281(5) of the Criminal Justice Act 2003 is commenced) - see section 118C(3) and (4).

456 Section 118C(2) provides two defences to the offence in section 118C(1). Firstly, it will be a defence for the proprietor to prove that they and the headteacher of the institution (if a different person) did not know, and could not reasonably have been expected to know, about the notice that caused the suspension to have effect at the time the offence was alleged to have been committed. For example, where a suspension of registration has been extended and the offence is alleged to have been committed during the period of that extension, the notice giving effect to that extension will be the relevant one for the purposes of the defence. Secondly, it will be a defence for the proprietor to prove that the provision of education or any other supervised activity to students ceased as soon as reasonably practicable after the suspension of the institution's registration.

457 Section 118C(5) clarifies, amongst other things, that the boarding of students is not "supervised activity" for the purposes of the offence in section 118C(1). This is because there are separate provisions (see below) to enable the Secretary of State to prohibit boarding, through the imposition of a stop boarding requirement. It also ensures that the offence in new section 118C(1) is not committed by simply providing education or supervised activity necessary to ensure the welfare of boarders – for example, meals in a dining hall or fire drills.

458 Section 118D provides the power for the Secretary of State to impose a requirement, on the proprietor of an institution that provides boarding accommodation to its students ("a boarding institution"), to stop providing such accommodation to its students, where the Secretary of State suspends the registration of the institution. Such a requirement is called a

"stop boarding requirement" (see new section 118D(11)). Because of section 118D(11), the provision of boarding accommodation includes the provision of this through arrangements with a third party.

459 Subsection (2) of new section 118D sets out that a stop boarding requirement may relate to all the boarders at an institution or to boarders of a particular description. For example, if the risk of harm was associated with boarders in accommodation provided on school premises as opposed to those hosted by families, then the stop boarding requirement could be targeted at the former.

460 Subsection (4) requires the Secretary of State to include, in a notice warning of a proposed suspension of registration (see section 118A(3)) served on the proprietor of a boarding institution, notification of whether they are proposing to impose a stop boarding requirement and, if one is proposed (amongst other things) the effect of a stop boarding requirement and whether the proposed requirement would relate to all the boarders or if not, the description of boarders it would relate to. Also, the subsection requires such a notice, where a stop boarding requirement is proposed, to explain that the proprietor may make representations about the proposed requirement during the same period in which representations may be made about the proposed suspension of registration. Subsection (5) requires the Secretary of State to take into account any representations made by the proprietor, within that period, about the proposed stop boarding requirement.

461 In cases where the Secretary of State decides not to impose a stop boarding requirement following the service of notice warning of a proposed suspension of registration, which stated that a stop boarding requirement was being proposed, section 118D(7) requires that the proprietor is notified of that decision. This must be either at the same time the Secretary of State gives notice under section 118A(5) that they have decided not to suspend registration or in the notice given under section 118A(6) that they have decided to suspend registration.

462 In cases where such a warning notice has been served but the Secretary of State, instead, decides to impose a stop-boarding requirement, subsection (8) requires the Secretary of State to include in a notice under 118A(6) (a notice of a decision to suspend registration) the following information: that the Secretary of State has decided to impose a stop-boarding requirement, which boarders the requirement relates to, the date upon which the requirement starts, the date upon which the requirement ends and that there is a right of appeal against the requirement under section 125 of the 2008 Act.

463 In cases where the Secretary of State has not served a warning notice of a proposed suspension of registration under section 118A(3), and has decided to suspend the registration of an institution as well as impose a stop boarding requirement in relation to it, the Secretary of State must give notice of certain additional matters in the notice of the decision to suspend registration (i.e. the notice required under section 118A(8)). These are that the Secretary of State has decided to impose a stop boarding requirement and an explanation of the effect of the requirement, the boarders to whom the requirement relates, the start and end dates of the requirement and the right of appeal conferred by section 125.

464 Subsection (10) requires the Secretary of State, where a stop boarding requirement is imposed, to include an indication to that effect on the register of independent educational institutions.

465 New section 118E makes provision about the period of stop boarding requirements. Subsection (1), effectively, provides that any such requirement takes effect and ends on the date specified in notice which first imposed it, subject to section 118B(2) to (4).

466 Subsection (2) of new section 118E means that a stop boarding requirement relating to a boarding institution will automatically end if the institution's suspension of registration is lifted by the Secretary of State.

467 In addition, subsection (3) of that section, gives the Secretary of State a power to end a stop boarding requirement before it would otherwise expire if they consider it appropriate to do so, while subsection (4) permits them to extend the duration of an existing stop boarding requirement relating to a boarding institution or impose a new stop boarding requirement (where no such requirement previously existed or to replace one) in relation to such an institution. However, this may only be done where the Secretary of State extends the duration of the suspension of the registration of the institution.

468 Subsections (5) to (11) concern the procedure to be adopted in connection with the decision-making related to extending the duration of existing stop boarding requirements or imposing new ones under subsection (4). The steps which the Secretary of State would be required to follow are broadly similar to those which they need to follow in relation to the imposition of stop boarding requirements when suspension of registration is first being considered or decided upon.

469 Subsection (12) of new section 118E make provision about when a stop boarding requirement which has been extended ends. Unless it is extended again, the requirement will end on the date it was due to end - i.e. on the date it was specified to end in notice given under section 118B(8) or (10). Or if earlier, it will end when the Secretary of State decides to end it early under section 118E(3) or when the connected suspension is lifted under section 118B(2) or (3).

470 New section 118F(1) creates a new criminal offence, making the proprietor of a boarding institution criminally liable where boarding accommodation has been provided to a student in breach of a stop boarding requirement. The offence, which would be a summary offence, would be punishable by an unlimited fine and/or a term of up to six months imprisonment (or 51 weeks in the event that section 281(5) of the Criminal Justice Act 2003 is commenced) (see 118F(3) and (4)).

471 Subsection (2) provides similar defences to a proprietor to those which are available in relation to the offence in new section 118C(1).

472 Section 44(5) amends section 124 of the 2008 Act and it concerns how the First-Tier Tribunal is to determine an appeal made by a proprietor, under section 124(1)(d) of the 2008 Act, against a decision of the Secretary of State to remove their institution from the register because of failings against the independent educational institution standards. The effect of the amendment is, firstly, to mandate that the Tribunal (where is it considering not to confirm the Secretary of State's decision to de-register an institution) has due regard to the principle that institutions should meet the standards on an on-going basis – i.e. into the foreseeable future – and to the likelihood that they will be so met at the affected institution (see new subsection (4A)(a)). Secondly, (see new subsection (4A)(b)) it puts the burden of proof on the appealing proprietor to demonstrate this on-going compliance. This new provision on how appeals are to be determined (because of section 44(8)) will only apply in relation to appeals where the de-registration decision being appealed is made after section 44(5) has been commenced.

473 Section 44(6), in amending section 125 of the 2008 Act, confers rights of appeal on the proprietors of institutions affected by either a decision to suspend registration (or to extend it) or a decision to impose a stop-boarding requirement (or extend one). An appeal would be to the First-Tier Tribunal and would need to be made by the affected proprietor within 28 days of notice being served by the Secretary of State on them of the relevant decision. The amendments here (see new section 125(10)) also provide a power to make Tribunal Procedure Rules enabling the First-Tier Tribunal to grant stays (i.e. suspend the effect) of decisions to suspend registration (or to extend a suspension) and decisions to impose stop-boarding requirements (or to extend a requirement) and to provide for the procedure in connection to such stays. For "Tribunal Procedure Rules" see further section 22 of the Tribunals, Courts and Enforcement Act 2007.

474 Section 44(7) inserts a new section 126A into the 2008 Act. Section 44(2)(a), because of amendments to section 94 of the 2008 Act, will enable the Secretary of State to prescribe standards for independent educational institutions that require individual proprietors to be, or individuals having certain types of role in a proprietor body of such an institution to be, in the opinion of the Secretary of State, fit and proper to participate in the management of such an institution. On an appeal or an application to the First Tier Tribunal under Chapter 1 of Part 4 of the 2008 Act, compliance with such a standard may be in issue and therefore, relevant to the determination of that appeal or application New section 126A allows the First-tier Tribunal to decide for itself, upon applications or appeals, whether an individual is fit and proper to run an independent educational institution, even if the Secretary of State is of the opinion that they are not and therefore, form its own view on compliance with such a standard.

Section 45: Unregistered independent educational institutions: prevention orders

475 Section 45 amends the Education and Skills Act 2008 ("the 2008 Act") by introducing a new Schedule A1 into that Act. Schedule A1 concerns "Prevention Orders" which may be imposed on any person convicted of the offence in section 96 of the 2008 Act.

476 Paragraph 1 of Schedule A1 establishes the necessary pre-conditions to be satisfied before a Prevention Order can be issued. These Orders can only be issued upon an application by the prosecution once an individual has been convicted of the offence under section 96 of the 2008 Act (conducting an unregistered independent educational institution) - see paragraph 1(1).

477 Paragraph 1(2) sets out other conditions that need to be satisfied before the court may make a Prevention Order. Such orders may be issued if the court considers it appropriate to protect children from the risk of harm (within the definition of harm in s31(9) of the Children Act 1989) arising from the convicted defendant conducting an unregistered independent educational institution or by otherwise providing children with education, childcare, instruction or supervision.

478 Paragraph 1(3) establishes that a Prevention Order may require the recipient to do, or not do, anything specified in the Order if this is appropriate to protect children from the risk of harm.

479 Paragraph 1(4) sets out that a Prevention Order may only be made in addition to a sentence or a conditional discharge imposed on a person convicted of an offence under s96.

480 Paragraph 1(5) requires the court, if following an application, it decides not to impose one of these Orders, to state its reasons publicly.

481 Paragraph 2 concerns the duration of Prevention Orders. Paragraph 2(1) provides that Orders are to take effect on the day they are made. Paragraph 2(2) provides for Orders to last for a fixed period of between six and 36 months, and paragraph 2(3) establishes that in cases where a defendant is made the subject of an Order but is already subject to an earlier Order, the earlier Order ceases to have effect.

482 Paragraph 3 concerns the variation or discharge of Prevention Orders. Paragraph 3(1) permits a person subject to such an Order to apply, to the appropriate court, for that Order to be discharged or its requirements varied. Paragraph 3(3) sets out when an application to discharge, or vary the terms of, a Prevention Order can be made. An application can be made at any time except within three months after the Order was made (paragraph 3(3)(a)) or within three months after a previous application to discharge or vary the terms of the Order was refused (paragraph 3(3)(b)).

483 Paragraph 3(4) sets out what is an "appropriate court" at which an Order can be discharged or its terms varied.

484 Paragraph 4 concerns the new offence of breaching a Prevention Order. Paragraph 4(1) provides for this new offence, and the effect of paragraph 4(2) and (3) is that the maximum penalty for this offence is a prison term of up to six months (or 51 weeks where section 281(5) of the Criminal Justice Act 2003 has come into force), or an unlimited fine (or both).

Section 46: Material changes

485 Sections 101 to 105 of the 2008 Act contain a regime that requires the prior approval of the Secretary of State for "material changes" made in relation to independent educational institutions. However, these provisions have not been brought fully into force. As a consequence, "material changes" are still dealt with under the Education Act 2002 – see, in particular, section 162 of that Act ("the 2002 Act").

486 Section 46 principally makes amendments to sections 101 to 105 of the 2008 Act to expand on the categories of matters that constitute material changes for the purposes of those sections, to confer powers for inspections in connection to material changes, and to change how applications for material change approval can be determined by the Secretary of State.

487 Section 46(2) makes a number of amendments to section 98 of the 2008 Act – and in particular, in relation to provisions there about regulation-making powers to prescribe what information applications for the registration of an independent educational institution must contain. The amendments mean, firstly, that regulations will need to require applications not only to specify whether accommodation (i.e. boarding) is provided at the institution, but also whether it is provided under arrangements with a third party (see section 46(2)(a)(i)). Secondly, regulations will need to require applications to provide information about the address of buildings that the institution will make available for student use (see section 46(2)(a)(ii)). Connected definitions of "building", and what it means to make one available for student use are provided in a new subsection (3A). For instance, a "building" includes part of a building and any permanent outdoor structure that is wholly or mainly enclosed and only buildings where students will be routinely present, subject to some additional requirements regarding their use, are "made available for student use". Finally, section 46(2)(b) also provides a power, in a new section 98(3B), which would enable regulations to be made by the Secretary of State to define the types of special education needs that an application to register a special institution needs to provide information on (for the purposes of section 98(3)(g) of the 2008 Act). The power also allows for regulations to be made to define what types of special educational need count for the purpose of new section 101(2)(i) – a provision that defines material changes, as including, cases where a special institution changes the type or type of special educational needs for which it is specially organised to make special provision for (see below). These new regulation-making powers (like any other regulations made under section 98) are subject to negative resolution procedure because of section 166(3) of the 2008 Act.

488 Section 46(3) (in amending section 99 of the 2008 Act) ensures that where the Secretary of State registers an independent educational institution the Secretary of State is only obliged to record, on the register of independent educational institutions, the address or addresses of any buildings that the institution makes available for student use if they are different from the registered address of the institution. Section 46(11) provides a new definition of "registered address" to be inserted into section 138 of the 2008 Act.

489 Section 46(5) amends section 101 of the 2008 Act to redefine what constitutes a "material change" and therefore, the changes at an institution for which the Secretary of State's approval would be needed. Amongst other things (see new section 101(2)(h) and (i)), it would be a material change if an institution becomes (or ceases to be) a special institution – i.e. specially organised to make special educational provision for students with special

educational needs (see section 101(4) currently in the 2008 Act). And in the case of an institution so organised, if it changes the type or types of special educational needs (as may be set out in any regulations made under new section 98(3B)) for which the institution is specially organised to make special educational provision. Under the 2002 Act, as it operates in relation to England, it is a material change simply to admit (or cease to admit) pupils with special educational needs. The definitions of "special educational provision" and "special educational needs" are to be found in sections 20 and 21 of the Children and Families Act 2014 (because of section 168(2) and (3) of the 2008 Act and section 83(7) of the Children and Families Act 2014).

490 In addition, under the 2002 Act it is a material change to change the registered address of any independent school, whereas under section 101(2) of the 2008 Act, as it was originally enacted, it is only a material change for a special institution to make that change. Section 46(5) changes section 101 of the 2008 Act to make it a material for any independent educational institution to change its registered address. However, making use of buildings away from the registered address (for the institution to provide education, accommodation or meals to pupils) would not be a material change under either the 2002 Act or the 2008 Act (unless this involves an institution starting to provide accommodation). Section 46(5) rectifies this by amending section 101 of the 2008 Act (see new subsection 101(2)(g)), so it would become a material change for an independent educational institution to make a change of the buildings it makes available for student use. Definitions of relevant terms here are set out in a new section 98(3A) in the 2008 Act (which is cross-referred to in new section 101(2)(g)). For example, a building is only made available for student use if students are routinely present there and for the purposes of being provided with, either, (a) meals by the institution or (b) accommodation by the institution or (c) education by the institution (but in this last case provided that the building is controlled by the institution whilst the education is provided). Certain exceptions are provided to this new type of material change by new section 101(2B) to (2D) (again inserted by section 46(5) into the 2008 Act). Ceasing to make a building (or part of a building) available for student use will not be a material change nor will short term changes of less than six months. In addition, it will not be a material change to use new buildings that are located at the registered address of an independent educational institution or at another address that is registered because a material change has been approved consisting of a change of the buildings made available for student use.

491 Finally, in relation to section 46(5), a new subsection (2A) is inserted into section 101, to make it clear that the material change of starting or ceasing to provide accommodation also covers the provision of accommodation under arrangements with another person (and not just, therefore, the provision of accommodation by an institution itself).

492 Section 46(6) amends section 102 of the 2008 Act to provide the Secretary of State with a regulation-making power to prescribe what information applications for approval for a material change must contain and the manner in which they must be made. The regulation-making power will be subject to negative resolution procedure because of section 166(3) of the 2008 Act.

493 In some scenarios, before determining whether to approve a material change, the Secretary of State may need an inspection to be carried out of an institution, in order to properly consider the issues raised by the application. Section 46(7) substitutes a new section 103 of the 2008 Act, to expressly permit any independent inspectorate approved by the Secretary of State under section 106 of the 2008 Act to carry out such an inspection, when arranged by the Secretary of State. It also retains the power for the Secretary of State to direct the Chief Inspector to carry out such an inspection. It additionally gives new powers for the Secretary of State to direct the Chief Inspector to carry out an inspection, or for one to be arranged by the

Secretary of State with an independent inspectorate, for the purposes of an appeal to the First-Tier Tribunal (i.e. under section 125(1)(b) of the 2008 Act) against a refusal to grant material change approval. More recent information may assist the Tribunal in determining the appeal.

494 Section 46(8) amends section 104 of the 2008 Act to change the basis upon which applications for material change approval are to be determined by the Secretary of State. It is no longer to simply be the binary position that if the Secretary of State is satisfied that the standards are likely to continue to be met, an application must be approved and otherwise, it must be rejected. New subsection (1A) of section 104 provides, consistent with the current position, that the Secretary of State must approve a material change where at the time of considering the application, they consider that the standards are being met and is satisfied that they are likely to continue being met if the change is made. Similarly, new subsection (1B) requires them to approve a material change where they consider that the standards are not being met, but they are satisfied that they are likely to be met immediately if the change is made. This latter provision is intended to deal with a problem arising from the current language in section 104, which arguably contemplates (because of the wording "likely to continue to be met") that there must be pre-existing compliance with the standards in order to grant approval. Making a material change may bring a non-compliant institution into compliance with the standards.

495 However, a significant departure from the current approach is also contained in new subsection (1B). This is because, in addition, it gives the Secretary of State the discretion to approve an application for a material change, where the standards are not met, providing two conditions are met. The Secretary of State needs to be satisfied that the standards are likely to be met within a reasonable period of the change being made and secondly, satisfied that during the period before the standards are met, the change is likely to be beneficial to the education, welfare or safety of students who attend, or who might attend, the affected institution.

496 The remainder of the changes brought about by this section are not substantive.

Section 47: Deregistration by agreement

497 Section 47(2) amends section 100 of the 2008 Act. It inserts a new subsection (1A) to expressly give the Secretary of State the power to remove an institution from the register where the proprietor agrees to this, or requests it, in writing (for example, by email). Section 47(3) and (4) ensures that decisions to remove an institution from the register under new subsection (1A) are not appealable to the First-Tier Tribunal – whilst it remains the case that decisions under the existing section 100(1) can still be appealed.

Section 48: Imposition of relevant restrictions

498 Section 48 amends, amongst other provisions, section 105 of the Education and Skills Act 2008 which concerns material changes made without the prior approval of the Secretary of State. There is an existing power in section 105 enabling the Secretary of State to de-register institutions where there is an unapproved material change. Section 48(2) confers a new power in section 105 - the power for the Secretary of State to impose a relevant restriction on the proprietor (in broad terms, a restriction on how an institution operates) where there is an unapproved material change. Section 117 of the 2008 Act will give the precise definition of "relevant restriction" in this context (because of the amendment made by section 48 (3)).

499 The effect of section 48(4) (which amends section 118 of the 2008 Act) is that it would be a summary criminal offence for a proprietor to breach a relevant restriction imposed as a result of an unauthorised material change, punishable by an unlimited fine and/or a term of up to

six months imprisonment (or 51 weeks in the event that section 281(5) of the Criminal Justice Act 2003 is commenced). Section 48(5), in the minor amendment it makes to section 125 of the 2008 Act, confers similar rights of appeal on a proprietor of an institution, on whom a relevant restriction is imposed under the new power, to those available elsewhere under the 2008 Act where the Secretary of State imposes a relevant restriction.

Section 49: Powers of entry and investigation etc.

500 Section 49 omits section 97 of the Education and Skills Act 2008 ("the 2008 Act") and replaces it with new sections 127A-127F. These new sections introduce a broader and stronger investigation regime for the purpose of investigating the relevant offences (as specified in section 127A(2)).

501 Section 127A concerns the Chief Inspector's powers to enter and investigate premises. 127A(1) permits the Chief Inspector to enter and investigate any premises in the circumstances set out, where there is "reasonable cause to believe" that a relevant offence is being or has been committed on the premises, or that evidence of such an offence may be found or accessed from the premises.

502 Subsection (2) sets out the meaning of relevant offences as offences under section 96 of the 2008 Act (conducting an unregistered independent educational institution), offences under sections 118, 121, and 127 (failure to comply with a relevant restriction) of the 2008 Act, and the offences introduced under section 127F of the 2008 Act (obstruction of or failure to comply with investigation etc.), and paragraph 4 of schedule A1 (breach of a Prevention Order imposed following a section 96 offence).

503 Section 127B provides the Chief Inspector with a general power of entry and investigation into any premises without a warrant. HMCI may exercise these powers where there is reasonable cause to believe a relevant offence is being or has been committed, or evidence of such may be found (and subject to the conditions set out). Section127B(1) refers to s.127C which provides for a power of entry under a warrant. A warrant may be issued where any one of the criteria found in s127C(2)(a) to (d) are satisfied.

504 Section 127B(2) provides that the Chief Inspector's use of the power of entry must be at a reasonable hour. Before entering, the Chief Inspector is required (when asked to do so) to provide the information as set out in subsection (3), which is evidence of identity and the purpose for which the power is exercised.

505 On entering the premises, the Chief Inspector may carry out an inspection of the premises, inspect and take copies of documents, inspect any equipment, take measurements and take photographs, and make audio and video recordings on the premises. This is provided for in s.127B(4) (a) to (e). As a result of subsection (7), "document" for these purposes means anything in which information is recorded, so can include documents held electronically and in hard copy.

506 Subsection (5) and (6) provide that the Chief Inspector can be accompanied by a third-party when entering any premises and bring anything to assist with the investigatory activities in s.127B(4) (a) to (e). A person accompanying the Chief Inspector is restricted in what they can do. They may only do something to facilitate any of the investigatory activities set out in s.127B(4)(a) to (e) while under the direct supervision of and in the company of the Chief Inspector.

507 Subsection (8) sets out that the power in S127B to inspect and take copies of documents does not extend to items subject to legal privilege, excluded material, or special procedure material (as defined in s9(2) of the Police and Criminal Evidence Act 1984 ("PACE")).

508 Section 127C provides for the Chief Inspector to enter premises under warrant. The Chief Inspector can enter any premises under a warrant in accordance with the conditions set out in the section. Section 127C(2) establishes the test that must be met before a justice of the peace may issue a warrant under this section. It provides that a justice of the peace may issue a warrant only if satisfied either that a relevant offence is being or has been committed on the premises proposed to be entered, or evidence of the commission of a relevant offence may be found on or accessed from that premises, and that any one of the conditions in 127C(2)(a) to (d) are satisfied.

509 Subsection (3) provides that a warrant to enter premises may facilitate entry to either one or more addresses as specified in the application, or any premises occupied or controlled by a named person (a so-called "all premises warrant"). For an all-premises warrant, as set out in subsection (4) the justice of the peace must also be satisfied that there are reasonable grounds for believing that it is necessary to enter such premises and that it not reasonably practicable to specify in advance the addresses intending to be entered.

510 Subsection (5) provides for a warrant to be issued authorising entry on one occasion only, unless it authorises multiple entries. Subsection (6) clarifies that if the warrant authorises more than one entry, then the number of entries authorised may either be unlimited or limited to a specified maximum.

511 Subsection (7) provides that a warrant made under this section may authorise the Chief Inspector to exercise one or all of the powers of investigation provided for in s127D, with the exception of the powers available in s127D(1)(a). This means that the powers of investigation exercisable by the Chief Inspector following an entry without warrant will also be exercisable following an entry under warrant.

512 Subsections (8) and (9) concern how the Chief Inspector may lawfully exercise their powers of entry. Subsection (8) requires entry to take place at a reasonable hour, unless to do so would frustrate the purpose of the inspection. Subsection (9) requires the Chief Inspector when asked to do so to provide evidence of identity and the purpose for which the power is exercised.

513 Under subsection (10) the Chief Inspector is required to provide a copy of the warrant to the occupier or any other person on the premises, and if no such person is present, to leave a copy of the warrant in a prominent place. Subsection (11) permits the Chief Inspector to be accompanied by any person and bring anything to assist with the exercise of powers of investigation under section 127D(1). Subsection (12) concerns those who may accompany the Chief Inspector. People accompanying the Chief Inspector may act to facilitate the Chief Inspector's exercising of a power under s127D(1) only while under the direct supervision of, and in the company of, the Chief Inspector.

514 Subsection (13) applies subsections (2) to (8) of section 15, and subsections (3), (9) and (10) to (12) of section 16 of PACE to warrants issued under this provision with references to a "constable" within PACE to read as "Chief Inspector".

515 Section 127D sets out the additional investigatory powers which may be available to the Chief Inspector when entering a premises under a warrant issued under s127C (see s127C(7)). Under s127D(1)(a) the Chief Inspector may in all circumstances exercise any of the powers found in 127B(4) (which are the powers of investigation that are always exercisable by the Chief Inspector following an entry without warrant) as well as the additional investigatory powers authorised by the warrant.

516 Under subsection (b), the Chief Inspector may search the premises entered under a warrant issued under s127C. In this context "search" has its ordinary meaning.

517 Where authorised by a warrant issued under s127C, 127D(1)(c) - (i) concern the Chief Inspector's access to information and records during an inspection. These measures make provision to permit the Chief Inspector to access, copy and seize (remove from the setting) any evidence found on the premises, subject to the limitation found in 127D(7) (legally privileged material etc.).

518 Where authorised by a warrant issued under s127C, 127D(1)(j) concerns the Chief Inspector's ability to interview a person where there is reasonable cause to believe that the person can provide information relating to a relevant offence. Section127D(4)(a) provides for such interviews to be held alone or in the presence of one or more persons. New s127D(4b) provides that no answer given in such an interview is admissible in evidence in any criminal proceeding against the person or the person's spouse or civil partner.

519 Subsection (5) provides some exceptions to subsection (4b) and permits an answer given during an interview conducted using the power in 127D(1)(j) to be used in proceedings for an offence under section 127F(4) of the 2008 Act, an offence under s5 of the Perjury Act 1911, or another offence where in giving evidence the person makes a statement inconsistent with an answer given during the interview.

520 Where authorised by a warrant issued under s127C, Section 127D(1)(k) establishes that the Chief Inspector may require any persons on the premises to provide specified assistance if this is necessary for the other powers in 127D to be exercised. Under 127F(5) not providing such assistance is a criminal offence.

521 Section 127D(2) confirms that the powers found in 127D(1)(b) to (k) may only be used for the purpose for which the warrant was issued and for investigating only the relevant offence or offences for which it was issued.

522 Subsection (3) concerns the Chief Inspector's ability (under s127D(1)(i)) to seize anything on the premises which the Chief Inspector reasonably believes may be or may contain evidence of the commission of a relevant offence. Anything so seized may be retained for as long as is necessary.

523 Subsection (7) sets out that the investigatory powers in this section do not permit the inspection, copying or seizing of anything of a type specified in s9(2) of PACE except items which are excluded material within the meaning of section 11(1)(a) of PACE or items which are special procedure material within the meaning of section 14(2) of PACE, where such items are relevant to the investigation of a relevant offence.

524 Section 127E provides for the Chief Inspector to apply for a warrant authorising a police constable to assist, using reasonable force if necessary, in the entry and an investigation of a premises. Under s127E(1) reasonable force may be used to either enter the premises set out in the section under a warrant issued under s.127C, or to facilitate the exercising of one or more of the powers contained in s127D.

525 The premises which may be entered in this way may be, as a result of 127E(2), either one or more premises specified in the application, or any premises occupied or controlled by a person specified in the application.

526 Section 127E(3) establishes the test that must be met before a justice of the peace may issue a warrant under this section. It is necessary for the Chief Inspector to demonstrate both that there is reasonable cause to believe that a relevant offence is being or has been committed on the premises to be entered, or that evidence of the commission of a relevant offence may be found on or accessed from the premises to be entered, and one of the following conditions is

satisfied: the Chief Inspector has attempted to exercise a power conferred by section 127C or 127D but has been prevented from doing so (127E(3)(a)), the Chief Inspectors reasonably expects to be prevented from exercising any such power if an attempt to do so is made (127E(3)(b)), or the purpose of exercising any such power may be frustrated unless the Chief Inspector, on arriving at the premises, can exercise the power immediately (127E(3)(c)).

527 Section 127E(4) establishes that a warrant issued under this section must be issued to and executed by any police constable. Section 15 of PACE applies in relation to a warrant issued under this section (as though references in subsections (2) and (4) to a constable were to the Chief Inspector).

528 Section 127F concerns offences that may be committed during the course of an investigation conducted under these powers.

529 Section 127F(1) replaces and largely replicates the existing offence of "obstructing" an inspector in s.97(4) of the 2008 Act but with reference to entry and investigation under sections 127B, C and D.

530 Section 127F(2), (3), (4), and (5) introduce new offences concomitant on the new powers granted to inspectors in section 127D. These new offences are failing to produce a required document (127F(2)), failing to produce required information (127F(3)), refusing to be interviewed (127F(4)(a)) or failing to provide information during that interview (127F(4)(b)), and failing to provide requested assistance to inspectors (127F(5)). As a result of 127F(8), the maximum penalty for any of these offences is an unlimited fine. Section 127F(6) and (7) set out the defences open to those accused of committing the offences contained in 127F(2), (3), (4) and (5).

531 Section 49(4) provides a distinction between Ofsted's general inspections carried out under other provisions within the Chapter, and the inspection of premises carried out under new section 127B or 127D of the 2008 Act.

532 Section 49(5), (6), (7) and (8) make changes to the Criminal Justice and Police Act 2001 ("2001 CJPA") and means that s50 of the Criminal Justice and Police Act 2001 applies to the powers of seizure in s.127D(1)(e)(h) and (i). This provides further clarification to HMCI on how to handle the practical aspects of seizure and would in certain circumstances allow a person exercising this power to remove material from the premises where it is not reasonably practicable to determine if it is seizable, to determine whether they are entitled to seize it at a later point. It would also allow a person to seize material where it is not reasonably practicable to separate it from non-seizable material, for example where the seizable material is on a computer.

Section 50: Application of schools provision to independent educational institutions

533 Section 50 inserts a new section 137A into the 2008 Act. This new section gives the Secretary of State the power to make regulations to apply (with or without modification) any enactments which apply in relation to independent schools so that the enactments apply in relation to independent educational institutions (or independent educational institutions of a prescribed description).

534 This power is limited to applying enactments made by or under any other Act passed before the end of the session that this Act was passed (including Acts as they are amended by this Act) and to applying enactments as they apply in England in relation to independent schools.

535 As a result of other amendments made by this section to section 166(2) of the 2008 Act, regulations made under this new power would be subject to the affirmative resolution procedure.

Section 51: Inspectors and inspectorates: reports and information sharing

536 Section 51 concerns the relationship between His Majesty's Chief Inspector of Education, Children's Services and Skills ("the Chief Inspector") and the independent inspectorates which may be approved by the Secretary of State under section 106 of the Education and Skills Act 2008 and the inspectors appointed by the Secretary of State under section 87A of the Children Act 1989 ("the 1989 Act") to inspect boarding provision in schools and colleges.

537 Section 51(1) amends section 87BA of the 1989 Act - which is concerned with the Chief Inspector reporting on persons who are appointed by the Secretary of State (under section 87A of that Act) to inspect schools and colleges for compliance against their duty in section 87(1) of the 1989 Act. This is the duty to safeguard and promote the welfare of children to whom they provide accommodation. It removes the existing requirement for the Chief Inspector to report at least annually on the performance of such inspectors and instead provides for the Secretary of State with the power to require reports on the same flexible lines that the amendment in section 51(3) provides (see below).

538 Section 51(2) inserts a new section 87BB into the 1989 Act providing the Chief Inspector with the power to pass information to inspectors appointed under section 87A of the 1989 Act. Information may only be so passed for the purpose of enabling or facilitating such inspectors to carry out their function of determining whether a school or college is complying with its duty under section 87(1) of the 1989 Act. Provision is made to allow information to be shared under this new power despite an obligation of confidence or other restriction – but this is only permissible where information is also being shared for the purpose of protecting the welfare of children in accommodation provided by a school or college. Moreover, in any event, any information sharing needs to be compliant with the relevant, existing, data protection legislation (see below).

539 Section 51(3) amends section 107 of the 2008 Act (which largely mirrors section 87BA of the 1989 Act). This amendment grants the Secretary of State the flexibility to require a report, as and when they so decide, from the Chief Inspector on the performance of a particular independent inspectorate or independent inspectorates generally (for example, with regards to a specific area of their activity) or about a class of such inspectorates. Thereby, it removes the existing duty, on the Chief Inspector for a report on these inspectorates to be produced at least annually and replaces this with a more flexible approach.

540 Section 107A(1) of the 2008 Act, inserted by section 51(4), allows the Chief Inspector to share information with any inspectorates, approved under section 106 of the 2008 Act, for the purpose of enabling or facilitating inspections of registered independent educational institutions. This permits information to be shared directly between the Chief Inspector and any such approved inspectorates. For example, in cases where primary responsibility for the inspection of an institution transfers from the Chief Inspector to an independent inspectorate.

Teacher misconduct

Section 52: Teacher misconduct

541 The Education Act 2002 gives the Secretary of State the power to investigate an alleged case of serious misconduct by a teacher, and where appropriate, to prohibit the teacher from being able to undertake teaching work. The Teaching Regulation Agency ("TRA") operates this power on behalf of the Secretary of State.

542 Section 52(2)(a)(i) amends section 141A (1) of the 2002 Act to provide that the Secretary of State can investigate an individual who has, at any time, been employed or engaged to undertake teaching work (a teacher). This provides the Secretary of State with the power to act against any teacher, regardless of whether they were employed as a teacher at the time of the misconduct or the referral to the TRA.

543 One of the aims of the measure is to bring into jurisdiction, for example, a supply teacher who at present falls outside the TRA's jurisdiction because the misconduct took place while they were between jobs, or an individual who has taken a sabbatical or a 'gap year' from their current employment and commits serious misconduct during that time.

544 In all cases the TRA will consider the public interest in, and the proportionality of, acting – this will include, amongst other things, the likelihood of a given individual returning to teaching work in England - when determining whether to investigate the case. Other considerations would be the seriousness of the behaviour, any mitigation presented by the teacher, and any child protection matters.

545 An increasing number of young people aged under 19 years now receive their education in a more diverse range of settings, such as at further education institutions, independent educational institutions and through online education providers, and Section 52 (2)(a)(ii) would list these education settings as settings (and the staff and pupils of these settings) within scope of the teacher misconduct regime.

546 Section 52 (3) would set the conditions that must be met for a provider to be an online education provider. These conditions require the provider to have an address in England registered with either Companies House or the Charity Commission; to have at least one student in England under the age of 19; that those students receive all or the majority of their education online; and finally, that the provider delivers all or the majority of its education online. As online education is a sector that is continually evolving, this section includes a power to enable the Secretary of State to amend these conditions via regulation in the future, if necessary. This section extends the scope of the teacher misconduct regime so that, in future, a prohibited teacher would not be able to teach young people under the age of 19 in any of the settings listed.

547 Section 52 (4) removes the existing requirement that, in order for the Secretary of State to be able to investigate an alleged case of teacher misconduct, a referral from a person or organisation that is external to the Department for Education must be received. This section permits the Secretary of State to investigate a misconduct case regardless of how it comes to their attention. This means that in future, the Secretary of State would be able to consider a case of potential misconduct where a Department for Education official becomes aware of a possible misconduct case during the course of their normal duties. An example would be evidence that suggested a teacher has committed serious financial misconduct which is identified during a financial audit by an official carrying out their duty.

School teachers' qualifications and induction

Section 53: School teachers' qualifications and induction

548 This section amends section 133 of the Education Act 2002. This extends to 'academies of a description specified by the Secretary of State in regulations' the requirement for teachers to be qualified.

549 Regulations may be made under section 133 of the Education Act 2002 to provide that specified work may not be carried out by a person in a school in England unless they are a qualified teacher or satisfy specified requirements (subsection (1)). The Regulations specifying

work may make provision by reference to specified activities or the circumstances in which activities are caried out (subsection (2)). The schools to which section 133 applies are listed in subsection (6). There is no power to amend the list of schools in subsection (6).

550 This section also amends section 135A(4) of the Education Act 2002. This will extend the definition of 'relevant school' to specified academies, requiring teachers working in academies to satisfactorily complete an induction period. The effect of this section is to extend the existing delegated power in section 135A so that the same power will allow for regulations to be made in respect of specified primary and secondary academies.

551 Regulations may be made under section 135A of the Education Act 2002 to make provision for the conditions of statutory induction, including which teachers are in scope, how induction is conducted and who is responsible.

552 The definition of 'schools' within subsection (6) of section 133 is expanded to include 'academies of a description specified by the Secretary of State in regulations under this section'. This establishes a regulation-making power whereby the Secretary of State will be able to specify in regulations which academies will be subject to the requirements specified under section 133.

553 The power is inspired by section 1D of the Academies Act 2010, which allows regulations to be made that provide for statutory provisions relating to maintained schools and Academies, Academy schools and 16 to 19 Academies to apply in relation to alternative provision Academies or a description of alternative provision Academy, with or without modifications.

554 The new regulation-making power at section 133(6) of the Education Act 2002 should be subject to the negative procedure, and no amendment to section 210 of the Education Act 2002 is needed.

555 The definitions of 'relevant schools' within subsection (4) of section 135A is extended to include 'academies of a description specified by the Secretary of State in regulations under this section'. This extends the scope of the regulation-making power whereby the Secretary of State will be able to specify in regulations which academies will be subject to the requirements specified under section 135A.

556 As with section 133, the power is inspired by section 1D of the Academies Act 2010, which allows regulations to be made that provide for statutory provisions relating to maintained schools and Academies, Academy schools and 16 to 19 Academies to apply in relation to alternative provision Academies or a description of alternative provision Academy, with or without modifications.

557 The regulation-making power at section 135A, as amended, remains subject to the negative procedure, and no amendment to section 210 of the Education Act 2002 is needed.

Academies

Section 54: Academy schools: duty to follow National Curriculum

558 This section amends the Academies Act 2010 to introduce the requirement for Academy schools to teach the National Curriculum, by applying sections 82 to 94 and 96 of the Education Act 2002 (the "EA 2002") to academies as they apply to a maintained school, with modifications specified below. It also amends the EA 2002 to make provision for amending Schedule 1A to the Academies Act 2010.

559 Subsection (2) amends section 1A of the Academies Act 2010 in relation to the curriculum requirements on Academy schools. It retains the requirement for Academy schools' curriculum to meet the requirements of section 78 of the EA 2002 to teach a balanced and broadly based curriculum. It introduces the requirement for Academy schools to include the National Curriculum in their curriculum, as set out in section 80(1)(b) of the EA 2002.

560 Subsection (2) disapplies any provision in existing Academy arrangements which is inconsistent with the requirement for Academy schools to teach the National Curriculum. It includes an exception where the Secretary of State has made a direction under section 90(1) of the EA 2002, or where regulations are made under section 91, that the National Curriculum, either in full or in part, does not apply to an Academy.

561 Subsections (3) and (4) insert new section 13A and new Schedule 1A into the Academies Act 2010, to make provision for how the EA 2002 should be applied to Academy schools for the purposes of meeting the requirement to teach the National Curriculum.

562 Paragraph 1 of Schedule 1A applies, for the purpose of the requirement to teach the National Curriculum, sections 82 to 94 and 96 of the EA 2002 (the National Curriculum for England) to Academy schools as they apply to maintained schools with the modifications set out in paragraph 2.

563 Paragraph 2(a) provides that any reference to the governing body or the head teacher of a maintained school is replaced with a reference to the proprietor of an Academy school.

564 Paragraph 2(b) provides that the proprietor of the Academy school has the duty to implement the National Curriculum.

565 Paragraph 2(c) provides that the Secretary of State can only give a direction, under subsection (1)(a) of section 90 of the EA 2002, that the National Curriculum does not apply to an Academy school on an application by the proprietor of the Academy school.

566 Paragraph 2(d) provides that, where the proprietor of an Academy school has given a direction that the National Curriculum does not apply to a pupil, the proprietor must provide the information set out in section 94(2) to the parent of the pupil concerned. In cases where the proprietor is of the opinion that a pupil has or is likely to have special educational needs and that an Education, Health and Care plan assessment (or reassessment) is needed, the proprietor must provide that information to the local authority responsible for the pupil.

567 Paragraph 2(e) provides that, before making certain orders or regulations under Part 6 of the EA 2002, the Secretary of State must give notice to bodies representing the interest of proprietors of Academy schools.

568 Subsection (5) provides that an order made under Part 6 of the EA 2002 may make provision amending new Schedule 1A to the Academies Act 2010.

Section 55: Academy schools: educational provision for improving behaviour

569 A governing body of a maintained school has the power to direct pupils off-site to receive education intended to improve their behaviour under section 29A of the Education Act 2002, however, currently academy trusts rely on their general powers to use this intervention in academy schools.

570 This section inserts into section 29A of the Education Act 2002 a new subsection (5) which is intended to provide academy trusts with equivalent statutory powers to direct pupils off-site to improve their behaviour, so that those powers can be applied to proprietors of academy schools the same way as they currently apply to governing bodies of maintained schools.

571 The effect of this section is to give the Secretary of State the power to make regulations applying section 29A to academy schools, with appropriate modifications. Additionally, academy trusts are not subject to the same regulations (which provide procedural safeguards such as requirements to keep off-site directions under review), therefore, this amendment also gives the Secretary of State the power to apply those regulations to academy schools as well as maintained schools (again with appropriate modifications), so that both types of schools are subject to limits and controls around the use of off-site direction.

572 The decision to direct pupils off-site would remain with the governing body of a maintained school or the academy trust of an academy school.

573 Section 444ZA of the Education Act 1996 extends the application of section 444 to alternative provision and other situations where a pupil is expected to attend somewhere other than their school. In particular, section 444ZA(1B) provides that when a pupil who is registered at a maintained or academy school is required to attend somewhere else to be provided with education, and the child's parents have been notified of the arrangements in writing, the offence of failing to ensure regular attendance applies as if the other place were a school and the child were a registered pupil at that school.

574 Section 55 of this Act therefore also makes minor consequential amendments to section 444ZA(1D)(a) of the Education Act 1996 so that the requirement referred to in section 444ZA(1B) for a pupil to attend a place outside their school is read as a requirement imposed under section 29A not only in relation to a maintained school (which section 444ZA(1D) already provides) but also in relation to an academy school.

575 Subsection (3) of section 55 explains that regulations created under the new section 29A(5) of the Education Act 2002 can apply to any directions off-site issued by academy trusts that are in place for pupils when the new regulations come into force even if they began before that date.

Section 56: Academies: power to secure performance of proprietor's duties

576 This section is inserted in the Education Act 1996 as new section 497C. The effect of this section is to give the Secretary of State the power to issue directions to the proprietor of an academy (the academy trust) where the Secretary of State is satisfied that the academy has breached a duty imposed by academy arrangements (the academy funding agreements).

577 Subsection (1) provides that, in such circumstances, the Secretary of State may give the proprietor such directions as the Secretary of State considers appropriate to secure the performance of that duty.

578 Subsection (2) disapplies section 572 of the Education Act 1996 and instead applies the bespoke provision in subsection (3) for the service of the directions under this section.

579 Subsection (3) sets out how the Secretary of State may serve a direction made under this section to an academy proprietor.

580 Subsection (4) provides for a direction given under this section is enforced by mandatory order in the event of non-compliance.

581 Subsection (5) clarifies that this section applies to city technology colleges and city colleges for the technology of the arts.

Section 57: Inspection of Academy proprietors

582 Section 57 inserts a new Chapter 2A into Part 8 of the Education and Inspections Act 2006 and amends the Academies Act 2010 to introduce a new regime for the inspection of academy proprietors in England by His Majesty's Chief Inspector of Education, Children's Services and Skills (Ofsted), and a power for the Secretary of State to intervene if Ofsted finds that they are not operating to an acceptable standard.

583 The provisions define an academy proprietor as "a person who, in pursuance of Academy arrangements, is the proprietor of an Academy" (new section 122J(1) of the Education and Inspections Act 2006). This means the legal 'person' (which may not be an individual) who contracts with the Secretary of State to operate an academy in England by entering into academy arrangements under section 1(1) of the Academies Act 2010. An academy trust, which is a charitable company constituted of members and a board of directors (trustees) and which typically employs staff to assist in delivery of its responsibilities, is a type of academy proprietor. Many academy trusts run more than one academy. These trusts are known as 'multi-academy trusts', but there is no distinction in law between a trust that runs one academy (a 'single academy trust'), and a multi-academy trust - both are academy proprietors. This legislation will therefore apply to all academy trusts, although as explained below, the Secretary of State will be able to make regulations to exempt certain categories of academy proprietor from routine inspection.

584 Sub-section (2) of section 57 inserts a new Chapter 2A into Part 8 of the Education and Inspections Act 2006, consisting of new sections 122A to 122J of that Act. This creates a new statutory regime for Ofsted inspection of academy proprietors in England.

585 Section 122A (duty to inspect Academy proprietors at specified intervals) makes provision for routine Ofsted inspection of academy proprietors in England. Section 122A(1) places a duty on Ofsted to routinely inspect (at intervals prescribed by the Secretary of State in regulations made under section 122A(1)(a)), and report on, every proprietor. Section 122A(5) provides that section 122A(1) has effect subject to section 122E (power or duty to treat other inspections as a section 122A inspection).

586 Section 122A(2) gives the Secretary of State the power to make regulations to specify categories of proprietor that are exempt from routine inspection under section 122A(1). These are known as an "exempt proprietor" (section 122A(3)). Section 122A(4) requires Ofsted to have regard to the views of persons specified in regulations made by the Secretary of State under section 122A(4)(a), or such other persons as Ofsted considers appropriate, when conducting an inspection under section 122A.

587 Section 122A(6) prohibits Ofsted, when inspecting a proprietor under section 122A, from inspecting or reporting on denominational education provided at an academy designated as having a religious character, or the content of collective worship at such an academy.

588 Section 122B (report of section 122A inspection) sets out the requirements of a report of a section 122A routine inspection. Section 122B(1) places a general duty on Ofsted, when conducting an inspection under section 122A, to report on the quality and effectiveness of a proprietor's leadership, management and governance in connection with its role as a proprietor. Section 122B(2) provides that Ofsted's report must cover the specific matters at paragraphs (a) to (e) and any other matters the Secretary of State may specify by regulations made under paragraph (f).

589 Section 122B(3) requires Ofsted to send routine inspection reports to the proprietor and to the Secretary of State. Section 122B(4) requires a proprietor to make a copy of the report generally available to the public and provide a copy of the report, free of charge, upon request. A proprietor must also take such steps as are reasonably practicable to share any new report with the parents of pupils at Academy schools and alternative provision Academies (this mirrors arrangements in relation to school-level inspections, and therefore this does not apply to 16-19 academies) within five working days of receiving it from Ofsted, which would generally be ahead of its publication on Ofsted's website. Section 122B(5) permits Ofsted to send a copy of a report to such other persons as Ofsted considers appropriate and section 122B(6) permits Ofsted to publish a report in such manner as Ofsted considers appropriate. Section 122B(7) defines terms for the purposes of section 122B.

590 Section 122C (other inspections) provides for inspections that happen outside of the routine inspection arrangements under 122A. Section 122C(1) enables the Secretary of State to require Ofsted to inspect any particular proprietor or class of proprietor (including one that is exempt from routine inspection under 122A). Section 122C(2) enables Ofsted to inspect any proprietor when there is no requirement under 122A to do so. Section 122C(3) provides that, if a proprietor requests an inspection, Ofsted may charge the proprietor for the cost of the inspection. Any inspection under section 122C would not have to follow the statutory reporting requirements under section 122B as it may be narrower in scope than a routine inspection. For example, section 122C inspections could include: monitoring inspections to check progress; urgent inspections where there is a particular concern that needs to be investigated.; and inspections that are looking at sector practice on a particular theme. Section 122C(4) prohibits Ofsted, when conducting an inspection under section 122C, from inspecting or reporting on denominational education provided at an academy designated as having a religious character, or the content of collective worship at such an academy. Section 122C(5) enables Ofsted to publish a report of a section 122C inspection in such manner Ofsted considered appropriate.

591 Section 122D (duty to notify certain persons of inspection) contains notification requirements for inspections conducted under sections 122A or 122C. Section 122D(1) sets out a requirement for Ofsted to notify the proprietor and any relevant religious body before conducting an inspection under 122A. For proprietors who operate Catholic or Church of England academies, the relevant religious body would be the relevant diocese and for other academies with a faith designation it will be the body specified in their funding agreement. Where a proprietor is notified by Ofsted of a routine inspection under section 122A, section 122D(2) requires the proprietor to notify:

a. the parents of pupils of an Academy school or an alternative provision Academy, and

b. any members of the proprietor (if there are any).

592 Section 122D(3) imposes similar requirements to those in section 122D(2) for a proprietor to notify parents of pupils and members of the proprietor (if any) if the proprietor is notified by Ofsted that it is treating an inspection under section 122C as an inspection under section 122A by virtue of powers in section 122E (see below). Additionally, section 122D(3) also requires proprietors to notify any relevant religious body.

593 Section 122D(4) requires any notice given by a proprietor to parents under section 122D(2)(a) or 122D(3)(a) to include a statement, in a form approved by Ofsted, inviting parents to provide their views to Ofsted on matters relating to the proprietor and/or the academy at which their child is registered.

594 Section 122E (power or duty to treat other inspection as section 122A inspection) would provide for Ofsted to treat a 122C inspection as a section 122A inspection. The section separately provides for four different scenarios:

a. Section 122E(1) provides for Ofsted to elect for a section 122C inspection of a non-exempt proprietor to be treated as a section 122A inspection. If this power is used, the inspection will be treated as a section 122A inspection for the purposes of the requirement to inspect non-exempt proprietors at prescribed intervals. The provisions relating to the destination and publication of reports in section 122B apply, and the obligations regarding proprietors not performing to an acceptable standard in section 122H (see below), apply.

b. Section 122E(2) provides for Ofsted to elect for a section 122C inspection of an exempt proprietor to be treated as a section 122A inspection. If this power is used the full reporting requirements in section 122B will apply (as well as the duty to have regard to the views of specified persons and persons Ofsted considers appropriate in section 122A(4)). The obligations regarding proprietors not performing to an acceptable standard in section 122H will also apply.

c. Section 122E(3) provides for the Secretary of State to require Ofsted to treat an inspection under subsection 122C(1) of a non-exempt proprietor as a section 122A inspection. If this power is used the inspection will be treated as a routine inspection for the purposes of the requirement to inspect non-exempt trusts at prescribed intervals. The full reporting requirements in section 122B will apply (as will the duty to have regard to the views of specified persons and persons Ofsted considers appropriate in section 122A(4)). The obligations regarding proprietors not performing to an acceptable standard in section 122H will also apply.

d. Section 122E(4) provides for the Secretary of State to require Ofsted to treat an inspection under subsection 122C(1) of an exempt proprietor as a section 122A inspection. If this power is used the full reporting requirements in section 122B will apply (as will the duty to have regard to the views of specified persons and persons Ofsted considers appropriate in section 122A(4)). The obligations regarding proprietors not performing to an acceptable standard in section 122H will also apply.

595 Section 122F (framework for inspections under this Chapter) contains requirements relating to Ofsted's framework for the inspection of academy proprietors. Section 122F(1) places a duty on Ofsted to devise one or more common set of principles, under which inspections of proprietors would take place. Section 122F(2) provides that a set of principles devised under section 122F(1) is known as a "framework" for the purposes of section 122F. Section 122F(3) permits Ofsted to devise more than one framework, as long as taken together they cover all inspections of academy proprietors. Section 122F(4) enables the Secretary of State to make regulations specifying matters which must be covered in a framework. Section 122F(5) requires Ofsted to publish a framework in such manner as Ofsted considers appropriate. Section 122F(6) permits Ofsted to revise a framework and section 122F(7) requires Ofsted to publish a revised framework. Section 122F(8) requires Ofsted to have regard to any guidance issued by the Secretary of State in devising or revising a framework.

596 Section 122G (powers of entry etc. for purposes of inspection) gives Ofsted the powers it needs to enter relevant premises and to inspect, copy, and remove relevant documents or records, for the purposes of conducting an inspection of an academy proprietor. Section 122G(1) makes it clear that the powers in section 122G apply to an inspection of an academy proprietor by Ofsted conducted under Chapter 2A of Part 8 of the Education and Inspections Act 2006. 122G(2) gives Ofsted the power to, at any reasonable time, enter any premises of the

proprietor or any academies it operates, and any other premises used for or in connection with the provision of education of a pupil or student of an academy under alternative provision arrangements. Section 122G(3) gives Ofsted the power to, at any reasonable time, inspect, copy, or remove any documents or records kept by a proprietor or an academy which it operates, or kept by any other person providing education to a pupil or student under arrangements made by the proprietor. Section 122G(4) requires relevant records to be produced by those who are accountable for them, and Sections 122G(5) and (6) provide for Ofsted to be given access to any computer or associated apparatus on which relevant documents or records are stored. Section 122G(7) creates a criminal offence of intentionally obstructing Ofsted inspections of academy proprietors, and section 122F(8) provides that a person who commits such an offence is liable on summary conviction to a fine not exceeding level four on the standard scale.

597 Section 122H (academy proprietors not performing to acceptable standard) makes provision for where proprietors are not performing to an acceptable standard. Section 122H(1) provides that subsections sections 122H(2) to (4) apply where, on completion of an inspection under section 122A (or an inspection under section 122C which is treated as an inspection under section 122A in accordance with section 122E), Ofsted is of the opinion that:

a. the persons responsible for leading, managing and governing the proprietor are failing to lead, manage or govern the proprietor to an acceptable standard, or

b. the proprietor is failing to lead, manage or govern an academy of which it is the proprietor to an acceptable standard.

598 Where this is the case, section 122H(2) requires Ofsted to send a draft report to the proprietor and to consider any comments on the draft that are made by the proprietor within a period of time which may be specified in regulations made by the Secretary of State under section 122H(2)(b).

599 Where, after complying with the requirements of section 122H(2), Ofsted is still of the opinion that the proprietor, or those responsible for leading, managing and governing the proprietor, are not performing to an acceptable standard, section 122H(3) requires Ofsted to notify both the Secretary of State and the proprietor that they are of that opinion. Section 122H(4) requires that, when Ofsted notifies the Secretary of State and proprietor of this under section 122H(3)(a), Ofsted must also record whether the proprietor, or the persons responsible for leading, managing and governing an academy, are demonstrating the capacity to secure necessary improvement in the proprietor or the academy (as applicable).

600 Section 122I (regulations under Chapter 2A) makes provision as to the content of regulations made under new Chapter 2A of Part 8 of the Education and Inspections Act 2006.

601 Section 122J (interpretation of Chapter 2A) defines terms used throughout Chapter 2A of Part 8 of the Education and Inspections Act 2006.

602 Sub-section (3) amends section 182 of the Education and Inspections Act 2006 to require that regulations under section 122A(2) (power to exempt Academy proprietors from regular inspection), section 122B(2)(f) (power to make provision about content of inspection report) and section 122F(4) (power to make provision about content of inspection framework) are subject to the affirmative procedure. Regulations under other powers in Chapter 2A will be subject to the negative procedure by operation of section 182(1) of the Education and Inspections Act 2006.

603 Sub-sections (4) to (7) of section 59 amend the Academies Act 2010, by inserting a new section 2AA and substituting sections 2C and 2D, to give the Secretary of State new powers to terminate an academy proprietor's funding agreements where Ofsted reports (in accordance with section 122H of the Education and Inspections Act 2006) that an academy proprietor, or those responsible for leading, managing and governing the proprietor, are not performing to an acceptable standard.

604 Subsection (4) provides that the Academies Act 2010 is amended in accordance with subsections (5) to (7).

605 Subsection (5) inserts a new section 2AA into the Academies Act 2010. Section 2AA(1) requires a proprietor's academy agreements (funding agreements) to include provision allowing the Secretary of State to terminate the agreements where Ofsted has given notice under section 122H(3)(a) of the Education and Inspections Act 2006 that the proprietor, or those responsible for leading, managing and governing the proprietor, are not performing to an acceptable standard.

606 Section 2AA(2) provides that a proprietor's funding agreements must require the Secretary of State to issue a termination warning notice before terminating a proprietor's funding agreement on one of the grounds given in section 2AA(1). Section 2AA(3) provides that a termination warning notice is a notice that either requests that the proprietor responds to the notice by making representations or requires the proprietor to take specified actions by a specified date or make representations. Section 2AA(4) requires a proprietor's funding agreement to provide that, where a termination warning notice is issued under section 2AA(3)(b), which requires the proprietor to take specific action by a specified date and to respond to the Secretary of State, the Secretary of State's power to terminate the proprietor's funding agreement is only available if the proprietor has not complied with the termination warning notice.

607 Pursuant to section 2D(1) and (2) of the Academies Act 2010 (see below), the powers to terminate a funding agreement in accordance with the provision required by section 2AA have retrospective effect, applying to funding agreements entered into before the day on which section 59 comes fully into force, as well as funding agreements entered into on or after the day on which section 59 comes fully into force.

608 Subsection (6) substitutes section 2C of the Academies Act 2010. It retains the effect of the previous section 2C, enabling academy funding agreements made on or after 18 April 2016 to make provision about the procedure for, and consequences of, using the termination powers contained in sections 2A and 2B of the Academies Act 2010. It also enables funding agreements entered into on or after the day on which section 59 comes fully into force to make provision for the procedure for, and consequences of, using the termination powers contained in section 2AA of the Academies Act 2010 (as well as the termination powers in sections 2A and 2B of the Academies Act 2010).

609 Subsection (7) substitutes section 2D of the Academies Act 2010. It preserves the effect of the previous section 2D in relation to funding agreements entered into before 18 April 2016 as well as making new provision for funding agreements entered into on or after 18 April 2016 but before the day on which section 59 comes fully into force.

610 Section 2D(1) provides that a funding agreement entered into before 18 April 2016 (an "old academy agreement") is to be treated as including the termination powers in sections 2A, 2AA, and 2B of the Academies Act 2010 (the "new termination powers"). Section 2D(2) provides that a funding agreement entered into on or after 18 April 2016 but before the day on which section 59 comes fully into force (a "pre-section 2AA agreement") is to be treated as including the termination powers in section 2AA of the Academies Act 2010 (the "section 2AA termination powers").

611 Section 2D(3) provides that a provision of an old academy agreement that relates to the procedure for terminating the agreement does not apply to the new termination powers. Section 2D(4) provides that a provision of a pre-section 2AA agreement that relates to the procedure for terminating the agreement does not apply to the new termination powers.

612 Section 2D(5) provides that subsections (6) and (7) apply where any funding agreement entered into before section 59 comes fully into force contains a provision about the consequences of termination which is expressed in a way which is capable of covering termination in accordance with the new termination powers (in the case of an old academy agreement), or in accordance with the new termination powers (in the case of a pre-section 2AA agreement). Section 2D(6) provides that such a provision about the consequences of termination applies to termination in accordance with the new termination powers, or the section 2AA termination powers, as the case may be. Section 2D(7) provides that where such a provision about the consequences of termination sets out different consequences depending on whether the agreement is terminated on the ground that the proprietor has breached the agreement or on other grounds, termination in accordance with the new termination powers or the section 2AA termination powers (as the case may be) is to be treated as termination on the grounds of breach by the proprietor. Section 2D(8) defines terms for the purpose of section 2D.

Section 58: Repeal of duty to make Academy order in relation to school causing harm

613 Section 58 repeals amendments to the Academies Act 2010 made by section 7 and section 9 of the Education and Adoption Act 2016.

614 The effect of this section is that the duty, in section 4(A1) of the Academies Act 2010, to issue an academy order to schools eligible for intervention by virtue of section 61 or section 62 of the Education and Inspections Act 2006 (schools requiring significant improvement or special measures, referred to as "schools in a category causing concern"), is repealed.

615 The amendments remove the consultation requirement in section 5A for academy orders issued under the previous duty in section 4(A1). The requirement to consult for academy orders made under the existing discretionary power, in s 4(1)(b), is not removed. References to section 4(A1) are removed from sections 5, 5B, 5C and 5D.

616 The amendments made by this section should be disregarded if the Secretary of State has already issued an academy order under section 4 (A1) to a school in a category of concern.

Teachers' pay and conditions

Section 59 and Schedule 3: Pay and conditions of Academy teachers

617 Section 59 of the Act introduces amendments to Part 8 of the Education Act 2002 set out in Schedule 3 (pay and conditions of academy teachers: amendments to the Education Act 2002).

618 Schedule 3 includes a power to set a minimum level of pay for teachers in academy schools and alternative provision academies; a power to exclude prescribed persons from scope of this power. The Schedule also requires proprietors of academy schools and alternative provision academies to have regard to the School Teachers Pay and Conditions Document.

619 Paragraph 2 amends subsection 120(2) of the Education Act 2002 so that the meaning of "school teacher" includes teachers in academy schools and alternative provision academies for the purposes of section 122A only.

620 Paragraph 3 amends subsection 121(2) of the Education Act 2002 to include bodies representing the interests of proprietors of academy schools and alternative provision academies amongst those who may be consulted by the STRB on a matter referred to them by the Secretary of State for Education.

621 Paragraph 4 amends the heading of section 122 so that Academy teachers are expressly excluded from the scope of s.122 pay orders.

622 Paragraph 5 creates a new section 122A.

623 New subsection 122A(1) sets out a power in new subsection 122A(1) allowing the Secretary of State to determine the amount of minimum level of remuneration for academy teachers, by order.

624 New subsections 122A(2) and (3) are intended to have the effect of imposing the minimum salary level for an academy teacher's contract in an academy school or alternative provision academy unless the contract provides that they are to be paid more than the minimum salary level.

625 New subsections 122A(4) sets out that there are cases where a person is an Academy teacher for the purposes of a section 122A pay order.

626 New subsection 122A(5) creates a new delegated power to exclude prescribed persons from scope of 122A(1) to set the amount of minimum level of pay. It is intended to bring those already working as teachers within academy schools and alternative provision academies within the scope of new section 122A so that both teachers with QTS and historic teachers without QTS working in academies are in scope of this measure because both will be permitted to carry out specified work under regs made under s.133(1) (once amendments have been made to regulations to include historic unqualified teachers).

627 New subsection 122A(6) brings principals of academy schools and of alternative provision academies within scope of new section 122A. Executive leaders appointed by multi-academy trusts or single academy trusts are not within scope even if they are also the principal or headteacher of an academy school or an alternative provision academy.

628 New subsection 122A(7) brings teachers in academy schools and alternative provision academies in scope if they fall within subsection 122(5) where the other party to a contract of employment or contract for services is a proprietor of an academy school or alternative provision academy. The other party to the contract is not a local authority or the governing body of a foundation, voluntary aided or foundation special school.

629 New subsection 122A(8) provides that regulations to exclude persons from scope of section 122A pay orders may specify a description by reference to that person's duties or to any other provision in order to exclude.

630 New subsection 122A(9) is intended to deal with teachers who may be working in multi-Academy trusts that include a 16 to 19 Academy. It provides that a person is not a "school-teacher" for the purposes of section 122A to the extent that their contract requires them to provide secondary education at a 16 to 19 Academy. They may nevertheless be a school teacher for the purposes of section 122A in relation to their work at an academy school or alternative provision academy.

631 New subsection 122A(10) is intended to deal with academy teachers who may be employed by more than one employer. For an academy teacher to be in scope of a s.122A order, it is immaterial whether the proprietor of the academy school or alternative provision academy is the sole employer of the academy teacher.

632 New Subsection 122A(11) defines who is a relevant proprietor where they are mentioned in section 122A.

633 Paragraph 6 introduces subsection 122A(10A). New subsection 122A(10A) introduces a "have regard" duty on proprietors of academy schools and alternative provision academies. The "have regard" duty will be brought into force by commencement regulations once changes are made to the STPCD through the statutory process to ensure it is fit for purpose before academy schools and alternative provision academies are required to have regard to it. Academy proprietors will then be required to have regard to the conditions set out within the STPCD when determining all conditions of employment, including remuneration whilst proprietors would only be required to comply with minimum levels of remuneration set out in an order made under new section 122A (which will most likely be equivalent to minimum levels set out in the STPCD for maintained school teachers).

634 Paragraph 7 amends s.123 of the Education Act 2002 to extend its scope to include section 122A orders so that it applies to proprietors of academy schools and alternative provision academies.

635 Paragraph 8 amends s.124 of the Education Act 2002 to extend its scope to 122A so that pay orders under s.122 and s.122A pay orders are dealt with in the same way.

636 Paragraph 9 extends the requirements to refer matters under section 125 of the EA 2002 to s.122A pay orders.

637 Paragraph 10 amends section 126 of the Education Act 2002 and enables the Secretary of State to consult representative bodies for proprietors of academy schools and alternative provision academies when making a pay order under section 122A of the Education Act 2002.

638 Paragraph 11 creates a new subsection 127 (2A) of the Education Act 2002 and enables the Secretary of State to issue guidance on minimum levels of pay for teachers in academy schools and alternative provision academies when made under a pay order under section 122A of the Education Act 2002. It also creates a new subsection 127 (2B) to require the proprietors of those academies to have regard to that guidance. It also amends subsection 127(3) to require those proprietors to have regard to s.122 pay orders.

639 Paragraph 12 creates a new section 127A in order to define an academy as including CTCs and CCTAs and excluding 16 – 19 academies and also defines academy arrangements as including arrangements setting up city colleges under the 1996 Act.

640 Paragraph 13 requires that the same Parliamentary procedure be used for s.122A pay orders as is required for s.122 pay orders.

Section 60: Application of pay and conditions orders to education action zones

641 Schools in Education Action Zones, which have not existed since 2005, had the ability to apply to remove themselves from the statutory pay framework. Now that Education Action Zones no longer exist, we are taking this opportunity to remove the reference to their pay arrangements in this legislation. This will not remove Education Action Zones entirely from all legislation and is just intended to deal with the reference to pay.

School places and admissions

Section 61: Co-operation between schools and local authorities

642 Subsection (1) of this section of the Act adds a new section 85ZA into the School Standards and Framework Act 1998. This new section requires schools and local authorities to co-operate with each other when carrying out their respective statutory duties regarding school admissions, set out in or under Part 3 of the Act.

643 Some of the main duties set out in and under Part 3 are:

a. The admission authority is required to determine the admission arrangements that will apply to the school for the coming year and to consult on those arrangements before they are decided.

b. The local authority is required to coordinate arrangements for the admission of pupils to schools as may be set out in regulations.

c. The local authority is required to make arrangements so that parents can express a preference as to the school they wish their child to attend and there is a duty on schools to comply with those preferences (with certain exceptions).

d. For local authorities and schools to act in accordance with the School Admissions Code.

644 Subsection (1) and (2) of the new section 85ZA require a local authority in England and the governing body of a maintained school or the proprietor of an academy school (the academy trust) to co-operate with each other when carrying out their respective statutory duties regarding school admissions.

645 New subsection (3) clarifies that an academy trust's duties regarding school admissions, and therefore the duties that the local authority will need to co-operate with them on, include those that they are required to comply with by the academy funding agreement ("academy arrangements"). Part 3 of the 1998 Act does not place any duties on the academy trust directly. Instead, an academy's funding agreement includes clauses requiring them to behave as if they were the governing body of a maintained school (specifically a foundation or voluntary school), for the purposes of Part 3 of the 1998 Act (and associated regulations and codes).

646 Subsection (2) of this section adds a new section 19B into the Education Act 1996. This new section 19B creates a duty on schools to co-operate with local authorities, with the aim of contributing, so far as is reasonable, to the carrying out of their 'place planning' duties, under section 14 and 19(1) of the Act.

647 Under section 14, local authorities must secure sufficient schools to provide primary and secondary education for their area. Under section 19(1), where a child of compulsory school age is for some reason in danger of not receiving suitable full-time education (usually because they are not registered as a pupil at a school and not being suitably educated otherwise than at a school), their local authority must arrange for there to be suitable education available for them. This is often called 'alternative provision'.

648 This new duty applies in situations where decisions about the school could reasonably be expected to affect the ability of a local authority to carry out its place planning duties (subsection (1) of the new section 19B). The duty reflects the government's expectation that schools should seek to support or help (and not hinder) nearby local authorities in carrying out those duties.

649 New subsection (4) sets out which schools are bound by the new duty ("relevant schools") and their responsible body.

650 Pupil referral units are within scope of the new duty. New subsection (5) clarifies that for those schools the duty to co-operate is about co-operating with other relevant parts of the local authority. This is because the responsible body for those schools (the management committee) is technically part of the local authority.

Section 62: Power to direct admission: extension to Academies

651 Section 62 of the Act amends sections 96 and 97 of the School Standards and Framework Act 1998 (SSFA), to extend local authorities' existing powers to direct a maintained school to admit a child, to also enable a local authority to direct an academy school to admit a child.

652 Subsections (1)(a) and (b) amend section 96(8) of the SSFA to replace the sole reference to "maintained school" with a reference to both "a maintained school" and "an academy school". This has the effect of enabling a local authority to direct the admission of a child to either a maintained school or an academy school (except a Special Academy school for pupils with special educational needs). It also has the effect of requiring a child to have been refused admission or be permanently excluded from every suitable maintained school and academy school within a reasonable distance before a direction can be made.

653 Subsections (2)(a) and (2)(d) to (g) replaces references to "governing body" within sections 96 and 97 of the SSFA with a reference to "admission authority". It is the role of the "admission authority" of a school to make decisions related to admissions for the school. Governing bodies are the admission authority for foundation or voluntary aided schools. The admission authority for academy schools is the proprietor of an academy (normally referred to as the academy trust). As the Act will extend local authorities' direction powers to include academy schools, these subsections ensure that admission authorities for academy schools are captured within the relevant provisions which currently only apply to the admission authority (i.e. the governing body) of foundation or voluntary aided schools.

654 Subsection (2)(b) inserts new wording into section 96(3A) of the SSFA, which has the effect of preventing the direction of a child into a sixth form attached to an academy school, unless the child satisfies the school's selection criteria where this is set. At present, this exclusion is in place for sixth forms attached to maintained schools and this subsection extends it to sixth forms attached to academy schools.

655 Subsection (2)(c) inserts a new section (4A) after section 96(4) of the SSFA. This has the effect of preventing the direction of a child into an academy school if this would result in the school having to take measures to avoid breaching the statutory limits on infant class sizes, if those measures would prejudice the provision of efficient education or the efficient use of resources. At present, this exclusion is in place for maintained schools, and this subsection extends it to academy schools.

Section 63 Power to direct admission: additional triggers

656 Section 63 of the Act amends section 96 of the SSFA and sets out additional circumstances in which a local authority is able to initiate a direction of a child (who is not in care) from within their area.

657 Subsection (2) inserts two new subsections (1A) and (1B) after section 96(1) of the SSFA.

658 Subsection (1A) provides that the School Admissions Code will specify additional circumstances in which a local authority may direct a school to admit a child from within their area.

659 Subsection (1B) limits the circumstances in which the School Admissions Code may set these out, as follows:

- that a local authority may initiate its direction power where "a relevant procedure has been invoked". The "relevant procedure" is a reference to fair access protocols. It is intended that the School Admissions Code will set out that local authorities may initiate a direction where the fair access protocol has failed to secure a school place for a child (new subsection (1B)(a)).

- circumstances in which a local authority can direct the admission of a previously looked after child. It is intended that the School Admissions Code will set out that local authorities may initiate a direction for a previously looked after child promptly, without having to satisfy that the child has been refused admission or has been permanently excluded from every suitable school within a reasonable distance of the child's home or without having to demonstrate that the "relevant procedure" (i.e. the fair access protocol) has been exhausted (new subsection (1B)(b)).

660 Subsection (3) inserts two new definitions into section 96(7) of the SSFA. The first defining "previously looked after children". This is an existing definition of the term, as set out in section 23ZZA(6) of the Children Act 1989 and the School Admissions Code. This definition replicates the definition in the SSFA for ease of reference.

661 This subsection also defines "relevant procedure". This is intended as a reference to fair access protocols, the details of which are set out in the School Admissions Code but allows for amendment to those details at a later date.

Section 64: Functions of adjudicator in relation to admission numbers

662 Section 64 inserts new section 88IA into Chapter I (Admission Arrangements) of Part III (School Admissions) of the School Standards and Framework Act 1998 ("the SSFA"). This inserts it among the sections of that Chapter relating to the role of the Schools Adjudicator.

663 Subsections (1) and (2) of the new section 88IA establish that this new section applies where the Adjudicator upholds an objection (under s.88H(2) of the SSFA) to the published admission number ("PAN") set in a school's admission arrangements, where the objection itself relates in whole or in part to the PAN set out the school's admission arrangements. It also applies where the Secretary of State has referred a school's admission arrangements to the Adjudicator for consideration (under s.88I(2) of the SSFA), on the basis that the PAN set out in the arrangements may not conform with the requirements relating to admission arrangements, and the Adjudicator decides that the PAN does not conform with such requirements. Regulations currently provide that any body or person can submit an objection under s.88H(2) where the PAN of a school has been reduced, and the government intends to amend these regulations to enable local authorities to also submit an objection where the PAN has been increased or maintained at the same level as the previous year. The provisions in this section will therefore apply to all of these types of objection to the PAN. However, they will not apply where the Adjudicator identifies elements of the PAN which may not comply with the requirements relating to admissions where these come to their attention in a manner which is incidental to the subject of an objection or referral from the Secretary of State (e.g. where the Adjudicator uses their powers under s.88I(5) to consider other aspects of the arrangements which were not subject to an objection, where she considers these may not comply with the requirements relating to admissions).

664 New subsection (3) provides that where the Adjudicator upholds an objection to the PAN or decides that the PAN does not conform with requirements, they may determine the revised PAN that the admission authority must then specify in their admission arrangements as a result. Normally, a PAN is determined each year by the admission authority. Generally, where the Adjudicator upholds an objection, it is for the admission authority to decide how to give effect to the Adjudicator's decision, but this subsection means that the admission authority will not have discretion as to how to amend the PAN: they will need to adopt the number specified by the Adjudicator to comply with the Adjudicator's decision. In addition, new subsection (4) enables the Adjudicator, as part of their decision, to determine the PAN

that the admission authority must specify in the subsequent year's arrangements. This can be set at the same or a different level as the PAN the Adjudicator specifies for the arrangements which are the subject of the objection or referral. This will allow the Adjudicator to set the PAN at a level which best meets the needs of the local community.

665 New subsection (4A) provides that in making a determination to specify a revised PAN for a school (under new subsections (3) or (4)), the Adjudicator must take into account the potential impact of their determination on both the quality of education provided at the school in question and other schools in the relevant area; and the ability to give effect to parental preference for the school and other schools in the relevant area.

666 New subsection (4B) provides that before determining under subsections (3) and (4) a revised PAN for a school which is lower than that originally determined by the school's admission authority, and which is the subject of the objection, the Adjudicator must first consult the local authority for schools in the relevant area, the admission authority for the school which is the subject of the objection, and the Secretary of State. In practice, the DfE expect that the relevant Department for Education Regional Director will respond on behalf of the Secretary of State. The Adjudicator must have regard to the views of these bodies about alternatives to lowering the PAN, before taking a decision to determine a PAN which is lower than that specified in the school's admission arrangements.

667 Admission authorities can vary their admission arrangements outside the normal process. Variations for academies are approved by the Secretary of State and variations for maintained schools are approved by the Adjudicator. New subsection (5) makes clear that admission authorities are still able to request a variation to the PAN which the Adjudicator has determined for the school under new subsections (3) and (4). This will ensure that there is sufficient flexibility for responding to major changes in circumstances which may mean, subsequent to the Adjudicator's decision, that the PAN set by the Adjudicator is no longer appropriate – for example if damage to the school buildings meant that the school was no longer able to accommodate as many pupils as had been considered possible at the time of the Adjudicator's decision.

668 New subsection (6) allows the government to make regulations setting out additional factors which the Adjudicator must or must not take into account when they are determining a PAN for a school (under new subsections (3) or (4)) – beyond the quality of education and the ability to give effect to parental preference, which the Adjudicator must consider under subsection (5). These regulations also allow the government to specify other bodies or people with whom the Adjudicator must consult before determining a PAN under new subsections (3) or (4). These regulations may also prevent the Adjudicator from determining the PAN for a school under new subsections (3) or (4) if it would have an effect set out in the regulations. This recognises that the Adjudicator, rather than the admission authority, will be deciding the PAN, and will therefore allow the government to make regulations which ensure the impact of the proposed number is properly considered and that the Adjudicator's decision does not conflict with other duties on the admission authority.

669 New subsection (7) defines 'admission number' for the purposes of this new section as the number of pupils in each relevant age group that it is intended to admit to the school in a school year. The 'relevant age group' is defined in s.142 of the SSFA and refers to the age group at which pupils are or will normally be admitted to the school e.g. reception or year 7. It also defines 'relevant area' for the purpose of the section, with reference to s.88F(4) of the SSFA. S.88F(4) defines 'relevant area' as referring to the area of the local authority in which the school is situated or enables another area to be defined for these purposes through regulations.

670 New subsection (8) clarifies how the provisions in this section apply to state boarding schools. Under 88D(2) of the SSFA, state boarding schools are permitted to have two PANs for each relevant age group, one for the number of pupils that it is intended to admit to the school as boarders; and one for pupils who are not boarders – e.g. those who might attend as 'day pupils'. This subsection makes clear that the provisions relating to PAN in this section include either or both of these PANs in the case of boarding schools.

671 The section also makes minor consequential amendments to s86 of the SSFA. These make clear that the provisions which specify that a school cannot consider the admission of an additional child to prejudice efficient education or the efficient use of resources, if the PAN determined by the admission authority has not been met, also apply to the PAN set by the Adjudicator. The section also extends elements of the existing section 88K of the SSFA to this new section 88IA. Specifically it extends the wording of 88K(5) to cover section 88IA, in order to define the meaning of 'the requirements relating to admissions' for both maintained schools and academies in this section (specifically in new subsection (2)) to ensure the meaning is consistent with the wider functions of the Adjudicator.

Establishment of new schools

Section 65: Amendments to invitation process for establishment of new schools

672 Section 65 amends the provisions in Part 2 of the Education and Inspections Act 2006 ("the 2006 Act") in relation to the arrangements for the establishment of new schools where local authorities think a new school should be established in their area.

673 Subsection (2) removes section 6A of the 2006 Act so that local authorities do not have to seek proposals only for the establishment of a new academy when they think a new school needs to be established in their area. Subsection (3) amends section 7 of the 2006 Act by:

a. replacing subsection (1) so that when a local authority in England think that a new school should be established in their area, other than a maintained nursery school, they must publish a notice inviting proposals for the establishment of a new school;

b. amending subsection (2) so that proposals can be invited for a foundation, voluntary or foundation special school, an Academy school or an alternative provision Academy. The local authority cannot invite proposals for a school that provides education only for pupils above compulsory school age;

c. inserting a new subsection (2A) that provides that local authorities may, but do not have to, publish a notice under this section where:

   i. a new community, community special, foundation or foundation special school is to replace one or more existing maintained schools or a pupil referral unit is to replace one or more existing pupil referral units – this situation is covered by section 10 (as amended by this Act); or

   ii. where proposals for a new school have been published by another proposer under section 10 and a decision on those proposals has not yet been taken – local authorities will have discretion to decide whether to determine the section 10 proposals first or to go ahead and seek other proposals for a new school, for example where they think there will be a separate need for a different type of school regardless of whether the section 10 proposals are approved or not;

d. amending subsection (5) to allow local authorities to publish their own proposals for a new community, community special, foundation or foundation special school (other than one providing exclusively post-16 education) or a pupil referral unit alongside any other proposals received in response to their invitation;

e. extending the existing regulation making power to enable regulations to prescribe the information that must be included in a local authority's own proposals.

674 Subsection (4) amends section 7A of the 2006 Act so that local authorities do not have to obtain the Secretary of State's consent to withdraw notices that they have published under section 7 inviting proposals for the establishment of a new school and inserts a new requirement that they must notify the Secretary of State if they do so.

675 Subsection (5) amends section 10 of the Academies Act 2010 to require a prospective proprietor (often known as an academy trust) to consult before deciding whether to enter into a funding agreement for a new academy that is being established under the new invitation process.

Section 66: Certain proposals to establish new schools: publication requirements etc.

676 Section 66 replaces sections 10 and 11 of the Education and Inspections Act 2006 ("the 2006 Act") with an amended section 10 in relation to proposals for new schools made outside of the invitation process set out in section 7 of the 2006 Act as amended by this Act. Subsection (2) replaces subsections (1) and (2) of section 10 of the 2006 Act and:

a. provides that where local authorities propose to establish a new maintained nursery school or a new community, community special, foundation or foundation special school to replace one or more maintained schools (except one exclusively providing education suitable for pupils over compulsory school age) or a new pupil referral unit to replace one or more pupil referral units, they may publish proposals under this section and are not required to follow the invitation process in section 7 (unless a section 7 process is already in progress and they could publish the proposals under section 7(5) as described above);

b. provides that any other persons (other than a local authority) wanting to propose the establishment of a new foundation, voluntary or foundation special school must publish proposals under this section (unless there is a section 7 notice inviting proposals for a new school that the proposals could be submitted in response to);

c. removes requirements for the Secretary of State to consent before a local authority or other proposers can publish proposals;

d. enables regulations to set out the action local authorities must take to publicise proposals that have been published under this section, for example by using their own website to signpost proposals published by other proposers so that the general public know where to look for such proposals.

Section 67: Establishment of pupil referral units

677 Section 67 extends the provision in section 28 of the Education and Inspections Act 2006 ("the 2006 Act") Act so that pupil referral units can only be established under the provisions of the 2006 Act. Currently where a local authority identifies the need for new alternative provision they must seek proposals for an alternative provision academy. The 2006 Act does not currently provide for the establishment of pupil referral units, meaning that (if section 6A does not apply) they can be established without following any statutory procedure.

Section 68: Process for considering, approving and implementing proposals for establishment of new schools and Schedule 4: Establishment of new schools: Amendments to Schedule 2 to the Education and Inspections Act 2006

678 Section 68 introduces Schedule 4 to this Act. Schedule 4 amends Schedule 2 to the Education and Inspections Act 2006 ("the 2006 Act"), which sets out the process for considering, approving and implementing proposals for the establishment of new schools under sections 7 and 10 of the 2006 Act as amended by this Act.

679 Schedule 4 amends Schedule 2 to the 2006 Act so that:

a. Academy and non-Academy proposals submitted in response to an invitation notice published by a local authority are considered at the same time and equally, rather than sequentially;

b. The Secretary of State is the decision maker where a local authority has published their own proposals for a new school or pupil referral unit under section 7 or is involved in the foundation of a proposed foundation school under that section;

c. Where a local authority is the decision maker, they must consult the Secretary of State when proposals that have been published under section 7 include proposals for an academy. They may not approve proposals to establish a particular Academy unless the Secretary of State has indicated a willingness to enter into negotiations with a view to entering into a funding agreement for the establishment of that particular Academy. The Secretary of State can require the local authority not to approve proposals without making certain modifications or attaching certain conditions to their approval. The local authority can approve proposals with further modifications and conditions so long as they are not inconsistent with the Secretary of State's;

d. Where the local authority is the decision maker for proposals submitted under section 7 but they have not yet made a decision, the Secretary of State may direct the authority to refer proposals, and any subsequently published proposals, to the Secretary of State for decision.

Section 69: Transitional provision

680 Section 69 contains the transitional arrangements that will apply where a local authority has sought proposals for a new school or a proposer has published proposals for a new school under the existing provisions of the Education and Inspections Act 2006 ("the 2006 Act") and a decision on those proposals has not yet been made by the time that the new provisions come into effect. In these circumstances the new provisions will not apply and the old ones will continue to apply. The transitional arrangements also enable consultation that has been carried out under the requirements of the existing provisions of the 2006 Act and before the new requirements come into force to be taken to satisfy requirements to consult under the amended provisions.

Section 70: Power to require internet service providers to prevent or restrict access by children to internet services

681 Section 70 inserts a new section 214A into the Online Safety Act 2023. New subsection (1) confers a power on the Secretary of State to make secondary legislation. The power can be exercised to require providers of specified internet services to prevent (under subsection (1)(a)) or to restrict (under subsection (1)(b)) access by relevant children to internet services or to specified functionalities or other features of those internet services. The power may only be exercised for the purpose of protecting "relevant children" from a risk of harm.

682 Internet services are defined primarily as any services which are made available by means of the internet in section 228 of the Online Safety Act 2023. Harm is defined in section 234(2) of the Online Safety Act 2023 as physical or psychological harm.

683 New subsection (2) defines a 'relevant child' as a child of, or under, a specified age. The effect is that regulations may require providers of specified internet services to prevent or restrict access in relation to children of a specified age (e.g. just children age 16) or to all children under that age (e.g. all children under age 16). A child is defined as a person under the age of 18 for the purpose of the Online Safety Act 2023 in section 236(1) of that Act.

684 New subsection (3) provides non-exhaustive examples of the provision that may be made under new subsection (1)(a) and/or (1)(b). These may include provision about the:

- Steps that must be taken by a provider for the purpose of complying with a requirement imposed by the regulations;
- Monitoring of compliance with a requirement imposed by the regulations;
- Enforcement of a requirement imposed by the regulations.

685 New subsection (4) provides non-exhaustive examples of the provision that may be made to restrict access by relevant children to specified internet services under new subsection (1)(b) including:

a. Limit the amount of time per day a child can access a service or a specified functionality or other feature of the service;

b. Limit the times of day at which a child can access a service or a specified functionality or other feature of the service;

c. Restrict access of a child to a service or a functionality or other feature by virtue of which:

i. A user could receive unsolicited contact from an unknown person;

ii. A user could encounter live oral communications or live video from an unknown person; or

iii. An unknown person could identify the approximate or actual location of the user.

686 New subsection (5) provides that any provision by virtue of new subsection (3)(c), in relation to enforcement measures, permits a requirement to be made an "enforceable requirement" for the purposes of Chapter 6 of Part 7 of the Online Safety Act 2023. This means that requirements imposed by the regulations may be enforced by Ofcom using its existing powers in the Online Safety Act 2023.

687 New subsection (6) sets out that, when making regulations, the Secretary of State must have regard to the fact that children of different ages may be affected by an internet service, or a feature and functionality of an internet service, in different ways. The Secretary of State must also have regard to the different ways an internet service is used, how the features and functionalities of a service affect how much children use a service, and the impact of such use on the level of risk of harm.

688 New subsection (7) provides a non-exhaustive list of the type of provision that may be made by the regulations. This includes that the regulations may apply any part of the Online Safety Act 2023, with modifications if necessary, may make exceptions to requirements imposed by the regulations and may confer functions on a person (including those involving the exercise of a discretion).

689 New subsection (8) provides that consequential provision made by virtue of these regulations can amend or repeal primary legislation. A consequential provision could be simply a question of updating cross-references but sometimes more substantial changes may be needed.

690 New subsection (9) provides that the Secretary of State must exercise the power under subsection (1) so as to make such provision she considers appropriate following the conclusion of, and having regard to the responses to, the consultation entitled "Growing up in the online world: a national consultation"[21] (command paper numbered CP 1528).

691 New subsection (10) provides that OFCOM must, so far as reasonably practicable, carry out research or provide advice at the request of the Secretary of State for the purpose of making regulations under new subsection (1)(a) and/or (1)(b), and must do so by a time or within a period of time as specified by the Secretary of State.

692 New subsection (11) provides that as soon as reasonably practicable after providing any advice requested by the Secretary of State under new subsection (10), OFCOM must publish the advice.

693 New subsection (12) sets out definitions of the terms 'primary legislation' and 'specified' as used in new section 214A.

694 Section 70(3) amends section 225(1) of the Online Safety Act 2023, which determines the parliamentary procedure applicable to regulations made under that Act. The effect of this provision is that any regulations made under new subsection (1) will be subject to the 'affirmative procedure' – which means the regulations may not be made unless a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.

Section 71: Progress statement

695 Section 71 requires the Secretary of State to make a progress statement in relation to the making of the first regulations under new section 214A(1) of the Online Safety Act 2023.

696 Subsection (1) requires the Secretary of State to lay a statement before Parliament within a period of three months beginning with the day on this Act is passed. The statement must set out what progress has been made towards making the first regulations under section 214A(1) of the Online Safety Act 2023 and the timeline for making the first regulations.

697 Subsection (2) requires the timeline given in the progress statement to provide that, the first regulations must be laid before Parliament within 12 months of the date on which the statement is laid.

698 Subsection (3) provides that the duty to lay a progress statement before Parliament does not apply if the first regulations have been made before the end of the period mentioned in subsection (1) i.e. before the end of the period of three months following Royal Assent.

699 Subsection (4) provides that if the first regulations have not been laid before Parliament within the 12 month period specified in subsection (2) then the Secretary of State must lay a statement before Parliament explaining why. The Secretary of State must then make the first regulations within a period of six months, beginning with the day this statement is laid.

700 Subsection (5) provides that references to laying the first regulations, in this section, mean the laying before Parliament of a draft of a statutory instrument containing the first regulations (as required by the parliamentary procedure in section 225(1) of the Online Safety Act 2023 described above).

[21] https://www.gov.uk/government/consultations/growing-up-in-the-online-world-a-national-consultation

Section 72: Age of consent in relation to process of a child's personal data: information society services

701 Section 72(1) and (2) amends Article 8 of the UK General Data Protection Regulation ("UK GDPR"), which governs when a child is able to give valid consent to the processing of their personal data in connection with the offer of information society services, when consent is the lawful basis for processing under Article 6 of the UK GDPR.

702 Article 8(1) of the UK GDPR currently sets the age at which a child may lawfully consent to such processing at the age of 13. Where a child is below that age, consent must be authorised by a person with parental responsibility.

703 Subsection (2) inserts new paragraphs 2A and 2B into Article 8. New paragraph 2A confers a regulation-making power on the Secretary of State to amend the age of consent specified in Article 8(1).

704 Under new paragraph 2A(a), regulations may be made to change the age at which a child can give their own consent under Article 8(1). That age must be between 13 and 16.

705 New paragraph 2A(b) enables the Secretary of State, by regulations, to make provision for a different age of consent to apply in relation to specified services, or services of a specified description, again subject to the same limits of 13 to 16 years.

706 New paragraph 2B provides that regulations made under paragraph 2A are subject to the affirmative resolution procedure.

707 Section 72(3) inserts a new Article 8ZA into the UK GDPR.

708 Article 8ZA(1)(a) enables the Secretary of State to make regulations to make provision about verifying that a data subject who has given consent to the processing of their personal data is at least the age applicable under Article 8(1). Under Article 8ZA(1)(b), where regulations under Article 8(2A)(b) specify a different age for certain services, Secretary of State may also make provision by regulations to verify that the data subject meets the age applicable to that service or description of service.

709 Paragraph (2) sets out a list of the types of provision that may be made under paragraph (1). This includes provisions about:

- imposing requirements on persons specified, or of a description specified, in the regulations;
- the steps that must or may be taken to comply with those requirements;
- monitoring of compliance; and
- enforcement.

710 Paragraph (3) makes further provision about the scope of the regulation-making power. Regulations may, among other things:

- amend, repeal, revoke or apply (with or without modifications) provisions of the data protection legislation;
- make provision for exceptions;
- specify time limits or periods by which a thing must be done;

- make provision by reference to standards, arrangements or technical specifications published from time to time; and
- confer functions on a person, including functions involving the exercise of discretion, and make procedural provision in connection with those functions.

711 Paragraph (4) provides that regulations made under Article 8ZA are subject to the affirmative resolution procedure.

712 Paragraph (5) clarifies that, for the purposes of Article 8ZA, the reference to information society services does not include preventive or counselling services. This exclusion mirrors existing provisions within Article 8(4) UK GDPR and ensures that essential support services are not inadvertently brought within scope.

Part 3: General

Section 73: Power to make consequential provision

713 Section 73 confers on the Secretary of State the power to make consequential provision in connection with any provision in this Act, including in other Acts passed before this or later in the same session. Regulations for this purpose must be made by statutory instrument following the negative procedure, unless they are amending primary legislation in which case the affirmative procedure applies.

714 It provides that those regulations may make consequential, supplemental, incidental, transitional or saving provision, or different provision for different purposes or areas.

Section 74: Power to make consequential provision: Wales

715 Section 74 confers power on the Welsh Ministers to make provision that is consequential on certain provisions made by the Act in relation to matters that are within the legislative competence of Senedd Cymru.

Section 75: Power to make consequential provision: Scotland

716 Section 75 confers power on the Scottish Ministers to make provision that is consequential on Section 13 of the Act (use of accommodation for deprivation of liberty) in relation to matters that are within the legislative competence of the Scottish Parliament.

Section 76: Financial provision

717 This section sets out the expectation that Parliament will fund any expenditure, and any future increase in that expenditure, incurred by the Secretary of State in relation to this Act.

Section 77: Extent

718 This section states the territorial extent of the Act, i.e. the parts of the United Kingdom in which it would become law. The Act extends to England and Wales, except for section 13 which amends a Scottish Act of Parliament, sections 23 to 27 which extend to England and Wales, Scotland and Northern Ireland, section 30 which extends to England and Wales, and section 31 which extends to Scotland.

Section 78: Commencement

719 This section states when the provisions in the Act would come into effect.

Section 79: Short title

720 This section states that, once enacted, the Act may be cited as the Children's Wellbeing and Schools Act 2026.

Commencement

721 Section 78 provides for the commencement of the provisions of the Act.

Data Protection

722 In accordance with section 183A of the Data Protection Act 2018, any personal data processed in the exercise of the new provisions is subject to the relevant, existing, data protection legislation.

Related documents

723 The following documents are relevant to the Act and can be read at the stated locations:

- Keeping Children Safe, Helping Families Thrive

  https://assets.publishing.service.gov.uk/media/67375fe5ed0fc07b53499a42/Keeping_Children_Safe__Helping_Families_Thrive_.pdf

- Accountability consultation – GOV.UK

  https://www.gov.uk/government/consultations/school-accountability-reform

- Every Child Achieving and Thriving

  https://www.gov.uk/government/publications/every-child-achieving-and-thriving

Annex A - Territorial extent and application in the United Kingdom

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
Sections 1-12	Yes	No	No	No
Section 13	Yes	Yes	Yes	No
Sections 14-21	Yes	No	No	No
Section 22	Yes	Yes	No	No
Sections 23-27 and Sch 1	Yes	Yes	Yes	Yes
Section 28	Yes	Yes	No	No
Section 29	No	No	Yes	No
Section 30-36	Yes	No	No	No
Sections 37-42 and Sch 2	Yes	Yes	No	No
Sections 43-79 and Sch 3 and 4	Yes	No	No	No

© Crown copyright 2026

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Saul Nassé, Controller of His Majesty's Stationery Office and King's Printer of Acts of Parliament.