



# House of Commons

## NOTICES OF AMENDMENTS

given up to and including

**Monday 14 November 2016**

*New Amendments handed in are marked thus ★*

☆ *Amendments which will comply with the required notice period at their next appearance*

*Amendments tabled since the last publication: 1-35, NC1*

### CONSIDERATION OF BILL (REPORT STAGE)

## HIGHER EDUCATION AND RESEARCH BILL, AS AMENDED

#### NOTE

**This document includes all amendments tabled to date and includes any withdrawn amendments at the end. The amendments have been arranged in the order in which they relate to the Bill.**

#### *NEW CLAUSE*

Secretary Justine Greening

NC1

★ To move the following Clause—

**“Duty to monitor and report on financial sustainability**

- (1) The OfS must monitor the financial sustainability of the following registered higher education providers—
  - (a) those who are funded wholly or partly by a grant, loan or other payment from the OfS under section 37 or 38 (financial support for providers),
  - (b) those who are not so funded but are eligible to receive such funding under section 37 or 38, and
  - (c) those who provide higher education courses which are designated for the purposes of section 22 of the Teaching and Higher Education Act 1998

**Higher Education and Research Bill, *continued***

(financial support for students) by or under regulations made under that section.

- (2) The OfS must include in its annual report a financial sustainability summary for the financial year to which the report relates.
- (3) “A financial sustainability summary” for a financial year is a summary of conclusions drawn by the OfS for that year, from its monitoring under subsection (1), regarding relevant patterns, trends or other matters which it has identified.
- (4) Patterns, trends or other matters are “relevant” if—
  - (a) they relate to the financial sustainability of some or all of the registered higher education providers monitored under subsection (1), and
  - (b) the OfS considers that they are appropriate to be brought to the attention of the Secretary of State.
- (5) In this section—

“annual report” means the annual report under paragraph 13 of Schedule 1;  
“financial year” has the same meaning as in that Schedule (see paragraph 12(6)).”

***Member’s explanatory statement***

*This new clause, which is for insertion after clause 61, requires the OfS to monitor the financial sustainability of registered higher education providers who are in receipt of, or eligible for, certain kinds of public funding. It requires the OfS to include in its annual report a summary of conclusions which it draws from that monitoring regarding patterns, trends or other matters which it has identified relating to the financial sustainability of some or all of the providers monitored and which it considers are appropriate to be brought to the attention of the Secretary of State.*

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Secretary Justine Greening

1

- ★ Clause 2, page 2, line 28, at end insert—

“( ) Guidance framed by reference to a particular course of study must not guide the OfS to perform a function in a way which prohibits or requires the provision of a particular course of study.”

***Member’s explanatory statement***

*This amendment prevents guidance given by the Secretary of State, which is framed by reference to a particular course of study, guiding the OfS to perform a function in a way which prohibits or requires the provision of a particular course. Amendments 12 and 13 place corresponding restrictions on the Secretary of State’s power to impose terms and conditions of a grant to the OfS under clause 67, or to give directions under clause 70, which are framed by reference to a particular course.*

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Secretary Justine Greening

2

- ★ Clause 9, page 6, leave out lines 10 to 13

***Member’s explanatory statement***

*This amendment is consequential on amendment 3.*

Higher Education and Research Bill, *continued*

Secretary Justine Greening

3

- ★ Clause 9, page 6, line 18, at the end insert—

“( ) The information which the OfS may request in relation to the numbers mentioned in subsection (2) includes those numbers by reference to one or more of the following—

- (a) the gender of the individuals to which they relate;
- (b) their ethnicity;
- (c) their socio-economic background.”

**Member’s explanatory statement**

*This amendment ensures that a registered higher education provider may be required by the OfS to provide and publish information in relation to the number of offers given and accepted, and the number of students who complete their courses (in addition to the applications received) by reference to the gender, ethnicity and socio-economic background of the individuals concerned.*

Secretary Justine Greening

4

- ★ Clause 13, page 8, line 17, after “plan”, insert “and to publish it”

**Member’s explanatory statement**

*This amendment makes clear that the OfS may impose a registration condition requiring a provider to publish a student protection plan.*

Secretary Justine Greening

5

- ★ Clause 27, page 17, line 7, at end insert—

“(za) charge an institution a fee for any activity undertaken, or service provided, by the body in the performance by it of functions under section 23(1) (power to assess quality and standards) in relation to the institution,”

**Member’s explanatory statement**

*Clause 27(2) enables a body designated to perform the assessment functions of the OfS under clause 23 to charge a fee for activities undertaken or services provided by the body in the performance by it of functions under clause 23(2). This amendment and amendment 7 extend that power to include functions under clause 23(1) too.*

Secretary Justine Greening

6

- ★ Clause 27, page 17, line 9, leave out from “body” to end of line 12 and insert “in the performance by it of functions under section 23(2)(a) (duty to assess to determine if initial registration condition relating to quality or standards is met) in relation to the institution, and”

**Member’s explanatory statement**

*This amendment clarifies the drafting of clause 27(2)(a) to make clear that the power is to charge a fee for activities undertaken or services provided by the designated body in the performance by it of functions under clause 23(2)(a) in relation to an institution regardless of whether the assessment in question of the institution is being carried out by the body.*

**Higher Education and Research Bill, *continued***

Secretary Justine Greening

7

- ★ Clause 27, page 17, line 17, at end insert—

“( ) The amount of a fee payable under subsection (2)(za) by an institution may be calculated by reference to costs incurred by the designated body in the performance by the body of functions under section 23(1) in relation to a different institution or of its general functions.

( ) The total fees payable under subsection (2)(za) must not exceed in any period of 12 months the total costs incurred by the body in that period in the performance by the body of its functions under section 23(1) and of its general functions.”

***Member’s explanatory statement***

*See the explanatory statement for amendment 5.*

Secretary Justine Greening

8

- ★ Clause 27, page 17, line 18, leave out “or provider”

***Member’s explanatory statement***

*This amendment removes some unnecessary wording from clause 27(3).*

Secretary Justine Greening

9

- ★ Clause 27, page 17, line 23, leave out paragraph (b)

***Member’s explanatory statement***

*This amendment removes some unnecessary wording from clause 27(3) - having set out in that provision how the fees may be calculated, it is implicit that they may not be calculated by reference to functions other than those mentioned. That is consistent with clause 27(5).*

Secretary Justine Greening

10

- ★ Clause 27, page 17, line 27, leave out “the functions” and insert “its functions”

***Member’s explanatory statement***

*This amendment and amendment 11 make clear that the limit on fees imposed by clause 27(4) and (6) includes costs incurred by the body in the performance by it of all of its functions under clause 23(2)(a) or (b) (as the case may be) and not just the functions under those provisions in relation to which the fee was charged.*

Secretary Justine Greening

11

- ★ Clause 27, page 17, line 35, leave out “the functions” and insert “its functions”

***Member’s explanatory statement***

*See the explanatory statement for amendment 10.*

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Higher Education and Research Bill, *continued*

Secretary Justine Greening

12

- ★ Clause 67, page 41, line 41, at end insert—

“( ) Terms and conditions under subsection (1) framed by reference to a particular course of study must not require the OfS to perform a function in a way which prohibits or requires the provision of a particular course of study.”

***Member’s explanatory statement***

*See the explanatory statement for amendment 1.*

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Secretary Justine Greening

13

- ★ Clause 70, page 44, line 8, at end insert—

“( ) Directions under subsection (1) framed by reference to a particular course of study must not direct the OfS to perform a function in a way which prohibits or requires the provision of a particular course of study.”

***Member’s explanatory statement***

*See the explanatory statement for amendment 1.*

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Secretary Justine Greening

14

- ★ Clause 79, page 50, line 23, leave out “Secretary of State’s opinion” and insert “opinion of the person making the regulations concerned”

***Member’s explanatory statement***

*This amendment reflects the fact that the Welsh Ministers will have the function of making regulations for alternative payments in relation to Wales.*

Secretary Justine Greening

15

- ★ Clause 79, page 50, line 34, leave out “and (f)” and insert “to (h)”

***Member’s explanatory statement***

*This amendment provides that the Secretary of State has the function in relation to Wales (instead of the Welsh Ministers) of making provision in regulations about the effect, in relation to the alternative payment regime, of a person entering an individual voluntary arrangement.*

Secretary Justine Greening

16

- ★ Clause 79, page 50, line 37, leave out subsection (10)

***Member’s explanatory statement***

*This amendment leaves out an unnecessary provision.*

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Higher Education and Research Bill, *continued*

Secretary Justine Greening

17

- ★ Clause 86, page 55, line 3, at end insert—

“( ) The functions conferred by subsection (1)(a) to (e) include, in particular, power to encourage and support the provision of postgraduate training in science, technology, humanities and new ideas.”

**Member’s explanatory statement**

*This amendment makes clear that the functions of UKRI under clause 86(1)(a) to (e) include the power to encourage and support the provision of postgraduate training in science, technology, humanities and new ideas.*

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Secretary Justine Greening

18

- ★ Clause 112, page 66, line 23, leave out “or repeals” and insert “, repeals or revokes”

**Member’s explanatory statement**

*This is a minor and technical amendment which ensures that clause 112(2)(f) refers to the revocation of a provision of a Royal Charter (rather than to the repeal of the provision) - revocation being the appropriate terminology in the case of a Royal Charter.*

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Secretary Justine Greening

19

- ★ Clause 112, page 66, line 34, after “provision”, insert “, and

( ) include provision framed by reference to matters determined or published by the OfS.”

**Member’s explanatory statement**

*This amendment ensures that regulations under the Bill may be framed by reference to matters determined or published by the OfS - for example, by reference to the part of the register in which an English higher education provider is registered.*

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Secretary Justine Greening

20

- ★ Clause 116, page 67, line 26, at end insert—

“( ) Section 79(9)—

(a) so far as it relates to section 22(4B)(e) of the Teaching and Higher Education Act 1998, also extends to Scotland and Northern Ireland;

(b) so far as it relates to section 22(4B)(f), (g) and (h) of that Act, also extends to Northern Ireland.”

**Member’s explanatory statement**

*This minor and technical amendment gives clause 79(9) (which, as amended by amendment 15, relates to new section 22(4B)(e), (f), (g) and (h) of the Teaching and Higher Education Act 1998) the same extent as the provisions to which it relates (see clause 116(4)).*

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Higher Education and Research Bill, *continued*

Secretary Justine Greening

21

- ★ Schedule 1, page 69, line 37, at end insert—

“( ) But at least one of the ordinary members must have experience of representing or promoting the interests of individual students, or students generally, on higher education courses provided by higher education providers.”

**Member’s explanatory statement**

*This amendment requires that at least one of the ordinary members of the OfS has experience of representing or promoting the interests of students in higher education.*

Secretary Justine Greening

22

- ★ Schedule 1, page 71, line 2, leave out “, allowances and expenses”

**Member’s explanatory statement**

*This amendment removes an unnecessary reference in paragraph 6(1) of Schedule 1 to allowances and expenses for members of the OfS as they are covered in paragraph 6(2).*

Secretary Justine Greening

23

- ★ Schedule 1, page 71, line 18, leave out “, allowances and expenses”

**Member’s explanatory statement**

*This amendment is consequential on amendment 24.*

Secretary Justine Greening

24

- ★ Schedule 1, page 71, line 20, at end insert—

“( ) The OfS must pay, or make provision for paying, to or in respect of a person who is an employee of the OfS, such sums as the OfS may determine with the approval of the Secretary of State in respect of allowances or expenses.”

**Member’s explanatory statement**

*This amendment makes the duty to pay allowances and expenses to OfS’s employees consistent with the power to pay such allowances and expenses to former employees inserted by amendment 25.*

Secretary Justine Greening

25

- ★ Schedule 1, page 71, line 20, at end insert—

“( ) The OfS may pay, or make provision for paying—

- (a) to or in respect of a person who is or has been an employee of the OfS, such sums as the OfS may determine with the approval of the Secretary of State in respect of pensions or gratuities, and
- (b) to or in respect of a person who has been an employee of the OfS, such sums as the OfS may determine with the approval of the Secretary of State in respect of allowances or expenses.”

**Member’s explanatory statement**

*This amendment makes clear that the OfS has power, subject to approval by the Secretary of State, to make pension provision for its employees and former employees other than under the Superannuation Act 1972 (as provided for in paragraph 7(4) of Schedule 1), to pay them gratuities and to pay former employees allowances or expenses. The power in relation to non-civil service pensions is intended to be used in relation to staff transferring to the OfS.*

**Higher Education and Research Bill, *continued***

Secretary Justine Greening

26

- ★ Schedule 4, page 79, line 6, leave out paragraph 1  
*Member's explanatory statement*  
*See explanatory statement for amendment 28.*

Secretary Justine Greening

27

- ★ Schedule 4, page 79, line 13, leave out from beginning to “consult” in line 14 and insert “The OfS may”  
*Member's explanatory statement*  
*See the explanatory statement for amendment 28.*

Secretary Justine Greening

28

- ★ Schedule 4, page 79, line 31, leave out sub-paragraphs (4) and (5) and insert—

*“Recommendation*

- 2A (1) This paragraph applies where the OfS has consulted in accordance with paragraph 2.  
(2) The OfS must consider whether there is a body that is suitable to perform the assessment functions.  
(3) If the OfS considers that there is only one body that is suitable to perform the assessment functions, the OfS must recommend that body to be designated to perform those functions.  
(4) If the OfS considers that there is more than one body that is suitable to perform the assessment functions, the OfS must recommend the most appropriate body to be designated to perform those functions.  
(5) “The most appropriate body” means, out of those bodies, the body whose designation the OfS considers would be most appropriate for securing the effective assessment of the quality of, and the standards applied to, higher education provided by English higher education providers.  
(6) If the OfS considers that there is no body that is suitable to perform the assessment functions, the OfS may not recommend a body to be designated to perform those functions.  
(7) The OfS must—  
(a) notify the Secretary of State of its recommendation or that no recommendation is made, and  
(b) publish that notification.”

*Member's explanatory statement*

*This amendment and amendments 26 and 27 make changes to clarify when and how the OfS may recommend to the Secretary of State that a body is suitable to be designated to perform the assessment functions. The new paragraph 2A replaces paragraphs 1 and 2(4) and (5) of Schedule 4.*

Higher Education and Research Bill, *continued*

Secretary Justine Greening

29

- ★ Schedule 4, page 79, line 37, leave out “paragraphs 1 and 2” and insert “paragraph 2A”  
*Member’s explanatory statement*  
*This amendment is consequential on amendments 26 and 28.*

Secretary Justine Greening

30

- ★ Schedule 6, page 88, line 22, leave out paragraph 1  
*Member’s explanatory statement*  
*See the explanatory statement for amendment 32.*

Secretary Justine Greening

31

- ★ Schedule 6, page 88, line 27, leave out from beginning to “consult” in line 28 and insert “The OfS may”  
*Member’s explanatory statement*  
*See the explanatory statement for amendment 32.*

Secretary Justine Greening

32

- ★ Schedule 6, page 89, line 5, leave out sub-paragraphs (4) and (5) and insert—

*“Recommendation*

- 2A (1) This paragraph applies where the OfS has consulted in accordance with paragraph 2.
- (2) The OfS must consider whether there is a body that is suitable to be designated under this Schedule.
- (3) If the OfS considers that there is only one body that is suitable to be designated under this Schedule, the OfS must recommend the designation of that body under this Schedule.
- (4) If the OfS considers that there is more than one body that is suitable to be designated under this Schedule, the OfS must recommend the designation under this Schedule of whichever one of those bodies it considers appropriate.
- (5) If the OfS considers that there is no body that is suitable to be designated under this Schedule, the OfS may not recommend the designation of a body under this Schedule.
- (6) The OfS must—
  - (a) notify the Secretary of State of its recommendation or that no recommendation is made, and
  - (b) publish that notification.”

*Member’s explanatory statement*

*This amendment and amendments 30 and 31 make changes to clarify when and how the OfS may recommend to the Secretary of State that a body should be designated under Schedule 6. The new paragraph 2A replaces paragraphs 1 and 2(4) and (5) of Schedule 6.*

**Higher Education and Research Bill, *continued***

Secretary Justine Greening

33

- ★ Schedule 6, page 89, line 11, leave out “paragraphs 1 and 2” and insert “paragraph 2A”

*Member’s explanatory statement*

*This amendment is consequential on amendments 30 and 32.*

Secretary Justine Greening

34

- ★ Schedule 6, page 89, line 14, after “body”, insert “for the purposes of section 59”

*Member’s explanatory statement*

*This amendment is consequential on amendment 30.*

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Secretary Justine Greening

35

- ★ Schedule 9, page 98, line 39, at end insert—

“( ) The Secretary of State must, in appointing the members of UKRI, have regard to the desirability of the members including at least one person with relevant experience in relation to at least one of Wales, Scotland and Northern Ireland.

( ) “Relevant experience” means experience of one or more of the following—

- (a) research into science, technology, humanities or new ideas;
- (b) the development or exploitation of science, technology, new ideas or advancements in humanities;
- (c) industrial, commercial or financial matters or the practice of any profession.”

*Member’s explanatory statement*

*This amendment requires the Secretary of State, when appointing members of UKRI, to have regard to the desirability of at least one of the members having relevant experience in relation to at least one of Wales, Scotland and Northern Ireland. “Relevant experience” is defined in the amendment.*

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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.

**Higher Education and Research Bill, *continued***

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.
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