

## European Union Referendum Bill Commons' Consideration of Lords' Amendments

**8 December 2015**

### Introduction

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This briefing sets out the Electoral Commission's views on House of Lords' amendments to the European Union Referendum Bill to be considered by the House of Commons on 8 December.

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, although the Commission has commented on the practical implications and workability of any amendments to the Bill in these areas where needed. All our previous briefings on the Bill, including on each stage of its progress through the House of Lords, are available on our website [here](#).

### Clause 2: Entitlement to vote in the referendum

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Recent media reports have indicated that the Commission believes there must be 12 months between legislation passing through Parliament to change the franchise and the first electoral event to which this applies. This is not the case. **The Commission has been consistently clear that a change to the franchise is a matter for Parliament and that we will advise on the practical implications of any such change.**

It is important that Parliament is aware that if the annual canvass does not fall before the electoral event that a franchise change applies to, a key opportunity is missed to get the new group of voters registered. This does not mean, however, that other options are not available to help get as many voters as possible on the register in the available timeframe. Although the scale of the challenge presented by some of these options should not be underestimated – and it must be borne in mind that every voter is now required to register themselves individually – this does not mean that steps cannot be taken to reduce the risks presented by them with proper planning and funding.

We will further advise Parliament of any risks relating to voter registration if the franchise is changed and what is being done to address these as part of our briefing when the proposed date of the referendum is announced. The briefing below sets out the key points that would need to be considered in relation to the amendments that are scheduled for debate on the franchise.

A number of amendments have been tabled to change the franchise for the referendum on the UK's membership of the European Union, including: extending the franchise to 16- and 17-year-olds; extending the franchise to all British citizens living outside the UK, or to British citizens living in other EU member states; extending the franchise to citizens of other EU member states who live in the UK; and removing the franchise from non-British citizens resident in the UK.

If the Bill is amended to change the franchise for the referendum, significant further work would be required in the period between Royal Assent to the Bill and the deadline for applications to register to vote:

- Parliament would need to debate and approve detailed regulations to enable Electoral Registration Officers (EROs) to determine applications and add newly enfranchised electors to the register.
- The UK Government would need to change the online electoral registration website ([www.gov.uk/register-to-vote](http://www.gov.uk/register-to-vote)) and approve new registration forms to allow newly eligible people to apply to register to vote.
- EROs, the Electoral Commission and campaigners would need to make sure newly eligible people know how and when to apply to register to vote.

It is particularly 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. Without effective plans for informing and encouraging registration, newly eligible people may not be able to take advantage of any rights which Parliament has extended to them for the referendum.

Changing the franchise for the referendum would also have an impact on the definition of those entitled to donate money to referendum campaigners, which would need to be reflected in the detailed regulatory framework for donations and spending by referendum campaigners.

We have set out below some of the specific practical areas that will need to be addressed should Parliament decide to change the franchise for the referendum.

### **Extending the franchise to 16- and 17-year-olds**

The experience of changing the voting age for some polls in Scotland has demonstrated the benefits of early certainty about the legislation. The legislation to lower the voting age to 16 for the September 2014 Scottish Independence Referendum was clear more than a year before the referendum. This meant that EROs in Scotland were able to target 15- to 17-year-olds at the same time as carrying out the annual canvass of households between October 2013 and March 2014. This was supported by Electoral Commission advertising activity across Scotland targeted at 15- to 17-year-olds, and activity carried out by schools, youth workers and youth organisations across Scotland. It is also worth remembering that the change in the franchise for the Scottish referendum took place under the previous system of 'household registration', so it was possible for other people in the house, such as parents or guardians, to register the newly enfranchised 15- to 17-year olds.

Legislation to lower the voting age for Scottish Parliament and local government elections in Scotland was in place ahead of the 2015 annual canvass of households, almost a year before the May 2016 Scottish Parliament elections. This means that 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 and plan work with educational establishments at the start of the new academic year to bolster this. We do not yet know what the full effect of this activity has been.

While the date of the referendum remains unknown, it will be difficult for EROs, the Electoral Commission, educational establishments, campaigners and others to plan the activities that will be required to effectively target and encourage any newly enfranchised electors to register to vote. If the referendum is held before the next annual canvass of households which is due to begin in July 2016, EROs will not have been able to take advantage of the opportunity to communicate directly with newly enfranchised 15- to 17-year-olds who would be eligible to participate in the referendum.

If there is no canvass to build from when targeting this group, a separate registration initiative, led by EROs and supported by the Electoral Commission, would need to be planned for and delivered in England, Wales and Northern Ireland in the period of time before the referendum to inform and encourage newly eligible electors to register to vote. The activity required in Scotland would be less significant, because EROs would be able to build on the work currently being carried out to register 16- and 17-year olds in advance of the May 2016 Scottish Parliament elections.

This would need to be reinforced by significant public awareness activity at both the national and local level. Political literacy initiatives may also be needed, as would targeted work in schools and other educational institutions to help get the message out to these groups quickly. Additional funding would also be needed to make sure that these activities could be delivered by EROs, the Commission and other relevant bodies.

### **Extending the franchise to all British citizens living outside the UK**

At present UK citizens living outside the UK are only eligible to register to vote as an overseas elector if they have been included in a UK electoral register within the last 15 years. In order to enable newly enfranchised overseas electors to vote at the referendum, further work would be required to identify which Counting Officers would be responsible for administering postal or proxy voting arrangements.

If the changes are made an extensive public awareness campaign would be needed. As well as its own public awareness campaign the Commission would work with the Foreign and Commonwealth Office to use the networks provided by its consulates and embassies to reach UK citizens living overseas. We would also work with a range of other partner organisations that helped us deliver a significant increase in overseas electors ahead of the UK General Election.

## **Extending the franchise to all British citizens living within the EU**

In addition to the practical challenges of communicating with British citizens overseas set out above, extending the franchise for the referendum to all British citizens living within the EU would mean that eligible citizens would have to provide proof of residence within the EU. EROs would need to be satisfied that they are living in the EU, rather than elsewhere in the world. It is not clear how such proof could be provided and verified by EROs.

## **Extending the franchise to citizens of EU member states who have lived in the UK for more than five years**

Extending the franchise for the referendum to citizens of EU member states who have lived in the UK for more than five years would mean that eligible citizens would have to make a declaration or provide proof of their length of residence in the UK. EROs would need to contact all potentially eligible electors, who are already included in electoral registers for local government elections, to require them to provide such a declaration or proof of their entitlement to be registered for the referendum. It is not clear how such proof could be provided and verified by EROs.

## **Removing the franchise from non-British or Irish citizens resident in the UK**

In addition to British citizens, some non-British citizens are currently entitled to be registered and vote in UK Parliamentary elections: citizens from Commonwealth countries and the Republic of Ireland who are resident in the UK and have leave to remain. Electoral registers do not currently identify which entries relate to citizens from the Republic of Ireland or Commonwealth countries.

In order to remove the franchise for the referendum from non-British or Irish citizens resident in the UK, EROs would need to check other records they hold to identify citizens from Commonwealth countries in order to remove them from the register for the referendum.

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