

## European Union Referendum Bill 2015 House of Commons Committee Stage (Day 2) Briefing

17 June 2015

### Introduction

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This briefing sets out the Electoral Commission's view on amendments tabled ahead of the second day of Committee Stage of the European Union Referendum Bill in the House of Commons on 18 June.

We have not commented on all amendments tabled in relation to this Bill, and the absence of comment does not imply that we support them. In particular, decisions on the franchise for the referendum and on the level for spending limits for campaigners are important issues for Parliament to decide on, and the Commission will only comment on the practical implications and workability of any amendments to the Bill in these areas.

This briefing covers amendments relating to:

- The referendum franchise
- The referendum conduct regulations
- Regulations

Our comments at this stage relate solely to the provisions currently set out on the face of the Bill. However, if the Bill is significantly amended during its progress through Parliament, the detail of such changes will need to be carefully considered. We will continue to brief on the Bill and any relevant amendments that are tabled as the Bill progresses through parliament. All briefings will be available on our website [here](#).

### The Electoral Commission's role in referendums

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The Electoral Commission has specific responsibilities and functions in relation to the delivery and regulation of referendums held under PPERA, which applies to any referendum Bill brought before the UK Parliament unless specifically stated otherwise.

Our responsibilities under PPERA include:

- Commenting on the intelligibility of the referendum question.
- Registering organisations or individuals who want to campaign in the referendum.

- Considering and approving applications for designation as the lead campaign group for each referendum outcome.
- Making grant payments to the approved designated organisations.
- Monitoring spending on referendum campaigning, in line with the referendum spending limits imposed by PPERA.
- Providing advice and guidance on the rules to campaigners.
- Monitoring and securing compliance with campaign donation, loan and spending controls.
- Reporting on the administration of the referendum and referendum campaign spending.

The Chair of the Commission, or a person the Chair appoints, is the Chief Counting Officer for the referendum and responsible for certifying the outcome of the referendum.

## The referendum franchise

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A number of amendments have been tabled to amend the franchise in the referendum on the UK's membership of the European Union:

- **New Clause 2** tabled in the name of Alex Salmond and others would extend the franchise for the referendum to 16 and 17 year olds.
- **Amendment 1 to Clause 2** tabled in the name of Harriet Harman and others would entitle British citizens, qualifying Commonwealth citizens and citizens of the Republic of Ireland aged 16 and 17 to vote in the referendum.
- **Amendment 2 to Clause 2** tabled in the name of Harriet Harman and others would entitle Commonwealth citizens aged 16 and 17 who would be entitled to vote in Gibraltar for elections to the European Parliament to vote in the referendum.
- **Amendment 12 to Clause 2** tabled in the name of Stephen Phillips would entitle Commonwealth citizen and citizens of the Republic of Ireland to vote in the referendum.
- **Amendment 19 to Clause 2** tabled in the name of Alex Salmond and others would extend the franchise in the referendum to 16 and 17 year olds who are included on the register for local government elections.
- **Amendment 52 to Clause 2** tabled in the name of Mike Gapes would entitle British citizens living in any country in the European Union to vote in the referendum irrespective of the time they have been resident overseas.

Proposals for changes to the franchise for the referendum are important issues for Parliament to decide on, and we will comment on the practical implications and workability of any amendments to the franchise.

**The Commission's view is that any changes to the franchise for the referendum on the UK's membership of the European Union should be clear in sufficient time to enable all those who are eligible, to register and participate in the referendum.**

It is important that Electoral Registration Officers have sufficient time to plan to include all those entitled to register to vote through the annual household canvass (which

normally takes place between September and December each year), and also to plan and deliver public awareness activities including political literacy initiatives.

We therefore reiterate our previous recommendation, set out in our report on the September 2014 Scottish Independence Referendum, that legislation from governments or legislatures extending the franchise is clear (whether by Royal Assent to a Bill or the introduction of regulations to Parliament for approval) at least six months before the beginning of the annual household canvass. Should any amendments be made to the legislation that amend the franchise, for instance to enable 16 and 17 year olds to participate, further provisions may also be needed, such as to enable additional canvass activity to take place depending on the timing of the poll.

## The referendum conduct regulations

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**Amendment 48**, tabled in the name of John McDonnell, would require any regulations for the conduct of the referendum to include provisions enabling electronic voting to be used.

**The Electoral Commission does not support this amendment.** Whilst e-voting remains a legitimate ambition for any future electoral modernisation strategy, given that there are currently no certified electronic voting systems available for use at statutory elections in the UK, we do not think it is practically feasible that the conduct regulations for the referendum should require the use of electronic voting.

## Regulations

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**Amendment 8**, tabled in the name of Sir William Cash and others, would require that the detailed regulations required to administer and regulate the referendum are made and come into force not less than six months before the start of the referendum period.

**The Electoral Commission supports this amendment.** Our experience of administering and regulating referendums in the UK since 2004 has shown that campaigners and electoral administrators need time to prepare themselves properly to follow the detailed rules which Parliament has specified.

Our report on the Scottish Independence Referendum highlighted the benefits for voters, campaigners and electoral administrators of early confirmation of the legislative framework for the referendum, which was clear almost 10 months before the referendum date. We continue to recommend that best practice for future referendums is that all legislation should be clear (whether by Royal Assent to a Bill or the introduction of regulations to Parliament for approval) at least six months before it is required to be implemented or complied with by campaigners, the Chief Counting Officer, Counting Officers or Electoral Registration Officers.