



Schools Bill [HL] **HL Bill 1 of 2022–23**

Authors: Heather Evennett, Russell Taylor

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The House of Lords is scheduled to debate the second reading of the [Schools Bill \[HL\]](#) on 23 May 2022. The bill was announced in the Queen’s Speech on 10 May 2022 and introduced in the House of Lords on 11 May 2022.

The [explanatory notes](#) to the bill highlight the government’s “long-term vision to improve the school system”, including ambitions to improve attainment in both literacy and numeracy. The government has described the bill as underpinning its education ambitions for England, the majority of which were outlined in the government white paper on schools ‘[Opportunity for all: Strong schools with great teachers for your child](#)’, published in March 2022.

The bill includes a range of measures on issues such as:

- school funding
- regulating independent educational institutions
- teacher misconduct
- school attendance
- a register and support for children not in school
- the structure and regulation of academy trusts

The Labour Party has described the bill as “narrow in scope, hollow in ambition and thin on policy”. The Liberal Democrats have been critical of its focus on school structures.

Plans to introduce a register of children not in schools were welcomed by the National Education Union (NEU) and the National Association of Headteachers (NAHT). The Local Government Association welcomed plans to increase the schools inspector Ofsted’s powers to inspect schools operating illegally, without registration.

However, overall the NEU was critical of what it described as the “piecemeal and patchwork approach” of the bill. The NAHT noted that the government’s ambition to reform school structures outlined in the schools white paper was “likely to be controversial”.

The majority of the provisions in the bill apply to England only.

Table of Contents

1. Background

2. Reaction to the bill

3. Provisions in the bill

Table of contents

1. Background	1
1.1 Academies.....	1
1.2 National funding formula.....	4
1.3 School attendance.....	6
1.4 Children not in school.....	7
1.5 Unregistered independent educational establishments.....	8
1.6 Teacher misconduct.....	10
2. Reaction to the bill	11
3. Provisions in the bill	12
3.1 Part 1: Academies.....	13
3.2 Part 2: School funding.....	18
3.3 Part 3: School attendance.....	21
3.4 Part 4: Independent educational institutions.....	23
3.5 Part 5: Teacher misconduct and miscellaneous provisions.....	26

I. Background

In the 2022 Queen’s Speech, the government said it would introduce a Schools Bill to reform education. It said the bill would “help every child fulfil their potential wherever they live, raising standards and improving the quality of schools”.¹ The government has also since stated that the Schools Bill will deliver “essential safeguarding measures to ensure that more children receive a suitable and safe education”.²

The background notes accompanying the speech explained that this would be achieved through legislation on:³

- the structure and regulation of academies
- implementing a direct funding formula
- the school attendance regime
- a register for children not in school
- an increase in Ofsted’s power to inspect non-registered schools
- strengthening the current teacher misconduct regime

The majority of these commitments had been included in the government white paper on schools ‘Opportunity for all: Strong schools with great teachers for your child’, published in March 2022.⁴ In addition, the government made commitments to legislate on the national funding formula (NFF) in the same month, and the government has previously conducted consultations on issues such as a register for children who are not in school and teacher misconduct. The background to each of these issues is considered in greater detail below.

I.1 Academies

What is an academy?

Academies in England are state schools that are not controlled by a local authority. Academies receive funding directly from the government and are run by a not-for-profit company in the form of an academy trust. Schools controlled and funded by a local authority are called maintained schools.⁵

¹ [HL Hansard, 10 May 2022, col 2.](#)

² [‘Delegated powers memorandum’](#), 12 May 2022, p 2.

³ Prime Minister’s Office, [‘Queen’s Speech 2022: Background briefing notes’](#), 10 May 2022.

⁴ Department for Education, [‘Opportunity for all: Strong schools with great teachers for your child’](#), 28 March 2022.

⁵ For more background see House of Lords Library, [‘Education: Multi-academy trusts’](#), 31 March 2022.

Academies have more control than maintained schools over some aspects of delivering education, although they follow the same rules in other areas such as admissions.⁶ Academies do not have to follow the national curriculum, but students at academies sit the same exams as those at maintained schools.

Some academies are supported by sponsors, such as faith groups, voluntary groups or existing academy trusts. Multi-academy trusts (MATs) are not-for-profit companies that run more than one academy. Not all academies are part of a multi-academy trust. The government has stated that the average trust is over eight years old and 75% of trusts have fewer than five schools, with 53% running a single school. Less than 1% of trusts have more than 30 schools. An increasing number of academies are now part of a MAT, with 64% of academies in MATs of six or more academies.⁷

In the 2020/21 academic year there were 9,444 academies and 4,591,865 pupils attending academies.⁸ This compares with 12,603 maintained schools with a total of 3,750,656 pupils.

Becoming an academy

Some schools choose to become academies. A high-performing school that has chosen to become an academy is termed a ‘converter school’.

Underperforming schools have often joined sponsored multi-academy trusts. If a school is rated inadequate by the schools inspector, Ofsted, then the secretary of state must make an academy order to enable it to become an academy “as swiftly as possible”.⁹

Academies are inspected by Ofsted. If an academy is judged inadequate it can be required to join a different MAT, or to join a MAT if it is a standalone academy.¹⁰

Government proposals

Academies were first introduced by the 1997–2010 Labour government, but the 2010–15 Conservative-Liberal Democrat coalition government expanded the academies policy. From 2015 onwards, consecutive Conservative Party policies have continued to promote academies.¹¹

⁶ HM Government, ‘[Types of school](#)’, accessed 18 May 2022.

⁷ Department for Education, ‘[The case for a fully trust-led system](#)’, 7 March 2022.

⁸ Department for Education, ‘[Schools, pupils and their characteristics: Academic year 2020/21](#)’, 17 June 2022.

⁹ Department for Education, ‘[Schools causing concern](#)’, March 2022, p 18.

¹⁰ Department for Education, ‘[Schools causing concern](#)’, March 2022, pp 33–5.

¹¹ House of Lords Library, ‘[Education: Multi-academy trusts](#)’, 31 March 2022.

The March 2022 schools white paper, entitled ‘Opportunity for all: Strong schools with great teachers for your child’, included a commitment to deliver “a fully trust-led system with a single regulatory approach”. It also set a target date of 2030 for all schools to be part of, or in the process of joining, a MAT.¹²

The government proposed combining new and existing requirements on academy trusts, currently set out in legislation and funding agreements, into statutory academy trust standards. These would include new statutory intervention powers. In addition, the government outlined plans to introduce new powers enabling the secretary of state to bring a local authority’s maintained schools into the academy system where a local authority had requested it. It also proposed removing barriers to faith schools and grammar schools becoming academies.

The government has argued that MATs allow schools to share good practice effectively and improve outcomes for their students. It stated its priority was to increase the number of “strong trusts”, allowing all schools to “benefit from the support they can provide, and improve outcomes for all children”.¹³ It has said its proposals on strengthening the regulatory framework for academy trusts and establishing new statutory standards would lead to greater “clarity and consistency of expectations” which would be underpinned by intervention powers, “to ensure action can be taken to tackle serious failure if it occurs”.¹⁴ It laid out a range of evidence regarding the growth of trusts and the impact of strong MATs in a March 2022 report, ‘The case for a fully led trust system’.¹⁵

On 28 March 2022, the government launched a consultation on powers to force maintained and academy schools with two consecutive Ofsted ratings below “good” to convert into academies or change trusts. The consultation closes on 23 May 2022.¹⁶

The explanatory notes for the Schools Bill reiterated the government’s commitment to its earlier proposals. The bill would provide the secretary of state with powers to set standards for academy trusts and to intervene in the trusts’ operation of their academies. The government has stated the bill

¹² Department for Education, ‘[Opportunity for all: Strong schools with great teachers for your child](#)’, 28 March 2022, p 43.

¹³ Department for Education, ‘[The case for a fully trust-led system](#)’, 7 March 2022, p 17.

¹⁴ Prime Minister’s Office, ‘[Queen’s Speech 2022: Background briefing notes](#)’, 10 May 2022, p 27.

¹⁵ Department for Education, ‘[The case for a fully trust-led system](#)’, 7 March 2022, p 17.

The report has since been subject of an investigation by the Office for Statistics Regulation following concerns raised by the National Education Union. See: Freddie Whittaker, ‘[DfE to correct academy claims after stats watchdog slapdown](#)’, Schools Week, 18 May 2022.

¹⁶ Department for Education, ‘[Supporting schools that are not making necessary improvements](#)’, 28 March 2022.

will “support more schools to become academies”, including faith and grammar schools, and would make it easier for the secretary of state to convert maintained schools into academies.¹⁷ It has described its plans as “a major set of changes to the established education policy”.¹⁸

Further reading

- House of Lords Library, [‘Education: Multi-academy trusts’](#), 31 March 2022
- Tom Belger, [‘White paper: What academy shakeup means for trusts, councils and schools’](#), Schools Week, 28 March 2022
- House of Commons Public Accounts Committee, [‘Academies sector annual report and accounts 2019/20’](#), 25 March 2022, HC 994 of session 2021–22

1.2 National funding formula

The Queen’s Speech included a commitment to ensure funding was allocated to schools on a “fair and consistent basis”. The government said this would be achieved through:

[...] implementing a direct national funding formula, so that each mainstream school will be allocated funding on the same basis, wherever it is in the country, and every child will be given the same opportunities, based on a consistent assessment of their needs.¹⁹

The national funding formula (NFF) was introduced in 2018/19 financial year. The government has said that its introduction meant that funding was being distributed “based on individual needs and characteristics of schools and their pupils, rather than historic funding patterns”.²⁰

The NFF is a single, national formula that allocates the core funding for all mainstream schools in England, both maintained and academies, for pupils aged 5 to 16. Early years, high needs (including special schools) and post-16 provision each have a separate national funding formula, “reflecting the specific needs of those parts of the education system”.²¹

¹⁷ [Delegated powers memorandum](#), 12 May 2022, p 2.

¹⁸ [Delegated powers memorandum](#), 12 May 2022, p 4.

¹⁹ Prime Minister’s Office, [‘Queen’s Speech 2022: Background briefing notes’](#), 10 May 2022, p 28.

²⁰ Department for Education, [‘Completing the reforms to the national funding formula: Government consultation response’](#), March 2022, p 2.

²¹ Department for Education, [‘Fair school funding for all: Completing our reforms to the national funding formula—government consultation’](#), 8 July 2021, p 6.

The NFF is used to allocate funding to the “school’s block” element of the dedicated schools grant (DSG). Most funding for schools comes from the DSG, which includes three blocks which contribute to core schools funding: the schools block, high needs block, and central school services block.²²

The NFF is currently calculated with reference to 14 separate factors, which each have a ‘factor value’ determining how much funding each factor attracts. Factors and their values are subject to change each year. This notional calculation for every school in England is then aggregated for all schools in each local authority to create a total allocation for that local authority. A local authority will then use its own formula to determine how much each school receives.

The government has argued that while the NFF was introduced as a “soft” funding distribution, with allocations subject to further local authority adjustments, the government’s intention since the NFF’s introduction was to move to a more “direct” NFF.²³ A direct NFF would remove the local authority adjustments and mean “every school’s final funding allocation is determined by the same, national formula”.

In July 2021, the government consulted on proposals for moving towards a “hard NFF”.²⁴ Outlining its proposed next steps in the consultation response in March 2022, the government stated that it would bring forward legislation to implement the proposals “when parliamentary time allows”. It committed to “a careful and measured” approach to this transition, which it recognised would be “complex”, and a further consultation in spring 2022 to examine how the schools NFF was calculated.²⁵

The Schools Bill would provide for the new framework for schools funding. The explanatory notes state that the bill is “intended to introduce a directly applied national funding formula”, as set out in the consultations.²⁶ The government hopes this will ensure funding is allocated on a “consistent basis of schools’ and pupils’ needs and characteristics”.

Further reading

- House of Commons Library, [‘School funding in England’](#),

²² Department for Education, [‘Fair school funding for all: Completing our reforms to the National Funding Formula—government consultation’](#), 8 July 2021, p 44.

²³ Department for Education, [‘National Funding Formula reforms: Schools bill factsheet’](#), May 2022, p 4.

²⁴ Department for Education, [‘Fair school funding for all: Completing our reforms to the National Funding Formula—government consultation’](#), 8 July 2021, p 11.

²⁵ Department for Education, [‘Completing the reforms to the National Funding Formula: Government consultation response’](#), March 2022, p 9.

²⁶ [‘Explanatory notes’](#), pp 7–8.

9 February 2022

1.3 School attendance

Department for Education research carried out in summer term 2021 found that around a fifth of all the schools inspected were experiencing more attendance issues than normal. The research found that the most common reasons for absence were relating to the Covid-19 pandemic, including pupil anxiety, health needs, and pupils having disengaged from education. These issues were still present in autumn 2021.²⁷

In January 2022, the government published a consultation on school attendance. This included proposals which, the government argued, would build on work carried out by schools, trusts and local authorities on attendance and would improve consistency of attendance support for families across England. These included:²⁸

- a new duty for schools to publish attendance improvement plans setting clear expectations of parents and pupils and a clear escalation route, including sanctions and support, for those pupils not attending regularly
- provisions for trusts and governors of maintained schools to face new duties to promote good attendance
- a minimum set of expectations for local authority attendance services
- a new regulatory framework to improve consistency in the application of fines for non-attendance
- the extension to academies of the rules stipulating leave can only be authorised in “exceptional circumstances”

Responding to the consultation in May 2022, the government reiterated its commitment to its proposals to improve attendance. This included a focus on pupils who were severely absent and introducing improved data collection “to better understand patterns of attendance in a timelier way”.²⁹ Provisions in the bill would “ensure policies to promote regular school attendance are written, publicised, and followed”. The bill would also extend the secretary of state’s power to make regulations about leave of absence. This would include requiring schools and local authorities to have regard to guidance issued by the secretary of state and extending the regulation of granting leaves of absence to academies.³⁰

²⁷ Ofsted, [‘Securing good attendance and tackling persistent absence’](#), 7 February 2022.

²⁸ Department for Education, [‘School attendance: Improving consistency of support’](#), 25 January 2022.

²⁹ Department for Education, [‘School attendance consultation response’](#), 6 May 2022, p 4.

³⁰ [‘Explanatory notes’](#), p 5.

Further reading

- Kate Parker, '[What's the best way to tackle low attendance?](#)', Times Education Supplement, 16 March 2022

1.4 Children not in school

Prior to the pandemic the government had also expressed concern about “increasing numbers of children” receiving their principal education outside state or independent schools. These children are instead educated “in the home and/or other settings—or not at all”.³¹ It argued that while many parents withdraw children “in the best interests of their child”, some may have reasons other than a commitment to home education.

This trend, the government stated, has been exacerbated by the Covid-19 pandemic.³² It argued there was now a greater need for local authorities to be able to identify children not in school and to ensure that suitable education was being provided.

The numbers of those being home educated in England are hard to assess. Registration of home education is currently voluntary, and data is not collected centrally or published by the Department for Education (DfE).

On 2 April 2019, the Government published a consultation on proposed legislation concerning children not in school.³³ The consultation sought views on the introduction of:

- a register of children of compulsory school age who are not registered at schools of a certain type
- a duty on parents to inform a local authority if their children are within the scope of such a register
- a duty on education settings attended by the children on the register to respond to enquiries from local authorities about the education provided to individual children
- a duty on local authorities to provide support to home educating families

The consultation closed on 24 June 2019. The government, in its response, indicated that it intended to legislate for a register of children not in school.³⁴

³¹ Department for Education, '[Children not in school](#)', 2 April 2019, p 8.

³² [Explanatory notes](#), p 6.

³³ Department for Education, '[Children not in school](#)', 2 April 2019, pp 5–6.

³⁴ Department for Education, '[Children not in school: Government consultation response](#)',

This commitment was included in the March 2022 schools white paper and the May 2022 Queen’s Speech. The government has said that the register will “improve safeguarding for children wherever they are educated”, stating:

Establishing ‘children not in school’ registers, as well as creating a duty on local authorities to provide support to home educating families [...] will provide accurate data to help identify children who are not receiving a safe or suitable full-time education, and [...] enable support to be offered to interested parents of registered children.³⁵

Further reading

- House of Commons Library, [‘Home education in England’](#), 28 March 2022
- House of Lords Library, [‘Elective home education: Time for a compulsory register?’](#), 6 July 2021
- House of Commons Education Committee, [‘Strengthening home education’](#), 26 July 2021, HC 84 of session 2021–22 and [‘Government response’](#), 4 November 2021

1.5 Unregistered independent educational establishments

The Queen’s Speech included commitments to expand safeguarding of children “wherever they are educated”. This included those children educated in unregistered independent educational establishments.

What is an unregistered school?

Ofsted defines an unregistered school as a setting that is operating as an independent school, without registration. It is a criminal offence to operate an unregistered independent school in England. Ofsted has expressed concern that children educated at these institutions are at risk due to a lack of “oversight of safeguarding, health and safety or the quality of education provided”.³⁶

Settings required to register as a school must be providing full-time education to at least five children of compulsory school age or one child who is looked after by the local authority or has an education, health and care plan. The setting must operate from a building and must offer a curriculum that includes maths and English.

February 2022.

³⁵ Prime Minister’s Office, [‘Queen’s Speech 2022: Background briefing notes’](#), 10 May 2022, p 28.

³⁶ Ofsted, [‘New data shows illegal schools are a huge nationwide problem’](#), 12 April 2019.

Ofsted have argued that some providers are circumventing requirements to register. It noted that those settings which provide only religious instruction are also able to evade registration, even though they operate full time and their pupils do not receive an education anywhere else.

In 2019, Ofsted estimated that almost a quarter of settings it had investigated for being unregistered were in London. A fifth of unregistered schools were faith schools. Other unregistered educational settings included alternative provision for children excluded from school.³⁷

Government proposals

Concerns about unregistered schools are not new.³⁸ For example, in her 2019 report about children not in school, Children’s Commissioner for England Anne Longfield noted:

Some parents claim that they are home educating their children, when in reality they are sending them to unregistered and illegal schools (or “tuition centres”) where they receive a substandard education and welfare standards are dubious. Illegal schools operate under the radar and outside the statutory frameworks designed to keep children safe.³⁹

The commissioner called for “decisive action against unregistered schools”, arguing that the government should strengthen the law so that it is easier to prosecute illegal schools.⁴⁰ The call was echoed more recently by the House of Commons Education Committee, which argued “it cannot be right that settings where children receive their principal education escape regulatory scrutiny by exploiting loopholes in the law”.⁴¹

The government ran a consultation on the regulation of unregistered schools from May to November 2020.⁴² In its response to the consultation, published on 6 May 2022, the government committed to:⁴³

- expanding the categories of full-time institutions that would be

³⁷ Ofsted, ‘[New data shows illegal schools are a huge nationwide problem](#)’, 12 April 2019.

³⁸ For more detailed background information see, House of Commons Library, ‘[Home education in England](#)’, 28 March 2022, pp 43–8.

³⁹ Children’s Commissioner, ‘[Skipping school: Invisible children—how children disappear from England’s schools](#)’, February 2019, p 14.

⁴⁰ Children’s Commissioner, ‘[Skipping school: Invisible children—how children disappear from England’s schools](#)’, February 2019, p 19.

⁴¹ House of Commons Education Committee, ‘[Strengthening home education](#)’, 26 July 2021, HC 84 of session 2021–2, p 21.

⁴² [Explanatory notes](#), p 7.

⁴³ Department for Education, ‘[Regulating independent educational institutions: Government consultation response](#)’, May 2022.

- regulated and defining “full-time” education
- changing the basis for how some appeals against de-registration enforcement action, under the Education and Skills Act 2008, are determined by the court
- revising the system for making changes to the registered details of independent educational institutions
- creating a power for the secretary of state to suspend registration of an independent educational institution for a set period where there are serious safeguarding failings which may pose a risk to pupils
- improving the ability of Ofsted to investigate illegal unregistered full-time settings

The explanatory notes to the bill state that “the bill is intended to take forwards the proposals outlined in the consultation”.⁴⁴

Further reading

- House of Commons Library, [‘Home education in England’](#), 28 March 2022, pp 43–8

1.6 Teacher misconduct

The regulation of the teaching profession is intended to safeguard pupils and students and uphold high standards of teacher conduct.⁴⁵ The 2022 Queen’s Speech included a commitment to strengthen the current teacher misconduct regime to include more educational institutions. In addition, the government said it would increase powers to investigate individuals who commit misconduct and “enact appropriate regulatory discipline procedures”.⁴⁶

Serious teacher misconduct is currently investigated by the Teaching Regulation Agency (TRA), an agency of the DfE. Serious misconduct refers to cases when a teacher’s behaviour is fundamentally incompatible with being a teacher and could lead to them being prohibited from teaching.⁴⁷ It does not apply to cases of less serious misconduct, incompetence or under-performance, which should be dealt with by a teacher’s employer.

After it has investigated, the TRA decides whether to refer the case to a

⁴⁴ [Explanatory notes](#), p 7.

⁴⁵ [Explanatory notes](#), p 5.

⁴⁶ Prime Minister’s Office, [‘Queen’s Speech 2022: Background briefing notes’](#), 10 May 2022, p 8.

⁴⁷ Teaching Regulation Agency, [‘Teacher misconduct: Regulating the teaching profession’](#), 3 September 2018.

professional conduct panel for a prohibition order to be issued.⁴⁸ Prohibition orders prevent an individual from teaching in any school, sixth form college or children’s home of youth accommodation in England. A prohibition order is for life, although the secretary of state can, in some circumstances and after a minimum of two years, allow a teacher to apply for a prohibition order to be removed.

Regulations regarding serious misconduct currently apply to all schools, sixth form colleges, children’s homes and youth accommodation.

On 1 February 2022, the government published a consultation on changes to the teacher misconduct regulatory regime. Proposals included:⁴⁹

- broadening the scope of the teacher misconduct provisions to include people who commit misconduct when not employed as a teacher, but who have previously carried out teaching work
- widening the range of settings covered by the teacher misconduct scheme, including post-16 and online settings
- enable the secretary of state to consider referrals of serious teacher misconduct, regardless of how the matter came to their attention

The consultation closed on 14 March 2022. In its response, the government committed to take forward the consultation proposals “when a suitable legislative opportunity becomes available”.⁵⁰ The government has said that the Schools Bill is intended to take forward the proposals outlined in the consultation.⁵¹

Further reading

- Grainne Hallahan, ‘[How changes to TRA powers could impact teachers](#)’, Times Education Supplement, 14 February 2022
- Tom Belger, ‘[New DfE powers to ban online teachers amid grooming fears](#)’, Schools Week, 29 April 2022

2. Reaction to the bill

Responding to the Queen’s Speech in the House of Commons, Shadow

⁴⁸ Teaching Regulation Agency, ‘[Teacher misconduct: Regulating the teaching profession](#)’, 3 September 2018.

⁴⁹ Department for Education, ‘[Teacher misconduct: Regulating the teaching profession—government consultation](#)’, 1 February 2022.

⁵⁰ Department for Education, ‘[Teacher misconduct: Regulating the teaching profession—government response to consultation](#)’, 29 April 2022.

⁵¹ [Explanatory notes](#), p 8.

Education Secretary Bridget Phillipson described the Schools Bill as “narrow in scope, hollow in ambition and thin on policy”.⁵² She was critical of the bill’s focus on the governance of academies. She also argued that the government had “spent a decade slicing away” at funding and hoped “merely” to restore levels to those achieved by the last Labour government.

In the same debate, the Liberal Democrat education spokesperson, Munira Wilson, was critical of using “precious time to tinker with school structures”. She called on the government to identify and tackle the “root causes” of school absence rather than focussing on an “all stick no carrot” approach.⁵³

The NEU was critical of what it described as the “piecemeal and patchwork approach” of the Schools Bill.⁵⁴ It described claims that further academisation would lead to improved educational standards as “spurious”. However, the union welcomed the idea of a register for children not in school, arguing it could help ensure the safety of children and young people.⁵⁵

The NAHT noted that the ambition to reform school structures outlined in the white paper was “likely to be controversial”.⁵⁶ The NAHT was also positive about plans for a register for children not in school.⁵⁷

The Local Government Association welcomed plans in the white paper to allow councils to set up and lead their own MATs but called for action from the DfE to allow councils to support ‘orphan’ schools where strong MATs may be unable or unwilling to take them on.⁵⁸ It was positive about legislation to increase Ofsted’s powers to inspect schools operating illegally without registration and also supported proposals for a register of children not in school.⁵⁹

3. Provisions in the bill

The bill comprises 69 clauses across five parts. It also has five schedules.

⁵² [HC Hansard, 16 May 2022, col 434.](#)

⁵³ [HC Hansard, 16 May 2022, col 463.](#)

⁵⁴ National Education Union, ‘[Queen’s speech](#)’, 10 May 2022.

⁵⁵ National Education Union, ‘[Register for children not educated in school](#)’, 2 April 2019.

⁵⁶ National Association of Head Teachers, ‘[Schools white paper “full of ambition but falls short on support”, say school leaders](#)’, 28 March 2022.

⁵⁷ National Association for Head Teachers, ‘[NAHT: Queen’s Speech 2022— NAHT responds to the announcement of a not in schools register](#)’, 10 May 2022.

⁵⁸ Local Government Association, ‘[Schools white paper, 28 March 2022](#)’, 30 March 2022.

⁵⁹ Local Government Association, ‘[Schools white paper, 28 March 2022](#)’, 30 March 2022.

3.1 Part I: Academies

Part I of the bill deals with the regulation of academies and academy trusts. It includes measures seeking to address certain issues that may prevent some schools (such as schools with a religious character) wanting to become academies.

Regulation of academies

Clause 1 would allow the secretary of state to make regulations setting out standards for academies (including different types of academy). Examples of possible standards are given in subsection 2, and could include:

- welfare, health and wellbeing of pupils
- nature of education and careers guidance provided
- complaints policies
- suitability of staff and leadership
- asset management and general management of the academy

Regulations may also provide for someone to monitor compliance with the standards.

Clause 2 states that the standards, in general, would supersede corresponding provisions set out in academy agreements or master agreements. These agreements set out the framework for the operation of an academy, or a multi-academy trust in the case of master agreements, and are made between the proprietor of an academy and the secretary of state.⁶⁰ The clause would apply to future and existing agreements. However, the regulations setting out standards (clause 1) could allow certain alternative standards in academy agreements to take precedence.

Clause 3 would allow the secretary of state to apply to an academy existing provisions in primary legislation that relate to other educational institutions. It would also allow the secretary of state to stop provisions which relate both to academies and other educational institutions from applying to an academy. This would be subject to some restrictions; for example, it would not apply to certain arrangements of grammar schools or faith schools.

Schedule 1 lists certain provisions that would be applied or disapplied to academies.

The explanatory notes also explain that regulations under clause 3 could

⁶⁰ Department for Education, '[Academy and free school funding agreements](#)', 1 December 2020.

amend certain “relevant provisions”, including those in other primary legislation:

‘Relevant provision’ is defined in sub-section (5) as meaning provision contained in either subordinate legislation made before this bill becomes an act, in an act passed before this act, in an act passed later in the same session of Parliament as this act, or in schedule 1 to this bill.⁶¹

Addressing the need for the power (often called a Henry VIII power⁶²) in the delegated powers memorandum, the government stated:

The department will be able to identify any improvements that would be brought about by the extension of additional primary duties to academies, the amendment, or even the removal of them, should they prove excessively onerous or unnecessary. The department considers it necessary to have a power that will allow relevant primary legislation to be amended through secondary legislation as it will allow the department to be responsive to supporting the needs of a strong academy trust system, ensuring that academy trusts are fully able to comply with the academy standards. Such ability to act swiftly and responsively to changing needs and demands is essential in order to protect the school system through a period of change.

The government recognises the broad scope of this power. The affirmative procedure would require parliamentarians to debate, and vote on any proposed changes to primary legislation. We consider that to be appropriate in this context.⁶³

Clause 4 would require the proprietor of academies to have regard to any guidance issued by the secretary of state on academy standards and the proprietor’s functions and obligations.

Clause 5 would allow the secretary of state to issue compliance directions requiring academy proprietors to take specific actions, or not to take specific actions, to ensure compliance with certain statutory duties. These directions may be issued where there is, or is likely to be, a breach of duties set out in regulations or in an academy agreement, or where the proprietor is acting unreasonably in respect of their duties.

Clause 6 would allow the secretary of state to issue a written “notice to improve” to an academy proprietor that is in breach of a statutory duty or

⁶¹ [Explanatory notes](#), p 14.

⁶² UK Parliament, ‘[Henry VIII clauses](#)’, accessed 17 May 2022.

⁶³ [Delegated powers memorandum](#), p 8.

where there is a weakness in its governance or management procedures. The notice must set out details of the issue identified and set a time limit for the proprietor to prove it has addressed the issue. The secretary of state may make regulations restricting, or requiring consent for, certain financial transactions while a proprietor is subject to the notice.

Clause 7 and schedule 2 detail powers allowing the secretary of state to require proprietors to appoint additional directors to academy boards, or to appoint a board of interim trustees, where:

- it has received a notice to improve and has failed to satisfy the notice by the time required,
- the secretary of state considers that there has been a serious breakdown in its governance procedures or in the management of academies in its care, or
- the secretary of state considers that the safety of pupils or staff at an academy in its care is threatened.

Termination of academy agreements

Clauses 8 to 18 cover the termination of academy agreements. This includes:

- termination by the secretary of state where the academy is failing or where a proprietor has failed to address concerns that have been raised with them
- in cases of insolvency (termination by either the proprietor or secretary of state)
- termination by the secretary of state following a warning notice (which could be issued due to breach of an agreement, where there is a serious breakdown of governance or where standards are unacceptably low)

Clause 16 specifies that if a master agreement is terminated, all academy agreements with that proprietor will also be terminated on the same date. In addition, clause 17 states that (subject to certain exceptions) any termination right in an academy agreement or master agreement is void.

Academies with a religious character

Clauses 19 and 20 concern the governance of academies of a religious character and are aimed at protecting their characteristics. These clauses would give the secretary of state regulation-making powers about the management of academy trusts involving schools with a religious denomination. For example, the secretary of state could require a majority of an academy proprietor's directors to be appointed with the purpose of ensuring the character of relevant academies reflects their designated

religious denominations. The secretary of state could also set out provisions that must be in the proprietor's articles of association.⁶⁴

Clauses 21 to 26 would set out requirements for religious education and worship in academies of a religious character. The explanatory notes explain that the clauses largely mirror provisions in other legislation, such as the School Standards and Framework Act 1998.⁶⁵ For example:

- Clause 21 would require the proprietor of academies with a religious character to ensure pupils participate in daily collective worship (for example, as may be set out in their trust deeds).
- Clauses 22 to 24 would deal with the requirements for religious education in academies with a religious character. They cover the arrangements for religious education and how it would apply to different types of academy.
- Clause 25 would allow pupils to be excused from participating in religious education or worship upon the request of parents. It also allows sixth form pupils to request to be excused from collective worship. In addition, the clause sets out how arrangements could be made for a pupil to participate in alternative religious education or worship.
- Clause 26 would deal with arrangements for the inspection of collective worship and denominational education (this is separate to the school's general inspection). For example, it would require the proprietor to choose someone to run the inspection following consultation with prescribed people, such as the relevant religious body for that school.

Clause 27 states that provisions in academy agreements or master agreements would be void where they are inconsistent with clauses 19 to 26.

Academy grammar schools and local authority powers

Clause 28 would amend the School Standards and Framework Act 1998 so that the secretary of state must designate wholly selective academies as grammar schools. It would also specify that the only way selection could be removed would be through a majority vote by eligible parents and that an academy proprietor would not be able to spend the school's budget to try to influence this. The government has explained that the changes are intended to ensure the selective nature of these academies is protected in

⁶⁴ [Explanatory notes](#), p 14. See also: Department for Education, '[Statutory faith protections for academies with a religious character: Schools Bill factsheet](#)', May 2022.

⁶⁵ [Explanatory notes](#), pp 22–24.

the same manner as for maintained grammar schools.⁶⁶

Clause 29 would allow local authorities to apply to the secretary of state for an “academy order” enabling a maintained school to be converted to an academy. However, the local authority would first need to consult and receive the consent of certain prescribed people; for example, they would need to consult the school’s governing body and get the consent of any trustees.⁶⁷

Clause 30 would deal with difficulties connected to academies and schools with land held by charitable trustees. This applies to many religious schools. The clause sets out how land transfers should take place. The government intends the measures to address trusts’ concerns about agreeing to become an academy. The bill’s factsheet explains how the clause would work in practice:

The local authority, the academy trust, and the charitable trustees may agree locally that the school should be moved to a new site which the authority has identified and agreed to make available.

The charitable site trustees will need to agree to dispose of their current site. Usually this will be by commercial sale once it is vacated but depending on the circumstances the local authority may agree to accept the current site in exchange for the new one. If the site is to be sold, the trustees will agree with the authority the amount of sale proceeds to pass to them, bearing in mind the value of the new premises that the authority will transfer to the trustees. The academy trust will also arrange to end any occupancy agreements which might apply to any land currently occupied or used by the academy but not held by the trustees—for example, playing field leased from the local authority.

The parties will need to agree the extent of the new site to be transferred to the trustees and draw up the necessary transfer documents. Local authorities will not be required to transfer playing field land. Playing field land will therefore be made available through a lease. In the event that the parties cannot reach agreement on any issue relating to the transfer, they may refer the matter to the schools adjudicator for a decision.

Alternatively, the trustees may decide to retain the current site to use for wider charitable purposes. If they decide to do so, they will then

⁶⁶ Department for Education, ‘[Grammar schools: Schools Bill factsheet](#)’, May 2022.

⁶⁷ Further information can be found in: Department for Education, ‘[Local authority academisation power: Schools Bill factsheet](#)’, May 2022.

agree a lease for the new site with the local authority.⁶⁸

Miscellaneous

Clauses 31 and 32 cover interpretation of the terms used in part 1 and the arrangements for regulations.

3.2 Part 2: School funding

Nationally determined funding

Part 2 of the bill contains provisions relating to school funding. The explanatory notes explain that the clauses in this part set out a new framework for funding, partially replacing the current framework in part 2 of the School Standards and Framework Act 1998 (SSFA 1998). Under the new framework, the secretary of state would determine most funding which is received by schools through a national funding formula, while local authorities would retain responsibilities for other education expenditure.⁶⁹

Clause 33 would place a duty on the secretary of state to determine the national formula allocation for each funding period, for each applicable school. The “national formula allocation” is defined as the amount calculated for a school in accordance with the national funding formula determined by the secretary of state.⁷⁰ It would apply to most academies and maintained schools, as well as other prescribed types of school. The secretary of state must apply the same formula to fund “mainstream” academies and maintained schools in the same funding period. However, a different formula may be used for other types of schools, and the clause would also allow the secretary of state to make regulations regarding alternative calculations of funding for prescribed schools in exceptional circumstances. Information about the funding formula must be published and communicated to schools in advance of each funding period.

Clause 34 sets out the requirements for the payment of the funding allocation for each school; in particular, who the funding should go to (for example, to the proprietor of an academy or to a local authority).

Locally determined funding

Clauses 35 to 38 cover the provision of locally determined funding for

⁶⁸ Department for Education, ‘[Transfer of land by local authorities: Schools Bill factsheet](#)’, May 2022, p 5.

⁶⁹ [Explanatory notes](#), p 31. See also: Department for Education, ‘[National funding formula reforms: Schools Bill factsheet](#)’, May 2022.

⁷⁰ [Explanatory notes](#), p 31.

schools which is to be calculated and provided by local authorities, and how this should be administered. This can include funding obtained through grants “made under section 14 of the Education Act 2002 (the secretary of state’s general funding power) or any other enactment, where the conditions of that grant require it to be used for the purpose of this clause”.⁷¹

In particular, clause 36 would provide the secretary of state powers to make regulations requiring local authorities to determine additional funding for each school in their area. This would be known as “locally determined supplementary funding” and would be in addition to the national funding allocation.⁷² The regulations may specify factors to be considered in allocating the supplementary funding, which are similar to some of those set out in section 47 of the SSFA 1998.

Clause 38 covers other locally determined funding, which would be in addition to the supplementary funding outlined in clause 36. The explanatory notes explain that this is “intended to broadly replace the part of the schools budget which is not the individual schools budget defined in section 45A of the SSFA 1998”.⁷³ Information on how the additional funding should be determined and administered would be set out in regulations. The clause then specifies a list of factors the regulations may cover, similar to those set out in clause 36.

Additional provisions relating to funding

Clause 39 specifies that the secretary of state may still provide other funding to schools under part 2 of the Education Act 2002, or other legislation.

Clause 40 would grant the secretary of state powers to make regulations allowing local authorities to make a “national-to-local budget reallocation”. The explanatory notes explain:

This reallocation involves the secretary of state adding an amount to the local authority’s locally determined education budget (in clause 35) and making a corresponding reduction from the national formula allocation determined under clause 33, in respect of all or some of the schools in a local authority’s local area. The adjustment to the schools’ national funding allocations can take place in the same relevant period as the reallocated amount is added to the locally determined education budget, or the following relevant period. This is in place of the current “block transfer” mechanism, whereby local authorities are able, within specified limits, to top-slice their mainstream schools funding and transfer this to other elements of their education budgets (typically, to

⁷¹ [Explanatory notes](#), p 32.

⁷² [Explanatory notes](#), p 32.

⁷³ [Explanatory notes](#), p 33.

their high needs budgets) by way of reliance on conditions in the dedicated schools grant.⁷⁴

The clause also sets out a non-exhaustive list of factors the regulations may cover, including how local authorities should apply for a reallocation and the need for local authorities to first consult their schools forum.

Clause 41 allows for regulations to set out the need for local authorities to make adjustments to the national formula allocation where pupils have been excluded or where a pupil excluded from another school has been admitted to a school. The explanatory notes explain that this will replace section 47(2)(c) of SSFA 1998, which contains similar provisions.⁷⁵

Clause 42 would enable the secretary of state to make regulations allowing local authorities to continue to make deductions from maintained schools' core budgets to be used for "centrally provided services" for maintained schools.⁷⁶ The regulations may provide for limitations on its use, including requirements for authorisation from the local schools forum or the secretary of state.

Clause 43 requires relevant people (including local authorities, governing bodies and proprietors of academies) to provide reports, returns and information to the secretary of state as and when required in relation to their functions under this part of the bill. The explanatory notes specify that this could include:

[...] pupil numbers, particularly in cases of new and growing schools where funding does not fully rely on data collected from the October census; information on school reorganisations such as planned school closures and mergers; planned school expansions to meet basic need; and information on whether a school operates across split sites, to underpin split sites funding.⁷⁷

Clause 45 ensures existing academy agreements are overridden by, or should be interpreted in light of, the provisions in this part. The explanatory notes explain:

This will ensure that those clauses in existing academy agreements or academy framework agreements are voided if they are inconsistent

⁷⁴ [Explanatory notes](#), p 34.

⁷⁵ [Explanatory notes](#), p 35.

⁷⁶ [Explanatory notes](#), p 35.

⁷⁷ [Explanatory notes](#), p 36.

with this part and are read with such additions, omissions or modifications as are needed to take account of, or give full effect to this part.⁷⁸

Clause 44 and schedule 3 make consequential amendments to other legislation (such as the Education Act 1996 and the School Standards and Framework Act 1998) regarding funding. In addition, clauses 46 and 47 contain information on the regulation making powers in this part and on the interpretation of terms used.

3.3 Part 3: School attendance

Clauses 48 to 55 contain measures relating to pupils' attendance at school and the registration and monitoring of children being educated outside school.

Children not in school and being educated at home

Clause 48 would insert new sections into the Education Act 1996 concerning children who are not in a school. The provisions include duties for:

- local authorities to maintain a register of children not in school, including requirements for the contents and maintenance of those registers (this includes details of how the child is being educated)
- parents (or carers or legal guardians) of children within scope of the register to provide information to a local authority
- persons that a local authority believes to be providing prescribed amounts of out-of-school education to children within the scope of the register to supply certain information on request to a local authority
- local authorities to provide support to parents of children on the register

It also includes provisions about the use of information on the register (for example, by local authorities for safeguarding purposes or to be passed on to the secretary of state) and allowing the secretary of state to issue statutory guidance.

Clause 49 would add a number of new sections to the Education Act 1996 changing and updating the requirements for school attendance orders (SAOs). These orders are issued by local authorities if they are not satisfied

⁷⁸ [Explanatory notes](#), p 37.

a child is receiving a suitable education and requires the child to be registered at a specified school.⁷⁹

The clause would require the local authority to first issue a preliminary notice of its intentions to issue a SAO, to give the parents or guardians the chance to prove that the child is receiving a suitable education. It also sets out the conditions local authorities should consider for issuing a preliminary notice (for example, where they believe the child is not receiving a suitable education or if the local authority has not received the required information specified in clause 48).⁸⁰ The clause also covers:

- cases where children have special educational, health and social care needs plans in place
- the need for a school nomination notice (specifying the school that has been identified) to be issued prior to the SAO, and the process for this
- the contents of the SAO and how it can be revoked or amended

Clause 50 would amend the Education Act 1996 to create an offence of failing to comply with a SAO. Offenders would be tried summarily and on conviction could receive a fine and/or a sentence of imprisonment.

Clause 51 would make consequential amendments regarding SAOs.

School attendance by registered pupils

Clause 52 would amend the Education Act 1996 to insert a duty for local authorities to promote regular attendance and reduce absences among registered school pupils in their area. They would also need to have regard to guidance issued by the secretary of state. The explanatory notes state:

The secretary of state intends to publish guidance for local authorities setting out expectations of how they should use their services to secure good attendance, including minimum components of attendance support they are expected to deliver to schools in their area.⁸¹

Clause 53 would require schools to have attendance policies designed to promote “regular attendance”. This would be achieved through amendments to the Education Act 1996. It would require each school’s policy to include details on measures, practical procedures and responsibilities of staff in

⁷⁹ See sections 437–442 of the Education Act 1996.

⁸⁰ [Explanatory notes](#), p 42.

⁸¹ [Explanatory notes](#), p 48.

respect of attendance. The policy would need to be promoted to pupils and parents.

Clause 54 would allow the secretary of state to make regulations concerning the circumstances for issuing fixed penalty notices (FPN) to parents for pupil attendance. FPNs may be issued to a parent by an authorised officer for non-attendance or for allowing an excluded pupil to be in a public place in the first five school days of an exclusion.⁸² One of the bill's factsheets explains the purpose of setting out details on their use in regulations:

The circumstances in which fixed penalty notices for absence are issued are currently determined by individual local authorities. Setting national circumstances for when issuing fixed penalty notices must be considered will therefore help to improve consistency in their usage across England. The new system will retain local authority discretion in deciding whether to use legal intervention in a particular instance however, it will end blanket policies for issuing penalty notices which some local authorities currently have. Instead, local authorities should make decisions on an individual case-by-case basis, only issuing penalty notices where support is not working, being engaged with, or appropriate.⁸³

Clause 55 would extend the right to grant pupils leaves of absence to all types of academies.⁸⁴ The explanatory notes state that this is to improve consistency across all state-funded schools.⁸⁵ The decision on whether to grant a leave would lie with the proprietor of the school (usually the headteacher).

3.4 Part 4: Independent educational institutions

This part of the bill deals with the regulation and inspection of independent educational institutions. Much of it makes changes to part 4 of the Education and Skills Act 2008, which contains the current provisions relating to their regulation.

Clause 56 amends the definition of an independent educational institution, as set out in the Education and Skills Act 2008, as follows:

An independent educational institution is to be defined as any institution (a) which provides full-time education for at least five

⁸² [Explanatory notes](#), p 48.

⁸³ Department for Education, '[School attendance: Schools Bill factsheet](#)', May 2022, p 5.

⁸⁴ Leaves of absence can only be granted in exceptional circumstances; see: Department for Education, '[School attendance: Guidance for maintained schools, academies, independent schools and local authorities](#)', May 2022.

⁸⁵ [Explanatory notes](#), p 49.

children of compulsory school age, or at least one child of compulsory school age who is looked after by a local authority or who has special educational needs and (b) which is not an excepted institution.⁸⁶

The clause also provides further definitions and tests about what would be considered to be provision of full-time education and includes regulation-making powers to alter these in future. This would be a Henry VIII power. Commenting on this in the bill's delegated powers memorandum, the government asserted the power was necessary "in light of the diverse and changing nature of institutions which provide education and the difficulty in identifying or anticipating all those which might need [...] to be regulated".⁸⁷ Regulations would be subject to the affirmative resolution procedure.

Clause 57 contains consequential amendments.

Clause 58 would insert a new section 137A into the Education and Skills Act 2008. This would allow the secretary of state to make regulations applying other enactments which apply in relation to independent schools to independent educational institutions that are not independent schools.⁸⁸ It is intended to deal with the issue of some independent educational institutions having too narrow a curriculum to be defined as an independent school, and would ensure appropriate legislation would still apply to them. This power is limited to applying enactments made before or in the same session that the Schools Bill becomes an act.

Clause 59 would amend section 94 of the Education and Skills Act 2008. This concerns the standards proprietors of independent educational institutions must comply with and against which the institutions are inspected.⁸⁹ Failure to meet the standards could lead to regulatory action, including deregistration. The amendments to section 94 broaden the scope of applicable standards and requirements that can be prescribed by the secretary of state. For example, the secretary of state could set standards regarding student attendance and for only "fit and proper persons" to be involved with the running of an institution. Section 94 requires the secretary of state to set out the standards for independent educational institutions in regulations.

Clause 60 would detail the powers and processes for the secretary of state to temporarily suspend the registration of an independent educational institution where they have grounds to believe it has breached standards and could cause harm to students. The clause provides information on how this

⁸⁶ [Explanatory notes](#), p 49.

⁸⁷ [Delegated powers memorandum](#), p 52.

⁸⁸ Further information on this power is set out in the bill's [Delegated powers memorandum](#), p 53–4.

⁸⁹ [Explanatory notes](#), p 50.

should be progressed (including when warning notices should be issued) and creates new criminal offences where proprietors of institutions violate suspension requirements.⁹⁰

Clause 61 would amend the appeals process against deregistration available to proprietors. The explanatory notes explain the principles behind this:

This new sub-set of appeals must be made to the first-tier tribunal. The effect of the amendment is that if the secretary of state takes enforcement action against a proprietor of a registered independent educational institution in the form of a deregistration decision under section 116 of the Education and Skills Act 2008 (“the 2008 act”) and that proprietor appeals the deregistration decision and certain conditions are met, that appeal would be determined on the basis of the principles applicable on an application for a judicial review. If those conditions are not met, the proprietor may still exercise the existing right to appeal under section 124 of the 2008 act and their appeal would be decided on a full merits basis.⁹¹

Clause 62 (and schedule 5) would make amendments to the Education and Skills Act 2008 regarding the need for prior approval from the secretary of state for “material changes” to be made to independent educational institutions.⁹² This includes:

- expanding on the categories of matters that constitute “material changes”
- changing how applications for material change approval can be determined by the secretary of state
- giving the secretary of state powers to impose “relevant restrictions” where there has been an unapproved material change

Some of the provisions in this clause also involve regulation-making powers for the secretary of state.

Clause 63 concerns powers of entry for Her Majesty’s Chief Inspector of Education, Children’s Services and Skills (HMCI) to inspect premises in connection with the offence of conducting an unregistered educational institution. This offence is contained in section 96 of the Education and Skills Act 2008. The clause would repeal section 97 of the act (which contains the current provisions regarding power of entry) and would insert new sections

⁹⁰ [Explanatory notes](#), pp 51–4.

⁹¹ [Explanatory notes](#), p 54.

⁹² [Explanatory notes](#), p 55.

to strengthen powers of search and entry.⁹³ It would also broaden the criminal offences applicable for obstructing these inspections.

Clause 64 deals with information sharing between HMCI and approved independent inspectorates. It would remove the need for an annual report by HMCI on independent inspectorates, with these to instead be provided to the secretary of state on request. It would also allow the chief inspector to share information with approved inspectorates for the purpose of facilitating inspections of registered independent educational institutions.⁹⁴ The explanatory notes state that there is currently only one approved inspectorate: the Independent Schools Inspectorate.

3.5 Part 5: Teacher misconduct and miscellaneous provisions

Clause 65 would widen the Teaching Regulations Agency's powers to investigate serious teacher misconduct and prohibit teachers from teaching if misconduct is proved.⁹⁵ Investigations are carried out on behalf of the secretary of state.

These powers are currently set out in part 8 of the Education Act 2002. Section 141B(1) of the act specifies misconduct that can be investigated as:

- unacceptable professional conduct or conduct that may bring the teaching profession into disrepute, or
- having been convicted (at any time) of a criminal offence that could be seen to affect an individual's fitness to be a teacher

Among other things, the clause would extend the misconduct regime to cover more teaching settings (for example, independent institutions and online providers). It would also enable individuals to be investigated if they have been a teacher at any time, even if they were not a teacher at the time of the misconduct.⁹⁶ The government has explained the purpose of the latter measure as follows:

It was always intended that the teacher misconduct regime should capture those individuals who have committed serious misconduct even when they were not employed or engaged in teaching work (for example, a teacher on a career break, supply teachers or those who teach infrequently) and who are likely to try and return to the classroom. However, interpretation of the teacher misconduct legislation in a high court judgment only permits the secretary of state

⁹³ [Explanatory notes](#), pp 56–7.

⁹⁴ [Explanatory notes](#), p 57.

⁹⁵ [Explanatory notes](#), p 58.

⁹⁶ [Explanatory notes](#), p 58.

to consider misconduct in more limited circumstances, the effect of which is that only misconduct that occurs (or referrals made) while the person is undertaking teaching work can be considered.

The proposed change would make it clear that the secretary of state is able to consider a referral in respect of those who have previously taught and who commit serious misconduct whilst not in teaching, ensuring that where appropriate they are prevented from returning to the classroom in the future.⁹⁷

The secretary of state would also have the power to make regulations altering the definition of online education providers in the future. The government noted this was a Henry VIII power, but believed it was necessary due to the fast-changing nature of the online market.⁹⁸ Regulations would be made under the affirmative resolution procedure.

Clauses 66 to 69 contain miscellaneous provisions. For example, clause 67 specifies that the legislation would extend to England and Wales (although, in practice, the majority would only apply in England) and clause 68 sets out when various provisions would come into force.

⁹⁷ Department for Education, '[Teacher misconduct: Schools Bill factsheet](#)', May 2022, p 4.

⁹⁸ [Delegated powers memorandum](#), p 63.

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