



## Universities Scotland Briefing Note: Economic Activity of Public Bodies (Overseas Matters) Bill

### Summary

Universities Scotland is recommending that universities and higher education institutions are removed from the scope of the Bill as presented by the UK government.

The UK Government introduced the Economic Activity of Public Bodies (Overseas Matters) Bill in 2023 with the aim to, “make provision to prevent public bodies from being influenced by political or moral disapproval of foreign states when taking certain economic decisions, subject to certain exceptions; and for connected purposes.”<sup>1</sup>

- For the purposes of the Bill, Public Bodies are considered to include local authorities and government departments, whilst “hybrid” public bodies are to include universities and cultural institutions that carry out a “function of a public nature”, except for when they are carrying out private business.<sup>2</sup> The Bill will also provide a power for Ministers and enforcement authorities to direct, investigate and fine public bodies where there is a breach of the ban.
- The Bill’s Impact Assessment cites “campaigns in universities” as one of the reasons for driving divisions in communities, leading to antisemitism.<sup>3</sup>

Universities Scotland is concerned with the inclusion of universities within the bill as “hybrid public bodies”, and what constitutes a public function or act. The Bill is currently unclear about what this definition of a public act would be; therefore this is an additional concern in Scotland as Scottish undergraduate students attending Scottish universities have their fees paid wholly by the Scottish government.

### Universities Scotland Position

Alongside our Universities UK colleagues, we have reservations about the scope and intent of the Bill, which could have serious implications for universities in Scotland.

- 1) We are concerned the Public Bodies Bill has the potential to influence the outcome of the imminent ONS review into universities’ status in the national accounts, and whether they should be reclassified as ‘public bodies’.
  - Reclassification could severely hamper universities’ ability to borrow and invest, handing responsibility to the Treasury, impacting their institutional autonomy and be subject to direct control from the government.

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<sup>1</sup> <https://bills.parliament.uk/bills/3475/>

<sup>2</sup> [https://publications.parliament.uk/pa/bills/cbill/58-03/0325/EAPB\\_IA\\_15-03-23.pdf](https://publications.parliament.uk/pa/bills/cbill/58-03/0325/EAPB_IA_15-03-23.pdf)

<sup>3</sup> [Ibid](#)



- 2) Enforcement in Scotland is expected to fall to either the Department for Levelling Up, Housing and Communities (DLUHC) or the Treasury (HMT), neither of which are specialists in understanding the work of universities and all of which are detached from the specifics of a largely devolved higher education landscape in Scotland. By contrast, in England enforcement will be the Office for Students (OfS).
  - This further puts the autonomy of universities and higher education institutions across Scotland at risk, with this level of involvement from government departments.
  - It is unclear why enforcement for the Bill in Scotland (and other devolved nations) will fall to HMT or DLUHC when in England it will be the OfS, and how this enforcement can align across departments.
  
- 3) In accordance with the Further and Higher Education (Scotland) 2005 Act, HEIs must uphold and protect the freedom of expression of their staff and academics.
  - The Bill as drafted puts this at risk, as universities would only have to be ‘influenced by’ moral or political disapproval of foreign state conduct to be non-compliant. This could, for example, deter a group of academics from researching and discussing views on a boycott or divestment decision due to the fear of potential litigation or fines for the university. This could have the unintended consequence of restricting academic freedom, especially for those academics with expertise in foreign policy.