

## European Union Referendum Bill 2015 House of Lords Committee Stage (Day 1) Briefing

27 October 2015

### Introduction

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This briefing sets out the Electoral Commission's view on amendments tabled ahead of, and that we understand are to be taken on, the first day of Committee Stage of the European Union Referendum Bill in the House of Lords on 28 October.

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 comment on the practical implications and workability of any amendments to the Bill in these areas.

Amendments tabled in relation to Clauses 1 and 2. Our comments on further amendments and those relating to subsequent clauses and schedules will be covered in briefings ahead of the remaining days of Committee Stage.

This briefing covers amendments relating to:

- The timing of the referendum
- The referendum question, including the question in Welsh
- The referendum franchise

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 apply 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.

### Clause 1: Timing of the referendum

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**Amendment 1** tabled in the names of Lord Hamilton of Epsom and Lord Flight would require draft regulations specifying the date of the referendum to be laid before Parliament at least 16 weeks before the proposed polling date, and would require the polling date to be at least 10 weeks after the regulations are made.

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.

**The Electoral Commission supports this amendment.**

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. We therefore support this amendment, although we note that this minimum period would be less than the six months that we would recommend.

## Clause 1: The referendum question

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**Amendments 3 and 4** tabled in the name of Lord Hamilton of Epsom and Lord Flight would change the ordering of the referendum question, with 'leave the European Union' preceding 'remain a member of the European Union'.

**The Electoral Commission does not support these amendments.**

As part of our research to inform our [question assessment](#) we tested variations of the proposed referendum question and explored attitudes towards, and the impact of, reversing the referendum question with the 'leave', 'go' and 'no' responses first.

The research participants felt that the reversed versions were leading in a way that they were not the other way around. This was mainly because it felt more intuitive to have the status quo option first - 'yes or no; remain or leave; stay or go'.

None of the participants in our research preferred the reverse answer options, with the view expressed by a number of people that these question wordings were counter-intuitive and potentially misleading.

## Clause 1: The referendum question in Welsh

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**Amendments 5 and 6** tabled in the names of Lord Wigley would insert 'barhau' and 'parhau' in place of 'aros' in the Welsh language version of the referendum question for 'remain' or 'leave'.

**The Electoral Commission does not support these amendments.**

As part of our referendum [question assessment](#) we undertook qualitative research with members of the public across the UK. As part of this process we tested various iterations of the question in both Welsh and English.

Our research found that overall participants did not like the word 'para' (which sounded like other words such as parachute) and 'bara' (which is the Welsh word for bread). They also did not like the alternative words 'barhau' and 'parhau'.

Welsh participants agreed that either 'aros' or 'ddal i fod' could be used as synonyms alongside the English words 'remain' or 'stay'.

We recommended that the UK Government use the word 'aros' in the Welsh version of the referendum question and we are pleased that it has been accepted.

**Amendment 7** tabled in the name of Lord Wigley would ensure that the Welsh and English versions of the question and alternative answers shall be given equal prominence on the ballot papers in Wales.

**The Electoral Commission supports this amendment.** Voters in Wales should be able to clearly identify both versions of the question on the ballot paper.

The form of the ballot paper to be used in Wales will be specified in secondary legislation which will need to be approved by Parliament. We expect the UK Government to ensure that the form of the ballot paper to be used in Wales will be finalised and made available to Counting Officers at the same as the ballot paper to be used in England, Scotland and Northern Ireland.

## Clause 2: 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, including extending the franchise to 16- and 17-year-olds, to all UK citizens living outside of the UK, and to EU citizens resident in the UK.

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 Electoral 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 any newly eligible electors know what action they have to take before the deadline for applications to register to vote ahead of the referendum, including applying individually by providing their National Insurance number or an alternative proof of their identity.

The experience of lowering the voting age for some polls in Scotland has demonstrated the benefits of early certainty about changes to legislation. Legislation to lower the voting age to 16 for the September 2014 Scottish Independence Referendum was clear more than a year before the referendum. Legislation to lower the voting age for Scottish Parliament and local government elections in Scotland was clear ahead of the 2015 annual canvass of households, almost a year before the May 2016 Scottish Parliament elections. This means that Electoral Registration Officers (EROs) in Scotland have been able to target 15 to 17 year olds as part of their scheduled annual household canvass activities during this summer and autumn.

**While the date of the referendum remains unknown, it will be difficult for EROs, the Electoral Commission and campaigners to plan activities required to target and encourage any newly enfranchised electors to register to vote.**

If the referendum is held before the conclusion of the next annual canvass of households in December 2016, EROs will not have been able to take advantage of the opportunity to communicate directly with newly enfranchised electors about any changes to their rights to participate in the referendum. It is likely that a separate registration initiative, led by EROs and supported by the Electoral Commission, would also be required in the period of time before the referendum to inform and encourage newly eligible electors to register to vote. This would need to be reinforced by significant public awareness activity, including political literacy initiatives, at both the national and local level. Additional funding would also be needed to make sure that these activities could be delivered by EROs and the Commission.

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