

Home School Education Registration and Support Bill [HL]

[AS INTRODUCED]

CONTENTS

- 1 Registration and support
- 2 Extent, commencement and short title

[AS INTRODUCED]

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B I L L

TO

Require parents who choose to home-educate their children to register with the local authority; to make provision about the maintenance of registers by local authorities of children in their area who are not full-time pupils at any school; to make provision about support by local authorities to promote the education and safeguarding of such children; and for connected purposes.

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Registration and support

- (1) The Education Act 1996 is amended as follows.
- (2) After section 436A insert—

“Children not in school: England

436B Duty to register children not in school

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- (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. 10
- (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— 15
 - (i) the child will receive education otherwise than at that or any other relevant school, and
 - (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. 20

- (6) Regulations may make provision –
- (a) for cases where a child is to be regarded as falling or not falling within subsection (5)(b);
 - (b) for cases where a child falling within subsection (5)(b) is not to be regarded as eligible for registration. 5
- (7) In this section “relevant school” means –
- (a) a school maintained by a local authority,
 - (b) a non-maintained special school (within the meaning given by section 337A),
 - (c) an Academy school or alternative provision Academy, or 10
 - (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).

436C Content and maintenance of registers

- (1) A register under section 436B must contain the following information in respect of a child registered in it – 15
- (a) the child’s name, date of birth and home address,
 - (b) the name and home address of each parent of the child, and
 - (c) such details of the means by which the child is being educated as may be prescribed. 20
- (2) To the extent that the local authority have the information or can reasonably obtain it, a register under section 436B must also contain such information about, or in connection with, the following matters in respect of a child registered in it as may be prescribed –
- (a) the child’s protected characteristics (within the meaning of the Equality Act 2010); 25
 - (b) whether the child has any special educational needs, including whether the local authority maintain an EHC plan for the child;
 - (c) any actions that have been taken by a local authority following, or in connection with, enquiries made by a local authority under section 47 of the Children Act 1989 (local authority’s duty to investigate); 30
 - (d) whether the child is a child in need for the purposes of Part 3 of the Children Act 1989 (see section 17(10) of that Act) and, if so, any actions that a local authority have taken in relation to the child under that Part and any services that a local authority have provided to the child in the exercise of functions conferred on them by section 17 of that Act; 35
 - (e) whether the child is looked after by a local authority (within the meaning of section 22 of the Children Act 1989); 40
 - (f) the reasons why the child meets Condition C in section 436B, including any information provided by a parent of the child as to those reasons or, in a case where a parent has not provided that information, the fact that they have not done so;

- (g) whether, under arrangements made under section 436A, the child has been identified as a child who is of compulsory school age but who is not a registered pupil at a school and is not receiving suitable education otherwise than at a school;
 - (h) the school or type of school (if any) that the child attends or has attended in the past; 5
 - (i) whether support is being provided in relation to the child under section 436G and, if so, the nature of the support being provided;
 - (j) any other information about the child's characteristics, circumstances, needs or interactions with a local authority or educational institutions that the Secretary of State thinks should be included in the register for the purposes of promoting or safeguarding the education, safety or welfare of children; 10
 - (k) any other information about the child's characteristics, circumstances, needs or interactions with a local authority or educational institutions that the Secretary of State thinks should be included in the register for the purposes of promoting or safeguarding the education, safety or welfare of children. 15
- (3) A register under section 436B may also contain any other information the local authority consider appropriate. 20
- (4) Regulations may, in relation to a register under section 436B, make provision about—
- (a) how a local authority must maintain the register, including provision relating to— 25
 - (i) how the register is to be kept up-to-date;
 - (ii) the making of changes to the register;
 - (b) the form of the register;
 - (c) access to and publication of the register;
 - (d) registration forms; 30
 - (e) publicising the register and duties of persons in relation to the register.
- (5) No information from a register under section 436B may be published, or made accessible to the public, in a form—
- (a) which includes the name or address of a child who is eligible to be registered under that section or of a parent of such a child, or 35
 - (b) from which the identity of such a child or parent can be deduced, whether from the information itself or from that information taken together with any other published information. 40

436D Provision of information to local authorities

- (1) A parent of a child who becomes eligible to be registered by a local authority in England under section 436B must—

- (a) inform the local authority that the child is eligible for registration, and
 - (b) provide the authority with any of the information referred to in section 436C(1)(a) and (b) that the parent has.
- (2) A parent of a child who is registered by a local authority in England under section 436B must—
- (a) provide the authority, on request, with any of the information referred to in section 436C(1)(a) to (c) that the parent has,
 - (b) inform the authority of a change to any of the information required to be included in the register under section 436C(1)(a) to (c) of which the parent is aware, and
 - (c) inform the authority if the child ceases to be eligible to be registered by that authority under section 436B.
- (3) A person must comply with a duty under subsection (1) or (2) within the relevant period.
- (4) In subsection (3) “relevant period” means—
- (a) in the case of the duty in subsection (1)(a) or (b), the period of 15 days beginning with the date on which the child becomes eligible for registration by the local authority;
 - (b) in the case of the duty in subsection (2)(a), such period of not less than 15 days as the local authority specify in the request;
 - (c) in the case of the duty in subsection (2)(b), the period of 15 days beginning with the date on which the parent becomes aware of the change;
 - (d) in the case of the duty in subsection (2)(c), 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.
- (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—
- (a) arrangements made by the local authority under section 19;
 - (b) arrangements made by the proprietor of a relevant school at which the child is a registered pupil;
 - (c) attendance at a relevant school.
- (6) In this section “relevant school” has the same meaning as in section 436B.

436E Provision of information to local authorities: education providers

- (1) This section applies where a local authority in England reasonably believe that—
- (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

- (b) the child is, or is eligible to be, registered by the authority under section 436B.
- (2) In subsection (1)(a)–
- (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); 5
- (b) “prescribed amount of time” means an amount of time prescribed–
- (i) by reference to a number of hours in, or a proportion of, a week or other period; 10
- (ii) by reference to a proportion of the time a child spends receiving education;
- (iii) in any other way.
- (3) The authority may by notice require the person– 15
- (a) to confirm whether or not the person is providing out-of-school education as mentioned in subsection (1)(a), 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 (whether or not in the authority’s area) to whom they are providing such education. 20
- (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)).
- (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. 25
- (6) Regulations may provide for exceptions to the duty in subsection (5).
- (7) Where a local authority in England are satisfied that a person on whom a notice under subsection (3) is served has– 30
- (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.
- (8) The amount of the monetary penalty is to be the prescribed amount. 35

436F 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). 40
- (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 (c),
 - (b) must provide the other local authority with any information relating to the child that is prescribed under section 436C(2) that they have, and
 - (c) may provide the other local authority with any other information contained in the register under section 436C(3).

436G 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 and safeguarding of the child.
- (2) The support to be provided is whatever the local authority think fit having regard to—
- (a) the parent’s request, and
 - (b) the child’s age, ability and aptitude and to any special educational needs the child may have.
- (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.”
- (3) In section 569(2A) (regulations subject to affirmative procedure), for “regulations under section 550ZA(3)(f) or 550ZC(7) may” substitute “—
- (a) the first regulations under section 436B(6),
 - (b) regulations under section 436C(1)(c) or (2),
 - (c) the first regulations under section 436C(4),
 - (d) regulations under section 436E(1)(a),

- (e) regulations under section 436E(6),
- (f) the first regulations under section 436E(8),
- (g) the first regulations under section 436F(1),
- (h) regulations under section 436F(2),
- (i) regulations under section 550ZA(3)(f), 5
- (j) regulations under section 550ZC(7), or
- (k) the first regulations under paragraph 5 of Schedule 31A,
may”.

(4) After Schedule 31 insert—

“SCHEDULE 31A Section 436E 10

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”). 15
- (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. 20

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 25
 - (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 30

- 3 (1) Where a person has made representations in response to a warning notice, or the time for doing so has elapsed, the local authority must decide whether to require the person to pay the monetary penalty.
- (2) The local authority may not require the person to pay a monetary penalty if they are no longer satisfied as mentioned in section 463E(7). 35
- (3) If the local authority decide not to require the person to pay the penalty, they must inform the person of that fact.

Penalty notice

- 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”).
- (2) A penalty notice must include information as to—
- (a) the grounds for requiring payment of the monetary penalty, 5
 - (b) the amount of the penalty,
 - (c) how payment may be made,
 - (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), 10
 - (e) the consequences of late payment (see paragraph 5), and
 - (f) rights of appeal.
- (3) A penalty notice may be withdrawn at any time by the local authority that gave it.

Consequences of late payment 15

- 5 If the person to whom a penalty notice is given fails to pay the 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). 20
- (2) The grounds are that—
- (a) the decision to require payment of the penalty was based on an error of fact; 25
 - (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 30
 - (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. 35

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.”

2 Extent, commencement and short title

- (1) This Act extends to England and Wales.
- (2) This section comes into force on the day on which this Act is passed. 5
- (3) The rest of this Act comes into force –
 - (a) for the purposes of making regulations, on the day on which this Act is passed;
 - (b) for remaining purposes, on such day as the Secretary of State may by regulations made by statutory instrument appoint. 10
- (4) The Secretary of State may by regulations made by statutory instrument make transitional or saving provision in connection with the coming into force of any provision of this Act.
- (5) Regulations under this section may make different provision for different purposes. 15
- (6) This Act may be cited as the Home School Education Registration and Support Act 2024.

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Lord Storey

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