NOTICES OF AMENDMENTS
given up to and including
Thursday 15 September 2016

New Amendments handed in are marked thus ★
★ Amendments which will comply with the required notice period at their next appearance

PUBLIC BILL COMMITTEE

HIGHER EDUCATION AND RESEARCH BILL

NOTE

This document includes all amendments remaining before the Committee and includes any withdrawn amendments at the end. The amendments have been arranged in accordance with the Order of the Committee [6 September 2016, as amended on 8 September 2016].

Joseph Johnson

Clause 25, page 15, line 14, after “ratings” insert “—
(a) ”
Member’s explanatory statement
This amendment is linked to amendment 40.

Joseph Johnson

Clause 25, page 15, line 15, after “and” insert “the”
Member’s explanatory statement
This amendment ensures that the OfS can assess all of the standards that apply to the higher education provided by a provider and ensures consistency with the language in clause 23(1).
Higher Education and Research Bill, continued

Joseph Johnson

Clause 25, page 15, line 15, leave out second “the”

Member’s explanatory statement
This amendment ensures that the language of clause 25 is consistent with clause 23 and clarifies that a scheme can cover some or all of the education provided by a provider.

Joseph Johnson

Clause 25, page 15, line 16, after “rating” insert “, and

(b) to higher education providers in Wales, Scotland or Northern Ireland, in respect of whom the appropriate consent is given, regarding the quality of, and the standards applied to, higher education that they provide where they apply for such a rating.

(1A) “The appropriate consent” means—

(a) in the case of a higher education provider in Wales, the consent of the Welsh Ministers to the application of subsection (1) to the provider;

(b) in the case of a higher education provider in Scotland, the consent of the Scottish Ministers to the application of subsection (1) to the provider;

(c) in the case of a higher education provider in Northern Ireland, the consent of the Department for the Economy in Northern Ireland to the application of subsection (1) to the provider.

(1B) Such consent—

(a) may be given either generally in respect of all providers or in respect of providers of a particular description or named providers,

(b) is given by notifying the Chair of the OfS, and

(c) is valid until it is revoked by notifying the Chair.

(1C) For the purposes of applying the definition of “higher education provider” in section 75(1) to subsections (1)(b) and (1A), the reference to “higher education” in that definition—

(a) in the case of an institution in Wales, has the meaning given in section 75(1);

(b) in the case of an institution in Scotland, has the same meaning as in section 38 of the Further and Higher Education (Scotland) Act 1992;

(c) in the case of an institution in Northern Ireland, has the same meaning as in Article 2(2) of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15));

and the reference to “higher education” in subsection (1)(b) is to be read accordingly.”

Member’s explanatory statement
This amendment and amendment 41 extend the power of the OfS to make arrangements under clause 25 for a scheme for giving ratings to English higher education providers regarding the quality of, and the standards applied to, higher education that they provide so as to also include Welsh, Scottish and Northern Irish higher education providers where the relevant devolved administration consents and the provider applies for a rating. Amendments 108, 112 and 113 are related amendments.
Clause 25, page 15, line 17, at end insert—

“(3) For the purposes of applying that definition of “standards” to subsection (1)(b), the reference to a “higher education course” in that definition—

(a) in the case of an institution in Wales, has the meaning given in section 75(1);

(b) in the case of an institution in Scotland, means a course falling within section 38 of the Further and Higher Education (Scotland) Act 1992;

(c) in the case of an institution in Northern Ireland, means a course of any description mentioned in Schedule 1 to the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15)).”

Member’s explanatory statement
See the explanatory statement for amendment 40.

Clause 26, page 15, line 21, leave out “either or both of”

Member’s explanatory statement
This amendment is consequential on amendment 43.

Clause 26, page 15, line 26, leave out paragraph (b)

Member’s explanatory statement
This amendment removes the ability to designate the functions in clause 25 (rating the quality of, and standards applied to, higher education) to be performed by the designated body and ensures that only the functions in clause 23 (assessing the quality of, and standards applied to, higher education) can be designated. Amendments 45, 49, 50, 52, 53, 59, 60, 61, 63, 64, 67, 68, 69, 70, 71, 72 and 73 are consequential on this amendment.

Clause 26, page 15, line 27, leave out “an assessment function, the function does” and insert “the assessment functions, the functions do”

Member’s explanatory statement
This amendment and amendments 47, 48, 54, 55, 58 and 66 ensure consistency of language with paragraph 1 of Schedule 4.

Schedule 4, page 73, line 7, leave out “either or both of”

Member’s explanatory statement
This amendment is consequential on amendment 43.
Higher Education and Research Bill, continued

Joseph Johnson

Schedule 4, page 73, line 10, leave out “and standards of” and insert “of, and the standards applied to,”

Member’s explanatory statement
This amendment and amendments 51 and 57 ensure that the language used in relation to standards in Schedule 4 is consistent with clauses 23 and 25.

Joseph Johnson

Schedule 4, page 73, line 15, leave out “be designated under this Schedule” and insert “perform the assessment functions”

Member’s explanatory statement
See the explanatory statement for amendment 44.

Joseph Johnson

Schedule 4, page 73, line 17, leave out “be designated under this Schedule” and insert “perform the assessment functions”

Member’s explanatory statement
See the explanatory statement for amendment 44.

Joseph Johnson

Schedule 4, page 73, line 39, leave out “either or both of”

Member’s explanatory statement
This amendment is consequential on amendment 43.

Joseph Johnson

Schedule 4, page 74, line 1, leave out “recommended function or functions” and insert “assessment functions”

Member’s explanatory statement
This amendment is consequential on amendment 43.

Joseph Johnson

Schedule 4, page 74, line 4, leave out “and standards of” and insert “of, and the standards applied to,”

Member’s explanatory statement
See the explanatory statement for amendment 46.

Joseph Johnson

Schedule 4, page 74, line 6, leave out sub-paragraphs (3) and (4)

Member’s explanatory statement
This amendment is consequential on amendment 43.

Joseph Johnson

Schedule 4, page 74, line 19, leave out from beginning to “and”

Member’s explanatory statement
This amendment is consequential on amendment 43.
Joseph Johnson

Schedule 4, page 74, line 24, leave out “an assessment function” and insert “the assessment functions”

*Member’s explanatory statement*
See the explanatory statement for amendment 44.

Joseph Johnson

Schedule 4, page 74, line 27, leave out “function” and insert “functions”

*Member’s explanatory statement*
See the explanatory statement for amendment 44.

Wes Streeting

Schedule 4, page 74, line 39, at end insert—

“Bodies suitable to perform quality assessment functions: student representatives

4A (1) A body is suitable to perform the quality assessment function under section 23 if, in addition to meeting conditions A to D, at least two of the persons who determine the strategic priorities of the body are currently enrolled on a course at a higher education provider.

(2) For the purposes of sub-paragraph (1), “course” means any graduate or postgraduate course.”

*Member’s explanatory statement*
This amendment would require the board of any body designated to perform the quality assessment function under section 23 to include at least two student representatives.

Joseph Johnson

Schedule 4, page 75, line 1, after “include” insert “the”

*Member’s explanatory statement*
This amendment clarifies that when the Secretary of State provides a notice all of the reasons for the decision are given.

Joseph Johnson

Schedule 4, page 75, line 6, leave out “and standards of” and insert “of, and the standards applied to,”

*Member’s explanatory statement*
See the explanatory statement for amendment 46.

Joseph Johnson

Schedule 4, page 75, line 30, leave out “an assessment function” and insert “the assessment functions”

*Member’s explanatory statement*
See the explanatory statement for amendment 44.
Joseph Johnson

Schedule 4, page 75, line 33, leave out “designated function” and insert “assessment functions”

*Member’s explanatory statement*

This amendment is consequential on amendment 43.

Joseph Johnson

Schedule 4, page 75, line 37, leave out “designated function” and insert “assessment functions”

*Member’s explanatory statement*

This amendment is consequential on amendment 43.

Joseph Johnson

Schedule 4, page 76, line 4, leave out second “designated” and insert “assessment”

*Member’s explanatory statement*

This amendment is consequential on amendment 43.

Joseph Johnson

Schedule 4, page 76, line 25, at end insert—

“Power of the OfS to give directions

9A (1) The OfS may give the designated body general directions about the performance of any of the assessment functions.

(2) In giving such directions, the OfS must have regard to the need to protect the expertise of the designated body.

(3) Such directions must relate to—

(a) English higher education providers or registered higher education providers generally, or

(b) a description of such providers.

(4) The designated body must comply with any directions given under this paragraph.”

*Member’s explanatory statement*

This amendment allows the OfS to give the designated body directions regarding the exercise of the assessment functions. In using this power, the OfS must have regard to the need to protect the expertise of the body.

Joseph Johnson

Schedule 4, page 76, line 29, leave out “designated function” and insert “assessment functions”

*Member’s explanatory statement*

This amendment is consequential on amendment 43.

Joseph Johnson

Schedule 4, page 76, line 30, leave out “that function” and insert “those functions”

*Member’s explanatory statement*

This amendment is consequential on amendment 43.
Higher Education and Research Bill, continued

Joseph Johnson

Schedule 4, page 76, line 40, after “provided” insert “in England”

*Member’s explanatory statement*

This amendment clarifies that in Schedule 4 a “graduate” means a graduate of a higher education course provided in England.

Joseph Johnson

Schedule 4, page 77, line 1, leave out “an assessment function” and insert “the assessment functions”

*Member’s explanatory statement*

See the explanatory statement for amendment 44.

Joseph Johnson

Clause 27, page 16, line 15, leave out subsection (3)

*Member’s explanatory statement*

This amendment is consequential on amendment 43.

Joseph Johnson

Clause 27, page 16, line 20, leave out “or (3)”

*Member’s explanatory statement*

This amendment is consequential on amendment 43.

Joseph Johnson

Clause 27, page 16, line 21, leave out from “provider” to “by reference to” in line 22 and insert “—

(a) may be calculated,”

*Member’s explanatory statement*

This amendment is consequential on amendment 43.

Joseph Johnson

Clause 27, page 16, line 25, leave out from “functions;” to “may” in line 29 and insert “and

(b) ”

*Member’s explanatory statement*

This amendment is consequential on amendment 43.

Joseph Johnson

Clause 27, page 16, line 32, leave out “or (3)”

*Member’s explanatory statement*

This amendment is consequential on amendment 43.
Joseph Johnson

Clause 27, page 16, line 34, leave out “in the case of subsection (2)(a),”

**Member’s explanatory statement**

This amendment is consequential on amendment 43.

Joseph Johnson

Clause 27, page 16, line 37, leave out paragraph (b)

**Member’s explanatory statement**

This amendment is consequential on amendment 43.

Dr Roberta Blackman-Woods

Clause 28, page 17, line 16, at end insert—

“( ) The OfS must, in deciding whether to approve a plan, have regard to whether the governing body of an institution has consulted with relevant student representatives in producing its plan.

( ) In this section “relevant student representatives” means representatives who may be deemed to represent students on higher education courses provided by the institution including, but not limited to, persons or bodies as described by Part 2 of the Education Act 1994.”

**Member’s explanatory statement**

This amendment would ensure that when higher education providers produce an Access and Participation Plan, they must consult with students and student representatives, including – but not limited to – the students’ union at that higher education provider.

Wes Streeting

Clause 31, page 18, line 22, at end insert—

“(1A) The regulations made under sub-section (1)(a) shall include goals for ensuring fair access and widening participation, to which a provider will be considered in agreement to achieving once a plan has been approved under section 28.”

**Member’s explanatory statement**

This amendment would require an access and participation plan to include specific goals for ensuring fair access and wider participation.

Wes Streeting

Clause 31, page 18, line 25, leave out “subsection (1)” and insert “subsections (1) and (1A)”.

**Member’s explanatory statement**

This amendment is consequential to amendment 16.
Joseph Johnson

Clause 31, page 19, line 7, after “include” insert “education provided by means of”

Member’s explanatory statement
This amendment makes the language used in clause 31(5)(b) (the definition of references to “higher education” in that clause) consistent with that used in the definition of “higher education” in clause 75(1).

Wes Streeting

Clause 32, page 19, line 12, at end insert—

“( ) The regulations may include a designation of power to the Director of Fair Access and Participation to set specific targets for a higher education provider where the Secretary of State is of the view that the provider is failing to meet the fair access and widening participation goals under section 31(1A).

( ) Where such powers are exercised, the specific targets for a provider set by the Director of Fair Access and Participation shall be considered a general provision of the plan for the purposes of section 21 (refusal to renew an access and participation plan).”

Member’s explanatory statement
This amendment would enable the Secretary of State to give power to the Director of Fair Access and Participation to set specific targets when it has been deemed that the institution is failing to meet the goals relating to fair access and wider participation set out in its access and participation plan (see amendment 16). The second subsection would enable the OfS to refuse to renew a plan if a provider fails to meet the targets set by the Director of Fair Access and Participation.

Joseph Johnson

Clause 46, page 26, line 5, leave out “authorised taught awards and foundation degrees” and insert “taught awards and foundation degrees that the provider is authorised to grant”

Member’s explanatory statement
This amendment is technical and is needed because clause 46(5) defines “authorised” by reference to a registered higher education provider rather than a taught award or foundation degree.

Joseph Johnson

Clause 47, page 26, line 42, after “authorise” insert “authorised”

Member’s explanatory statement
This amendment and amendment 77 limit the power of the Secretary of State to make regulations allowing the OfS to authorise registered higher education providers to enter into validation arrangements on its behalf. The providers are required to be “authorised” (defined in the new subsection (6A) added by amendment 78), both to grant the taught awards or foundation degrees
Joseph Johnson

Clause 47, page 27, line 2, at end insert—
“(4A) But regulations under subsection (1) may not include power for the OfS to authorise a provider to enter on its behalf into validation arrangements which are—
(a) arrangements in respect of taught awards or foundation degrees that the provider is not authorised to grant, or
(b) arrangements that the provider is not authorised to enter into.”

Member’s explanatory statement
See the explanatory statement for amendment 76.

Joseph Johnson

Clause 47, page 27, line 11, at end insert—
“(6A) In this section, “authorised”, in relation to a registered higher education provider, means authorised to grant taught awards or foundation degrees, and to enter into validation arrangements, by—
(a) an authorisation given—
(i) under section 40(1),
(ii) by or under any other provision of an Act of Parliament, or
(iii) by Royal Charter, or
(b) an authorisation varied under section 43(1).”

Member’s explanatory statement
This amendment defines “authorised” for the purposes of clause 47, using the same definition as is used in clause 46.

Joseph Johnson

Clause 49, page 28, line 18, at end insert—
“( ) In subsection (10)(a)—
(a) for “means” substitute “—
(i) means”, and
(b) after “outside the United Kingdom” insert “, and
(ii) includes the Office for Students.”

Member’s explanatory statement
This amendment extends the definition of “United Kingdom institution” in section 214 of the Education Reform Act 1988 to include the OfS and so ensures that the offence in that section relating to offering unrecognised awards granted by such an institution also covers awards granted by the OfS.
Clause 50, page 28, line 36, at end insert—
“( ) For subsection (1) substitute—
“(1) The appropriate authority may by order designate each body which appears to the authority to be a recognised body within subsection (4)(a), (b) or (c).

(1A) For the purposes of sections 214 and 215, any body for the time being designated by an order under subsection (1) as a recognised body within subsection (4)(c) is conclusively presumed to be such a body.”

Member’s explanatory statement
This amendment and amendment 86 amend the power of the OfS, the Welsh Ministers and the Scottish Ministers under section 216(1) of the Education Reform Act 1988 to designate those bodies which appear to them to be authorised to grant degrees or other awards. In the case of bodies authorised under the Bill to grant awards (i.e. English higher or further education providers or the OfS) or bodies permitted to act on behalf of such bodies to grant awards, designation does not result in a conclusive presumption that they have power to do so. Whether an award granted by such a designated body is a “recognised award” and so exempt from the offence under section 214 of the 1988 Act will depend upon whether the body is authorised to grant the award in question.

Clause 50, page 28, line 37, leave out “subsections (1) and” and insert “subsection”

Member’s explanatory statement
This amendment is consequential on amendment 80.

Clause 50, page 29, line 13, leave out “falling within paragraph (za) or (zb) of section 214(2)” and insert “within subsection (4)(a) or (b)”

Member’s explanatory statement
This amendment is consequential on amendment 80.

Clause 50, page 29, line 16, leave out “that paragraph” and insert “subsection (4)(a)”

Member’s explanatory statement
This amendment is consequential on amendment 80.

Clause 50, page 29, line 18, leave out from “body” to end of line 19

Member’s explanatory statement
This amendment amends one of the new requirements which clause 50 adds to section 216(3) of the Education Reform Act 1988 for being a body listed under subsection (2) of that section. The new requirement enables a body to be listed where it provides a course in preparation for a degree to be granted by a recognised body with degree awarding powers under the Bill. The course must be approved by the recognised body. The amendment removes the requirement that the approval has to be authorised by the recognised body’s degree awarding powers.
Clause 50, page 29, line 20, leave out “falling within paragraph (a) or (b) of section 214(2)” and insert “within subsection (4)(c)”

Member’s explanatory statement
This amendment is consequential on amendment 80.

Clause 50, page 29, line 22, leave out from “subsection (4),” to the end and insert “—

(a) a body which is authorised to grant awards by—
    (i) an authorisation given under section 40(1) of the Higher Education and Research Act 2016 (“the 2016 Act”),
    (ii) an authorisation varied under section 43(1) of the 2016 Act, or
    (iii) regulations under section 47(1) of the 2016 Act,

(b) a body for the time being permitted by a body within paragraph (a) to act on its behalf in the granting of awards where the grant of the awards by that other body on its behalf is authorised by the authorisation or regulations mentioned in paragraph (a), or

(c) “.”

Member’s explanatory statement
See the explanatory statement for amendment 80.

Clause 50, page 29, line 33, leave out “by the Secretary of State”

Member’s explanatory statement
This amendment is consequential on amendment 80 and makes clear that no orders made under section 216 of the Education Reform Act 1988, whether by the Secretary of State, the Welsh Ministers or the Scottish Ministers, before the coming into force of clause 50 are affected by the amendments made by that clause.

Clause 56, page 33, line 31, after “providers” insert “or linked institutions in relation to such providers”

Member’s explanatory statement
See the explanatory statement for amendment 90.
Clause 56, page 33, line 39, at end insert—

“(3) A “linked institution” in relation to a supported higher education provider means an institution which acts on behalf of the provider in the provision of a higher education course by the provider.”

Member’s explanatory statement
This amendment extends the power of entry so that it applies to premises occupied by institutions that are linked to supported higher education providers as defined in the amendment. Amendments 89, 91, 92, 94 and 95 are consequential on this change.

Schedule 5, page 77, line 11, after “provider” insert “or a linked institution in relation to such a provider”

Member’s explanatory statement
See the explanatory statement for amendment 90.

Schedule 5, page 77, line 17, after “provider” insert “or a linked institution in relation to such a provider”

Member’s explanatory statement
See the explanatory statement for amendment 90.

Schedule 5, page 77, line 18, leave out paragraph (a)

Member’s explanatory statement
This amendment has the effect that the power of entry cannot be exercised in relation to a breach of an initial registration condition.

Schedule 5, page 78, line 7, after “provider” insert “or linked institution”

Member’s explanatory statement
See the explanatory statement for amendment 90.

Schedule 5, page 78, line 20, after “provider” insert “or linked institution”

Member’s explanatory statement
See the explanatory statement for amendment 90.

Schedule 5, page 79, line 1, after “the” insert “relevant”

Member’s explanatory statement
See the explanatory statement for amendment 101.
Joseph Johnson

Schedule 5, page 79, line 2, leave out “occupying the premises”

Member’s explanatory statement
See the explanatory statement for amendment 101.

Joseph Johnson

Schedule 5, page 79, line 7, after “the” insert “relevant”

Member’s explanatory statement
See the explanatory statement for amendment 101.

Joseph Johnson

Schedule 5, page 79, line 8, leave out “occupying the premises”

Member’s explanatory statement
See the explanatory statement for amendment 101.

Joseph Johnson

Schedule 5, page 81, line 36, at end insert—

“linked institution”, in relation to a supported higher education provider,
has the meaning given in section 56(3);”

Member’s explanatory statement
This amendment defines “linked institution” for the purposes of Schedule 5.

Joseph Johnson

Schedule 5, page 81, line 36, at end insert—

“relevant supported higher education provider” means—

(a) in the case of premises occupied by a supported higher education provider, that provider, and

(b) in the case of premises occupied by a linked institution in relation to a supported higher education provider, that provider.”

Member’s explanatory statement
This amendment defines “relevant supported higher education provider” in order to identify such providers where a linked institution is occupying the premises. Amendments 96, 97, 98 and 99 are consequential on this change.

Joseph Johnson

Clause 65, page 39, line 19, after “interest” insert “, and

(d) the retention of sums received”

Member’s explanatory statement
This amendment is consequential on amendment 103.
Schedule 7, page 87, line 5, leave out sub-paragraph (5) and insert—

“Retention of sums received

5  (1) The OfS must pay the sums received by it by way of a requirement to pay costs under section 65 to the Secretary of State except to the extent that the Secretary of State, with the consent of the Treasury, directs otherwise.

(2) The OfS must pay the sums received by it by way of interest under paragraph 4 to the Secretary of State.”

Member’s explanatory statement

This amendment requires the OfS to pay the costs recovered by it under clause 65 to the Secretary of State except to the extent that the Secretary of State, with the consent of the Treasury, directs otherwise. It also requires the OfS to pay the interest which it receives on unpaid costs to the Secretary of State.

Clause 66, page 39, line 29, leave out “or” and insert “and”

Member’s explanatory statement

This amendment and amendment 106 make the language used in clauses 66(3)(a) and 69(2)(a) consistent with that used in equivalent provision in clauses 2(3)(a) and 35(1)(a) and make clear that they cover the manner in which courses are taught, the manner in which they are supervised and the manner in which they are assessed.

Clause 67, page 41, line 4, leave out subsection (10)

Member’s explanatory statement

This amendment removes clause 67(10) which contains a definition of a term which is not used in clause 67 and is therefore unnecessary.

Clause 69, page 41, line 40, leave out “or” and insert “and”

Member’s explanatory statement

See the explanatory statement for amendment 104.
Higher Education and Research Bill, continued

Joseph Johnson

Clause 71, page 42, line 38, leave out “in” and insert “for”

Member’s explanatory statement
This amendment clarifies the language in relation to qualifying research.

Joseph Johnson

Clause 75, page 45, line 3, at end insert—

“( ) Subsection (1) is subject to express provision to the contrary, see section 25(1C) and (3) (rating the quality of, and standards applied to, higher education).”

Member’s explanatory statement
This amendment is consequential on amendments 40 and 41.

Dr Roberta Blackman-Woods

Clause 77, page 46, line 5, at end insert—

“academic freedom’ has the same meaning as is given in section 43 of the Education (No.2) Act 1986”

Member’s explanatory statement
The 1986 Act provides a robust definition which should be referenced in the Bill.

Joseph Johnson

Clause 80, page 49, line 31, leave out “in relation to England”

Member’s explanatory statement
This amendment provides for new subsection (2A) of section 22 of the Teaching and Higher Education Act 1998 (which clause 80(2) inserts into that section) to apply to Wales as well as England.

Joseph Johnson

Schedule 8, page 89, line 3, leave out from beginning to end of line 10 and insert—

“(1A) The application of the seal of a higher education corporation in England must be authenticated by the signature of—

(a) the chair of the corporation or some other person authorised for that purpose by the corporation, and

(b) any other member of the corporation.
(1B) A document purporting to be duly executed under the seal of a higher education corporation in England or signed on the corporation’s behalf—

(a) is to be received in evidence, and

(b) is to be taken to be executed or signed in that way, unless the contrary is shown."

Member’s explanatory statement
This amendment replaces the new section 124ZB(2) of the Education Reform Act 1988 with two new subsections. New subsection (1A) requires the seal of a higher education corporation in England to be authenticated by two signatories, the chair or other authorised person and one other member. This replicates the current requirement in paragraph 16 of Schedule 7 to the Education Reform Act 1988. Subsection (1B) replaces current subsection (2) with wording that is consistent with that used in Schedules 1 and 9 to the Bill.

Carol Monaghan
Roger Mullin

Schedule 9, page 92, line 18, after “experience” insert “in the higher education sector in England, Scotland, Wales and Northern Ireland”

Member’s explanatory statement
This amendment would ensure that the new research body, UKRI, would include appropriate membership from the devolved nations.

Carol Monaghan
Roger Mullin

Schedule 9, page 92, line 38, at end insert—

“(6) UKRI must, in appointing members of each Council, have regard to the desirability of the members (between them) having experience of research in the higher education sector in England, Scotland, Wales and Northern Ireland.”

Member’s explanatory statement
This amendment would ensure that the membership and strategy of the new research body, the UKRI, takes proper account of the policies and priorities of the devolved nations.

Carol Monaghan
Roger Mullin

Clause 85, page 52, line 21, at end insert “but must be exercised in such a way as to be for the benefit of England, Scotland, Wales and Northern Ireland.”

Member’s explanatory statement
This amendment would place a general duty on UKRI to discharge its functions under section 85 for the benefit of the UK as a whole.
Clause **88**, page **54**, line **4**, at end insert “having regard to the economic policies of the UK Government, the Scottish Government the Welsh Government and the Northern Ireland Executive”

**Member’s explanatory statement**

This amendment would ensure the specific duty of Innovate UK will be to have regard to the economic policies of the devolved administrations.

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Clause **91**, page **55**, line **16**, at end insert—

“(4A) Before exercising his powers under subsection (4), the Secretary of State must consult the Scottish Government, the Welsh Government and the Northern Ireland Executive and have regard to their views in respect of any proposed research and innovation strategy.”

**Member’s explanatory statement**

This amendment would place specific duty on the Secretary of State to consult the devolved administrations before exercising his powers in relation to a research strategy in section 91(4).

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Clause **93**, page **56**, line **6**, at end insert—

“(1A) In making grants to UKRI under subsection (1), the Secretary of State must specify the separate allocation of funding to be made by UKRI to—

(a) functions exercisable by the Councils mentioned in section 87(1) pursuant to arrangements under that section,

(b) functions exercisable by Innovate UK pursuant to arrangements under section 88, and

(c) functions exercisable by Research England pursuant to arrangements under section 89.

(1B) No variation may be made to the allocation of funding specified by the Secretary of State in subsection (1A) unless each House of Parliament has passed a resolution approving any such variation.”

**Member’s explanatory statement**

This amendment would ensure there would be separate financial allocations to the Research Councils (collectively), Innovate UK, and Research England.
Clause 94, page 56, line 24, at beginning insert “Subject to subsections (4A) and (4B),”

*Member’s explanatory statement*
See explanatory statement for amendment 183.

Carol Monaghan
Roger Mullin

Clause 94, page 56, line 34, at end insert—

“(4A) In giving direction to UKRI, the Secretary of State must act in the best interests of all constituent parts of the United Kingdom and, before giving such direction, must consult—

(a) the Scottish Government,
(b) the Welsh Government, and
(c) the Northern Ireland Executive

on research and innovation policies and their priorities.

(4B) Before giving any direction to UKRI under subsection (1), the Secretary of State must seek agreement to the terms of that direction from—

(a) the Scottish Government,
(b) the Welsh Government, and
(c) the Northern Ireland Administration.”

*Member’s explanatory statement*
This amendment would ensure the Secretary of State takes account of the views of devolved administrations, including different research and innovation policy, before giving direction to the UKRI.

Carol Monaghan
Roger Mullin

Clause 96, page 57, line 14, at end insert—

“(3) In exercising functions under this Part, the Secretary of State must act in the best interests of England, Scotland, Wales and Northern Ireland, having consulted—

(a) the Scottish Government,
(b) the Welsh Government, and
(c) the Northern Ireland Executive

before exercising these functions.”

*Member’s explanatory statement*
This amendment would place a duty on the Secretary of State that in exercising their functions in relation to UKRI they must consider the needs of the entire UK and consult the Ministers of the devolved jurisdictions.
Schedule 11, page 102, line 30, at end insert—

“21A(1) Section 82 (joint exercise of functions) is amended as follows.
(2) Omit subsections (1) to (1B).
(3) In subsection (2), for “Great Britain” substitute “Wales and Scotland”.
(4) In subsection (2A), after “Scottish” insert “Further and”.
(5) In subsection (3)(a)—
(a) for “a higher education funding council” substitute “the HEFCW”,
(b) for “the National Assembly of Wales” substitute “the Welsh Ministers”,
(c) for “it is discharging its” substitute “they are discharging their”, and
(d) after “Scottish” insert “Further and”.”

Member’s explanatory statement
This amendment repeals subsections (1) to (1B) of section 82 of the Further and Higher Education Act 1992 in consequence of the provision made in amendment NC3. It also amends the remainder of that section to remove the Higher Education Funding Council for England from its provisions, to make consequential changes and to update references to the Scottish Higher Education Funding Council and the National Assembly for Wales.

Clause 111, page 61, line 23, at end insert—

“( ) section 25 (rating the quality of, and standards applied to, higher education);”

Member’s explanatory statement
This amendment and amendment 113 are linked to amendment 40 and provide for clause 25 and clause 75 (which contains relevant definitions) to form part of the law of Scotland and of Northern Ireland (as well as the law of England and Wales) in light of the application of clause 25 to Welsh, Scottish and Northern Irish higher education providers as a result of amendment 40.

Clause 111, page 61, line 25, at end insert—

“( ) section 75 (meaning of “English higher education provider” etc);”

Member’s explanatory statement
See the explanatory statement for amendment 112.

Clause 112, page 61, line 39, after “103” insert “and section (Joint working)”

Member’s explanatory statement
This amendment provides for NC3 to be commenced by regulations.
Joseph Johnson

Clause 112, page 61, line 39, after “103” insert “and section (Advice to Northern Ireland departments)”

Member’s explanatory statement
This amendment provides for NC4 to be commenced by regulations.

Joseph Johnson

Clause 112, page 61, line 40, at end insert—

“( ) Sections 78 and 79 come into force, so far as relating to a matter specified in an entry in column 1 of the following table, on such day as the person specified in the corresponding entry in column 2 of the table may by regulations made by statutory instrument appoint, after consulting the person (if any) specified in the corresponding entry in column 3 of the table.

<table>
<thead>
<tr>
<th>1. Matters:</th>
<th>2. Commencement by:</th>
<th>3. After consulting:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Powers exercisable by the Welsh Ministers</td>
<td>The Welsh Ministers</td>
<td></td>
</tr>
<tr>
<td>Powers exercisable by the Secretary of State concurrently with the Welsh Ministers</td>
<td>The Secretary of State</td>
<td>The Welsh Ministers</td>
</tr>
<tr>
<td>Powers exercisable by the Secretary of State in relation to Wales</td>
<td>The Secretary of State</td>
<td>The Welsh Ministers</td>
</tr>
<tr>
<td>Other matters</td>
<td>The Secretary of State.”</td>
<td></td>
</tr>
</tbody>
</table>

Member’s explanatory statement
This amendment provides for clauses 78 and 79 (financial support for students: alternative payments) to be brought into force by the Welsh Ministers, so far as relating to powers exercisable by them; by the Secretary of State after consulting the Welsh Ministers, so far as relating to powers exercisable by the Secretary of State and Welsh Ministers concurrently, or by the Secretary of State in relation to Wales; and otherwise by the Secretary of State.

Joseph Johnson

Clause 112, page 61, line 40, at end insert—

“( ) Section 80 comes into force—

(a) so far as relating to powers exercisable by the Welsh Ministers, on such day as the Welsh Ministers may by regulations made by statutory instrument appoint, and

(b) so far as relating to other matters, on such day as the Secretary of State may by regulations made by statutory instrument appoint.”

Member’s explanatory statement
This amendment is linked to amendment 109 (which provides for clause 80 to apply to Wales). It enables that clause, in so far as it relates to powers exercisable by the Welsh Ministers, to be brought into force by the Welsh Ministers rather than the Secretary of State.
Clause 112, page 62, line 3, leave out subsection (3)

Member’s explanatory statement
This amendment is consequential on amendment 116.

NEW CLAUSES

Joseph Johnson

To move the following Clause—

“Retention of fee related income
(1) The OfS must pay its fee income to the Secretary of State except to the extent that the Secretary of State, with the consent of the Treasury, directs otherwise.
(2) “Fee income” means the sums received by the OfS by way of—
(a) fees charged under section 63 (registration fees) or 64 (other fees), or
(b) costs recovered by virtue of regulations made under section 63(2)(f) or 64(2)(g).
(3) The OfS must pay its other fee related income to the Secretary of State.
(4) “Other fee related income” means the sums received by the OfS by way of—
(a) penalties imposed by virtue of regulations made under section 63(2)(g) or 64(2)(h), or
(b) interest charged by virtue of regulations made under section 63(2)(i) or 64(2)(j).”

Member’s explanatory statement
This clause, which is for insertion after clause 64, requires the OfS to pay the fees which it receives under clauses 63 and 64, and the costs which it recovers in recovering those fees, to the Secretary of State except to the extent that the Secretary of State, with the consent of the Treasury, directs otherwise. It also requires the OfS to pay the penalties and interest imposed under those clauses to the Secretary of State.

Joseph Johnson

To move the following Clause—

“Joint working
(1) A relevant authority may exercise any of its functions jointly with another relevant authority if the condition in subsection (2) is met.
(2) The condition is that it appears to the relevant authorities concerned that exercising the function jointly—
(a) will be more efficient, or
(b) will enable them more effectively to exercise any of their functions.
Higher Education and Research Bill, continued

(3) In this section “relevant authority” means—
(a) the OfS,
(b) UKRI, but only in relation to functions exercisable by Research England pursuant to arrangements made under section 89,
(c) the Higher Education Funding Council for Wales,
(d) the Scottish Further and Higher Education Funding Council,
(e) the Secretary of State to the extent that the Secretary of State is exercising functions under section 14 of the Education Act 2002 (power to give financial assistance for purposes related to education or children etc),
(f) the Welsh Ministers to the extent that they are exercising their functions under Part 2 of the Learning and Skills Act 2000 (further and sixth form education in Wales), or
(g) the Department for the Economy in Northern Ireland, or the Department of Agriculture, Environment and Rural Affairs in Northern Ireland, in relation to funding higher education, or research, in Northern Ireland but only to the extent that the Department is exercising functions in connection with such funding.

(4) For the purposes of subsection (3)(g) “higher education” has the same meaning as in Article 2(2) of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15))."

Member’s explanatory statement
This clause, which is for insertion in Part 4 of the Bill, allows relevant authorities to work together if it appears to them to be more efficient or would allow any of the authorities to exercise their functions more effectively.

Joseph Johnson

To move the following Clause—

“Advice to Northern Ireland departments

(1) The OfS may provide such advisory services as the Department for the Economy in Northern Ireland or the Department of Agriculture, Environment and Rural Affairs in Northern Ireland may require in connection with the discharge of the Department’s functions relating to higher education in Northern Ireland.

(2) The services may be provided on such terms as may be agreed.

(3) For the purposes of this section “higher education” has the same meaning as in Article 2(2) of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15)).”

Member’s explanatory statement
This clause, which is for insertion in Part 4 of the Bill, makes provision for the OfS similar to the provision made in section 69(3) of the Further and Higher Education Act 1992 regarding the Higher Education Funding Council for England and allows for the provision of advice to the Department for the Economy in Northern Ireland or the Department of Agriculture, Environment and Rural Affairs in Northern Ireland.
Higher Education and Research Bill, continued

Wes Streeting

To move the following Clause—

“Consultation

(1) In exercising its functions the governing body of a registered higher education provider must have regard to any guidance given from time to time by the OfS about consultation with—

(a) persons who are enrolled on a course at the institution,

(b) persons who are likely to enrol on a course at the institution, or

(c) employees of the institution,

in connection with the taking of any decisions affecting them.

(2) The governing body consults in accordance with sub-section (1) if it consults a number of persons within a prescribed group that, taken together, appear to the governing body to represent, or promote the interests of, a broad and diverse range of persons within that group.

(3) Any guidance under this section about consultation with persons falling within paragraphs (1)(a) or (1)(b) must provide for the views of such a person to be considered in light of his or her age and understanding.

(4) For the purposes of subsection (1), “course” includes any graduate or postgraduate course.”

Member’s explanatory statement

This new clause would place a duty on governing bodies of registered higher education providers to consult students, prospective students and employees in connection with the taking of any decisions that affect them.

Dr Roberta Blackman-Woods

To move the following Clause—

“De-registration: notification of students

(1) The governing body of a higher education provider must inform all students enrolled on a course if it—

(a) is notified by the OfS of its intention to suspend the provider’s registration under section 17(1),

(b) is notified by the OfS of its intention to remove it from the register under section 19(1),

(c) is notified by the OfS that it will refuse to approve a new access and participation plan under section 21(2), or

(d) has applied to be removed from the register under section 22(1),

(2) The governing body of an institution must notify students under subsection (1) by the date on which—

(a) the suspension takes effect,

(b) the de-registration takes effect, whether enforced or voluntary, or
Higher Education and Research Bill, continued

(c) the expiry date of any existing access and participation plan that will not be renewed and the period of time for which approval of a new plan will be refused, whichever is applicable.”

Member’s explanatory statement
This amendment would require that any students still undertaking courses at that provider are notified if the provider becomes deregistered.

ORDER OF THE HOUSE [19 JULY 2016, AS AMENDED ON 5 SEPTEMBER 2016]
That the following provisions shall apply to the Higher Education and Research Bill:

Committal

1. The Bill shall be committed to a Public Bill Committee.

Proceedings in Public Bill Committee

2. Proceedings in the Public Bill Committee shall (so far as not previously concluded) be brought to a conclusion on Tuesday 18 October 2016.
3. The Public Bill Committee shall have leave to sit twice on the first day on which it meets.

Proceedings on Consideration and up to and including Third Reading

4. Proceedings on Consideration and proceedings in legislative grand committee shall (so far as not previously concluded) be brought to a conclusion one hour before the moment of interruption on the day on which proceedings on Consideration are commenced.
5. Proceedings on Third Reading shall (so far as not previously concluded) be brought to a conclusion at the moment of interruption on that day.
6. Standing Order No. 83B (Programming committees) shall not apply to proceedings on Consideration and up to and including Third Reading.

Other proceedings

7. Any other proceedings on the Bill (including any proceedings on consideration of Lords Amendments or on any further messages from the Lords) may be programmed.
Higher Education and Research Bill, *continued*

ORDER OF THE COMMITTEE [6 SEPTEMBER 2016, AS AMENDED ON 8 SEPTEMBER 2016]

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 6 September) meet—

(a) at 2.00 pm on Tuesday 6 September;
(b) at 11.30 am and 2.00 pm on Thursday 8 September;
(c) at 9.25 am and 2.00 pm on Tuesday 13 September;
(d) at 11.30 am and 2.00 pm on Thursday 15 September;
(e) at 9.25 am and 2.00 pm on Tuesday 11 October;
(f) at 11.30 am and 2.00 pm on Thursday 13 October;
(g) at 9.25 am and 2.00 pm on Tuesday 18 October;

(2) the Committee shall hear oral evidence in accordance with the following Table:

<table>
<thead>
<tr>
<th>Date</th>
<th>Time</th>
<th>Witness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tuesday 6</td>
<td>Until no later</td>
<td>Universities UK; GuildHE; Independent Higher Education (formerly Study UK); MillionPlus</td>
</tr>
<tr>
<td>September</td>
<td>than 10.30 am</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sir Alan Langlands, Vice Chancellor, University of Leeds; Professor Sir Leszek Borysiewicz, Vice-Chancellor, University Cambridge; University of Alliance; Universities and Colleges Admissions Service (UCAS)</td>
</tr>
<tr>
<td>Tuesday 6</td>
<td>Until no later</td>
<td>Which?; Confederation of British Industry; MoneySavingExpert.com; Professor Chris Husbands, Chair of the Teaching Excellence Framework and Vice-Chancellor, Sheffield Hallam University</td>
</tr>
<tr>
<td>September</td>
<td>than 11.25 am</td>
<td></td>
</tr>
<tr>
<td>Tuesday 6</td>
<td>Until no later</td>
<td>University and College of Football Business (UCFB); Condé Nast College of Fashion and Design; Further Education Trust for Leadership; Prospects College of Advanced Technology</td>
</tr>
<tr>
<td>September</td>
<td>than 2.45 pm</td>
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<tr>
<td>Tuesday 6</td>
<td>Until no later</td>
<td>University and College Union; Alison Goddard, Editor of HE; Office for Fair Access</td>
</tr>
<tr>
<td>September</td>
<td>than 3.30 pm</td>
<td></td>
</tr>
<tr>
<td>Tuesday 6</td>
<td>Until no later</td>
<td>Universities Scotland; Royal Society of Edinburgh; Scottish Funding Council; John Kingman, Chair of UK Research and Innovation</td>
</tr>
<tr>
<td>September</td>
<td>than 4.15 pm</td>
<td></td>
</tr>
<tr>
<td>Tuesday 6</td>
<td>Until no later</td>
<td></td>
</tr>
<tr>
<td>September</td>
<td>than 5.15 pm</td>
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</tbody>
</table>
Higher Education and Research Bill, continued

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clause 1; Schedule 1; Clauses 2 to 10; Schedule 2; Clauses 11 to 15; Schedule 3; Clauses 16 to 26; Schedule 4; Clauses 27 to 56; Schedule 5; Clauses 57 to 60; Schedule 6; Clauses 61 to 65; Schedule 7; Clauses 66 to 82; Schedule 8; Clause 83; Schedule 9; Clauses 84 to 104; Schedule 10, Clauses 105 to 110; Schedules 11 and 12; Clauses 111 to 113; new Clauses; new Schedules; remaining proceedings on the Bill;

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Tuesday 18 October.

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NOTICES WITHDRAWN

The following Notices were withdrawn on Tuesday 6 September:

Amendment 163