

Economic Activity of Public Bodies (Overseas Matters) Bill

Universities UK (UUK) parliamentary briefing – Commons Second Reading, 3 July.

Background to the Bill

The government has introduced the [Economic Activity of Public Bodies \(Overseas Matters\) Bill](#) with the intention of delivering its manifesto commitment to ban public bodies from “imposing their own direct or indirect boycotts, disinvestments or sanctions campaigns against foreign countries”.

This briefing provides a short summary of the Bill, as well as those areas where we feel further clarification and assurances are required.

Summary of the Bill

The Bill applies to a procurement (i.e. contracting the supply of goods or services) or investment decision made by a public body. The Bill will ban “public authorities” as currently defined in Section 6 of the Human Rights Act 1998, this includes ‘hybrid’ public bodies such as universities and cultural institutions, from boycotting a foreign country or territory, or a UK company based on their overseas moral or political conduct.

The Secretary of State or Minister for the Cabinet Office may, via regulation, specify a country or territory as exempt. However, Israel and the Occupied Palestinian Territories (OPT) are featured on the face of the Bill, meaning they could not be exempted. This would ultimately mean that any boycott campaign of Israel and the OPT would be outlawed. It is expected that Russia and Belarus will be exempted via regulation as soon as the Bill becomes law.

Those found to be in contravention of the Bill would be given written notice, followed by potential and as yet undefined monetary fines. The government has said that these will be set out via secondary legislation, after the Bill reaches Royal Assent.

For most public bodies, enforcement would be via the Secretary of State or the Minister for the Cabinet Office or Treasury. For higher education providers in England, this would be undertaken by the regulator, the Office for Students.

The Bill interacts with the Procurement Act 2023 in a number of complex ways, allowing for some reasons for exclusion of procurement or investment. This includes:

- Exemptions made via regulation (as outlined above)
- Trustees of pensions schemes
- The UK security services

Schedule 2 of the Bill makes it explicit what kind of activities *can* be used to turn down procurement or investment:

- Financial and practical utility/value of investment/procurement
- National security considerations
- International law
- Bribery
- Labour-related misconduct, including misconduct around modern slavery, human trafficking, immigration, National Minimum Wage and other issues
- Competition law infringements
- Environmental misconduct, which means environmental crime in the UK, and considerations of conduct that has “caused, or had the potential to cause, significant harm to the environment, including the life and health of plants and animals”

Questions for Second Reading

1. Given that ‘strategic ambiguity’ is an accepted and legitimate position, who will define and communicate what the UK’s foreign policy interest is, to universities?
2. How will the Bill interact with the Higher Education (Freedom of Speech) Bill, which places duties on universities to uphold freedom of speech and academic freedom?
 - Section 4 prohibits bodies subject to the Bill from saying that they would participate in a boycott, even if this was purely hypothetical, or if no such boycott ever happened. How does this section align with the new duties placed on universities via the Higher Education (Freedom of Speech) Bill to protect academic freedom and freedom of speech?
3. The Bill cites international law as a consideration that can be used to turn down procurement or investment. International human rights treaties involve considerations such as forced labour, the crackdown on minority rights and economic activity in occupied areas. Yet the Bill dismisses them as ‘political and moral disapproval of foreign state conduct.’ How will this contradiction be solved?

Potential scenarios for universities

Scenario 1: UK foreign policy is to “engage constructively” with China. However, the UK government and its international allies strongly call on public sector bodies, including universities, to ensure that their supply chains and investments do not support what the UN has called “serious human rights violations” of Uighur Muslims in Xinjiang. Universities, conscious of the moral weight of the issue and public opinion, would be found contravene the Bill should they adhere to this call.

This is already to some extent the case: the UK government has already announced business measures to help ensure that British organisations are not complicit in, nor profiting from, human rights violations in Xinjiang. These two policies are in obvious contradiction.

Scenario 2: A UK university has a high-level incident where an LGBTQ+ student of theirs has their fundamental rights violated while on exchange or visiting a branch campus in the United Arab Emirates (UAE). Under the Bill, the university would not be allowed to boycott the UAE or Emirati companies based on repressive anti-LGBTQ+ laws or considerations of what happened to the UK student. However, they may be allowed to boycott the UAE based on arguments around the country’s contributions to climate change, given “environmental misconduct” is exempted.

About Universities UK

Universities UK is the collective voice of 140 universities in England, Scotland, Wales and Northern Ireland. Our mission is to create the conditions for UK universities to be the best in the world, maximising their positive impact locally, nationally and globally.

For more information, please contact Joe Piercy, Political Affairs Officer on joe.piercy@universitiesuk.ac.uk