

House of Lords: HL Schools Bill, CNiS relevant sections extracts (as amended in Committee 27/6/22)

Reference: Part 3 School Attendance	Proposed wording	Concerns	Amendments
49 Registration	(1) The Education Act 1996 is amended as follows. (2) After section 436A insert— “Children not in school		
436B Duty to register children not in school	(1) A local authority in England must maintain a register of children who are eligible to be registered by the authority under this section.		
	(2) A child is eligible to be registered by a local authority under this section if Conditions A to C are met.		
	(3) Condition A is that the child is in the authority’s area.		
	(4) Condition B is that the child is of compulsory school age.		
	(5) Condition C is that— (a) the child is not a registered pupil at a relevant school, or (b) the child is a registered pupil at a relevant school but the proprietor of the school has arranged or agreed that		

	<p>—</p> <p>(i) the child will receive education otherwise than at that or any other relevant school, and</p> <p>(ii) the child will be absent for some or all of the time when the child would normally be expected to attend the relevant school.</p>		
	<p>(6) Regulations may make provision—</p> <p>(a) for cases where a child is to be regarded as falling or not falling within subsection (5)(b);</p> <p>(b) for cases where a child falling within subsection (5) (b) is not to be regarded as eligible for registration.</p>		
	<p>(7) In this section “relevant school” means—</p> <p>(a) a school maintained by a local authority,</p> <p>(b) a non-maintained special school (within the meaning given by section 337A),</p> <p>(c) an Academy school or alternative provision Academy, or</p> <p>(d) a school not falling within paragraph (c) that is registered under section 95 of the Education and Skills Act 2008 (register of independent educational institutions).</p>		
<p>436 C Content and maintenance of registers</p>	<p>(1) A register under section 436B must contain the following information in respect of a child registered in it—</p> <p>(a) the child’s name, date of birth and home address,</p> <p>(b) the name and home address of each parent of the child,</p> <p>(c) such details of the means by which the child is being educated as may be prescribed, and</p> <p>(d) any other information that may be prescribed.</p>		

	<p>(2) A register under section 436B may also contain any other information the local authority consider appropriate.</p>		
	<p>(3) Regulations may, in relation to a register under section 436B, make provision about—</p> <p>(a) how a local authority must maintain the register, including provision relating to—</p> <p>(i) how the register is to be kept up-to-date;</p> <p>(ii) the making of changes to the register;</p> <p>(b) the form of the register;</p> <p>(c) access to and publication of the register;</p> <p>(d) registration forms;</p> <p>(e) publicising the register and duties of persons in relation to the register.</p>		
<p>436 D Provision of information to local authorities: parents</p>	<p>(1) A parent of a child who becomes eligible to be registered by a local authority in England under section 436B must—</p> <p>(a) inform the local authority that the child is eligible for registration,</p> <p>(b) provide the authority with the information referred to in section 436C(1)(a) to (c), and</p> <p>(c) provide the authority with any information prescribed under section 436C(1)(d) that the parent has.</p>		
	<p>(2) A parent of a child who is registered by a local authority in England under section 436B must—</p> <p>(a) provide the authority, on request, with the information referred to in section 436C(1)(a) to (c),</p> <p>(b) provide the authority, on request, with any information prescribed under section 436C(1)(d) that the</p>		

	<p>parent has,</p> <p>(c) inform the authority of a change to any of the information required to be included in the register under section 436C(1)(a) to (d) of which the parent is aware, and</p> <p>(d) inform the authority if the child ceases to be eligible to be registered by that authority under section 436B.</p>		
	<p>(3) A person must comply with a duty under subsection (1) or (2) within the relevant period.</p>		
	<p>(4) In subsection (3) “relevant period” means—</p> <p>(a) in the case of the duty in subsection (1)(a), (b) or (c), the period of 15 days beginning with the date on which the child becomes eligible for registration by the local authority;</p> <p>(b) in the case of the duty in subsection (2)(a) or (b), such period of not less than 15 days as the local authority specify in the request;</p> <p>(c) in the case of the duty in subsection (2)(c), the period of 15 days beginning with the date on which the parent becomes aware of the change;</p> <p>(d) in the case of the duty in subsection (2)(d), the period of 15 days beginning with the date on which the child ceases to be eligible to be registered by the local authority under section 436B.</p>		
	<p>(5) The duties in subsections (1) and (2) do not apply where the child is receiving full-time education by any one or more of the following means—</p>		

	<p>(a) arrangements made by the local authority under section 19;</p> <p>(b) arrangements made by the proprietor of a relevant school at which the child is a registered pupil;</p> <p>(c) attendance at a relevant school.</p>		
	<p>(6) In this section “relevant school” has the same meaning as in section 436B.</p>		
<p>436 E Provision of information to local authorities: education providers</p>	<p>(1) This section applies where a local authority in England reasonably believe that—</p> <p>(a) a person is providing out-of-school education to a child for more than the prescribed amount of time without any parent of the child being present, and</p> <p>(b) the child is, or is eligible to be, registered by the authority under section 436B.</p>		
	<p>(2) In subsection (1)(a)—</p> <p>(a) “out-of-school education” means any programme or course of education, or any other kind of structured education, that is provided otherwise than as part of the education provided by a relevant school (within the meaning of section 436B);</p> <p>(b) “prescribed amount of time” means an amount of time prescribed—</p> <p>(i) by reference to a number of hours in, or a proportion of, a week or other period;</p> <p>(ii) by reference to a proportion of the time a child spends receiving education;</p> <p>(iii) in any other way.</p>		

	<p>(3) The authority may by notice require the person— (a) to confirm whether or not the person is providing education to a child as specified in subsection (1), and (b) if the person is doing so, to provide the authority with any of the information referred to in section 436C(1)(a) or (b) that the person has in relation to any child to whom they are providing such education.</p>		
	<p>(4) A notice under subsection (3) is served if it is sent to or left at the place where the out-of-school education is provided (as well as in the circumstances referred to in section 572(1)).</p>		
	<p>(5) The person on whom a notice under subsection (3) is served must comply with the requirement in the notice within the period of 15 days beginning with the day on which it is served.</p>		
	<p>(6) Regulations may provide for exceptions to the duty in subsection (5).</p>		
	<p>(7) Where a local authority in England are satisfied that a person on whom a notice under subsection (3) is served has— (a) failed to comply with their duty under subsection (5), or (b) provided incorrect information in response to the notice, the authority may require the person to pay a monetary penalty to the authority in accordance with Schedule 31A.</p>		

	(8) The amount of the monetary penalty is to be the prescribed amount.		
436 F Use of information in the register	(1) A local authority in England must, if the Secretary of State so directs, provide the Secretary of State with information of a prescribed description from their register under section 436B (whether that is information relating to an individual child or aggregated information)		
	(2) A local authority in England may provide information from their register under section 436B which relates to a child to a prescribed person if the authority consider it appropriate to do so for the purposes of promoting or safeguarding the education, safety or welfare of— (a) the child, or (b) any other person under the age of 18.		
	(3) Where a local authority in England become aware that a child registered in their register under section 436B will move, or has moved, to the area of another local authority in England, the local authority— (a) must provide the other local authority with the information referred to in section 436C(1)(a) to (d), and (b) may provide the other local authority with any other information contained in the register under section 436C(2).		
436 G Support	(1) If a parent of a child registered by a local authority in England under section 436B so requests, the local authority must provide, or secure the provision of,		

	support to promote the education of the child.		
	(2) The support to be provided is whatever the local authority think fit having regard to the parent’s request.		
	(3) The support may for example include— (a) advice about education of the child, (b) information about sources of assistance for the education of the child, (c) provision of facilities, services or assistance (including financial assistance), and (d) access to non-educational services or benefits.		
	(4) The duty in subsection (1) does not apply where— (a) the child is a registered pupil at a relevant school (within the meaning of section 436B), or (b) the local authority are required to make arrangements for the education of the child under section 19 of this Act or section 42 of the Children and Families Act 2014.		
436 H Guidance	(1) The Secretary of State may give guidance to local authorities in England in respect of their functions under sections 436B to 436G. (2) A local authority in England must have regard to the guidance.” (3) In section 569 (regulations), in subsection (2A), after “provision)” insert “the first regulations under section 436E(1)(a) or (6) or”.		
	(4) After Schedule 31 insert— “SCHEDULE 31A		

FAILURE TO PROVIDE INFORMATION UNDER SECTION 436E:
MONETARY PENALTIES

Warning notice

- 1** (1) Where a local authority in England propose to require a person to pay a monetary penalty under section 436E(7), the authority must give the person a notice of what is proposed (a “warning notice”).
- (2) The warning notice must include information as to—
- (a) the grounds for the proposal to require payment of the monetary penalty,
 - (b) the amount of the penalty, and
 - (c) the person’s right to make representations.

Representations

- 2** The person to whom the warning notice is given may make written representations to the local authority in relation to the proposed requirement to pay a monetary penalty—
- (a) within the period of 14 days beginning with the day on which the notice is given, or
 - (b) if within that period the person gives written notice of their intention to make representations, within the period of 28 days beginning with that day.

Imposition of penalty

- 3** (1) Where a person has made representations in response to a warning

	<p>notice, or the time for doing so has elapsed, the local authority must decide whether to require the person to pay the monetary penalty.</p> <p>(2) The local authority may not require the person to pay a monetary penalty if they are no longer satisfied as mentioned in section 436E(7).</p> <p>(3) If the local authority decide not to require the person to pay the penalty, they must inform the person of that fact.</p> <p>Penalty notice</p> <p>4 (1) A requirement to pay a monetary penalty is imposed by a notice given to the person by the local authority (a “penalty notice”).</p> <p>(2) A penalty notice must include information as to—</p> <p>(a) the grounds for requiring payment of the monetary penalty,</p> <p>(b) the amount of the penalty,</p> <p>(c) how payment may be made,</p> <p>(d) the period within which payment is to be made (which must be at least 28 days beginning with the day on which the notice is given),</p> <p>(e) the consequences of late payment (see paragraph 5), and</p> <p>(f) rights of appeal.</p> <p>(3) A penalty notice may be withdrawn at any time by the local authority that gave it.</p> <p>Consequences of late payment</p> <p>5 If the person to whom a penalty notice is given fails to pay the</p>		
--	---	--	--

monetary penalty within the period specified in the notice, the amount of the penalty is increased by the prescribed percentage.

Appeals

6 (1) A person to whom a penalty notice is given may appeal to the First-tier Tribunal on any of the grounds mentioned in sub-paragraph (2).

(2) The grounds are that—

- (a) the decision to require payment of the penalty was based on an error of fact;
- (b) the decision was wrong in law;
- (c) the decision was unreasonable.

(3) On an appeal under this paragraph the First-tier Tribunal may—

- (a) quash the penalty notice,
- (b) confirm the penalty notice, or
- (c) vary the penalty notice by reducing the amount of the monetary penalty.

(4) Where an appeal under this paragraph is made, the requirement to pay the monetary penalty is suspended pending the final determination or withdrawal of the appeal.

Enforcement

7 If a person does not pay the whole or any part of a monetary penalty which the person is required to pay under this Schedule within the time specified in the penalty notice, the penalty or part of the penalty is recoverable as if it were payable under an order of the

	county court.”		
--	----------------	--	--

<p>50 School Attendance Order</p>	<p>(1) The Education Act 1996 is amended as follows. (2) After section 436H (as inserted by section 48) insert— “School attendance orders: England</p>		
<p>436 I Preliminary notice for school attendance order</p>	<p>(1) A local authority in England must serve a notice under this subsection on a person in relation to a child if it appears to them that— (a) the person is a parent of the child, and (b) any of Conditions A to C is met.</p>		
	<p>(2) A notice under subsection (1) is a notice requiring the person on whom it is served to satisfy the local authority within the period specified in the notice that the child to whom the notice relates is receiving suitable education.</p>		
	<p>(3) Condition A is that— (a) the child is a child in the local authority’s area, (b) the child is of compulsory school age, and (c) the child is not receiving suitable education, either by regular attendance at school or otherwise.</p>		
	<p>(4) Condition B is that— (a) the child is, or may be, eligible to be registered by the local authority under section 436B, (b) the authority have asked the person for information for the purpose of ascertaining— (i) whether the child is or should be registered by the authority, or (ii) whether the person is in fact a parent of the child,</p>		

	and (c) the person has not provided that information within the period of 15 days beginning with the day on which the request was made or has provided incorrect information.		
	(5) Condition C is that the person is under a duty to provide information to the local authority under section 436D(1)(b) or (c) or (2)(a) or (b) in relation to the child and— (a) has not provided the information, or (b) has provided incorrect information.		
	(6) A notice under subsection (1)— (a) must be served within the period of three days beginning with the day on which it appears to the local authority as specified in subsection (1)(a) and (b), and (b) may not specify a period of less than ten days.		
	(7) In exercising their functions under this section a local authority must have regard to any guidance given by the Secretary of State.		
436 J School attendance orders	(1) A local authority in England must serve an order under this section on a person if— (a) the authority have served a notice on the person under section 436I, (b) the person fails to satisfy the local authority, within the period specified in the notice, that— (i) the child is receiving suitable education, or (ii) the person is not a parent of the child, and		

	(c) in the opinion of the authority it is expedient that the child should attend school.		
	(2) An order under this section (a “school attendance order”) is an order requiring the person to cause the child to become a registered pupil at a school named in the order.		
	(3) A school attendance order under this section— (a) must be served within the period of three days beginning with the day on which the authority determine which school is to be named in the order, and (b) must be in the prescribed form.		
	(4) A school attendance order under this section continues in force (subject to any amendment made by the local authority) for so long as the child is of compulsory school age, unless— (a) it is revoked by the authority, or (b) a direction is made in respect of it under section 436Q(6) or 447(5).		
	(5) Where a maintained school is named in a school attendance order under this section— (a) the local authority must within the period of three days referred to in subsection (3)(a) inform the governing body and the head teacher, and (b) the governing body and the local authority must admit the child to the school.		

	<p>(6) Where an Academy school or alternative provision Academy is named in a school attendance order under this section—</p> <p>(a) the local authority must within the period of three days referred to in subsection (3)(a) inform the proprietor and the principal, and</p> <p>(b) the proprietor must admit the child to the school.</p>		
	<p>(7) Subsections (5) and (6) do not affect any power to exclude from a school a pupil who is already a registered pupil there.</p>		
<p>436 K School attendance order for child with EHC plan</p>	<p>(1) Subsections (2) and (3) apply where a local authority are required to serve a school attendance order under section 436J in respect of a child for whom they maintain an EHC plan.</p>		
	<p>(2) Where the EHC plan specifies the name of a school, that school must be named in the order.</p>		
	<p>(3) Where the EHC plan does not specify the name of a school—</p> <p>(a) the authority must amend the plan so that it specifies the name of a school, and</p> <p>(b) that school must then be named in the order</p>		
	<p>(4) An amendment to an EHC plan required to be made under subsection (3)(a) shall be treated as if it were an amendment made following a review under section 44 of the Children and Families Act 2014, and that section and</p>		

	regulations made under it apply accordingly.		
	<p>(5) Where—</p> <p>(a) a school attendance order is in force in respect of a child for whom the local authority maintain an EHC plan, and</p> <p>(b) the name of the school specified in the plan is changed, the local authority must amend the order accordingly.</p>		
436 L School nomination notice for school attendance order	<p>(1) Before a local authority serve a school attendance order under section 436J on a person in respect of a child, other than a child for whom they maintain an EHC plan, the authority must serve a notice on the person under this section (a “school nomination notice”).</p>		
	<p>(2) A school nomination notice is a notice in writing—</p> <p>(a) informing the person of the local authority’s intention to serve the order,</p> <p>(b) specifying the school which the authority intend to name in the order and, if they think fit, one or more other schools which they regard as suitable alternatives, and</p> <p>(c) stating the effect of subsections (3) to (6).</p> <p>For periods within which the school nomination notice must be served, see section 436N(5) and (6).</p>		
	<p>(3) If the school nomination notice specifies one or more alternative schools and the person selects one of them within the period of 10 days beginning with the day on</p>		

	<p>which the notice is served, the school selected by the person must be named in the order.</p>		
	<p>(4) If— (a) within the period mentioned in subsection (3) the person— (i) applies for the child to be admitted to a school which is an Academy school or alternative provision Academy and notifies the local authority which served the notice of the application, or (ii) applies for the child to be admitted to a school maintained by a local authority and, where that authority are not the local authority which served the notice, notifies the latter authority of the application, and (b) the child is offered a place at the school as a result of the application, that school must be named in the school attendance order.</p>		
	<p>(5) If— (a) within the period mentioned in subsection (3) the person applies to the local authority by whom the notice was served for education to be provided at a school which is not a school maintained by a local authority, an Academy school or alternative provision Academy, and (b) the child is offered a place at the school under arrangements made by the authority under which the fees payable in respect of the education provided at the school are to be paid by them under section 517, that school must be named in the school attendance</p>		

	order.		
	<p>(6) If, within the period mentioned in subsection (3)–</p> <p>(a) the person–</p> <p>(i) applies for the child to be admitted to a school which is not maintained by a local authority, an Academy school or an alternative provision Academy and in respect of which no application is made under subsection (5), and</p> <p>(ii) notifies the local authority by whom the notice was served of the application,</p> <p>(b) the child is offered a place at the school as a result of the application, and</p> <p>(c) the school is suitable to the child’s age, ability and aptitude and to any special educational needs the child may have, that school must be named in the school attendance order.</p>		
<p>436 M School nomination notice: restrictions</p>	<p>(1) A local authority may not specify a school in a school nomination notice if the child is permanently excluded from it.</p>		
	<p>(2) A local authority may not specify a maintained school or Academy school in a school nomination notice if the admission of the child would, because of the need to take measures to avoid failing to comply with any duty applicable to the school in relation to class sizes, prejudice the provision of efficient education or the efficient use of resources.</p>		

	<p>(3) A local authority may not specify a maintained school or Academy school in a school nomination notice if, were the child concerned admitted to the school in accordance with a school attendance order resulting from the notice, the number of pupils at the school in the child’s age group would exceed the relevant number.</p> <p>(4) The relevant number is—</p> <p>(a) in the case of a maintained school, the number determined in accordance with section 88C or 89 of the School Standards and Framework Act 1998 as the number of pupils in the child’s age group which it is intended to admit to the school in the school year in which the child would be admitted, or</p> <p>(b) in the case of an Academy school, the number determined in accordance with any Academy arrangements, Academy standard or enactment as the number of such pupils.</p>		
	<p>(5) Subsection (3) does not prevent a local authority from specifying a maintained school where they are responsible for determining the arrangements for the admission of pupils to the school.</p>		
	<p>(6) Subsection (3) also does not prevent a local authority from specifying a maintained school or Academy school if—</p> <p>(a) in the opinion of the authority the school is a reasonable distance from the home of the child, and</p> <p>(b) there is no maintained school or Academy school in their area which—</p>		

	<p>(i) the authority could specify (apart from subsection (3)), and (ii) is in the opinion of the authority a reasonable distance from the home of the child.</p>		
<p>436 N School nomination notice: procedure</p>	<p>(1) Before deciding to specify a maintained school, Academy school or alternative provision Academy in a school nomination notice a local authority must consult— (a) in the case of a maintained school— (i) the governing body, and (ii) if another local authority are responsible for determining the arrangements for the admission of pupils to the school, that authority, or (b) in the case of an Academy school or alternative provision Academy, the proprietor.</p>		
	<p>(2) Where a local authority decide to specify a maintained school, Academy school or alternative provision Academy in a school nomination notice they must, before serving the notice, serve notice in writing of their decision on— (a) in the case of a maintained school— (i) the governing body, (ii) the head teacher, and (iii) if another local authority are responsible for determining the arrangements for the admission of pupils to the school, that authority, or (b) in the case of an Academy school or alternative provision Academy—</p>		

	<p>(i) the proprietor, and (ii) the principal</p>		
	<p>(3) A notice under subsection (2) must be served before the end of the period of 15 days beginning with the expiry of the period referred to in section 436l(6)(a).</p>		
	<p>(4) A person on whom a notice is served under subsection (2)(a)(i) or (iii) or (b)(i) may, within the period of 10 days beginning with the day on which the notice is received, apply to the Secretary of State for a direction under this section and, if they do so, must inform the local authority which served the notice.</p>		
	<p>(5) If the local authority which served a notice under subsection (2) are not informed of an application under subsection (4) within the period referred to in that subsection, they must serve the school nomination notice within the next period of 10 days.</p>		
	<p>(6) Where the Secretary of State gives a direction under this section— (a) the school or schools to be specified in the school nomination notice are to be determined in accordance with the direction, and (b) the school nomination notice must be served before the end of the period of three days beginning with the day after that on which the direction is given.</p>		

<p>436 O Amendment of school attendance order</p>	<p>(1) This section applies where a school attendance order under section 436J is in force in respect of a child, other than a child for whom the local authority maintain an EHC plan.</p>		
	<p>(2) If at any time—</p> <p>(a) the person on whom the order is served applies for the child to be admitted to a school—</p> <p>(i) which is maintained by a local authority, an Academy school or an alternative provision Academy, and</p> <p>(ii) which is different from the school named in the order,</p> <p>(b) the child is offered a place at the school as a result of the application, and</p> <p>(c) the person requests the local authority by which the order was served to amend it by substituting that school for the one currently named, the authority must comply with the request.</p>		
	<p>(3) If at any time—</p> <p>(a) the person on whom the order is served applies to the authority for education to be provided for the child at a school—</p> <p>(i) which is not a school maintained by a local authority, an Academy school or an alternative provision Academy, and</p> <p>(ii) which is different from the school named in the order,</p> <p>(b) the child is offered a place at the school under arrangements made by the authority under which the fees payable in respect of the education provided at the</p>		

	<p>school are to be paid by them under section 517, and</p> <p>(c) the person requests the authority to amend the order by substituting that school for the one currently named, the authority must comply with the request.</p>		
	<p>(4) If at any time—</p> <p>(a) the person on whom the order is served applies for the child to be admitted to a school—</p> <p>(i) which is not maintained by a local authority, an Academy school or an alternative provision Academy,</p> <p>(ii) which is different from the school named in the order,</p> <p>and</p> <p>(iii) in respect of which no application is made under subsection (3),</p> <p>(b) as a result of the application, the child is offered a place at the school, being a school which is suitable to the child’s age, ability and aptitude and to any special educational needs the child may have, and</p> <p>(c) the person requests the authority to amend the order by substituting that school for the one currently named, the authority must comply with the request.</p>		
<p>436 P Revocation of school attendance order on request</p>	<p>(1) This section applies where a school attendance order made by a local authority under section 436J is in force in respect of a child.</p>		
	<p>(2) The person on whom the order is served may at any time apply to the local authority requesting that it be revoked on the grounds that—</p>		

	<p>(a) arrangements have been made for the child to receive suitable education otherwise than at a school, or (b) the person is not a parent of the child.</p>		
	<p>(3) The authority must comply with a request under subsection (2)(a) or (b) unless they are of the opinion that (as the case may be)— (a) arrangements have not been made for the child to receive suitable education otherwise than at a school, or (b) the person is a parent of the child.</p>		
	<p>(4) If a person is aggrieved by a refusal of the local authority to comply with a request under subsection (2) (a)— (a) the person may refer the question to the Secretary of State, and (b) the Secretary of State is to give such direction determining the question as the Secretary of State thinks appropriate.</p>		
	<p>(5) Where the child is one for whom the local authority maintain an EHC plan— (a) if the name of a school or other institution is specified in the EHC plan, subsection (2)(a) does not apply; (b) if the name of a school or other institution is not specified in the EHC plan, a direction under subsection (4)(b) may require the authority to make such</p>		

	<p>amendments in the plan as the Secretary of State considers necessary or expedient in consequence of the determination.”</p>		
	<p>(3) In section 572 (service of notices and other documents), at the end insert— “(4) This section does not preclude any notice or order under sections 436I to 436P (which relate to school attendance orders) from being served by any other effective method.”</p>		
	<p>(4) In Schedule 1 (pupil referral units), before paragraph 14 (but after the heading “School attendance orders”) insert— “13A (1) Where a pupil referral unit is named in a school attendance order made by a local authority in England under section 436J — (a) the local authority must within the period of three days referred to in section 436J(3)(a) inform the teacher in charge of the unit, and (b) if another local authority are responsible for determining the arrangements for the admission of pupils in the unit, that authority must admit the child to the unit, but paragraph (b) above does not affect any power to exclude from a unit a pupil who is already a registered pupil there. (2) Section 436L(4) does not apply in relation to a pupil referral unit. (3) A local authority in England—</p>		

<p>(a) must, before deciding to specify a particular pupil referral unit in a school nomination notice under section 436L where another local authority are responsible for the admission of pupils to the unit, consult that authority, and</p> <p>(b) if they decide to specify the unit in the notice, must serve notice in writing of their decision on that authority.</p> <p>(4) Section 436N(3) to (6) apply where notice is served on a local authority under sub-paragraph (3) above as they apply where notice is served under section 436N(2).</p> <p>(5) The parent of a child in respect of whom a school attendance order under section 436J is in force may not under section 436O request the local authority to amend the order by substituting a pupil referral unit for the school named in the order.</p> <p>(6) Where a child is a registered pupil at both a pupil referral unit in England and at a school other than such a unit, the references in section 444 to the school at which the child is a registered pupil are to be read as references to the unit.”</p>		
---	--	--

<p>51 Failure to comply with School Attendance Order</p>	<p>(1) The Education Act 1996 is amended as follows. (2) After section 436P (as inserted by section 49) insert—</p>		
<p>436 Q Offence of failure to comply with school attendance order</p>	<p>(1) If a person on whom a school attendance order under section 436J is served fails to comply with the requirements of the order, the person is guilty of an offence.</p>		
	<p>(2) Subsection (1) does not apply if the person proves— (a) that they are causing the child to receive suitable education otherwise than at a school, or (b) that they are not a parent of the child.</p>		
	<p>(3) The reference in subsection (1) to failure to comply with the requirements of a school attendance order includes causing a child to cease to be registered at the school named in the school attendance order.</p>		
	<p>(4) Subsection (3) does not apply in circumstances where— (a) the school has, pursuant to section 436K or 436O, ceased to be the school named in the school attendance order, or (b) the school attendance order has been revoked pursuant to section 436P</p>		
	<p>(5) A person who— (a) fails to comply with the requirements of a school</p>		

	<p>attendance order under section 436J by not causing a child to become a registered pupil at the school named in the order, and</p> <p>(b) is convicted of an offence under this section in respect of the failure,</p> <p>may be found guilty of an offence under this section again if the failure continues.</p>		
	<p>(6) If, in proceedings for an offence under this section, the person is acquitted, the court may direct that the school attendance order cease to be in force.</p>		
	<p>(7) A direction under subsection (6) does not affect the duty of the local authority to take further action under section 436J if at any time the authority are of the opinion that, having regard to any change of circumstances, it is expedient to do so.</p>		
	<p>(8) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale, or to a term of imprisonment not exceeding 51 weeks, or to both.</p>		
	<p>(9) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003, the reference in subsection (8) to 51 weeks is to be read as a reference to three months.”</p>		

Other parts of the Bill

Reference: Part 4 Independent educational institutions	Proposed wording	Concerns	Amendments
57 Expanding the scope of regulation	(1) Section 92 of the Education and Skills Act 2008 (independent educational institutions) is amended as follows.		
	(2) For subsection (1) substitute— “(1) For the purposes of this Chapter, an institution is an independent educational institution if— (a) it provides full-time education for— (i) at least five children of compulsory school age, or (ii) at least one child of compulsory school age who is looked after by a local authority or who has special educational needs, and (b) it is not an excepted institution.		
	(1A) For the purposes of this section, an institution provides full-time education for a child if the child could be expected to receive all or a majority of their education at the institution. (1B) In determining that matter, the following factors are to be taken into account— (a) the number of hours per week for which children at the institution are expected to attend; (b) the number of weeks in an academic year for which		

	<p>children are expected to attend; (c) the time of day at which children are expected to attend.</p> <p>(1C) Regulations may—</p> <p>(a) amend subsection (1B) so as to add or remove factors;</p> <p>(b) make provision about how the factors mentioned there are to be taken into account in determining whether a child could be expected to receive all or a majority of their education at an institution.”</p>		
	<p>(4) Before subsection (4) insert—</p> <p>“(3A) For the purposes of this section, education is provided at an institution—</p> <p>(a) where the institution provides instruction or guidance on any matter, and</p> <p>(b) regardless of whether or by whom the children are supervised when attending the institution.”</p>		

65 Powers of entry and investigation	(1) Chapter 1 of Part 4 of the Education and Skills Act 2008 (independent educational institutions) is amended as follows. (2) Omit section 97 (unregistered independent educational institutions: inspection).		
127A Powers of entry	(3) After section 127 insert— “Powers of entry and investigation etc		
	(1) The Chief Inspector may enter any premises if there is reasonable cause to believe— (a) that a relevant offence is being or has been committed on the premises, or (b) that evidence of the commission of a relevant offence may be found on the premises.		
	(2) But the Chief Inspector may only enter premises used as a dwelling if a justice of the peace has issued a warrant authorising the Chief Inspector to enter those premises.		
	(3) A justice of the peace may issue a warrant under this section only if satisfied, on an application by the Chief Inspector, that the requirement in subsection (1) (reasonable cause for belief) is met, and that— (a) the Chief Inspector has sought consent to enter and consent has been refused, (b) consent to enter is unlikely to be given unless a warrant is produced, (c) it is not practicable to communicate with any person entitled to grant entry, or		

	(d) seeking consent to enter may frustrate or seriously prejudice the purpose of entering.		
	<p>(4) A warrant under this section may authorise the Chief Inspector to enter—</p> <p>(a) one or more sets of premises specified in the application, or</p> <p>(b) any premises occupied or controlled by a person specified in the application.</p>		
	<p>(5) Before exercising a power of entry under this section, the Chief Inspector must—</p> <p>(a) produce evidence of their identity, and</p> <p>(b) outline the purpose for which the power is exercised, if asked to do so by a person on the premises.</p>		
	<p>(6) When entering premises under a warrant, the Chief Inspector must—</p> <p>(a) provide a copy of the warrant to the occupier or to any other person appearing to be in charge of the premises, or</p> <p>(b) if neither the occupier nor any such person is present, leave a copy of the warrant in a prominent place on the premises.</p>		
	<p>(7) A power of entry under this section must be exercised at a reasonable hour unless the Chief Inspector considers that the purpose of entry may be frustrated by entry at a reasonable hour.</p>		

	<p>(8) The following provisions of the Police and Criminal Evidence Act 1984 apply to a warrant under this section as though references there to a constable were to the Chief Inspector—</p> <p>(a) subsections (2) to (8) of section 15 (search warrants: safeguards);</p> <p>(b) subsections (3), (9), and (10) to (12) of section 16 (execution of warrants).</p>		
	<p>(9) In this section and section 127B, “relevant offence” means an offence under—</p> <p>(a) section 96 (conducting an unregistered independent educational institution),</p> <p>(b) section 118 (failure to comply with relevant restriction imposed by Secretary of State),</p> <p>(c) section 118C (providing education at institution when registration is suspended),</p> <p>(d) section 118F (providing boarding accommodation in breach of stop boarding requirement),</p> <p>(e) section 121 (failure to comply with relevant restriction imposed by justice of the peace), or</p> <p>(f) section 127 (failure to comply with relevant restriction imposed by Tribunal).</p> <p>(g) paragraph 4 of Schedule A1 (breach of education and childcare behaviour order).</p>		