

EDUCATION (ASSEMBLIES) BILL [HL]

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Education (Assemblies) Bill [HL] as introduced in the House of Lords on 27 May 2021 (HL Bill 18).

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

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Overview of the Bill

- 1 The Education (Assemblies) Bill amends the School Standards and Framework Act 1998 to:
 - a. introduce a legal requirement for state-funded schools without a religious character to provide a daily assembly which is principally directed towards furthering the spiritual, moral, social, and cultural education of pupils regardless of their particular religion or belief;
 - b. repeal the requirement for such schools to carry out a daily act of collective worship, while retaining this requirement in schools with a designated religious character (otherwise known as faith schools);
 - c. prohibit schools without a religious character from organising compulsory worship or other religious observance (whether or not this forms part of the curriculum); but
 - d. provide for staff and pupils to organise voluntary acts of worship, subject to parental consent for pupils aged under 16;
 - e. remove the right to withdraw from assemblies in schools without a religious character, while retaining this right in faith schools;
 - f. provide for pupils who have been withdrawn from faith-based collective worship in faith schools to receive an alternative assembly of equal educational worth directed towards furthering their spiritual, moral, social, and cultural education regardless of their particular religion or belief.

Policy background

- 2 Schools in England and Wales are required to carry out a daily act of collective worship. In faith schools the nature of this worship is determined by the religious character of the school, but in schools without a religious character it is required to be “wholly or mainly of a broadly Christian character”.¹ The Bill seeks to repeal the requirement in respect of schools without a religious character.
- 3 There is no statutory definition of the term “worship”, but the law is clarified by non-statutory guidance published in 1994.² This states that worship “should be taken to have its natural and ordinary meaning. That is, it must in some sense reflect something special or separate from ordinary school activities and it should be concerned with reverence or veneration paid to a divine being or power.”
- 4 Schools with large numbers of pupils from non-Christian religious backgrounds can apply to their local authority’s Standing Advisory Council on Religious Education for an exemption from the requirement for Christian collective worship. This is known as a “determination”. However, schools with a determination must still provide collective worship and are not permitted to opt out of the practice even if they have a high proportion of non-religious pupils.
- 5 Parents are permitted to withdraw their children from collective worship and, since 2008, sixth-form pupils are permitted to withdraw themselves. Current guidance states that schools

¹ Paragraph 3(3) of Schedule 20 to the School Standards and Framework Act 1998

² Department for Education, Circular number 1/94 *Religious Education and Collective Worship*, para 57
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/281929/Collective_worship_in_schools.pdf

may provide alternative worship or religious education “according to a particular faith or denomination” for withdrawn pupils.³ However, there is currently no option for a non-religious alternative of equal educational worth for these pupils. In addition to repealing the worship requirement in schools without a religious character, the Bill seeks to introduce such an alternative in faith schools.

- 6 In May 2008, the Joint Committee on Human Rights expressed support for the decision to include a right for sixth-form pupils to withdraw themselves from collective worship, including in the context of special schools, in the Education and Skills Bill (which later became the Education and Skills Act 2008). However, it questioned “why the Government did not propose to permit children who are not in the sixth-form, but who have sufficient maturity, understanding and intelligence to withdraw from religious education and collective worship.”⁴ It went on to say that “provisions which fail to guarantee a child of sufficient maturity, intelligence and understanding the right to withdraw from compulsory religious education and collective worship are incompatible with the child’s human rights.”⁵
- 7 In 2016, the United Nations Committee on the Rights of the Child recommended that the Government and devolved authorities “repeal legal provisions for compulsory attendance at collective worship in publicly funded schools and ensure that children can independently exercise the right to withdraw from religious worship at school.”⁶ And, in February 2021, the Committee asked the Government and devolved authorities to “describe the measures taken” to meet those recommendations.⁷
- 8 Beyond the requirement for collective worship, there is no requirement for schools to carry out assemblies. To preserve a daily opportunity for pupils to participate in activities which further their spiritual, moral, social and cultural education, the Bill seeks to replace worship with such assemblies which will be designed to cultivate this aspect of their education “regardless of religion or belief”.

Legal background

- 9 The legal requirements pertaining to collective worship are set out in sections 70, section 71 and Schedule 20 of the School Standards and Framework Act 1998. The Bill amends section 70 of that Act to disapply the requirement to carry out collective worship in maintained schools without a religious character, non-maintained special schools, City Technology Colleges, and Academies without a religious character.

³ DfE, Circular number 1/94 *Religious Education and Collective Worship*, para 88 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/281929/Collective_worship_in_schools.pdf

⁴ Joint Committee on Human Rights, *Nineteenth Report*, 13 May 2008, para 1.42 <https://publications.parliament.uk/pa/jt200708/jtselect/jtrights/107/10704.htm#a9>

⁵ Joint Committee on Human Rights, *Nineteenth Report*, 13 May 2008, para 1.45 <https://publications.parliament.uk/pa/jt200708/jtselect/jtrights/107/10704.htm#a9>

⁶ UN Convention on the Rights of the Child, Committee on the Rights of the Child, *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland*, July 2016, para 36 <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhskHOj6VpDS%2F%2FJag2Jxb9gncnUyUgbnuttBweOlyfyYPkBbwffitW2JurgBRuMMxZqnGgerUdpixij3uZ0bjQBOLNTNvQ9fUIEOvA5LtW0GL>

⁷ UN Convention on the Rights of the Child, Committee on the Rights of the Child, *List of issues prior to submission of the combined sixth and seventh reports of United Kingdom of Great Britain and Northern Ireland*, https://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/GBR/CRC_C_GBR_QPR_6-7_44382_E.pdf

- 10 Under the Human Rights Act 1998, everyone has the right to freedom of thought, conscience and religion. The UN Convention on the Rights of the Child, which the UK ratified in 1991, requires state parties to respect the right of the child to this freedom “in a manner consistent with the evolving capacities of the child”. The Bill prohibits only schools without a religious character from organising compulsory acts of worship or other religious observance (whether or not this forms part of the curriculum). The Bill permits voluntary acts of worship organised by staff or pupils to be held on school premises as long as they are voluntary, and the parents of children aged under 16 are able to request they do not participate.
- 11 The legal right of parents to withdraw from collective worship, and of sixth-form pupils to withdraw themselves, protects the freedom of thought, conscience, and religion enshrined in the Human Rights Act 1998, which gives effect to the rights and freedoms guaranteed under the European Convention on Human Rights, and the UNCRC.
- 12 Under Article 2 of the First Protocol of the Convention (A2P1, set out in Schedule 1, Part II, Article 2 of the Human Rights Act), the Right to Education, “no person shall be denied the right to education.” And “in the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions.” Case law on this matter finds that “the second sentence of Article 2 of Protocol No. 1 implies... that the State... must take care that information or knowledge included in the curriculum is conveyed in an objective, critical, and pluralistic manner” and is “forbidden to pursue an aim of indoctrination that might be considered as not respecting parents’ religious and philosophical convictions.”⁸
- 13 The daily assemblies the Bill provides for are required to be “directed towards furthering the spiritual, moral, social and cultural education of the pupils regardless of religion or belief”. Therefore, the Bill does not include a right to withdraw from those assemblies on the ground that they are “objective, critical, and pluralistic”. The religious character of worship in faith schools is retained, so the right to withdraw (set out in Section 71 of the SSFA 1998) necessary under A2P1 is also retained.
- 14 Section 71 of the SSFA 1998, which refers to collective worship provision in schools with a religious character, is nevertheless amended to introduce a legal requirement for withdrawn pupils to receive an alternative assembly aimed at furthering their spiritual, moral, social and cultural education which would be broadly in line with that on offer in schools without a religious character.

Territorial extent and application

- 15 The Bill extends to England and Wales only, and as education is a devolved matter, it explicitly maintains the existing collective worship provisions in Wales.

⁸ As per Folgerø v Norway (2007) para. 84 <http://hudoc.echr.coe.int/eng?i=001-81356>. Also cited in domestic case law, e.g. R (Fox) v Secretary of State for Education (2015) <https://www.judiciary.uk/wp-content/uploads/2015/11/r-fox-v-ssfe.pdf>

Commentary on provisions of Bill

Clause 1: Entitlement to spiritual, moral, social and cultural education in assemblies

- 16 Subsection (2) amends the School Standards and Framework Act 1998 (“the 1998 Act”) by removing schools without a religious character from the list of schools that are required to carry out a daily act of collective worship in section 70(1). It retains this provision for schools with a religious character and all schools in Wales.
- 17 Section 70(2) of the 1998 Act requires local education authorities, governing bodies and head teachers to seek to ensure compliance with section 70(1). Subsection (3) amends section 70(2) so that it refers to the types of schools listed in subsection (1).
- 18 Subsection (4) inserts a new section 70A that creates a requirement for each pupil in attendance at each type of state-funded school without a religious character to take part in a daily assembly “which is principally directed towards furthering ... spiritual, moral, social and cultural education ... regardless of religion or belief”.
- 19 Inserted section 70A(3) prohibits acts of worship or other religious observance to be organised by or on behalf of schools. But inserted section 70A(4) permits staff or pupils to arrange voluntary acts of worship on school premises. This is provided that (a) pupils may decide for themselves whether to attend such sessions, and (b) parents of pupils aged under 16 may request their child does not attend. Parents are not permitted to insist their children attend voluntary worship.
- 20 Inserted section 70A(5) sets out the responsibilities of the local authority, governing body, and head teacher with respect to securing inclusive assemblies.

Schedule

- 21 The Schedule to the Bill makes consequential amendments to the 1998 Act. In broad terms, it retains all the current collective worship provisions for all schools in Wales, as well as the right to withdraw from collective worship for parents and sixth-form pupils at schools with a designated religious character in England.
- 22 Inserted section 71(1D) introduces a requirement that schools provide pupils who have been withdrawn from worship in schools with a designated religious character with an “assembly of equal educational worth” directed at furthering their spiritual, moral, social and cultural education (and thus in line with what pupils in other types of school will receive).
- 23 Amendments to the Education Act 1996, the Education (Special Educational Needs) (England) Regulations 2001 and the Education (Non-maintained Special Schools) (England) Regulations 2011 remove reference to collective worship from provisions protecting the right to withdraw from Religious Education.
- 24 Amendments to the Equality Act 2010 clarify that exceptions to the Act pertaining to collective worship only apply in Scotland or Wales, or in schools with a designated religious character in England.

Financial implications of the Bill

- 25 The Bill will have some financial implications, as it will necessitate updating some of the Government guidance on the provision of collective worship to include inclusive assemblies. It may also require funding for professional development costs for school leaders and teachers. However, these cost implications will be relatively minor.

Related documents

- 26 The following documents are relevant to the Bill and can be read at the stated locations:

- School Standards and Framework Act 1998:
<https://www.legislation.gov.uk/ukpga/1998/31/contents>
- Education Act 1996: <https://www.legislation.gov.uk/ukpga/1996/56/contents>
- Education (Special Educational Needs) (England) (Consolidation) Regulations 2001 (S.I. 2001/3455): <https://www.legislation.gov.uk/uksi/2001/3455/contents/made>
- Education (Non-Maintained Special Schools) (England) Regulations 2011 (S.I. 2011/1627): <https://www.legislation.gov.uk/uksi/2011/1627/made>
- Equality Act 2010: <https://www.legislation.gov.uk/ukpga/2010/15/contents>
- Circular number 1/94 Religious Education and Collective Worship:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/281929/Collective_worship_in_schools.pdf
- Human Rights Act 1998 <https://www.legislation.gov.uk/ukpga/1998/42/contents>
- Joint Committee on Human Rights, *Nineteenth Report*, 13 May 2008:
<https://publications.parliament.uk/pa/jt200708/jtselect/jtrights/107/10704.htm#a9>
- United Nations Convention on the Rights of the Child:
<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- UN Convention on the Rights of the Child, Committee on the Rights of the Child, *Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland*:
<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6OkG1d%2FPPRiCAqhKb7yhskHOj6VpDS%2F%2FIqg2Jxb9gncnUyUgbnuttBweOlylYfYpKbBwffitW2JurgBRuMMxZqnGgerUdpjxij3uZ0bjOBOLNTNvO9fUIEOvA5LtW0GL>
- UN Convention on the Rights of the Child, Committee on the Rights of the Child, *List of issues prior to submission of the combined sixth and seventh reports of the United Kingdom of Great Britain and Northern Ireland*:
<https://undocs.org/pdf?symbol=en/CRC/C/GBR/QPR/6-7>

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Ordered by the House of Lords to be printed, 9 September 2021

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