



**BRIEFING PAPER**

Number 08223, 10 September 2019

# The Overseas Electors Bill 2017-19

By Neil Johnston

**Contents:**

1. Background
2. The Bill
3. Second reading debate
4. Public Bill Committee



# Contents

<b>Summary</b>	<b>3</b>
<b>1. Background</b>	<b>5</b>
1.1 The <i>Representation of the People Act 1985</i>	5
1.2 The <i>Representation of the People Act 1989</i>	6
1.3 Home Affairs Select Committee report October 1998	8
1.4 The <i>Political Parties, Elections and Referendums Act 2000</i>	8
1.5 Overseas voters: statistics from May 2015	9
<b>2. The Bill</b>	<b>11</b>
2.1 The Bill's introduction to the House of Commons	11
2.2 Clause 1	12
Parliamentary franchise for overseas voters	12
Conditions to be met	12
Declaration to be made	14
Duration of registration	14
Renewal declaration	15
Variation of the 12-month registration period	15
Guidance	16
2.3 Clause 2 – Minor and consequential amendments	16
2.4 Clause 3 - commencement	17
<b>3. Second reading debate</b>	<b>18</b>
<b>4. Public Bill Committee</b>	<b>20</b>
<b>5. Report stage</b>	<b>25</b>

## Summary

This briefing summarises the provisions and progress of the Bill and gives a brief background to overseas voter registration. More information is also available in Library briefing SN05923, [Overseas voters](#).

The *Overseas Electors Bill 2017-19* was a Private Member's Bill, sponsored by Glyn Davies, which sought to end the 15-year time limit currently placed on overseas voters voting in UK Parliamentary elections.

Before 1985 British citizens resident outside the United Kingdom were unable to register to vote in UK Parliamentary elections. When the franchise was extended British citizens resident overseas for the first time a time limit of 5 years was introduced. This was changed to a 20-year limit in 1990 and then lowered to the current 15-year limit in 2002.

Overseas voters cannot vote in local government elections.

The Bill would have removed the time limit and will allow British citizens resident overseas to register to vote in UK Parliamentary elections permanently, subject to a person renewing their registration annually.

The Bill applied to the United Kingdom. The Parliamentary franchise is a reserved measure and no legislative consent was required from devolved legislatures.

### Stages of the Bill

The Bill was given a Second Reading on [23 February 2018](#). There was no cross-party consensus on the Bill with, broadly speaking, Conservative Members supporting the Bill and most Labour Members who spoke opposing the Bill. Second reading was passed without a division.

The Public Bill Committee held four sessions on the Bill. There were nine divisions, but the Bill passed the committee stage without amendment. The main points raised at the committee stage included reducing the voting age and technical amendments on gradually introducing 'votes for life' by extending the 15-year limit year on year, defining residence, documentation required for proving eligibility, registration deadlines during an election and donations from overseas voters. There were also amendments that would have required a minister to produce reports and assessments on the impacts of the Bill.

The report stage of the Bill was held on 22 March 2019. The Bill did not make further progress and stood adjourned at the end of the day's debate.

### Provisions of the Bill

Overseas voters are currently able to register to vote in UK Parliamentary elections for up to 15 years after they moved away from the UK. The main purpose of the Bill was to remove the time-limit.

The Bill would also have made other important changes. Under the current arrangements, a person can only register at the last address at

which they were registered to vote in the UK. Anyone who previously had not registered to vote was unable to register as an overseas voter. The only exception was those who left the UK as children and had never been registered because of their age, who are able to register to vote in respect of their parent or guardian's previous registration address.

The Bill would have allowed any qualifying British citizen resident overseas to register in respect of an address at which they were last previously resident in the UK, even if they had never previously registered to vote.

The Bill also would have made new provisions for a renewal process for overseas registrations and for guidance to be issued by a Minister in respect of registration or renewal of an overseas elector.

The Bill would have made provisions for a Minister to vary the registration period for an overseas registration period to be valid. Current overseas voters must register every 12 months. A Minister could only propose this change having consulted the Electoral Commission and any change was required to be made by statutory instrument and approved by Parliament by the affirmative procedure. The electoral community have been critical of this proposal, in particular noting that other 'special category' electors, such as those registering anonymously, are registered annually. The Government have responded to criticism of this proposal by stating it does not plan to use the power until there was consensus about the desirability of any change.

Overseas voters are not eligible to vote in local government elections or elections that use the local government franchise (for example devolved legislature elections or police and crime commissioner elections). The Bill would have made no changes to the local government franchise.

The Bill also made no changes to referendums. The main regulatory framework for referendums in the UK is set out by the *Political Parties, Elections and Referendum Act 2000*. However, each referendum still requires separate legislation to enable the referendum to take place. The separate legislation sets out requirements such as the franchise to be used and the question to be asked.

# 1. Background

## Summary

Before 1985 British citizens resident outside the United Kingdom were unable to register to vote in UK Parliamentary elections. The *Representation of the People Act 1985* extended the franchise to British citizens resident overseas and enabled them to register as 'overseas voters' in the constituency for which they were last registered. Registration lasted a year and had to be renewed annually up to the time limit. This was initially for a period of 5 years, but was later extended to 20 years by the *Representation of the People Act 1989*, and then reduced to 15 years by the *Political Parties, Elections and Referendums Act 2000*.

## 1.1 The *Representation of the People Act 1985*

During the 1970s there was pressure to extend the franchise to British citizens living and working abroad. Representations were made to the Speaker's Conference on Electoral Law in 1973-4, but the Conference did not make any specific recommendations on overseas voters.

The Home Affairs Select Committee subsequently recommended in 1983 that all UK citizens resident in the then European Economic Community (EEC) countries should have the right to vote in British Parliamentary elections.<sup>1</sup> The Government response to the Committee's report recommended a seven-year limit, noting that "in the Government's view a person's links with the United Kingdom are likely to have weakened significantly if he has lived outside it for as long as ten years".<sup>2</sup> The Government also recommended that the right be extended to British citizens living in non-EEC countries, saying that it would find it hard to defend provisions giving British citizens the right to vote in Paris, but not in New York.

There was a period of consultation before legislative proposals were brought forward; the *Representation of the People Act 1985* subsequently made provision for British citizens who were resident overseas to remain on the electoral register in the UK for a period of 5 years. The Bill, as introduced, had a time limit of 7 years, but during the first session of the Committee of the whole House this was amended on division (382 votes to 21) to the 5-year limit.<sup>3</sup>

The Bill also originally included provisions for children who left the UK before the age of 18 to register as an overseas voter once they came of age, by virtue of a residential address of a parent. This was removed by an amendment moved by the Labour Party that was accepted by the government. David Mellor MP, the Home Office Minister, spoke of the

---

<sup>1</sup> HC 32 1982-3, para 27

<sup>2</sup> Cmnd 9140 January 1984

<sup>3</sup> HC Deb 29 January 1985, cc181-243

practical difficulties of determining which constituency they should be registered in. He told the House:

Should they qualify through their parents and be entitled to vote in the constituency in which their parents were registered, or should they qualify in relation to the constituency in which they had previously resided, which might be different from the constituency in which their parents had lived? Both of those alternatives contained practical drawbacks.

Having regard to the importance which the Opposition attach to this amendment and to the very reasonable basis that my right hon. and learned Friend the Home Secretary gave in the previous debate for reaching an accommodation over matters of constitutional significance like the *Representation of the People Bill*, the best thing that I can do on behalf of the Government is to recommend to my hon. Friends that they should accept the amendment.<sup>4</sup>

The House of Commons also accepted an Opposition amendment to the Bill on report that an overseas declaration must include a statement from the applicant that they did not intend to reside permanently outside the United Kingdom.<sup>5</sup>

The Commencement Order implementing the provisions of the Act relating to registration of overseas voters took effect in July 1986. In the first year, just over 11,000 overseas were registered (February 1987 figures). In the following three years the number of overseas registered were:

February 1988	2,092
February 1989	1,836
February 1990	1,237 <sup>6</sup>

## 1.2 The *Representation of the People Act 1989*

The Government committed to keep the new arrangements introduced by the 1985 Act under review.

The level of overseas registration under the 1985 Act was far lower than expected despite overseas publicity. Some of the apparent lack of enthusiasm for the new scheme was attributable to its practical complications, including the need for the elector to take all the steps to register without reminders.

The Conservative manifesto for the 1987 general election promised to extend the period of eligibility, but was not specific about a new time limit.<sup>7</sup>

---

<sup>4</sup> HC Deb 29 January 1985, c226

<sup>5</sup> HC Deb 27 February 1985, c415

<sup>6</sup> Commons Library briefing SN05923, *Overseas voters*

<sup>7</sup> *The Next Steps Forward 1987*

A period of consultation with all interested bodies followed, with a consultation paper issued in April 1988.<sup>8</sup> This suggested a new time limit of between 7 and 20 years, or even an unlimited qualification.

In the Parliamentary session 1988-89, a further Bill was introduced to extend and simplify the scheme. Clause 1 extended the time limit on voting after a person has left; clauses 2 and 3 enabled children who had left the UK before being on the electoral register to apply for an overseas vote at their parent or guardian's previous registration address. Clause 4 abolished the requirement for an overseas elector to make a statutory declaration in which they state they have any intention to reside permanently outside the UK and clause 5 allowed for reminder notices to be sent to existing overseas voters.

The Bill, as introduced, proposed a 25-year period, but this was reduced to 20 years following amendments which were accepted by the Government. At the committee stage the Labour Party tabled an amendment that the time limit should be increased to 20 years instead of the 25 years proposed in the Bill. The amendment was moved by Alistair Darling, who said:

We see that there is an argument for extending the time after which a voter may vote in elections in the country, but we do not believe that 25 years is justified.

We believe that a period of five years was unduly restrictive, especially as it is now clear that a number of people will leave this country perhaps to take up work in Europe or in other parts of the world but will still maintain a lively interest in the affairs of this country.<sup>9</sup>

Jeremy Corbyn (Labour) tabled an amendment that specified an amendment of 10 years saying that it was "nonsense to enfranchise people who have lived abroad for 25 years".<sup>10</sup> Gary Waller (Conservative) proposed an amendment that 15 years should be the time limit saying, "There can be no objective way of determining how long the period should be, but if 25 years is considered right to denote a continuing link with this country...one might consider 15 years appropriate to denote a link with a certain constituency. For those reasons, I have opted for 15 years."

In winding up the debate on which time limit to select, the Home Office Minister, Douglas Hogg concluded that the Government was prepared to accept Alistair Darling's amendment on the basis of seeking consensus:

Judged against the general proposition which I have set out, the amendments proposing 10 and 15 years are too short. Neither 10 nor 15 years would be appropriate, bearing in mind that the general principle must be that British citizens have the vote unless there is some jolly good reason to the contrary. That leaves a choice between 20 and 25 years. I am perfectly willing to concede

---

<sup>8</sup> Dep NS 3902 see HC Deb 29 April 1988 c 285-6W

<sup>9</sup> HC Deb 5 July 1989, c411

<sup>10</sup> HC Deb 5 July 1989, c413

that, in a sense, we are plucking figures out of the air, and it is difficult to say that there is a distinction of principle between 20 and 25 years. The hon. Member for Edinburgh, Central (Mr. Darling) has described his amendment No. 4, which proposes 20 years, as a sensible compromise. In electoral matters, there is much to be said for attracting as much support as possible around a particular proposal for change, and because of that I recommend to the Committee that amendment No. 4 be accepted.<sup>11</sup>

The amendment for 20 years was accepted by 144 votes to 27.

The provisions that extended the time limit to 20 years, modifications to the declaration and the extension of the ability to register to those who were children when they left the UK were commenced on the 1 April 1990.<sup>12</sup>

Subsequently, the number of overseas voters registering increased to over 34,000 by February 1991. However, after the initial surge numbers fell back to between 10,000 to 20,000. They did not rise above 30,000 again until 2010.<sup>13</sup>

### 1.3 Home Affairs Select Committee report October 1998

The Home Affairs Select Committee published a report, *Electoral Law and Administration*, in October 1998. The Committee considered the provisions of the *Representation of the People Act 1985* relating to overseas voters and took the view that the 20-year period within which a British citizen living overseas could retain the right to vote was excessive.

It recommended that the earlier limit of five years should be restored. In evidence to the Committee, the Labour Party and the Liberal Democrats both argued that twenty years was perhaps too long a period but the Home Office reported that most of the correspondence it had received on the issue was not from people calling for the 20-year period to be lowered but from people resident abroad for more than twenty years arguing for it to be increased.

### 1.4 The *Political Parties, Elections and Referendums Act 2000*

There was initially a provision in the *Political Parties, Elections and Referendums Bill 1999-2000* to reduce the limit to 10 years. During the passage of the Bill amendments were proposed to review this new limit and in the House of Lords at committee stage, the Government suggested increasing the proposed limit from 10 years to 15 years. This meant a reduction of five years on the *status quo*.

---

<sup>11</sup> HC Deb 5 July 1989, c422

<sup>12</sup> [Representation of the People Act 1989 \(Commencement No. 2\) Order 1990](#)

<sup>13</sup> Commons Library briefing SN05923, [Overseas voters](#)

An amendment to create a 15-year limit was subsequently passed unopposed.<sup>14</sup> This provision, in s141 of the *Political Parties, Elections and Referendums Act 2000*, took effect from 1 April 2002 and is still in place.

The Labour Government did not indicate that it had any plans to extend the 15-year limit but there were calls to increase the registration rate amongst British citizens living abroad. The Electoral Commission launched campaigns to encourage British citizens abroad to register to vote in UK elections. In 2009 the Commission issued a [press release](#) describing its campaign before the forthcoming general election:

There are more than 5 million British citizens living abroad, but only a few thousand of them have registered to vote in the upcoming UK general election...

British citizens living abroad can register as overseas voters if they have been registered to vote in the UK at any time within the past 15 years. Yet of the estimated 5.5 million British citizens living abroad, less than 13,000 overseas voters are currently on a UK electoral register.

Brits living overseas can vote by post or arrange for a proxy to vote for them in a UK Parliamentary election and the Commission has launched a campaign to encourage British citizens abroad to register to vote ahead of the next general election.

Jenny Watson, Chair of the Electoral Commission, said:

“British citizens living abroad come from a wide variety of backgrounds, but we know that most maintain strong links with the UK. It is easier than ever before for British citizens abroad to keep in touch with friends, family and colleagues back home and many will also want to have their say in elections.”<sup>15</sup>

As noted above, this had some success as the number of overseas voters rose in December 2010 to nearly 33,000, its highest level since the extension to the 20-year limit in 1990. However, as in the 1990s, the numbers slipped back again in subsequent years.

## 1.5 Overseas voters: statistics from May 2015

It was not until the General Election of May 2015 that numbers increased. There were over 100,000 overseas voters registered for the 2015 General Election. This increased to 264,000 for the UK's referendum on membership of the European Union.

Electoral Commission data on the June 2017 General Election does not include an estimate of the number of overseas ballots returned to be included in the count. The data shows that there about were 285,000 overseas voters registered.<sup>16</sup>

---

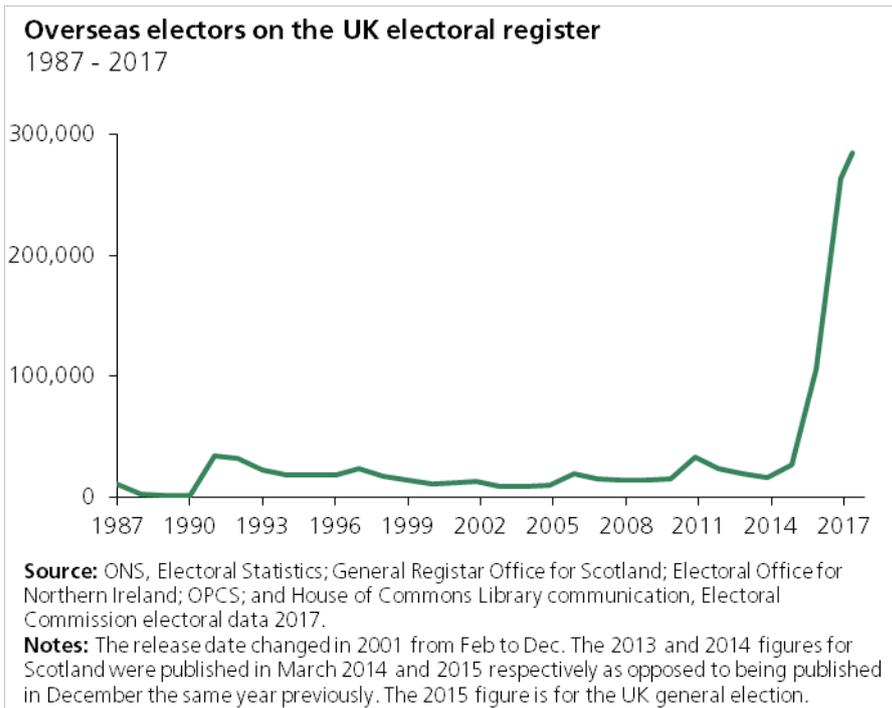
<sup>14</sup> HL Deb 22 November 2000 c924

<sup>15</sup> [Electoral Commission press release](#), 22 September 2009

<sup>16</sup> [Electoral Commission data files and reports](#), UK Parliamentary general election, 8 June 2017

The introduction of the ability to register to vote online in Great Britain, which includes overseas voters, is also thought to have had an impact on the number of overseas voters registering.

Overseas voter ballots are not counted separately so there is no way of knowing for which party overseas voters cast their ballots.



## 2. The Bill

### Summary

The Bill has three clauses. **Clause 1** makes the technical changes to electoral law to end the 15-year limit on overseas voter registration and extend the overseas vote to those overseas voter applicants not previously registered to vote in the UK.

**Clause 2** makes provision for minor and consequential amendments as a result of the ending of the 15-year limit and **clause 3** gives the territorial extent and commencement provisions of the Bill.

### 2.1 The Bill's introduction to the House of Commons

The Bill was introduced by Glyn Davies as a Private Members' Bill (a ballot bill) on 19 July 2017. It was given a Second Reading on 23 February 2018. Although it is a Private Members' Bill, it has been prepared with the assistance of the Government.

The Bill would have fulfilled the Government commitments to introduce "votes for life" contained in the Conservative Party manifestos of 2015 and 2017. After the General Election, the commitment to bring forward a *Votes for Life Bill* was included in the Queen's Speech of 27 May 2015.<sup>17</sup>

No Bill was introduced in the 2015-16 session. During Business questions on 21 July 2016, the then Leader of the House, David Lidington, was asked by Geoffrey Clifton-Brown about the manifesto commitment. David Lidington indicated that extending the franchise was a complex matter:

...because we would have to not just extend the franchise but establish a new system of voter registration, which is not straightforward given that voter registers no longer exist for periods that go back earlier than 15 years. We have to find some way of allocating those individuals to constituencies and verifying a previous place of residence.<sup>18</sup>

On 7 October 2016 the Government published a policy statement, *A democracy that works for everyone: British citizens overseas*, which set out how the 15 year rule would be removed and how all eligible British citizens, who have lived in the UK and who are now living overseas, will be given a lifelong right to vote in Parliamentary elections.<sup>19</sup>

---

<sup>17</sup> [Queens Speech briefing notes](#), May 2015.

<sup>18</sup> [HC Deb 21 July 2016 c992](#)

<sup>19</sup> [A democracy that works for everyone: British citizens overseas: policy statement](#) Cabinet Office, October 2016

The Government said it would welcome feedback from interested parties. The response to the feedback received was [published on 8 February 2018](#).

## 2.2 Clause 1

Clause 1 has two subsections. Clause 1(1) deletes the existing sections 1 and 2 of the *Representation of the People Act 1985* (as amended) and inserts a new sections 1, 1A, 1B etc through to 1G. New sections 1 and 1A replace the existing section 1 of the 1985 Act and new sections 1B to 1D replace various subsections of the existing section 2 of the 1985 Act. New sections 1E to 1F make new provision.

Clause 1(2) retains the eligibility of peers and voters in Gibraltar to vote as overseas voters in European Parliamentary elections until the UK leaves the EU. The next scheduled European Parliament elections are due in 2019, but after the date on which the UK is expected to leave the EU. It means the provisions contained in this clause are unlikely to be used.

### Parliamentary franchise for overseas voters

New **section 1** sets out the qualification to be able to vote in a Parliamentary election as an overseas elector. A person must qualify as an overseas elector (set out in section 1A) and be registered on a register of Parliamentary electors to be used on the day of the poll.

On the day of making a registration declaration and on the day of the poll the person must be a British citizen and not subject to any legal incapacity to vote.

The Bill makes no alterations to the rules about legal incapacity to vote at a Parliamentary election. These include, prisoners serving a sentence after conviction (including those convicted and detained under the *Mental Health Act 1983*), persons guilty of corrupt or illegal practices, Members of the House of Lords.

Those under the age of 18 are also unable to vote at Parliamentary elections but the provisions contained in the Bill allow for, as now, those approaching the age of 18 to register to vote (known as 'attainers').

### Conditions to be met

**Section 1A** sets out the qualification to register as an overseas voter if the requirements in section 1 have been fulfilled. It is existing section 1 that currently includes the 15-year limit. The new requirements in section 1A make no mention of the 15-year limit, therefore fulfilling the Conservative Party's manifesto commitment to introduce 'votes for life'.

The current requirements in existing section 1 of the 1985 Act (existing sections 1(2), (3) and (4)) are that a potential voter is no longer resident on the UK and fulfils one of two conditions set out in the 1985 Act. This is either that they were previously included on a register of Parliamentary electors in a constituency in the UK, or that if they were too young to be registered then a parent or guardian was registered. This must be the last place they were registered.

Section 1A states that a person must not be resident in the UK and fulfil one of two new conditions, either the 'previously registered' condition or the 'previously resident' condition.

The first, the 'previously registered' condition, is that they were previously entered on any electoral register (Parliamentary or local) for the constituency they are applying to register for. This mirrors the current arrangements and must relate to the last place the person was registered.

The second, the 'previously resident' condition, extends the overseas vote to those British citizens who were previously resident in the UK but who were never registered to vote. As mentioned above, under the existing arrangements, someone not previously registered to vote before leaving the UK was unable to register as an overseas voter. The only exception were children too young to register before they left. Even then, they can only register in respect of a parent or guardian's previous registration address.

Section 1A (3)(b)(ii) extends the scope of 'previously resident' to declarations of local connection, where someone who had no permanent address while living in the UK, could also register as an overseas voter. As well as including homeless people, this would also encompass others who registered by a declaration of local connection, such as occupants of house boats, but who are no longer resident.

In feedback to the Government's October 2016 policy document,<sup>20</sup> the Association of Electoral Administrators noted that the ability of electoral administrators to effectively match records is affected by local government reorganisation, polling district reviews, and the demolition or redevelopment of properties.

The Cabinet Office announced that it would allow applications from those previously resident at an address that no longer exists when it published its responses to the feedback received.<sup>21</sup> This is confirmed by paragraph 16 of the explanatory notes to the Bill.<sup>22</sup>

**Section 1B** replaces section 2(1) of the 1985 Act and restates the additional conditions for entitlement to be registered on a Parliamentary electoral register. These are that the declared address is within the Parliamentary constituency the registration is responsible for and that registration officer is satisfied that applicant qualifies on the given date that the declaration is made.

Where a person is applying under the 'previously resident' condition they must never have been previously registered. Subsection (4) allows for an electoral registration to disapply the requirement that they must 'never have been' previously registered if there is insufficient evidence to

---

<sup>20</sup> *A democracy that works for everyone: British citizens overseas: policy statement* Cabinet Office, October 2016

<sup>21</sup> *A democracy that works for everyone: British citizens overseas Response to feedback to policy proposals*, Cabinet Office, February 2018

<sup>22</sup> *Overseas Electors Bill, Explanatory notes*, published 8 February 2018

confirm whether or not they have been included on a previous electoral register.

## Declaration to be made

**Section 1C** sets out the detailed requirements for the declaration to be made for an overseas voter application.

Subsection (1) lists the essential requirements to be included on the declaration, such as full name, date of the declaration, confirmation of British nationality and which type of registration being requested – either on the basis ‘previously registered’ or ‘previously resident’.

Subsections (2) and (3) detail specific additional information in respect of ‘previously registered’ or ‘previously resident’ applications respectively.

Subsection (4) requires applicants for an overseas vote who had no fixed address when last resident in the UK, but who registered in respect of a declaration of local connection, to declare the address of local connection rather than a previous residential address.

Subsection (5) relates to British citizens born in Northern Ireland. Under the terms of the [Good Friday Agreement](#), also known as the Belfast Agreement, people born in Northern Ireland can choose to be British citizens, Irish citizens or both. If they choose to be both British and Irish citizens, this means they have a dual citizenship.

Subsection (5) restates the existing provisions of section 2(3A) of the 1985 Act (as amended) that a person born in Northern Ireland may make a declaration for an overseas voter application that they are a British citizen or a qualifying Irish citizen. An ‘eligible Irish citizen’ means an Irish citizen who

- was born in Northern Ireland, and
- qualifies as a British citizen (whether or not they identify as such).

Subsection (9) also relates to Northern Ireland and restates the current position that someone found abandoned in Northern Ireland as a new-born infant is, unless shown to the contrary, deemed for the purposes of electoral registration to be born in Northern Ireland.

Subsection (6) restates the existing provision in the 1985 Act – section 2(4) - that voids any declaration if someone tries to register in respect of more than one address at the same time or includes more than one address on a single declaration.

Subsection (7) allows overseas voters to cancel their declaration and subsection (8) deals with definitions.

## Duration of registration

New section 1D replaces the existing provisions in section 2(2) of the 1985 Act. These set the registration period for an overseas elector, in line with the existing provisions, that registration as an overseas elector will last for 12 months unless the registration is cancelled for specified reasons (for example as a result of an objection to registration, by the decision of the electoral registration officer, cancellation by the elector or the elector returns to the UK and registers as an ordinary elector).

Subsections (2) and (3) of the new section 1D make new provisions in relation to renewal of an overseas voter declaration. These are new arrangements that allow for an overseas voter to renew their registration within the last three months of an existing registration and for the renewal to take effect from the end of the existing 12-month registration. Currently a renewal reminder is sent within the last three months but the new registration starts with the successful processing of the renewal.

### **Renewal declaration**

New section 1E gives the details required when submitting a renewal declaration. These replicate the provisions in new section 1C for initial declarations.

### **Variation of the 12-month registration period**

New section 1D gives a Minister the power to vary the time for an overseas registration period to be valid. As noted above the current arrangements, and the arrangements contained in the Bill, mean that overseas voters must renew their registration every 12 months.

The maximum period allowed in this new provision for an extension in the time an overseas registration would be valid is 5 years. A Minister can only propose this change having consulted the Electoral Commission.

Any change must be made by statutory instrument and the instrument must be laid before Parliament in draft. It would be subject to the affirmative procedure and must be approved by both Houses of Parliament before taking effect.

The Association of Electoral Administrators, the Scottish Assessors Association and SOLACE (the Society of Local Authority Chief Executives) have all opposed this move. They have argued that while a longer duration might be more administratively convenient, there is a risk that the integrity of the register would be jeopardised. It would also create inconsistency in approaches with other 'special category' electors.

In response, the Government has stated that it does not plan to use this power at present. In its 'response to feedback' document the Government stated that:

In light of the current lack of consensus within the electoral community about whether extending the renewal frequency is desirable, the Government does not propose to make this change. To allow the Government to act more swiftly in the future, should opinion coalesce, we will seek a power to enable the renewal frequency to be changed, up to a maximum of five years, by secondary legislation. The Government would consult with the electoral community before making any such change.<sup>23</sup>

---

<sup>23</sup> *A democracy that works for everyone: British citizens overseas Response to feedback to policy proposals*, Cabinet Office, February 2018, p9

## Guidance

This section requires electoral registration officers (including the Chief Electoral Officer of Northern Ireland) to have regard to guidance issued by a Minister on overseas registration. The guidance may cover a person's qualification as an overseas voter or their renewal, or whether to allow an application if someone is applying under the 'previously resident' conditions and there is insufficient evidence that they have never previously been registered (under new section 1B(4)).

## 2.3 Clause 2 – Minor and consequential amendments

This clause makes minor and consequential amendments as a result of the new provisions contained in clause 1. These are contained in schedule 1 of the Bill.

This mainly affects the *Representation of the People Act 1983* (as amended), which is the principal act in relation to electoral law. Section 4 of the 1983 Act (entitlement to be registered as a Parliamentary elector) is amended to refer to the new sections of the 1985 Act (as inserted by this Bill).

Schedule 2 of the 1983 Act, which deals with registration of electors, is amended to include the correct references to renewal declarations and the power of a registration officer to require additional information from an applicant when determining an application.

Changes are also made to the 1985 Act to include renewal declarations in section 12 of the 1985 Act. This section deals with offences relating to false statements or making a declaration when a voter knowingly knows they are subject to a legal incapacity to vote at Parliamentary elections (age apart).

Two Acts that deal with domicile for tax purposes and overseas electors are amended to insert the correct new parts of the 1985 Act (section 200 of the *Finance Act 1996* and section 835B of the *Income Tax Act 2007*).

The *Constitutional Reform and Governance Act 2010* and the *House of Lords Reform Act 2014* are amended to omit references to the local government register of electors (to allow former Members of the House of Lords to register as overseas voters) as they will be redundant under the provisions of the *Overseas Electors Bill*. In the new provisions in the *Overseas Electors Bill* (section 1A), electoral register can mean either the Parliamentary or local government register.

Members of the House of Lords who cease to be Members of the upper House can register as overseas electors. Members of the House of Lords would not normally have been on the register of Parliamentary electors as they are ineligible to vote in Parliamentary elections, but would normally have been registered as local government electors.

Schedule 2 of the *Overseas Electors Bill* contains transitional arrangements. The new overseas voter provisions will not apply for new

applications made before the commencement of these arrangements (see below for commencement provisions).

For existing overseas electors who were previously registered before the commencement of the Bill will be deemed to have fulfilled new registration conditions (new section 1A(2) included in the Bill) once the provisions have been commenced and may make use of the new renewal provisions contained in 1D and 1E of the Bill.

The transitional arrangements contained in schedule 2 of the Bill may be altered by order. Any alterations must be made by statutory instrument. Any such instrument would be subject to the negative resolution procedure.

## **2.4 Clause 3 - commencement**

The new arrangements for overseas voters and the ending of the 15-year limit will not come into force immediately if the Bill passes. A commencement order must be made by statutory instrument.

The Government has committed to ensuring 'votes for life' is in place for the next scheduled general election, expected in May 2022.

In the event of an early general election it will depend whether or not the commencement order has been made.

### 3. Second reading debate

The Bill received its second reading on 23 February 2018: see [HC Deb 23 February 2018 c486-517](#). Second reading was agreed without division.

There was no cross-party consensus on the Bill with, broadly speaking, Conservative Members supporting the Bill and most Labour Members who spoke opposing the Bill. A notable exception was Mike Gapes, who is an honorary president of Labour International and has long supported ending the 15-year limit on overseas registration. One Liberal Democrat MP spoke at second reading, Layla Moran and she spoke in favour of the Bill.

Members speaking against the Bill raised the issue of the time limit. Some saw the current cut-off date as sensible, arguing that the longer an ex-pat had been away from the country then the less likely they were to have a connection with the UK. Supporters of the Bill argued that any time limit was arbitrary and unfair.

Opposition Members raised the issue of extending the franchise and suggested extending the franchise to 16- and 17-year-olds was a more pressing priority. The Bill's sponsor, Glyn Davies, responded to an intervention and noted that was a debate to be had about lowering voting age but that it was a separate issue to the one being dealt with by the Bill.

Another concern raised by Opposition Members was the security of the vote and the potential for increased voter fraud. Opposition spokesperson, Cat Smith MP (Labour), highlighted concerns by the Association of Electoral Administrators (AEA) that scrapping the 15-year rule would increase the potential for electoral fraud.<sup>24</sup> The AEA had raised concerns about the use of attestation to confirm details of an overseas voter application. In its response to the Cabinet Office policy statement on overseas voters, the AEA noted:

There would be no way of checking if there is such a person living at the stated address abroad. Is a sworn statement sufficient security to prevent fraudulent applications when legal proceedings are very unlikely to be taken forward given that both the applicant and attestor are living abroad?<sup>25</sup>

Cat Smith also spoke about the additional burdens the registration of larger numbers of new overseas might place on local authority staff. This was particularly in relation to the potential difficulty of verifying that a person was previously resident/registered to vote at an address when the person registering had left the country many years ago.

---

<sup>24</sup> [HC Deb 23 February 2018, c516](#)

<sup>25</sup> Association of Electoral Administrators, *Response to the Government Policy Statement dated October 2016 "A democracy that works for everyone: British citizens overseas"*, November 2016, p4

This reflected another concern raised by the AEA which had previously commented on the additional resource and time burdens in verifying applications:

The checking of previous revisions of registers based on the existing 15-year period is already resource intensive and time consuming for EROs. Some applications contain vague or incorrect previous addresses which can cause problems in checking the register. With the removal of the 15-year rule, this is likely to increase as applicants are more likely to forget the date they were last registered and the precise address as time goes by.<sup>26</sup>

The Member in charge, Glyn Davies, did not have a chance to respond to the debate as the Deputy Speaker allowed a closure motion to be put. The division on the closure motion was called off when no tellers for the 'noes' were appointed.

The question was then put that the Bill be read a second time, which was agreed without division.

---

<sup>26</sup> Association of Electoral Administrators, *Response to the Government Policy Statement dated October 2016 "A democracy that works for everyone: British citizens overseas"*, November 2016, p5

## 4. Public Bill Committee

The Public Bill Committee held four sessions on the Bill. There were nine divisions, but the Bill passed the committee stage without amendment.

The main provisions to end the 15-year rule are contained in Clause 1 and several amendments were debated.

### **Voting age**

The first committee session was largely taken up by an amendment moved by Layla Moran to lower the voting age for overseas voters to include 16- and 17-year-olds.

Glyn Davies noted that his Bill was a single-issue Bill relating to overseas voters and that his Bill was not the vehicle to deal with lowering the voting age. The Minister, Chloe Smith, also noted that lowering the voting age for overseas voters would create two different qualifying ages for Parliamentary voters, as the amendment would not lower the voting age for domestic Parliamentary voters.

The amendment was rejected on division 8 votes to 7.<sup>27</sup>

### **Extension of service voter registration**

Alex Norris (Labour) moved an amendment that would have retained the 15-year limit on overseas voter registration but would have extended the number of those resident overseas from being able to register as service voters.

Chloe Smith told the committee that it was her contention that the unamended Bill better achieved the enfranchisement of affected potential voters by removing the arbitrary 15-year limit. The amendment was withdrawn.<sup>28</sup>

### **Gradual extension of the franchise**

Alex Norris also tabled two amendments that would have had the effect of gradually removing the 15-year limit on overseas voter registration. Chloe Smith rejected the principle by saying, "We are of the view that a cut-off of any kind, whether it is rolling or fixed, is arbitrary."<sup>29</sup>

### **Defining residence**

Christian Matheson (Labour) moved an amendment that would have required a Minister to define "resident" in regulations as it relates to electoral registration.

Residence is not defined in electoral law. The *Representation of the People Act 1983* as amended, the principal Act relating to electoral law, lays down factors that tend to establish residence, without seeking to define it. Case law has expanded on statute to establish that residence implies a considerable degree of permanence. Electoral registration

---

<sup>27</sup> [PBC Deb 17 October 2018, c4-21](#)

<sup>28</sup> [PBC Deb 17 October 2018, c21-32](#)

<sup>29</sup> *Ibid*

officers consider the circumstances of applications in determining residence.

Chloe Smith responded by saying that ministerial guidance was a better route than defining residence in regulations. She noted that the Bill would require electoral registration officers to have regard to ministerial guidance in determining applications for overseas electors' registration and renewal. The Bill goes on to state that the guidance may include determining whether a person satisfies the residence condition.<sup>30</sup>

### **Documentary evidence**

The next group of amendments, tabled by Alex Norris and Christian Matheson, related to the types of documentation, information and attestations that the Bill requires overseas voters to provide to be registered and subsequent renewal applications. They included a provision that any use of an attestation would require two attestors, one would have to be a registered voter in the constituency in which the applicant wants to be registered and one would have to be from another existing overseas elector.

The Minister rejected the amendments on the basis that they would place a higher burden of proof on overseas voter applications than those for domestic voters. They would have also included in the Bill details that would normally be made by secondary legislation.

The committee divided and rejected the lead amendment by 7 votes to 6.<sup>31</sup>

### **Registration deadlines during a general election**

Alex Norris proposed amendment 37 and new clause 12 that would have had the effect of changing the registration deadline for overseas voters in a general election.

The registration deadline for a general election is at midnight 12 working days before polling day. This is the same regardless of whether you are an overseas or domestic voter.

The amendment and new clause would have brought the registration deadline for overseas voters forward to allow more time for overseas applications to be processed and ballot papers to be sent.

Chloe Smith opposed the change on a similar basis for rejecting earlier amendments, namely it would treat overseas voters differently to other voters. She acknowledged that the registration deadlines can cause problems on last minute registrations but noted that the Parliamentary election timetable had already been lengthened and that it was the Government's "standing position to encourage electors to register as early as possible ahead of the registration deadline".

---

<sup>30</sup> [PBC Deb 17 October 2018, c32-6](#) and [PBC Deb 24 October 2018, c37-41](#)

<sup>31</sup> [PBC Deb 24 October 2018, c41-55](#)

Alex Norris withdrew his amendment, in part because it contained a technical error.<sup>32</sup>

### **Reports on impacts of the Bill**

The debate on Clause 3 focused on including requirements in the Bill that a Minister should lay reports in Parliament on various impacts of the Bill. Some of the amendments called for assessments to be produced before the provisions contained within the Bill were commenced. Others called for reviews to be conducted after enactment.

Chloe Smith rejected the need for the additional reports:

..the Government have already produced an extensive impact assessment on the Bill, as would be expected...It is not necessary to carry out a second assessment of the kind of material that is already in the impact assessment, and I join to that a general point: it would be wrong to delay the enfranchisement of British citizens overseas through the publication of further reports. I see a common thread in a number of amendments, and I am not persuaded that we should hold on that enfranchisement until we have a library shelf full of reports.<sup>33</sup>

### **Overseas voter donations to political parties**

Layla Moran tabled a new clause that would have required the Minister to report to Parliament on the effects of the extension of the franchise to overseas voters on the permissibility of donations from UK citizens resident overseas.

This was in part a response to the Electoral Commission calling for legislative clarity on the permissibility of donations from overseas registered voters following a 2010 Supreme Court ruling.<sup>34</sup> The new clause would not change the law but would force the government to report on the effect of extending the franchise.

For an individual to donate money to a political party they must be a permissible donor. This means they must appear on an electoral register in the UK at the time of the donation. This includes registered overseas voters.

The Supreme Court case related to the case of a British citizen who had made a series of donations to UKIP. It was then found that some of the donations were made when the donor was not registered to vote, making them impermissible. UKIP refused to return any of the donations. Political parties can only accept donations from permissible sources. For individuals, a person must be registered to vote in the UK to be permissible. This includes registered overseas voters. For organisations and companies, they must be registered and carrying on business in the UK. These provisions stemmed from the Committee on

---

<sup>32</sup> PBC Deb 24 October 2018, c56-63

<sup>33</sup> PBC Deb 24 October 2018, c74

<sup>34</sup> Electoral Commission, *A democracy that works for everyone: British citizens overseas Electoral Commission response to the UK Government's Policy Statement*, December 2016

Standards in Public Life report on the funding of political parties, which included recommendations on preventing foreign donations to UK political parties.<sup>35</sup>

The Electoral Commission then applied to a magistrate's court under Section 58(2) of the *Political Parties, Elections and Referendums Act 2000* (PPERA) to get an order of forfeiture, so UKIP would forfeit the money. The court ruled that only the amount that was donated while the donor was not on the register should be forfeited. The Electoral Commission appealed, and the Appeal Court ruled in favour of the Commission, agreeing that the whole sum should be forfeited.

The case then went to the Supreme Court. The Supreme Court judgement determined (by 4 to 3) that the lower court was correct; section 58(2) permitted the forfeiture of a sum less than the total donation and that the presumption in favour of full forfeiture was displaced where the donor was eligible to be on the UK electoral register but had not been registered by reason of administrative oversight.<sup>36</sup>

Chloe Smith opposed the new clause on the grounds, in line with earlier debates, that conducting a report was not necessary. She also noted that new clause would not do what the Electoral Commission had called for and that this Bill was not the place for regulatory changes to donations to political parties.

Layla Moran put the new clause to a division, which was defeated 8 votes to 5.<sup>37</sup>

### **Remaining new clauses**

The remainder of the committee debate was given over to two new clauses proposed by Christian Matheson and two new clauses proposed by Alex Norris. All were withdrawn by the sponsoring Member.

Christian Matheson's clauses would have required electoral registration officer to prompt people who were leaving the UK to register as overseas voters and would have required the Minister to prepare a report to be laid before Parliament on how an MP represents their overseas voters.

On the first point, Chloe Smith said that encouraging overseas voters before any election deadline was to be welcomed but that the proposed new clause was not necessary as other organisation, such as the Electoral Commission, already have a role in promoting voter registration.<sup>38</sup>

---

<sup>35</sup> Committee on Standards in Public Life, [The Funding of Political Parties in the United Kingdom](#), October 1998

<sup>36</sup> Supreme Court judgement, *Electoral Commission v City of Westminster Magistrates Court and The United Kingdom Independence Party*, [2010] UKSC 40

<sup>37</sup> [PBC Deb 31 October 2018, c91-103](#)

<sup>38</sup> [PBC Deb 14 November 2018, c111](#)

On the second point, the Minister disagreed with the new clause and expressed the view that it was not the Government's role to monitor how an MP interacted with any of their constituents.<sup>39</sup>

The final new clauses considered were Alex Norris's clauses on creating an offence of being registered in more than one constituency as an overseas voter and on compiling a single nationwide register of overseas electors to help detect double registrations of overseas registered voters.

Chloe Smith argued that were sufficient electoral offences in place, with providing false information to an electoral registration officer already being an offence. On a national register the Minister noted that the constituency link was an important principle in electoral registration and that treating overseas voters differently was unnecessary.

Alex Norris withdrew both new clauses and the committee concluded its deliberation on the Bill.<sup>40</sup>

---

<sup>39</sup> PBC Deb 14 November 2018, c114

<sup>40</sup> PBC Deb 14 November 2018, c115-22

## 5. Report stage

This was held on Friday 22 March 2019.<sup>41</sup> Several amendments had been tabled for consideration on report.<sup>42</sup> Philip Davies opened the debate by moving New Clause 1. This was grouped with several other new clauses.

At the end of the sitting discussion on the *Overseas Electors Bill* was ongoing and no decision was taken on any amendments.

The Bill therefore stood adjourned and no progress was made. It meant that any further progress on the Bill was unlikely.

Towards the end of the sitting, the Minister for the Constitution, Chloe Smith, intervened to inform the House that the Government remained committed to the ending of the time-limit:

May I take a moment to confirm that the Government remain committed to scrapping the time cap? This remains a manifesto commitment for the Government to fulfil, and we will return to update the House in due course on our steps to do so.<sup>43</sup>

---

<sup>41</sup> HC Deb 22 March 2019, [c1346-70](#) and [c1413-30](#) - Proceedings on the Bill were interrupted by three urgent questions.

<sup>42</sup> [Notices of Amendments as at 22 March 2019](#)

<sup>43</sup> [HC Deb 22 March 2019, c1427](#)

### About the Library

The House of Commons Library research service provides MPs and their staff with the impartial briefing and evidence base they need to do their work in scrutinising Government, proposing legislation, and supporting constituents.

As well as providing MPs with a confidential service we publish open briefing papers, which are available on the Parliament website.

Every effort is made to ensure that the information contained in these publicly available research briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

If you have any comments on our briefings please email [papers@parliament.uk](mailto:papers@parliament.uk). Authors are available to discuss the content of this briefing only with Members and their staff.

If you have any general questions about the work of the House of Commons you can email [hcenquiries@parliament.uk](mailto:hcenquiries@parliament.uk).

### Disclaimer

This information is provided to Members of Parliament in support of their parliamentary duties. It is a general briefing only and should not be relied on as a substitute for specific advice. The House of Commons or the author(s) shall not be liable for any errors or omissions, or for any loss or damage of any kind arising from its use, and may remove, vary or amend any information at any time without prior notice.

The House of Commons accepts no responsibility for any references or links to, or the content of, information maintained by third parties. This information is provided subject to the [conditions of the Open Parliament Licence](#).