

**Technical and Further Education Bill: Memorandum on the
application of Standing Order 83O in relation to the
Government amendments passed by the Lords, for Commons'
Consideration of Lords Amendments**

House of Lords' amendments

The following is the Department's assessment of the amendments to the Bill made during the Bill's passage through the Lords. The clause numbers referred to are those in the version of the Bill as it left the Commons and was first printed for the Lords on 10 January 2017.

Territorial application

1. The Bill extends to England and Wales only, save for the following provisions:
 - clause 5 (as amended by Amendment 7), which also extends to Scotland and Northern Ireland, in so far as it relates to section 426 of the Insolvency Act 1986;
 - clause 37, which amends the Company Directors Disqualification Act 1986, and which extends to Scotland because the amended part so extends, although the amendments are of no significant practical effect in Scotland and therefore this clause applies to England and Wales only; and
 - schedule 1 regarding the amendment of Part 1A of the Apprenticeships, Skills, Children and Learning Act 2009 (information) which extends to Scotland and Northern Ireland because the amended part so extends, although the amendments are of no significant practical effect in Scotland, Northern Ireland (or Wales) and therefore this Schedule applies to England only;
 - any amendment or repeal made by the Bill has the same extent as the enactment amended or repealed.

2. Most of the amendments made during Lords' stages extend to England and Wales only and apply to England and Wales. Only amendments 2, 6, and 8-10 do not apply in Wales (see table below).

3. Amendment 1 (financial support for students undertaking apprenticeships) extends to England and Wales, but may apply beyond England and Wales to persons undertaking certain apprenticeships.

4. Amendment 5 amends clause 37, to insert a new section 22G into the Company Directors Disqualification Act 1986 (CDDA). The amendment

extends to Scotland because the CDDA extends to Scotland, but any effect in Scotland will be minor or consequential.

5. Amendment 7 amends clause 43, and provides that clause 5, as it relates to section 426 of the Insolvency Act 1986, extends to England and Wales, Scotland and Northern Ireland. The effect of this provision in Scotland and Northern Ireland is minor and consequential.
6. Amendments 8 to 10 amend Schedule 1, which amends Part A1 of the Apprenticeships, Skills, Children and Learning Act 2009. Amendments 8-10 extend to England and Wales, Scotland and Northern Ireland. The application of these provisions to Wales, Scotland and Northern Ireland is minor and consequential.

Subject matter and legislative competence of devolved administrations

7. The Department considers the provisions that are identified as being within the legislative competence of the National Assembly for Wales (Amendments 2, 6 and 8-10) to be so because they relate to one of the subjects listed under the headings in Part 1 of Schedule 7 to the Government of Wales Act 2006, namely "Education and Training" and do not fall within any of the exceptions specified in that Schedule.
8. The Department considers the provisions that are identified as being within the legislative competence of the Scottish Parliament to be so because they relate to education, which is not a reserved matter under Schedule 5 to the Scotland Act 1998. The Department also considers that the Scottish Parliament has legislative competence to make provision equivalent to certain provisions which relate to insolvency of further education bodies which are public bodies established by an enactment, because this is also not a reserved matter under Schedule 5 of that Act (by virtue of an exception to the reservation contained in the definition of "business associations" in C2 which applies to further education and sixth form colleges which are public bodies created by or under an enactment).
9. The Department considers the provisions that are identified as being within the legislative competence of the Northern Ireland Assembly to be so because they relate to education or insolvency, both of which are transferred matters under the Northern Ireland Act 1998 (not being either excepted matters under Schedule 2 to that Act or reserved matters under Schedule 3 to that Act).

The above assessment is presented in tabular form below.

Provision	Extends to E & W and applies to England ?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the National Assembly for Wales?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
Amendment 1	Yes	Yes	No	No	No	No	No	No
Amendment 2	Yes	No	No	No	Yes	Yes	Yes	No
Amendment 3	Yes	Yes	No	No	No	No	No	No
Amendment 4	Yes	Yes	No	No	No	No	Yes	No
Amendment 5	Yes	Yes	No	No	No	Yes	Yes	No
Amendment 6	Yes	No	No	No	Yes	Yes	Yes	No
Amendment 7	Yes	Yes	No	No	No	Yes	Yes	No
Amendments 8-10	Yes	No	No	No	Yes	Yes	Yes	No
Amendments 11-14	Yes	Yes	No	No	No	Yes	Yes	No
Amendments 15-18	Yes	Yes	No	No	No	No	Yes	No

Minor or consequential effects

10. The effect of amendment 5 on Scotland is that an individual acting as a governor of a further education body who was disqualified under the CDDA would be disqualified from acting as such, and from being a director, in England, Wales or Scotland. The Department considers that the effect of this amendment on Scotland is minor and consequential.

11. Amendment 7 extends clause 5 of the Bill to Scotland and Northern Ireland insofar as the clause relates to section 426 of the Insolvency Act 1986 (which relates to co-operation between courts in different parts of the UK exercising jurisdiction in relation to insolvency). Clause 5 applies “normal” insolvency law to further education bodies which are statutory corporations in England and Wales. The effect of the amendment is to require a court in any part of the UK to enforce an order relating to the insolvency of an FE body that is a statutory corporation. In the Department’s view it is very unlikely that courts in Scotland or Northern Ireland will need to become involved in proceedings relating to the insolvency of further education bodies in England or Wales, and the effects of amendments are therefore considered to be minor and consequential.

12. Amendments 8 to 10 introduce a new section 40AA to ASCLA which extends to Scotland, but has no practical application there. There is also an amendment to section 40D, which applies to both 40AA and existing provisions 40A-40C. The Department considers that these are minor and consequential amendments: the amendment to 40D is a minor drafting matter made only for the sake of drafting consistency.