

# HIGHER EDUCATION AND RESEARCH BILL

## EXPLANATORY NOTES ON LORDS AMENDMENTS

### What these notes do

- 1 These Explanatory Notes relate to the Lords Amendments to the Higher Education and Research Bill as brought from the House of Lords on 4 April 2017.
- 2 These Explanatory Notes have been prepared by the Department for Education and Department for Business, Energy and Industrial Strategy in order to assist the reader of the Bill and the Lords amendments, and to help inform debate on the Lords amendments. They do not form part of the Bill and have not been endorsed by Parliament.
- 3 These Explanatory Notes, like the Lords amendments themselves, refer to HL Bill 76, the Bill as first printed for the Lords.
- 4 These Explanatory Notes need to be read in conjunction with the Lords amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the Lords amendments.
- 5 All Lords Amendments apart from 1, 12, 15, 23, 78, 106, 156 and subsections 12 and 13 of Amendment 71 were tabled in the name of the Minister (Viscount Younger of Leckie or Lord Prior of Brampton).
- 6 Lords Amendment 1 was tabled by Lord Stevenson of Balmacara, Baroness Wolf of Dulwich, Baroness Garden of Frognal and Baroness Brown of Cambridge, and was opposed by the Government.
- 7 Lords Amendments 2, 5, 7, 37, 126 to 128 and 135 were tabled by Lord Kerslake, Lord Stevenson of Balmacara, Baroness Garden of Frognal and the Minister.
- 8 Lords Amendment 12 was tabled by Lord Kerslake, Lord Stevenson of Balmacara and Baroness Garden of Frognal, and was opposed by the Government.
- 9 Lords Amendment 15 was tabled by Baroness Royall of Blaisdon and Baroness Garden of Frognal, and was opposed by the Government.
- 10 Lords Amendment 23 was tabled by Lord Blunkett, Baroness Garden of Frognal and Baroness Wolf of Dulwich, and was opposed by the Government.
- 11 Subsections 12 and 13 of Lords Amendment 71 were tabled by Baroness Wolf of Dulwich, Lord Stevenson of Balmacara and Lord Storey, and were opposed by the Government.
- 12 Lords Amendments 78 and 106 were tabled by Lord Judge, Lord Lisvane, Lord Norton of Louth and Baroness O'Neill of Bengarve, and were opposed by the Government.
- 13 Lords Amendment 156 was tabled by Lord Hannay of Chiswick, Baroness Royall of Blaisdon, Baroness Garden of Frognal and Lord Patten of Barnes, and was opposed by the Government.

- 14 In the following Commentary, an asterisk(\*) appears in the heading of any paragraph that deals with a non-Government amendment.

## **Commentary on Lords amendments**

### **Lords Amendment (New clause: UK universities: functions) before Clause 1: The Office for Students**

#### **Lords Amendment 1\***

- 15 Lords Amendment 1 would set out a list of qualities and functions that bodies that are considered UK Universities must have.
- 16 It mandates that UK Universities have to:
- a. Be autonomous institutions.
  - b. Uphold the principles of academic freedom and freedom of speech.
  - c. Promote freedom of thought and expression, and freedom from discrimination.
  - d. Provide an extensive range of high quality academic subjects delivered by excellent teaching, supported by scholarship and research, through courses which enhance the ability of students to learn throughout their lives.
  - e. Make a contribution to society through the pursuit, dissemination, and application of knowledge and expertise locally, nationally and internationally; and through partnerships with business, charitable foundations, and other organisations, including other colleges and universities.
  - f. Be free to act as critics of government and the conscience of society.
- 17 UK Universities are obliged to comply fully with all of the other requirements set out in this clause. The clause does not define these requirements, and no provision is made for what happens if the requirements are not met.
- 18 Although higher education is a devolved matter, this new clause refers to UK universities. In line with devolution, the Office for Students' (OfS) register is open to institutions that are, or intend to become, English higher education providers.
- 19 This clause would extend to England and Wales and apply to universities throughout the UK.

### **Lords Amendments to Clause 2: General duties**

#### **Lords Amendments 2, 5 and 7**

- 20 Lords Amendment 2 would place an additional general duty on the OfS to have regard to the need to protect the institutional autonomy of English higher education providers.
- 21 Lords Amendment 5 would place duties on the Secretary of State to have regard to the need to protect the institutional autonomy of English higher education providers, when giving guidance to the OfS.
- 22 Lords Amendment 7 would define institutional autonomy for the purposes of Part 1 of the Bill.

### Lords Amendment 3

- 23 Lords Amendment 3 would provide that when carrying out its duty to have regard to the need to encourage competition between English higher education providers, the OfS will also need to have regard to the benefits for students and employers resulting from collaboration between such providers.

### Lords Amendment 4

- 24 Lords Amendment 4 would make clear that the OfS' general duty to have regard to the need to promote greater student choice when performing its functions includes choice amongst a diverse range of higher education provision.

### Lords Amendment 6

- 25 Lords Amendment 6 would clarify that the Secretary of State's guidance to the OfS cannot be framed by reference to the list of matters in subsection 4 of Clause 2, whether or not the guidance is framed by reference to particular courses of study.

## **Lords Amendments to Clause 8: Mandatory ongoing registration conditions for all providers**

### Lords Amendments 8, 9 and 10

- 26 Lords Amendment 8 would enable the OfS to delegate its power to collect information from higher education providers to a nominated person.
- 27 Lords Amendment 9 would be a consequential amendment to update references to the functions of the designated data body.
- 28 Lords Amendment 10 would be a technical amendment to update a reference from the "body" to the "designated body".

## **Lords Amendment to Clause 9: Mandatory transparency condition for certain providers**

### Lords Amendment 11

- 29 Lords Amendment 11 would add attainment to the information on applications, offers, acceptances and completion already covered by the transparency condition, so that the governing body of a registered higher education provider to which the transparency condition applies would be required to provide to the OfS, and publish, information requested by the OfS in relation to the number of students who attained a particular degree or other academic award or a particular level of award.

## **Lords Amendment (New clause: Regulated course fees etc: use in relation to section 25) after Clause 10: Mandatory fee limit condition for certain providers**

### Lords Amendment 12\*

- 30 Lords Amendment 12 would prevent the scheme established under clause 25 (as amended by amendment 72) from being used to rank English higher education providers for the following three purposes:
- a. To set the regulated course fees that a provider may charge to qualifying persons

- b. To set the unregulated course fees that may be charged to international students
  - c. To set the number of students (qualifying persons or international students) that a provider may accept.
- 31 "Regulated course fees", "qualifying person" and "international student" for these purposes have the same meaning as in clause 11 of the Bill.
- 32 This clause would extend to England and Wales and apply to England.

## **Lords Amendments to Clause 13: Other initial and ongoing registration conditions**

### **Lords Amendments 13 and 14**

- 33 Lords Amendments 13 and 14 would delete the previous definition of "standards" for the purposes of clause 13(1)(a) and make clear that registration conditions relating to standards may relate only to matters for which there are sector-recognised standards, and may relate only to, and require the application of, sector-recognised standards in respect of those matters.
- 34 "Sector-recognised standards" are defined for the purposes of Part 1 of the Bill as standards, which apply to higher education and accord with guidance, which is determined by persons representing a broad range of registered higher education providers, and command the confidence of registered higher education providers.

## **Lords Amendment to Clause 14: Public interest governance condition**

### **Lords Amendment 15\***

- 35 Lords Amendment 15 would require the inclusion in the list of principles of a requirement that all higher education providers subject to the condition, except the Open University and other distance learning institutions, must provide all eligible students, being students entitled to vote in a parliamentary election and resident in the same local authority area as the provider, with the opportunity to opt-in to being added to the electoral register when enrolling with that provider.
- 36 It would also require such providers to enter into a data –sharing agreement with the local electoral registration officer to enable the transfer of a number of the categories of the information necessary for an application to register.

## **Lords Amendments to Clause 19: De-registration by the OfS: procedure**

### **Lords Amendments 16 to 18**

- 37 Lords Amendments 16 to 18 would clarify what exactly a provider can appeal, to ensure the appeals processes under the Bill are appropriately aligned, and to ensure that appealable decisions do not come into effect prematurely.
- 38 Lords Amendment 16 would remove the OfS' power to vary the date on which a removal takes effect at any time before that date. The Tribunal continues to have the ability to vary the date on which the removal takes effect.

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- 39 Lords Amendment 17 would clarify that a removal under clause 19 cannot take effect when an appeal or further appeal could be brought, or is pending.
- 40 Lords Amendment 18 would ensure that the OfS must provide a new date for removal if the date in its decision notice has lapsed because an appeal or further appeal could, or has been, brought. This is subject to any determinations made following an appeal.

## **Lords Amendments to Clause 20: De-registration: appeals**

### **Lords Amendments 19 and 20**

- 41 Lords Amendments 19 and 20 would clarify what exactly a provider can appeal, to ensure the appeals processes under the Bill are appropriately aligned, and to ensure that appealable decisions do not come into effect prematurely.
- 42 Lords Amendment 19 would ensure that providers can appeal on the grounds that the decision to remove a provider, and / or the decision as to when the removal should take place, was: based on an error of fact; wrong in law; unreasonable.
- 43 Lords Amendment 20 would be consequential to amendment 19. It would ensure that the Tribunal can remit a decision on when a provider should be removed back to the OfS.

## **Lords Amendments to Clause 23: Assessing the quality of, and the standards applied to, higher education**

### **Lords Amendments 21 and 22**

- 44 Lords Amendments 21 and 22 would delete the cross-reference to the previous definition of "standards" for the purposes of this clause. They would make clear that any assessment under this clause of the standards applied by a provider may relate only to matters for which there are sector-recognised standards, and may assess only the standards applied against sector-recognised standards (as defined in clause 13, as amended by amendment 14).

## **Lords Amendment to Clause 25: Rating the quality of, and the standards applied to, higher education**

### **Lords Amendment 23\***

- 45 Lords Amendment 23 would replace the existing clause 25 (Rating the quality of, and the standards applied to, higher education) with an alternative clause on the function and role of the Teaching Excellence Framework ("Scheme to provide information about the quality of higher education and higher education teaching"). The changes enacted by this amendment would:
  - a. Require the Secretary of State to set up a scheme to assess and provide consistent and reliable information about the quality of education and teaching in English higher education providers and at higher education providers in Wales, Scotland and Northern Ireland which apply to participate in such a scheme.
  - b. Require the scheme to be wholly or mainly based on the systems in place in higher education providers, which ensure that the courses offered are taught to a high standard.
  - c. Require independent evaluations (including by the Office for National Statistics) of

the validity of any data or metrics used. This would be required both before the implementation of the scheme and at regular intervals thereafter.

- d. Prevent the scheme from being used to produce a single composite ranking of English higher education providers.
  - e. Limit outcomes of the scheme to assessing and reporting on whether a provider meets expectations or fails to meet expectations on quality measures.
- 46 This amendment would require the Secretary of State to bring forward the scheme by order, which would be subject to the affirmative procedure.
- 47 This clause would extend to England and Wales and applies to the whole of the U.K.

## **Lords Amendments to Clause 26: Performance of assessment functions by a designated body**

### **Lords Amendments 24 to 26 and 28**

- 48 Lords Amendments 24 to 26 would make clear that the “assessment functions” under this clause also include the functions on advice on quality etc. as set out in the new clause.
- 49 Lords Amendment 28 would enable the OfS to require information from the designated quality body for the purpose of any assessment functions – including its new function of giving advice prior to the grant etc. of degree awarding powers.

### **Lords Amendment 27**

- 50 Lords Amendment 27 would ensure that, where a body has been designated to carry out the assessment functions, they cease to be exercisable by the OfS to the extent that they relate to the assessment of standards. Otherwise they do not cease to be exercisable by the OfS. This means that, if designated, the designated quality body would have exclusive responsibility for assessing standards.

## **Lords Amendments to Clause 27: Power of designated body to charge fees**

### **Lords Amendments 29 to 32**

- 51 Lords Amendments 29 and 30 would enable the designated quality body to charge institutions a fee for any activity it undertakes or service it provides pursuant to it giving advice to the OfS under the new clause (Grant, variation or revocation of authorisation: advice on quality etc.).
- 52 Lords Amendments 31 and 32 would provide that these fees may be calculated in the same way as the fees the designated body can charge for activities undertaken and services provided in the performance of its functions under clause 23(1).

## **Lords Amendments to Clause 30: Content of a plan: fees**

### **Lords Amendments 33 to 36**

- 53 Lords Amendments 33 to 36 would be consequential on Lords Amendments 194 to 198, 200 to 205, 207 and 208 to Schedule 2, which would provide for the ability for the Secretary of State to set different floor and sub-level amounts for different higher and basic amounts.

## **Lords Amendment to Clause 35: Duty to protect academic freedom**

### **Lords Amendment 37**

- 54 Lords Amendment 37 would provide that the OfS' duty to protect academic freedom in performing its access and participation functions in clause 35 applies in place of some aspects of the new duty, introduced by Lords Amendment 2, to have regard to the need to protect institutional autonomy.
- 55 The duty to protect academic freedom applies in relation to the freedoms of providers relating to course content, appointment of academic staff, and admission of students, and the freedoms of academic staff. The new duty to have regard to the need to protect institutional autonomy would apply in relation to the freedom of providers relating to their day-to-day management.

## **Lords Amendment (New clause: Duty to monitor etc the provision of arrangement for student transfers) after Clause 36: Power of Secretary of State to require a report**

### **Lords Amendment 38**

- 56 Lords Amendment 38 would insert a new clause (Duty to monitor etc the provision of arrangements for student transfers) which would impose a duty on the OfS to:
- a. monitor the availability of student transfer arrangements provided by registered higher education providers;
  - b. monitor the take-up of such arrangements by students; and
  - c. include in its annual report a summary of the conclusions drawn from its monitoring.
- 57 The new clause would also confer a power on the OfS to facilitate, encourage or promote awareness of the provision of student transfer arrangements by registered higher education providers.
- 58 The student transfers which the new clause would cover are transfers of students from one higher education course to another within a registered higher education provider, between registered higher education providers or between a registered higher education provider and another higher education provider in England, Wales, Scotland or Northern Ireland.
- 59 This clause would extend to England and Wales and apply to England.

## **Lords Amendments to Clause 37: Financial support for registered higher education providers**

### **Lords Amendments 39 and 40**

- 60 Lords Amendments 39 and 40 are minor and technical amendments, which would tidy up the Bill to ensure that there is a consistent approach in references to the provision of higher education across the Bill.
- 61 They would ensure that where higher education is delivered through a franchise agreement, the regulatory controls in the Bill relate to the provider that instructs another institution to deliver the provision (the franchisor), not the institution that does the delivery (franchisee).

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## **Lords Amendments to Clause 40: Authorisation to grant degrees etc**

### **Lords Amendments 41 to 52**

- 62 Lords Amendments 41 to 52 would remove any doubt as to whether institutions that are in the further education sector can – in addition to applying for an authorisation to grant foundation degrees - apply for an authorisation to grant other taught and research awards under clause 40(1)(a).
- 63 The amendments would also make clear that only an institution which is a qualifying further education provider should be able to apply for an authorisation which enables it to grant only foundation degrees.
- 64 Lords Amendment 41 would remove a duplicate – and therefore unnecessary – provision enabling the OfS to authorise further education providers to grant foundation degrees. These providers can be authorised under clause 40(1)(a).
- 65 Lords Amendment 45 would clarify that a foundation degree falls within the meaning of a “taught award”.
- 66 Lord Amendment 46 would insert a new definition in to make clear that ensuing references to “foundation degree only authorisation” means those authorisations that allow for the provider to award only foundation degrees.
- 67 Lords Amendment 47 would provide that “foundation degree only authorisations” can be given only to English further education providers. These providers must provide the OfS with a progression statement setting out proposals for helping students (other than those in receipt of honorary or staff degrees) progress onto more advanced study.
- 68 Lords Amendments 42 to 44 and 48 to 52 are consequential to the above amendments.

### **Lords Amendment 53**

- 69 Lords Amendments 53 would be consequential on Lords Amendment 71.

## **Lords Amendments to Clause 41: Supplementary powers with authorisation**

### **Lords Amendment 54 to 59**

- 70 Lords Amendments 54 to 59 would be consequential on Lords Amendments 41, 45 and 46.

## **Lords Amendments to Clause 42: Variation or revocation of section 40 authorisation**

### **Lords Amendment 60 to 63**

- 71 Lords Amendments 60 to 62 would provide that the OfS may revoke degree awarding powers via a further order under clause 40 only if at least one of three conditions is satisfied:
  - a. The provider ceases to be registered
  - b. The OfS has concerns about the quality of, or standards applied to higher education that is or has been provided by the provider. The concerns must be so serious that the OfS considers its powers to vary degree awarding powers are insufficient to address



the concerns, and considers it is appropriate to revoke degree awarding powers.

- c. Due to a change in circumstances, (such as a sale or merger), the OfS has serious concerns about the quality of, or standards applied to higher education that will be provided by the provider in future. The concerns must be so serious that the OfS' considers its powers to vary degree awarding powers are insufficient to address the concerns, and considers it is appropriate to revoke degree awarding powers.

72 Lords Amendment 63 would be consequential on Lords Amendment 71.

## **Lords Amendments to Clause 43: Variation or revocation of other authorisations to grant degrees etc**

### **Lords Amendments 64, 67 to 70**

73 Lords Amendments 64 and 67 to 69 would provide that the OfS revoke degree awarding powers under clause 43 only if at least one of three conditions is satisfied:

- a. The provider is not a registered higher education provider
- b. The OfS has concerns about the quality of, or standards applied to higher education that is or has been provided by the provider. The concerns must be so serious that the OfS' considers its powers to vary degree awarding powers are insufficient to address the concerns, and considers it is appropriate to revoke degree awarding powers.
- c. Due to a change in circumstances, (such as a sale or merger), the OfS has serious concerns about the quality of, or standards applied to higher education that will be provided by the provider in future. The concerns must be so serious that the OfS' considers its powers to vary degree awarding powers are insufficient to address the concerns, and considers it is appropriate to revoke degree awarding powers.

74 Lords Amendment 70 would be consequential on Lords Amendment 71.

### **Lords Amendments 65 and 66**

75 Lords Amendment 65 would be consequential on Lords Amendment 45.

76 Lords Amendment 66 would deal with the situation where a further education provider has its powers varied so that it can only award foundation degrees. This amendment would provide that a progression statement would be required and that it must set out the providers; proposals for helping students (other than those who have obtained the equivalent of honorary or staff degrees) progress onto advanced study.

## **Lords Amendment (New clause: Grant, variation or revocation of authorisation: advice on quality etc) after Clause 43: Variation or revocation of other authorisations to grant degrees etc**

### **Lords Amendment 71 (subsections (12) and (13)\*)**

77 Lords Amendment 71 would insert a new clause (Grant, variation or revocation of authorisation: advice on quality etc) that would require the OfS to seek advice from the designated quality body (or where there is no such body an OfS committee) on the quality and standards of higher education provided by a provider. Subsections 1 to 11 would set out that the advice must be sought before the OfS grants, varies or, on grounds of quality, revokes degree-awarding powers. The advice must be informed by the views of persons who,

amongst them, have various expertise.

- 78 The result is that the OfS will not be able to grant, vary or (on grounds of quality) revoke degree awarding powers without first having regard to the advice it receives from the designated quality body (or, where there is no such body, a committee of the OfS). Where the advice concerns the awarding, variation or revocation of research degree awarding powers, that advice must also be informed by the views of UKRI.
- 79 Subsections (12) and (13) would provide that the OfS can grant degree awarding powers in only one of two ways:
- a. To providers with at least a four year track-record of delivering courses for which students received awards from a provider with degree awarding powers.
  - b. To providers without such a track record, provided that the Quality Assessment Committee is assured that the provider is fully able to maintain the required standard expected for the granting of a United Kingdom degree for the duration of the authorisation, and that it has reported to the Secretary of State.
- 80 In both cases, the OfS must be assured that the provider is operating in the public interest and in the interest of students.
- 81 This clause would extend to England and Wales and apply to England.

## **Lords Amendments to Clause 44: Variation or revocation of authorisation: procedure**

### **Lords Amendments 72 to 76**

- 82 Lords Amendments 72 to 76 would clarify what exactly a provider can appeal, to ensure the appeals processes under the Bill are appropriately aligned, and to ensure that appealable decisions do not come into effect prematurely.
- 83 Lords Amendment 72 would provide that the decision notice to vary or revoke degree awarding powers must specify the date on which the decision (to be implemented by order) takes effect.
- 84 Lords Amendment 73 would provide that orders implementing decisions to vary or revoke degree awarding powers cannot be made, and that those variations and revocations cannot take effect, when an appeal could be brought or is pending.
- 85 Lords Amendment 74 would replicate Lords Amendment 17 in relation to variation or revocation of degree awarding powers. It would clarify that a variation or revocation cannot take effect at a time when an appeal or further appeal could be brought or is pending.
- 86 Lords Amendment 75 would ensure that orders varying or revoking degree awarding powers can be made, and may take effect, before the time limit for bringing an appeal runs out if the provider tells the OfS it does not intend to appeal.
- 87 Lords Amendment 76 would replicate Lords Amendment 18 in relation to variation or revocation of degree awarding powers. It ensures that the OfS must provide a new date for the variation, or revocation, if the date in its decision notice has lapsed because an appeal or further appeal could, or has been, brought. This is subject to any determinations made following an appeal.

## **Lords Amendments to Clause 45: Appeals against variation or revocation of authorisation**

### **Lords Amendments 77, 79 and 80**

- 88 Lords Amendments 77, 79 and 80 would clarify what exactly a provider can appeal, to ensure the appeals processes under the Bill are appropriately aligned, and to ensure that appealable decisions do not come into effect prematurely.
- 89 Lords Amendment 77 would replicate Lords Amendment 19 in relation to variation or revocation of degree awarding powers. It would ensure providers can appeal on the grounds that the decision to vary or revoke degree awarding powers, and / or the decision as to when the variation or revocation should take place, was: based on an error of fact; wrong in law; or unreasonable.
- 90 Lords Amendment 79 would specify that the Tribunal may vary the date on which a decision to vary or revoke degree awarding powers comes into effect. This would align the actions a tribunal may take following an appeal against the variation or revocation of degree awarding powers, with those it can take following appeals against deregistration.
- 91 Lords Amendment 80 replicates Lords Amendment 20 in relation to variation or revocation of degree awarding powers. It would ensure that the Tribunal can remit a decision on when a provider's degree awarding powers should be varied or revoked back to the OfS.

### **Lords Amendment 78\***

- 92 Lords Amendment 78 would change the grounds for appeal against a decision by the OfS to vary or revoke degree awarding powers, or revoke university title. Under these amendments, such appeals could be brought on the grounds that the decision was wrong – as opposed to on the basis that decision was wrong in law, based on an error of fact or was unreasonable.

## **Lords Amendments to Clause 46: Validation by authorised providers**

### **Lords Amendments 81 to 85**

- 93 Lords Amendments 81 to 85 would be consequential on Lords Amendment 45.

## **Lords Amendments to Clause 47: Validation by the OfS**

### **Lords Amendments 86 to 94**

- 94 Lords Amendments 86 to 94 would be consequential on Lords Amendment 45.

## **Lords Amendment (New clause: Saving for right to grant degrees under the Ecclesiastical Licences Act 1533) after Clause 50: Unrecognised degrees: supplementary**

### **Lords Amendment 95**

- 95 Lords Amendment 95 would provide that nothing in Part One of the Bill can affect the right of the Archbishop of Canterbury (or any other person) to award degrees under the Ecclesiastical Licences Act 1533 where those degrees do not require students to complete a

course of study, a programme of supervised research or an assessment.

96 The ability to award other taught or research degrees would remain covered by the Bill.

97 The clause would extend to England and Wales and apply to England.

## **Lords Amendments to Clause 53: Revocation of authorisation to use 'university' title**

### **Lords Amendments 96, 97 and 99**

98 Lords Amendments 96, 97 and 99 would provide that the OfS may revoke university title under clause 53 only if at least one of three conditions is satisfied:

- a. The provider is not, or is no longer, a registered higher education provider
- b. The provider has lost all of its degree awarding powers, or is authorised to award only Foundation Degrees.
- c. Due to a change in circumstances, (such as a sale or merger), it appears to the OfS that it is no longer appropriate for the provider to have university title.

### **Lords Amendment 98**

99 Lords Amendment 98 would be a minor and technical amendment to tidy up the drafting of the Bill, it would replace “it” with “the OfS”.

## **Lords Amendments to Clause 54: Revocation of authorisation: procedure**

### **Lords Amendments 100 to 104**

100 Lords Amendments 100 to 104 would clarify what exactly a provider can appeal, to ensure the appeals processes under the Bill are appropriately aligned, and to ensure that appealable decisions do not come into effect prematurely.

101 Lords Amendment 100 would replicate Lords Amendment 72 in relation to revocation of university title. It would provide that the decision notice to revoke university title must specify the date on which the decision (to be implemented by order) takes effect.

102 Lords Amendment 101 replicates amendment 73 in relation to revocation of university title. It would provide that orders implementing decisions to revoke university title cannot be made, and that revocations cannot take effect, when an appeal could be brought or when an appeal is pending.

103 Lords Amendment 102 would replicate Lords Amendment 17 in relation to revocation of university title. It would clarify that a revocation of university title cannot take effect when an appeal or a further appeal could be brought or is pending.

104 Lords Amendment 103 would replicate Lords Amendment 75 in relation to revocation of university title. It is linked to Lords Amendment 101 and would ensure that orders revoking university title can be made (and may take effect) before the time limit for bringing an appeal runs out, if the provider tells the OfS it does not intend to appeal.

105 Lords Amendment 104 would replicate Lords Amendment 18 in relation to revocation of university title. It would ensure that the OfS must provide a new date for revocation of university title if the date in its decision notice has lapsed because an appeal or further appeal could, or has been, brought. This is subject to any determinations made following an appeal.

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## **Lords Amendments to Clause 55: Appeals against revocation of authorisation**

### **Lords Amendments 105, 107 and 108**

- 106 Lords Amendments 105, 107 and 108 would clarify what exactly a provider can appeal, to ensure the appeals processes under the Bill are appropriately aligned, and to ensure that appealable decisions do not come into effect prematurely.
- 107 Lords Amendment 105 would replicate Lords Amendment 19 in relation to revocation of university title. It would ensure that it is possible to appeal on the grounds that the decision to revoke university title, and / or the decision as to when the revocation should take place, was: based on an error of fact; wrong in law; unreasonable.
- 108 Lords Amendment 107 would replicate Lords Amendment 79 in relation to revocation of university title. It would provide that the Tribunal may vary the date on which a decision to revoke university title comes into effect.
- 109 Lords Amendment 108 would replicate Lords Amendment 20 in relation to revocation of university title. It would ensure that the Tribunal can remit a decision on when university title should be revoked back to the OfS.

### **Lords Amendment 106\***

- 110 Lords Amendment 106 would be consequential on Lords Amendment 78.

## **Lords Amendment (New clause: Duty to compile and make available higher education information) before Clause 59: Duty to publish English higher education information**

### **Lords Amendment 109**

- 111 Lords Amendment 109 would insert a new clause (Duty to compile and make available higher education information) requiring the relevant data body to compile and make available higher education information to the OfS, UKRI and the Secretary of State. This would require the relevant body to gather and hold information not intended for publication but required by the OfS, UKRI or the Secretary of State.
- 112 This clause would extend to England and Wales and apply to England.

## **Lords Amendments to Clause 59: Duty to publish English higher education information**

### **Lords Amendments 110 to 120**

- 113 Lords Amendment 110 would require the relevant data body to publish information relating to higher education providers as well as their courses. This expands the scope of information that may be collected to include information about providers that does not relate to their courses. It also removes a reference to higher education provision “in England”.
- 114 Lords Amendments 111 to 114, 116, 118 and 119 would enable the OfS to delegate functions relating to the publication of data to the designated data body. These would enable the designated data body to determine the content, timing, manner and form of data publication. Lords Amendment 114 would require the designated data body (where notified by the OfS)

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to consider what would be helpful to students, prospective students and higher education providers whilst Lords Amendment 116 would enable the OfS to require the designated data body to consult. Lords Amendments 118 and 119 would apply to the designated data body the duty to have regard to the desirability of reducing burdens on registered higher education providers relating to data collection.

115 Lords Amendments 115, 117 and 120 would remove reference to higher education provision "in England". This would allow the relevant body to publish data relating to students who are enrolled on higher education courses with registered higher education providers, but who study overseas.

## **Lords Amendments to Clause 60: Designated body**

### **Lords Amendments 121 to 124**

116 Lords Amendments 121 to 124 would be consequential amendments to update references to the functions of the designated data body. Where the Bill referred to the duty to publish information (clause 59), these amendments would update those references to include reference to the additional duty under the new clause (Duty to compile and make available higher education information).

## **Lords Amendment to Clause 61: Power of designated body to charge fees**

### **Lords Amendment 125**

117 Lords Amendment 125 would be a consequential amendment to update references to the functions of the designated data body. Where the Bill referred to the duty to publish information (clause 59), these amendments would update those references to include reference to the additional duty under the new clause (Duty to compile and make available higher education information).

## **Lords Amendments to Clause 68: Grants from the Secretary of State**

### **Lords Amendments 126 and 127**

118 Lords Amendments 126 and 127 would place duties on the Secretary of State to have regard to the need to protect the institutional autonomy of English higher education providers, when setting conditions of grant funding to the OfS.

## **Lords Amendments to Clause 71: Secretary of State's power to give directions**

### **Lords Amendments 128 and 129**

119 Lords Amendment 128 would place a duty on the Secretary of State to have regard to the need to protect the institutional autonomy of English higher education providers, when giving general directions to the OfS

120 Lords Amendment 129 would clarify that the Secretary of State's general directions to the OfS cannot be framed by reference to the list of matters in subsection 3 of Clause 71, whether or not the guidance is framed by reference to particular courses of study.

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## **Lords Amendments to Clause 72: Power to require information or advice from the OfS**

### **Lords Amendment 130**

121 Lords Amendment 130 would be a minor and technical amendment to make it consistent with its UKRI equivalent, clause 99 (power to require information and advice), by replacing 'or' with 'and'.

## **Lords Amendments to Clause 77: Meaning of 'English higher education provider' etc**

### **Lords Amendments 131 and 133**

122 Lords Amendment 131 and part of Lords Amendment 133 would be minor and technical amendments so that all the exceptions where the definitions in clause 77(1) (including of 'higher education' and 'higher education course') do not apply are made explicit in this definitions clause.

123 Lords Amendment 133 would be consequential on Lords Amendment 38.

### **Lords Amendment 132**

124 Lords Amendment 132 would be consequential on amendments made to clause 25 (specifically, deleting the cross-reference to the previous definition of "standards" for the purposes of that clause and a now redundant provisions about the definition of "higher education course" in the devolved administrations for the purposes of that definition). However those amendments have been superseded by Lords Amendment 23 which replaces clause 25 with a new provision altogether.

## **Lords Amendments to Clause 79: Other definitions**

### **Lords Amendment 134**

125 Lords Amendment 134 would be consequential on Lords Amendment 46.

### **Lords Amendment 135**

126 Lords Amendment 135 would add the definition of institutional autonomy for the purposes of Part 1 of the Bill to the list of definitions.

### **Lords Amendment 136**

127 Lords Amendment 136 would be consequential on Lords Amendment 14. It amends clause 79 to reflect the addition of the new definition of "sector-recognised standards".

### **Lords Amendment 137**

128 Lords Amendment 137 provide that references in Part 1 to when an appeal can be brought does not cover appeals that are brought out of time.

## **Lords Amendments to Clause 80: Power to make alternative payments**

### **Lords Amendments 138 and 139**

129 Lords Amendments 138 and 139 would ensure that alternative payment contributions in

relation to England can be dealt with outside of the consolidated fund with the consent of HMT.

## **Lords Amendments to Clause 82: Other amendments relating to financial support**

### **Lords Amendments 140 and 141**

130 Lords Amendments 140 and 141 would ensure that student support regulations made under the Bill can work correctly with referenced lists or documents that are either published before, or subject to update after, the regulations are made (i.e. that are “live” in nature).

## **Lords Amendments to Clause 83: Qualifying institutions for purposes of student complaints scheme**

### **Lords Amendments 142 to 155**

131 Lords Amendments 142 to 149 concern the definition of “qualifying institution” in section 11 of the Higher Education Act 2004 for the purposes of the student complaints regime in Part 2 of that Act.

132 Lords Amendment 142 adds institutions whether or not they receive financial support under clause 37 (financial support from higher education providers) or clause 87 (UK research and innovation functions) of the Bill.

133 Lords Amendments 143 and 148 would ensure that universities or other institutions whose entitlement to grant awards is conferred by an order under clause 43 (variation or revocation of other authorisations to grant degrees etc.) are qualifying institutions.

134 Lords Amendments 144 and 146 would confirm that qualifying institutions under section 11(b)(c) (d) and (e) of the Higher Education Act 2004 are institutions in England or Wales.

135 Lords Amendment 145 would confirm that the new group of qualifying institutions to be included within the definition applies to registered higher education providers in England only.

136 Lords Amendment 147 would ensure that those higher education providers in England that i) provide courses on behalf of an institution that is a qualifying member of the complaints handling scheme or ii) provides courses validated under clause 47 of the Bill are also qualifying institutions for the purposes of the complaints handling scheme.

137 Lords Amendment 149 would enable the designated operator of the scheme to determine that a complaint about an act or omission of an institution within 83 (2)(b) is a “qualifying complaint” for the purposes of the scheme only if it is made by a person who is undertaking or has undertaken a particular higher education course or a course of a particular description.

138 Lords Amendments 150 and 151 would change section 20A of the Higher Education Act 2004 which is inserted by clause 83(3) so that it applies to institutions in Wales as well those in England.

139 Lords Amendments 152 and 153 would be consequential on Lords Amendments 145, 147 and 149.

140 Lords Amendments 154 and 155 would ensure that the students complaints scheme is



correctly linked to the Equality Act 2010 and to the Counter Terrorism and Security Act 2015. The Equality Act allows students more time to take an equalities case to court, if the student has first used the student complaints scheme in higher education in the first instance.

## **Lords Amendment (New clause: Students and academic staff at higher education providers) after Clause 83: Qualifying institutions for purposes of student complaints scheme**

### **Lords Amendment 156\***

141 Lords Amendment 156 would insert a new, three-part clause which would require:

- a. The Secretary of State to encourage international students to attend English higher education providers, and UKRI to encourage and facilitate international co-operation between higher education and research institutions in Britain and abroad, in particular with projects and programmes funded by the European Union.
- b. The Secretary of State to ensure that no international students will be treated for 'public policy purposes' as a long-term migrant to the UK, for the duration of their studies at English higher education providers.
- c. That non-British students and academic staff who have an offer of study or employment at an English higher education provider may not be subject to more restrictive immigration controls or conditions during that study or employment than those to which people in their position are subject on the day this Act is passed.

142 This clause would extend to England and Wales and apply to the whole of the UK.

## **Lords Amendment to Clause 86: The Councils of UKRI**

### **Lords Amendment 157**

143 Lords Amendment 157 would place a duty on the Secretary of State, or UKRI as directed by the Secretary of State, to consult appropriate persons, as determined by the Secretary of State, before exercising powers granted by clause 86(2) to add, omit or change the name of a Council.

## **Lords Amendments to Clause 87: UK research and innovation functions**

### **Lords Amendments 158 and 159**

144 Lords Amendment 158 would add knowledge exchange to the list of functions that UKRI may carry out.

145 Lords Amendment 159 would define the meaning of knowledge exchange in this section and the whole of Part Three of the Bill.

## **Lords Amendments to Clause 89: Exercise of functions by science and humanities Councils**

### **Lords Amendment 160**

146 Lords Amendment 160 would replace subsection (3) of clause 89 with a new definition of specialist employee in relation to a Council. Such a specialist employee would either be a researcher or scientist employed by UKRI to work in the Council's field of activity specified in clause 89, or a person with knowledge, experience or specialist skills relevant to the Council's field of activity and employed by the Council in that field.

### **Lords Amendments 161 to 163**

147 Lords Amendment 161 would clarify that the requirement for Councils to have regard to the desirability of contributing to economic growth in the UK when exercising their functions, includes both direct and indirect contributions.

148 Lords Amendment 162 would specify that, in exercising their functions, Councils must have regard for the desirability of "contributing to economic growth, or an economic benefit, in the UK" in place of simply "contributing to economic growth in the UK".

149 Lords Amendment 163 would require Councils, when exercising their functions, to have regard to the desirability of the advancement of knowledge, either directly or indirectly, in the UK or elsewhere, in connection with science, technology, humanities or new ideas.

### **Lords Amendment 164**

150 Lords Amendment 164 would place a duty on the Secretary of State, or UKRI as directed by the Secretary of State, to consult appropriate persons, as determined by the Secretary of State, before exercising powers granted by clause 89(5) to change the name or field of activity of a Council.

## **Lords Amendment to Clause 90: Exercise of functions by Innovate UK**

### **Lords Amendment 165**

151 Lords Amendment 165 would replace subsection 90(3). It would require UKRI, when exercising functions under clause 90, to have regard to the need to support directly or indirectly persons engaged in business activities in the UK; to have regard to the need to promote innovation by persons carrying on business in the UK; and to have regard to the desirability of improving quality of life in the UK.

## **Lords Amendments to Clause 91: Exercise of functions by Research England**

### **Lords Amendments 166 to 168**

152 Lords Amendments 166 to 168 would include knowledge exchange alongside research as activities for which Research England may provide financial support.

## **Lords Amendments to Clause 95: Grants to UKRI from the Secretary of State**

### **Lords Amendments 169 and 170**

153 Lords Amendments 169 and 170 would clarify that provisions of clauses 97(2) and (3) relate only to the functions exercised by Research England specified in clause 93 and ensure conditions may be attached to grants in respect of additional functions that may be granted to Research England.

### **Lords Amendments 171 and 172**

154 Lords Amendment 171 would make clear that the whole or part of a grant to UKRI may be allocated to particular Councils and that allocation may be changed.

155 Lords Amendment 172 would place a duty on the Secretary of State, when making a grant to UKRI, to publish the amount of such a grant and if the terms and conditions stipulate how (if relevant) the grant shall be allocated between UKRI's Councils in whole or in part.

## **Lords Amendments to Clause 97: Balanced funding and advice from UKRI**

### **Lords Amendments 173 to 175**

156 Lords Amendment 173 would add the Haldane Principle to the matters that the Secretary of State must have regard to in subsection 1.

157 Lords Amendment 174 would clarify the application of the balanced funding principle.

158 Lords Amendment 175 would define the Haldane Principle introduced in Lords Amendment 173. The text of this definition has been adapted from the Rt Hon David Willetts' 2010 Written Ministerial Statement on the Haldane Principle.

## **Lords Amendment to Clause 105: Definitions**

### **Lords Amendment 176**

159 Lords Amendment 176 would be consequential on Lords Amendments 158, 159, 166 to 168, to add knowledge exchange to the list of definitions.

## **Lords Amendments to Clause 110: Power to make consequential provision etc**

### **Lords Amendments 177 and 178**

160 Lords Amendments 177 and 178 would ensure that the Secretary of State cannot revoke a Royal Charter in its entirety under clause 110, but can only amend or revoke provisions within it.

## **Lords Amendment to Clause 112: Pre-commencement consultation**

### **Lords Amendments 179**

161 Lords Amendment 179 would make clear that the Secretary of State, the Director for Access or Higher Education Funding Council for England (HEFCE) may consult an appropriate

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range of English higher education providers before any such providers have been registered.

## **Lords Amendments to Clause 113: Regulations**

### **Lords Amendments 180, 181, 183 and 184**

162 Lords Amendment 180 would make regulations under clause 9, which prescribes descriptions of provider to whom the transparency condition applies, subject to the affirmative procedure.

163 Lords Amendment 181 would make regulations under clause 37, which prescribes descriptions of provider who will be eligible to receive OfS funding in the form of grants, loans or other payments, subject to the affirmative procedure.

164 Lords Amendments 183 and 184 would ensure that the first set of regulations, prescribing the higher, basic and floor amounts for the purposes of determining providers' fee limits, will be subject to the affirmative procedure.

### **Lords Amendment 182**

165 Lords Amendment 182 would be consequential to Lords Amendments 177 and 178.

### **Lords Amendment 185**

166 Lords Amendment 185 would be consequential to Lords Amendment 210.

### **Lords Amendment 186**

167 Lords Amendment 186 would ensure that regulations made under Clause 113 (relating to other OfS regulations), which can reference, for example, published lists or registers, can take account of changes to those lists or registers which take place after the regulations are made.

## **Lords Amendments to Clause 118: Commencement**

### **Lords Amendment 187**

168 Lords Amendment 187 would correct an error in clause 118 regarding the commencement of provisions in Part 4. It would ensure that the consequential amendments to other legislation which are set out in Schedules 11 and 12 to the Bill can be brought into force on a day appointed by regulations, alongside the commencement of other, related provisions in the Bill.

### **Lords Amendment 188**

169 Lords Amendment 188 would be consequential on Lords Amendments 146, 150, 151 and would enable Welsh Ministers to bring clause 83(2)(ba) and (4) into force in relation to Wales.

## **Lords Amendments to Schedule 1: The Office for Students**

### **Lords Amendments 189 to 191 and 193**

170 Lords Amendment 189 would ensure that the Director for Fair Access and Participation is responsible for overseeing the OfS' access and participation functions. It also confirms that the Director is responsible for performing those access and participation functions and any other functions, which are delegated to the Director by the OfS. Further, it confirms that the Director is responsible for reporting to the other members of the OfS on the performance of the OfS' access and participation functions.

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171 Lords Amendment 190 would be consequential on Lords Amendments 191 and 193 and ensures that the definition of the access and participation functions provided in paragraph 3(3) of Schedule 1 applies throughout this Schedule.

172 Lords Amendment 191 would ensure that where access and participation functions are delegated by the OfS under paragraph 11 of Schedule 1, they can be delegated only to the Director for Fair Access and Participation.

173 Lords Amendment 193 would ensure that if, for any reason, the OfS does not delegate all of the access and participation functions to the Director for Fair Access and Participation during a financial year, then the OfS must report this. The OfS must set out in the report the period or periods of time during which the access and participation functions were not delegated to the Director and the reasons why these functions were not delegated.

### Lords Amendment 192

174 Lords Amendment 192 would place a duty on the OfS to include a statement in its annual report on how it has cooperated with UKRI in that financial year.

## Lords Amendments to Schedule 2: The Fee Limit

### Lords Amendments 194 to 198, 200 to 205, 207 and 208

175 Lords Amendments 194 to 198, 200 to 205, 207 and 208 would provide for the ability for the Secretary of State to set different floor and sub-level amounts for different higher and basic amounts. This means that, where the Secretary of State sets different higher or basic amounts for different cases or purposes, for example, for different types of teaching provision (such as "sandwich" courses or part-time courses), there is a corresponding power to set different floor and sub-level amounts in relation to each higher or basic amount, as applicable.

### Lords Amendments 199 and 206

176 Lords Amendment 199 would provide that, in relation to a provider that has an approved access and participation plan, the sub-level amount determined by the Secretary of State may be set at a value equal to or greater than the floor amount to the higher amount. Without this amendment, such sub-level amount would need to be set at a value greater than the floor amount.

177 Lords Amendment 206 would provide that, in relation to a provider that does not have an approved access and participation plan, the sub-level amount determined by the Secretary of State may be set at a value equal to or greater than the floor amount to the basic amount. Without this amendment, such sub-level amount would need to be set at a value greater than the floor amount.

### Lords Amendment 209

178 Lords Amendment 209 (together with Lords Amendments 183 and 184) would ensure that the first set of regulations, prescribing the higher, basic and floor amounts for the purposes of determining providers' fee limits, will be subject to the affirmative procedure.

### Lords Amendment 210

179 Lords Amendment would create a definition of an accelerated course for the purposes of prescribing the higher or basic amounts (and their associated floor amounts). That definition provides that an "accelerated course" is 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.

180 The amendment would enable the Secretary of State to provide that an increased limit should apply in respect of an accelerated course when prescribing the higher, basic and floor fee amounts.

181 Any such increased amounts for accelerated courses would always be subject to Parliamentary approval by the affirmative resolution procedure.

## **Lords Amendments to Schedule 3: Monetary penalties: procedure, appeals and recovery**

### **Lords Amendment 211**

182 Lords Amendment 211 would clarify that the requirement to pay a monetary penalty, imposed by the OfS under clause 15, is suspended whilst an appeal or further appeal can be brought or is pending.

## **Lords Amendments to Schedule 4: Assessing higher education: designated body**

### **Lords Amendment 212**

183 Lords Amendment 212 would enable the Secretary of State to de-designate the designated quality body if he or she is satisfied that it is failing to give effective advice prior to the grant etc. of degree awarding powers.

### **Lords Amendment 213**

184 Lords Amendment 213 would be a minor and technical amendment to tidy up the drafting of the Bill by replacing “designated under Part 1 of this Schedule” with “designated under this Schedule” to ensure consistency with the wording elsewhere in these Schedules.

### **Lords Amendments 214 to 216**

185 Lords Amendments 214 and 215 would require that the OfS, when giving general directions to the designated quality body, must have regard to the need to protect the body’s ability to carry out an impartial assessment of the quality of, and the standards applied to, higher education provided by a provider.

186 Lords Amendment 216 would delete the cross-reference to the previous definition of “standards” for the purposes of the Schedule.

## **Lords Amendments to Schedule 6: English higher education information: designated body**

### **Lords Amendments 217 to 223, 225 and 226**

187 Lords Amendments 217, 220 and 225 would remove reference to higher education provision “in England”. This would allow the relevant body to publish data relating to students who are enrolled on higher education courses with registered higher education providers, but who study overseas.

188 Lords Amendments 218, 219, 221 to 223 and 226 would be consequential amendments to update references to the functions of the designated data body. Where the Bill referred to the duty to publish information (clause 59), these amendments would update those references to

include reference to the additional duty under the new clause (Duty to compile and make available higher education information).

#### Lords Amendment 224

189 Lords Amendment 224 would be a minor and technical amendment to tidy up the drafting of the Bill by replacing “designated under Part 1 of this Schedule” with “designated under this Schedule” to ensure consistency with the wording elsewhere in these Schedules.

### **Lords Amendment to Schedule 7: Costs recovery: procedure, appeals and recovery**

#### Lords Amendment 227

190 Lords Amendment 227 would clarify that the requirement to pay costs, imposed by the OfS under clause 67, is suspended when an appeal or further appeal can be brought or is pending.

### **Lords Amendment to Schedule 8: Higher education corporations in England**

#### Lords Amendment 228

191 Lords Amendment 228 would be a technical amendment to remove an unnecessary and outdated provision relating to Secretary of State directions about English higher education corporations’ financial years. The provision would continue to apply in Wales.

### **Lords Amendments to Schedule 9: United Kingdom Research and Innovation**

#### Lords Amendments 229 and 230

192 Lords Amendment 229 would add the charitable sector to the list of areas of experience described in paragraph 2(5) of Schedule 9 which the Secretary of State must have regard to the desirability of when appointing members of UKRI.

193 Lords Amendment 230 would ensure that experience of the charitable sector also counts as relevant experience for the purposes of paragraph 2(6) of Schedule 9 if appointing a member with experience in (at least one of) Wales, Scotland or Northern Ireland.

#### Lords Amendment 231

194 Lords Amendment 231 would raise the upper limit for the number of ordinary council members from 9 to 12.

#### Lords Amendment 232

195 Lords Amendment 232 would require the Secretary of State to consult the UKRI Chair when appointing a single ordinary member to each Council as permitted by Schedule 9.

#### Lords Amendments 233 to 236, 239 and 240

196 Lords Amendment 233 would require UKRI to establish an Executive Committee, to be chaired by the UKRI CEO and consisting of the UKRI CFO, Executive Chairs of each Council, and any other employees of UKRI that the CEO may wish to appoint. This Executive Committee would be able to establish Executive sub-committees. UKRI would be obliged to

pay an allowance, as determined by the Secretary of State, to any members of such Executive sub-committees who are not also members of UKRI or its Councils, or employees of UKRI.

197 Lords Amendments 234 to 236, 239 and 240 would be consequential to Lords Amendment 233, ensuring consistency throughout Schedule 9.

#### Lords Amendment 237

198 Lords Amendment 237 would place a duty on UKRI to include a statement in its annual report on how it has cooperated with the OfS in that financial year.

#### Lords Amendment 238

199 Lords Amendment 238 would be consequential to Lords Amendment 165.

### **Lords Amendments to Schedule 11: Minor and consequential amendments relating to Part 1**

#### Lords Amendment 241

200 Lords Amendment 241 would correct a drafting error to ensure that the consequential amendment to the Superannuation Act 1972, to remove the reference to HEFCE from Schedule 1 to that Act once HEFCE ceases to exist, correctly reflects the existing text of that Act.

#### Lords Amendment 242

201 Lords Amendment 242 would extend the application of the freedom of speech duty to all registered HE providers. Within the higher education sector, the duty currently applies to universities, higher education corporations, institutions which have been designated as eligible for HEFCE funding and higher education establishments maintained by local authorities, but this amendment would ensure it applies more widely across the sector.

#### Lords Amendments 243 and 244

202 Lords Amendments 243 and 244 would ensure that the Higher Education Funding Council for England is replaced with the Office for Students in the Education Act 2005.



## Financial Effects of Lords Amendments

- 203 Lords Amendment 15\* could result in an impact on the costs of electoral registration officers as the effect of the amendment will be to require HE providers to share information with them. However, it is unclear whether there would be an increase or decrease in costs. If there is an increase, it is expected that electoral registration officers would cover such costs within their current budgets.
- 204 Lords Amendment 23\* replaces the TEF scheme in clause 25 with a scheme set up by the Secretary of State. The estimated public expenditure of the scheme required by the amendment is £14m over 10 years. This is less than the estimated costs of the TEF scheme run by the OfS under clause 25.
- 205 Lords Amendment 109 imposes a new duty on the OfS and the designated data body regarding the compiling and making available of HE information. The increased costs are difficult to quantify but it is not thought that the new duty will significantly increase costs compared to what they would have been without the amendment.
- 206 Lords Amendments 197, 199, 200, 204, 206, 207, 209 & 210 and Lords Amendment 12\* affect the caps on tuition fees which may be imposed by the Secretary of State under Schedule 2. They do not directly impact on public expenditure. But the Secretary of State provides student grants and loans pursuant to regulations made under section 22 of the Teaching and Higher Education Act 1998. So there is a potential impact on public expenditure under that legislation depending upon the levels at which the Secretary of State sets the caps under Schedule 2 and the level of student funding which the Secretary of State decides to provide pursuant to regulation under section 22 of the 1998 Act.
- 207 Lords Amendment 156\* inserts a new clause concerning international students. The duty imposed on UKRI by subsection (1) depending on the activities undertaken in response to this duty, would be likely to have financial implications, but the extent is difficult to quantify. Subsections (2) & (3) do not require an increase in public expenditure to implement - although the migration rules, which are applied, have an effect on wider public spending on services etc which are difficult to quantify.
- 208 Lords Amendment 231, which increases the potential number of members of a Council of UKRI, could lead to increased costs estimated to be up to £280,000 per annum.

# HIGHER EDUCATION AND RESEARCH BILL

## EXPLANATORY NOTES ON LORDS AMENDMENTS

These Explanatory Notes relate to the Lords Amendments to the Higher Education and Research Bill as brought from the House of Lords on 4 April 2017.

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