

SKILLS AND POST-16 EDUCATION [HL] BILL

EXPLANATORY NOTES ON COMMONS AMENDMENTS

What these notes do

- 1 These Explanatory Notes relate to the Commons Amendments to the Skills and Post-16 Education [HL] Bill as brought from the House of Commons on 22 February 2022 (HL Bill 117).
- 2 These Explanatory Notes have been prepared by the Department for Education in order to assist the reader of the Bill and the Commons amendments, and to inform debate on the Commons amendments. They do not form part of the Bill and have not been endorsed by Parliament.
- 3 These Explanatory Notes, like the Commons amendments themselves, refer to Bill 176, the Bill as first printed for the Commons.
- 4 These Explanatory Notes need to be read in conjunction with the Commons amendments and the text of the Bill. They are not, and are not meant to be, a comprehensive description of the Commons amendments.
- 5 All Commons amendments were tabled in the name of the Minister for Skills or the Secretary of State, Rt Hon Nadhim Zahawi MP.

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Commentary on Commons Amendments

Part 1: Skills and Education for Work

Commons Amendments to Clause 1: Local skills improvement plans

Commons Amendment 1 and 2

- 6 Amendments 1 and 2 would introduce a duty on the Secretary of State to approve and publish a local skills improvement plan only if satisfied that, during the development of the plan, due consideration was given to the views of the Mayoral Combined Authority or Greater London Authority where they cover the specified area.

Commons Amendment 3 to 6

- 7 Amendments 3 to 6 would modify what a local skills improvement plan is. These amendments would require a local skills improvement plan to be developed by an employer representative body, drawing on the views of employers in the specified area and any other evidence to summarise the skills, capabilities or expertise that are or may be required in the future in the specified area and identify actions that relevant providers can take regarding post-16 technical education and training to address the requirements outlined.
- 8 Amendments 3 to 6 do this by maintaining the flexibility of what is required in a local skills improvement plan, which will be set out via the statutory guidance, by amending clause 1 subsection (7) for local skills improvement plans in order to:
 - a. remove the requirement that they be developed in partnership with local authorities including Mayoral Combined Authorities (but see Commons Amendments 1 and 2 above) and further education providers;
 - b. remove the requirement to draw on the views of persons other than employers and other sources of information on skills needs to summarise the skills, capabilities or expertise that are required for people resident in that area; and
 - c. limit the category of persons, whom the plan identifies actions for, to relevant providers when making decisions about their technical education and training.

Commons Amendment 7

- 9 Amendment 7 would provide that actions identified in a local skills improvement plan which relevant providers can take are limited to post-16 technical education and training they provide which is English-funded (defined in clause 4, subsection (2)).

Commons Amendments to Clause 4: Interpretation

Commons Amendments 8 to 14

- 10 Amendments 8 to 14 would provide further clarification as to the relevant providers in scope of the duties relating to local skills improvement plans and the education and training to be treated as English-funded. Amendments 8 and 9 limit relevant providers to FE and HE institutions in England, and Amendment 10 to independent training providers whose activities relating to post-16 technical education or training are carried on or partly carried on in England.
- 11 Amendment 11 provides that the Secretary of State may add schools to the list of relevant providers as described in regulations only if they are in England. Amendments 12 to 14

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provide that where amounts are paid directly to providers of education and training in accordance with regulations made by the Secretary of State, for example payments made by the Student Loans Company, these amounts are treated as English-funded.

Commons Amendments to Clause 7: Additional powers to approve technical education qualifications

Commons Amendment 15

- 12 Amendment 15 would remove section A2D6(3), which would prevent the Institute for Apprenticeships and Technical Education from withdrawing approval from a level 3 technical education qualification for a period of four years beginning with the day on which the Act is passed.

Commons Amendment 16

- 13 Amendment 16 would remove section A2D6(4), which would require that no student be deprived of the right to take two BTECs, Applied General Qualifications or a Diploma or an extended Diploma.

Commons Amendments to Clause 14: Amendments to section 42B of the Education Act 1997

Commons Amendments 17 and 18

- 14 Amendments 17 and 18 together replace clause 14 of the Bill with a new clause that would modify section 42B of the Education Act 1997, inserted by section 2 of the Technical and Further Education Act 2017.
- 15 The new clause requires maintained schools, academies and pupil referral units in England to allow a range of education and training providers to access their pupils in order to inform pupils directly about approved technical education qualifications or apprenticeships, on at least one occasion (rather than three, as currently specified in clause 14) during each of the first, second and third key phases of their education. The first key phase is the school year in which the majority reach the age of 13 or 14 (typically school year 8 or 9). The second key phase is the school year in which the majority reach the age of 15 or 16 (typically school year 10 or 11). The third key phase is the school year in which the majority of pupils reach the age of 17 or 18 (typically school year 12 or 13).

Commons Amendments to Clause 17: Universal credit conditionality

Commons Amendment 19

- 16 Amendment 19 would remove clause 17 from the Bill, which would require the Secretary of State to review Universal Credit (UC) conditionality rules with a view to ensuring that adults who are unemployed and in receipt of UC, and who enroll on an approved training course for a qualification that supports them towards sustainable employment, do not lose their entitlement to UC.

Commons Amendments to Clause 18: Lifelong learning: review

Commons Amendment 20

- 17 Amendment 20 would remove clause 18 from the Bill, which would require the Secretary of State to publish a report on the impact that funding restrictions have on the level of skills within England and Wales, both generally, and specifically in relation to Equivalent and Lower

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Qualification restrictions. Clause 18 would require such a report to be laid annually before both Houses of Parliament and take effect one year after the commencement of either clause 15 or 16.

Part 2: Quality of Provision

Commons Amendments to Clause 19: Initial teacher training for further education

Commons Amendment 21

- 18 Amendment 21 would remove subsection (3) of clause 19, which would specify that regulations made under subsection (1) must impose a requirement that all FE Initial Teacher Training (ITT(FE)) courses include special educational needs awareness (SEN) training which is relevant to the students of ITT(FE) courses within an institution.

Part 3: Protection for Learners

Commons Amendments to Clause 22: Prohibitions on entering into funding arrangements with providers

Commons Amendment 22

- 19 Amendment 22 is a minor and technical amendment to clause 22 subsection (9) which would clarify that advanced learner loan funding routed through the Student Loans Company is in scope of clause 22 of the Bill. This has always been the intention of clause 22 subsection (9). This amendment is a technical adjustment to the drafting which would ensure the legislation accurately matches policy intent.

Commons Amendments to Clause 25: Provision of opportunities for education and skills development

Commons Amendment 23

- 20 Amendment 23 would remove clause 25, which would give any person of any age the legal right to free education on an approved course supplied by an approved provider of further or technical education, for their first qualification up to and including level 3. Clause 25 would also require employers in receipt of apprenticeship funding to spend at least two thirds of that funding on learners who begin apprenticeships at level 2 or level 3 before the age of 25.

Commons Amendments after Clause 35: Office for Students: publication and protection from defamation

Commons Amendment 24

- 21 Amendment 24 would insert new sections 67A to 67C into the Higher Education and Research Act 2017.
- 22 Section 67A would give a general power to the Office for Students (“OfS”) to publish notices, decisions and reports given or made in the performance of its functions. It provides that such publication does not breach any duty of confidence or data protection legislation. Before deciding whether to publish, the OfS must consider various specified factors – such as the interests of students and HE providers, and the public interest.
- 23 Section 67B would concern the publication by the OfS of a decision to conduct an investigation. If a publication identifies a provider or other body or individual whose

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activities are being investigated, and then subsequently makes no finding or takes no action, then the OfS must publish a notice stating that fact. Defamation protection is given where specified information is included in the publication.

- 24 Section 67C would provide that a publication of a notice, decision or report is privileged unless it is shown to have been made with malice (qualified defamation privilege).

Part 4: Miscellaneous and General

Commons Amendments to Clause 38: Commencement

Commons Amendment 25

- 25 Amendment 25 would bring Commons Amendment 24 into force two months after Royal Assent of the Bill.

Commons Amendments to Clause 39: Short Title

Commons Amendment 26

- 26 Amendment 26 would remove the privilege amendment inserted in the Lords. Parliamentary procedure requires a privilege amendment to be included when a Bill starts in the Lords and has financial implications. It is then removed in the Commons.

Commons Amendments in the Title

Commons Amendment 27

- 27 Amendment 27 would amend the long title of the Bill to cover Amendment 24.

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