HIGHER EDUCATION AND RESEARCH BILL

On Consideration of Lords Amendments to the Higher Education and Research Bill

NOTE
This document includes all amendments tabled to date and includes any withdrawn amendments at the end.

Lords Amendment No. 1

Secretary Justine Greening

To move, That this House disagrees with the Lords in their Amendment.
To move the following Amendments to the Bill in lieu of the Lords Amendment No. 1:—

(a) At end of line 18, at end insert—

“( ) After subsection (3) insert—

“(3A) In exercising its power to give consent under subsection (A1), the Office for Students must have regard to factors set out in guidance given by the Secretary of State.

(3B) Before giving guidance under subsection (3A), the Secretary of State must consult—

(a) bodies representing the interests of English higher education providers,

(b) bodies representing the interests of students on higher education courses provided by English higher education providers, and

(c) such other persons as the Secretary of State considers appropriate.”

(b) Leave out from beginning to end of line 23 and insert—

“(5) In this section, “English higher education provider”, “higher education course” and “registered higher education provider” have the same meanings as in Part 1 of the Higher Education and Research Act 2017 (see sections 77 and 79 of that Act).”

(c) At end insert—

“(5ZA) In exercising its power to give approval under subsection (A1) or (2), the Office for Students must have regard to factors set out in guidance given by the Secretary of State.

(5ZB) Before giving guidance under subsection (5ZA), the Secretary of State must consult—

(a) bodies representing the interests of English higher education providers,

(b) bodies representing the interests of students on higher education courses provided by English higher education providers, and

(c) such other persons as the Secretary of State considers appropriate.”

(d) At end insert—

“( ) In subsection (7), before the definition of “relevant institution” insert—

““English higher education provider” and “higher education course” have the same meaning as in Part 1 of the Higher Education and Research Act 2017 (see section 77 of that Act);”
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Lords Amendment No. 12

Secretary Justine Greening

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. 209

Secretary Justine Greening

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. 210

Secretary Justine Greening

To move, That this House disagrees with the Lords in their Amendment.

Secretary Justine Greening

To move the following Amendments to the Bill in lieu of the Lords Amendments Nos 12, 209 and 210:

★ Page 67, line 12, at end insert—
“(g) regulations under paragraph 2 or 3 of Schedule 2 (regulations prescribing the higher amount, basic amount or floor amount), except regulations to which paragraph 4(2)(b) of that Schedule applies (regulations increasing the higher amount to an amount greater than that required to maintain its value in real terms).”

★ Page 67, line 16, leave out from “4(2)(b)” to end of line 17 and insert “of that Schedule applies (regulations increasing the higher amount to an amount greater than that required to maintain its value in real terms).”

★ Page 76, line 36, at end insert—
“( ) But any amount determined as “the sub-level amount” for a description of provider by virtue of sub-paragraph (6A) must be equal to the higher amount where—
(a) the description is of providers who have a rating given to them in accordance with arrangements under section 25, and
(b) the amount is in respect of an academic year which begins before 1 August 2020.”
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Page 77, line 23, at end insert—
(d) “( ) But any amount determined as “the sub-level amount” for a description of provider by virtue of sub-paragraph (5A) must be equal to the basic amount where—
(a) the description is of providers who have a rating given to them in accordance with arrangements under section 25, and
(b) the amount is in respect of an academic year which begins before 1 August 2020.”

Page 77, line 29, at end insert—
(e) “Accelerated courses

3A (1) The power for regulations to prescribe different amounts for different cases or purposes by virtue of section 113(5)(a) includes power for regulations under paragraph 2 or 3 to prescribe different amounts as the higher amount, basic amount and floor amount in the case of an accelerated course.

(2) An “accelerated course” means a higher education course where the number of academic years applicable to the course is at least one fewer than would normally be the case for that course or a course of equivalent content leading to the grant of the same or an equivalent academic award.”

Page 78, line 8, leave out from beginning to end of line 19

Page 78, line 20, leave out “(3)(a) and (4)(a)”

Lords Amendment No. 15

Secretary Justine Greening

To move, That this House disagrees with the Lords in their Amendment.

Secretary Justine Greening

To move the following Amendments to the Bill in lieu of the Lords Amendment No. 15:—

Page 8, line 26, at end insert—
(a) “(f) a condition requiring the governing body of the provider to take such steps as the OfS considers appropriate for facilitating cooperation between the provider and one or more electoral registration officers in England for the purpose of enabling the electoral registration of students who are on higher education courses provided by the provider.”

Page 8, line 32, at end insert—
(b) “( ) For the purposes of subsection (1)(f)—
“electoral registration officer in England” means a registration officer appointed under section 8(2) of the Representation of the People Act 1983;
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“the electoral registration of students” means the registration of students on a register of electors maintained by such an officer under section 9 of that Act.”

Lords Amendment No. 23

Secretary Justine Greening

To move, That this House disagrees with the Lords in their Amendment.

Secretary Justine Greening

To move the following Amendments to the Bill in lieu of the Lords Amendment No. 23:—

(a) Page 16, line 14, leave out subsection (5)
(b) Page 16, line 15, leave out subsection (6)
(c) Page 16, line 23, at end insert the following new Clause—

“Report on operation of section 25 schemes

(1) Before the end of the initial period, the Secretary of State must appoint a suitable independent person for the purpose of preparing a report under this section.

(2) A person is “independent” for this purpose if the person—

(a) is not, and has never been, a member or employee of the OfS, and

(b) is not a servant or agent of the Crown.

(3) A person is “suitable” for this purpose if the person—

(a) has experience of providing higher education on behalf of, or being responsible for the provision of higher education by, a higher education provider, and

(b) appears to the Secretary of State to be a person who would command the confidence of registered higher education providers.

(4) As soon as possible after the end of the initial period, the appointed person—

(a) must prepare a report about the operation during that period of the section 25 scheme or schemes which were in operation for the whole or a part of that period, and

(b) must send the report to the Secretary of State.

(5) The report must cover the following in the case of each scheme—

(a) the process by which ratings are determined under the scheme and the sources of statistical information used in that process,

(b) whether that process, and those sources of statistical information, are fit for use for the purpose of determining ratings under the scheme,

(c) the names of the ratings under the scheme and whether those names are appropriate,

(d) the impact of the scheme on the ability of higher education providers to which the scheme applies to carry out their functions (including in particular their functions relating to teaching and research),
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(e) an assessment of whether the scheme is in the public interest, and
(f) any other matters that the appointed person considers relevant.

(6) The Secretary of State must lay the report before Parliament.

(7) In this section—

“the initial period” means the period of one year beginning with the date on which section 25 comes into force;

“section 25 scheme” means a scheme to give ratings in accordance with arrangements made under that section.”

Lords Amendment No. 71

Secretary Justine Greening

To move, That this House disagrees with the Lords in their Amendment.

Secretary Justine Greening

To move the following Amendment to the Bill in lieu of the Lords Amendment No. 71:—

(a)

“Grant, variation or revocation of authorisation: advice on quality etc

(1) The OfS must request advice from the relevant body regarding the quality of, and the standards applied to, higher education provided by a provider before making—

(a) an order under section 40(1) authorising the provider to grant taught awards or research awards,

(b) a further order under section 40(1)—

(i) varying an authorisation given to the provider by a previous order under section 40(1), or

(ii) revoking such an authorisation on the ground that condition B in section 42(4) is satisfied, or

(c) an order under section 43(1)—

(i) varying an authorisation given to the provider, as described in that provision, to grant taught awards or research awards, or

(ii) revoking such an authorisation on the ground that condition B in section 43(4A) is satisfied.

(2) Where the OfS requests advice under subsection (1), the relevant body must provide it.

(3) The advice provided under subsection (2) must include the relevant body’s view as to whether the provider has the ability—

(a) to provide, and maintain the provision of, higher education of an appropriate quality, and

(b) to apply, and maintain the application of, appropriate standards to that higher education.

★ Page 25, line 39, at end insert the following new Clauses—
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(4) The advice provided by the relevant body under subsection (2) must be informed by the views of persons who (between them) have experience of—
   (a) providing higher education on behalf of, or being responsible for the provision of higher education by—
      (i) an English higher education provider which is neither authorised to grant taught awards nor authorised to grant research awards,
      (ii) an English further education provider, and
      (iii) an English higher education provider which is within neither sub-paragraph (i) nor sub-paragraph (ii),
   (b) representing or promoting the interests of individual students, or students generally, on higher education courses provided by higher education providers,
   (c) employing graduates of higher education courses provided by higher education providers,
   (d) research into science, technology, humanities or new ideas, and
   (e) encouraging competition in industry or another sector of society.

(5) Where the order authorises the provider to grant research awards or varies or revokes such an authorisation, the advice provided by the relevant body under subsection (2) must also be informed by the views of UKRI.

(6) Subsections (4) and (5) do not prevent the advice given by the relevant body under subsection (2) also being informed by the views of others.

(7) The OfS must have regard to advice provided to it by the relevant body under subsection (2) also being informed by the views of others.

(8) But that does not prevent the OfS having regard to advice from others regarding quality or standards.

(9) Where the order varies or revokes an authorisation, the advice under subsection (1) may be requested before or after the governing body of the provider is notified under section 44 of the OfS’s intention to make the order.

(10) Where there are one or more sector-recognised standards—
   (a) for the purposes of subsections (1) and (8)—
      (i) the advice regarding the standards applied must be advice regarding the standards applied in respect of matters for which there are sector-recognised standards, and
      (ii) that advice must be regarding those standards as assessed against sector-recognised standards, and
   (b) “appropriate standards” in subsection (3) means sector-recognised standards.

(11) In this section “the relevant body” means—
   (a) the designated assessment body, or
   (b) if there is no such body, a committee which the OfS must establish under paragraph 8 of Schedule 1 for the purpose of performing the functions of the relevant body under this section.

(12) Where the OfS is required to establish a committee for the purpose mentioned in subsection (11)(b)—
   (a) the majority of members of the committee must be individuals who are not members of the OfS, and
   (b) in appointing members of the committee, the OfS must have regard to the need for the advice provided by the committee to meet the requirements of subsections (4) and (where applicable) (5).

(13) In this section—
   “designated assessment body” means a body for the time being designated under Schedule 4;
“humanities” and “science” have the same meaning as in Part 3 (see section 105).

**Grant of authorisation: notification of new providers**

(1) The OfS must, as soon as possible after it has been made, notify the Secretary of State if it makes an order under section 40(1) authorising the provider to grant taught awards, where the provider has not previously operated under validation arrangements.

(2) For the purposes of subsection (1), a provider has previously operated under validation arrangements if, at any time before the date when the order is made—

(a) a student at the provider has been granted a taught award by another provider or the OfS, under validation arrangements between the provider and the other provider or the OfS, or

(b) the provider has granted a taught award on behalf of another provider or the OfS, under validation arrangements between the provider and the other provider or the OfS.

(3) In this section “validation arrangements” means—

(a) arrangements between one English higher education provider and another English higher education provider under which the first provider—

(i) grants a taught award to a person who is a student at the other provider, or

(ii) authorises the other provider to grant a taught award on behalf of the first provider, or

(b) arrangements between the OfS and a registered higher education provider under which the OfS—

(i) grants a taught award to a person who is a student at the provider, or

(ii) authorises the provider to grant a taught award on behalf of the OfS.”

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Lords Amendment No. 78

Secretary Justine Greening

To move, That this House disagrees with the Lords in their Amendment.

Lords Amendment No. 106

Secretary Justine Greening

To move, That this House disagrees with the Lords in their Amendment.
To move the following Amendments to the Bill in lieu of the Lords Amendments Nos. 78 and 106:—

(a) Page 26, line 33, at end insert—
“(1A) On an appeal under subsection (1)(a) against a decision to revoke an authorisation, the Tribunal—
(a) must consider afresh the decision appealed against, and
(b) may take into account evidence that was not available to the OfS.”

(b) Page 26, line 34, after “appeal” insert “under subsection (1), other than an appeal against a decision to revoke an authorisation,”

(c) Page 26, line 38, after “appeal” insert “under subsection (1)”

(d) Page 26, line 42, at end insert—
“(4) In the case of an appeal under subsection (1)(a) against a decision to revoke an authorisation, the Tribunal also has power to substitute for the decision any other decision that the OfS could have made.

(5) An appeal under subsection (1)(a) against a decision to revoke an authorisation may include an appeal against the decision mentioned in subsection (1)(b) regarding the date when the revocation takes effect; and in the case of such an appeal, references in subsections (1A), (3) and (4) to the decision appealed against are to be read accordingly.”

(e) Page 35, line 5, at end insert—
“(1A) On an appeal under subsection (1)(a), the Tribunal—
(a) must consider afresh the decision appealed against, and
(b) may take into account evidence that was not available to the OfS.”

(f) Page 35, line 6, after “appeal” insert “under subsection (1)(b)”

(g) Page 35, line 10, after “appeal” insert “under subsection (1)”

(h) Page 35, line 14, at end insert—
“(4) In the case of an appeal under subsection (1)(a), the Tribunal also has power to substitute for the decision any other decision that the OfS could have made.

(5) An appeal under subsection (1)(a) against a decision to revoke an approval may include an appeal against the decision mentioned in subsection (1)(b) regarding the date when the revocation takes effect; and in the case of such an appeal, references in subsections (1A), (3) and (4) to the decision appealed against are to be read accordingly.”
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Lords Amendment No. 156

Secretary Justine Greening

To move, That this House disagrees with the Lords in their Amendment.

Secretary Justine Greening

To move the following Amendments to the Bill in lieu of the Lords Amendment No. 156:—

(a)

“Page 37, line 20, at end insert—

“(5A) The consideration under subsection (5) of what would be helpful to those described in paragraphs (a) to (c) of that subsection must include a consideration of what would be helpful to—

(a) international students on higher education courses provided by registered higher education providers;
(b) people thinking about undertaking such courses who would be international students on such courses;
(c) registered higher education providers who recruit, or are thinking about recruiting, people who would be international students on such courses.

(5B) When the designated body or the OfS determines what is appropriate for the purposes of subsection (1), it must, in particular, consider whether information about the numbers of international students on higher education courses provided by registered higher education providers would be appropriate information.”

(b)

“Page 37, line 22, leave out “subsection (5)” and insert “subsections (5) to (5B)”

(c)

“Page 37, line 44, after “provider” insert “;

“international student” means a person—

(a) who is not within any description of persons prescribed under section 1 of the Education (Fees and Awards) Act 1983 (charging of higher fees in case of students without prescribed connection with the UK) for the purposes of subsection (1) or (2) of that section, and
(b) whose presence in the United Kingdom, and undertaking of the higher education course in question, are not in breach of primary or secondary legislation relating to immigration.”

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