



Library Note

European Union (Referendum) Bill (HL Bill 63 of 2013–14)

The European Union (Referendum) Bill received its third reading in the House of Commons on 29 November 2013 and is due to have its second reading in the House of Lords on 10 January 2014. The Bill is a private member's bill, introduced into the House of Commons by James Wharton (Conservative MP for Stockton South) and sponsored in the House of Lords by Lord Dobbs.

The Bill makes provision for an in/out referendum on the question of the United Kingdom's membership of the European Union. It also stipulates that such a referendum must be held before 31 December 2017. This Library Note provides background information on the Bill, including a short summary of its key provisions and of the proceedings at second reading and committee stage in the House of Commons. It then examines the debate at report stage in the House of Commons in further detail, before providing a brief summary of the debate at third reading. The Note also contains two short appendices on usage of the Parliament Acts with regard to private members' bills, and the recent House of Lords Constitution Committee report on the European Union (Referendum) Bill.

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1. Introduction

The [European Union \(Referendum\) Bill](#) (HL Bill 63 of 2013–14) was introduced into the House of Commons on 19 June 2013. The Bill is a private member's bill tabled by James Wharton (Conservative MP for Stockton South) who came first in the ballot for private member's bills on 16 May 2013.¹ It makes provision for an in/out referendum on the question of the United Kingdom's membership of the European Union, and stipulates that such a referendum must be held before 31 December 2017.

The Bill echoes the draft [European Union \(Referendum\) Bill](#) published by the Conservative Party on 14 May 2013.² On 16 May 2013, the Prime Minister's Office indicated that the Prime Minister, David Cameron, was "very happy that James Wharton was taking forward the draft legislation and intended to give him the full support of the Conservative Party".³

This Library Note provides a short summary of the key provisions of the Bill and the proceedings at second reading and committee stage in the House of Commons. It then examines the debate at report stage in the House of Commons in further detail, before providing a brief summary of the debate at third reading. The Note also contains two short appendices on usage of the Parliament Acts with regard to private members' bills, and the recent House of Lords Constitution Committee report on the European Union (Referendum) Bill.

2. Overview of the Bill

As introduced in the House of Lords, the Bill contains six clauses:

- Clause one provides for a referendum on the UK's membership of the European Union to be held before 31 December 2017, and specifies the wording of the referendum question.
- Clause two sets out who will be entitled to vote in the referendum.
- Clause three provides for the conduct of the referendum, including the role of the Electoral Commission.
- Clause four provides for residents of Gibraltar to vote in the referendum.
- Clause five provides for expenditure.
- Clause six details the extent of the Bill and its short title.

¹ For more detailed information on the passage of a private member's bill see House of Commons Library, [European Union \(Referendum\) Bill](#), 28 June 2013, RP 13/41, p 15.

² Further background information regarding the debate on the United Kingdom's membership of the European Union can be found in House of Commons Library, [European Union \(Referendum\) Bill](#), 28 June 2013, RP 13/41, pp 2–7.

³ Prime Minister's Office and 10 Downing Street, [Press Briefing: Morning of 16 May 2013](#), 16 May 2013.

3. Second Reading in the House of Commons

The second reading of the Bill took place on 5 July 2013. Introducing the Bill, its sponsor, James Wharton, stressed the importance of “giving the public a real say” about the UK’s membership of Europe, something which he argued had not occurred since the 1975 referendum.⁴ He also defended the timing of the proposed referendum, arguing that it offered the chance to “secure the best possible deal from the European Union and put a real choice to the British people”.⁵

Outlining the position of the Labour Party, the Shadow Foreign Secretary, Douglas Alexander, said:

Any judgment about an in-out referendum on the UK’s membership of the European Union has to be based on what is in the national interest. We do not believe that an in-out referendum in 2017, as anticipated in the hon Gentleman’s Bill, is in the national interest. The Bill reflects an arbitrary date unrelated to the likely timetable of major treaty change, it represents an unrealistic and uncertain negotiating strategy, and it is brought forward by a party divided between those seeking consent and those seeking exit.⁶

The Foreign Secretary, William Hague, congratulated James Wharton and reiterated that “almost 40 years” had passed since the British people last had a referendum on Europe, contrasting this situation with other European countries such as France, Denmark and Spain.⁷ Mr Hague added that “no institution can survive without the people’s support”.⁸

Meanwhile, Martin Horwood (Liberal Democrat MP for Cheltenham) noted that the Liberal Democrats had voted for an in/out referendum on EU membership at the time of the Lisbon treaty.⁹

The possible implications of the Bill for overseas investment in the UK,¹⁰ the omission of Gibraltar from the Bill’s proposed franchise¹¹ and whether the Prime Minister would be able to renegotiate a new settlement with Europe by 2017—as stated in the rationale for a referendum provided by Mr Cameron in January 2013¹²—were briefly discussed during the debate.¹³ The issue of whether a private member’s bill was the appropriate vehicle with which to introduce a referendum on the UK’s membership of the EU was also raised.¹⁴

4. Proceedings at Committee and Report Stage in the House of Commons

At committee and report stage, a large number of amendments were tabled and debated on each clause of the Bill.

⁴ HC *Hansard*, 5 July 2013, [col 1170](#).

⁵ *ibid*, [col 1169](#).

⁶ *ibid*, [cols 1180–1](#).

⁷ *ibid*, [col 1189](#).

⁸ *ibid*, [col 1190](#).

⁹ *ibid*, [col 1191](#).

¹⁰ *ibid*, [col 1185](#).

¹¹ *ibid*, [col 1171](#).

¹² *Guardian*, ‘EU Referendum: In-Out by End of 2017, Cameron Promises’, 23 January 2013

¹³ HC *Hansard*, 5 July 2013, [col 1193](#).

¹⁴ *ibid*.

4.1 Clause 1: Referendum on the United Kingdom's Membership of the European Union

Clause 1 of the Bill provides for a referendum to be held on the United Kingdom's membership of the European Union, and specifies that the referendum must be held before 31 December 2017. Clause 1(3) states that the Secretary of State must by order, and before 31 December 2016, appoint the day on which the referendum is to be held. As detailed in clause 1(4), the Bill provides that the question to be placed on the ballot paper would be:

Do you think that the United Kingdom should be a member of the European Union?

Numerous amendments to clause 1 were tabled at both committee and report stage. At committee stage, numerous amendments to clause 1 were debated, but none were added to the Bill. At report stage, amendments selected by the Speaker of the House of Commons were grouped according to those which concerned the appointment of the day of the referendum, and those related to the wording used in the question.

Appointment of the Day

At report stage, a number of amendments were tabled calling for the date of the referendum to be either brought forward—in some cases before the next general election—or to be pushed back. Other amendments also sought to introduce some consultation on the dates of the referendum. For example, amendment 58 tabled by Mike Gapes (Labour/Co-op MP for Ilford South) provided for the establishment of a 'European Union Referendum Commission' to consider the date of the referendum and to report back to the Secretary of State. In contrast, Chris Williamson (Labour MP for Derby North) tabled amendment 62 which would have required a 'Speaker's Committee for the Referendum on the United Kingdom's membership of the European Union' to be established for the same purpose. Other proposals called for consultation with developed administrations (amendment 59) and leaders of principal faiths (amendment 12) before referendum dates were appointed, and for a detailed analysis of the consequences to the UK of remaining or not remaining a member of the EU (amendment 70).

Discussion of potential amendments continued throughout the first day of report stage,¹⁵ concluding on the second day,¹⁶ with three amendments being pushed to a division.

The first of those, amendment 68, moved by William Bain (Labour MP for Glasgow North East) would have required the Secretary of State to consult with a number of organisations on the merits or otherwise of the United Kingdom remaining a member of the European Union, and to report to Parliament on that consultation before appointing a day for the referendum. Organisations specified included the Confederation of British Industry, the Trades Union Congress, the National Farmers Union, Universities UK, Friends of the Earth and the Association of Chief Police Officers, as well as "other organisations as the Secretary of State shall see fit".¹⁷ Introducing his amendment Mr Bain stated:

Through these amendments, I seek to give Parliament and, indeed, many interest groups in the wider society the degree of consultation that was given in the 1975 referendum.¹⁸

¹⁵ HC Hansard, 8 November 2013, [cols 533–607](#).

¹⁶ HC Hansard, 22 November 2013, [cols 1479–551](#).

¹⁷ House of Commons, *Consideration of the Bill as at 8 November 2013*, col [1236](#).

¹⁸ HC Hansard, 8 November 2013, [col 588](#).

Responding, David Lidington, Minister for Europe, noted:

The point is that the Bill does not seek to prescribe whether the United Kingdom should remain in or leave the European Union but to give the British people the final decision on that question [...] The right hon Gentleman overlooked the fact that a massive consultation exercise, which the Government are leading, is already under way on the balance of competences in the European Union, and it goes far wider than the organisations specified in the Opposition's proposals.¹⁹

Gareth Thomas, Shadow Minister for Europe, stated:

The amendment offers the prospect of serious voices from outside the narrow confines of the Conservative Party contributing to the debate on whether a referendum might be held and, if so, when and how.²⁰

The House divided on the amendment, and it was defeated by 265 votes to 8.

The amendment which arguably received the most interest, both within and outside of Parliament, was amendment 3 tabled by Adam Afriyie (Conservative MP for Windsor). The amendment sought to change the date of the referendum outlined in the Bill from “before 31 December 2017” to “on 23 October 2014”.²¹ Reporting on the amendment, the *Guardian* noted:

MPs are expected to vote on Friday on an amendment, tabled by Adam Afriyie, the Conservative MP for Windsor, that would bring the referendum forward to 2014. Although many Tory MPs agree with him, he is likely to attract limited support as Conservative MPs gather around the position adopted by No 10. David Cameron has said he needs time to renegotiate Britain's relationship with the EU before he puts the new arrangement to a public vote after the next election—by 2017 at the latest. More than 100 backbenchers have written to Afriyie telling him to drop the amendment, according to reports.²²

The *Telegraph* added:

Adam Afriyie, the Tory MP who was briefly thought of as a possible leadership challenger, defied Downing Street by forcing a vote calling for a referendum in 2014 on Britain's membership of the European Union.²³

In arguing against an October 2014 referendum at report stage, David Lidington, highlighted the timing of the 2014 Scottish referendum and complications in the European political timetable:

The choice that the British people deserve is a choice between membership of the European Union on reformed and renegotiated terms or leaving. That is the right choice. I do not believe it would be possible to come to an informed view about that

¹⁹ *ibid*, [col 606](#).

²⁰ HC *Hansard*, 22 November 2013, [col 1506](#).

²¹ House of Commons, *Consideration of the Bill as at 8 November 2013*, col [1236](#).

²² *Guardian*, ‘[MPs to Debate EU Referendum Bill](#)’, 22 November 2013.

²³ *Telegraph*, ‘[16 Conservative MPs Who Back Adam Afriyie's EU Amendment Are 'Potential Allies' of UKIP, Says Nigel Farage](#)’, 23 November 2013.

choice as early as next year. It is that understanding that has led the Government to propose the 2017 date.²⁴

Gareth Thomas expressed sympathy for “what I think are the motivations of the hon Member for Windsor”,²⁵ but stated:

As a country we should be spending the next year concentrating on improving living standards, increasing the number of well paid jobs and tackling energy bills. A referendum next year, or indeed in four years’ time, would make that task harder as a result of all the uncertainty it would bring.²⁶

The amendment was negated on division by 249 to 15 votes.

The final amendment from this group moved to a division was Peter Hain’s (Labour MP for Neath) amendment 77. This would have added to the Bill the stipulation that the referendum would not occur between 31 July and 1 December 2017, during which time the United Kingdom is due to hold the Presidency of the European Council of Ministers. Speaking to his amendment, Mr Hain said:

Without my amendment being accepted, setting some arbitrary date some time in 2017 could conceivably mean that the referendum would be held right in the middle of the United Kingdom Presidency. Imagine the nonsense of doing that and leaving us in an entirely invidious position—indeed, a laughing stock if a referendum took place during that six months.²⁷

Supporting the amendment, Mike Gapes argued that the current timing of the referendum would be “an absurd prospect for a British presidency of the European Union”.²⁸ Martin Horwood (Liberal Democrat MP for Cheltenham) added that “the hon Gentleman is making a good point about how absurd it would be for a referendum—or even the campaign—to take place during the British Presidency”.²⁹ Shadow Minister for Europe, Gareth Thomas, said:

Amendment 77 [suggests] that the period from July to December 2017, when Britain holds the Presidency of the European Union, should be avoided. Surely that will be this country’s moment of maximum influence in Europe, when the Prime Minister of the day chairs the European Council and can set the agenda and force the rest of the European Union to consider Britain’s priorities. At that moment the Conservative Party would have all the machinery and influence of Government focused not on fighting Britain’s corner but on fighting Tory Euro sceptics. It is diplomatic nonsense. It is not worthy of a Foreign Secretary supposedly serious about fighting for our national interest.³⁰

²⁴ HC *Hansard*, 22 November 2013, [col 1483](#).

²⁵ *ibid*, [col 1505](#).

²⁶ *ibid*.

²⁷ HC *Hansard*, 8 November 2013, [col 605](#).

²⁸ HC *Hansard*, 22 November 2013, [col 1489](#).

²⁹ *ibid*, [col 1490](#).

³⁰ *ibid*, [cols 1504–5](#).

Speaking against the amendment, David Lidington said:

[Amendment 77 touches] on matters that every Government already have to consider in looking at election dates. Successive Governments have taken a pragmatic approach to those matters, and it would be disproportionate to include them in the Bill.³¹

The amendment was negated on division by 265 votes to 8.

The Referendum Question

Clause 1(4) of the Bill dictates that the question which would appear on ballot papers would be:

Do you think that the United Kingdom should be a member of the European Union?

On 29 October 2013, and before report stage in the House of Commons, the Electoral Commission published its [report](#) into the referendum question. The Electoral Commission has a statutory duty under the Political Parties, Elections and Referendums Act 2000 (PPERA) to report on the intelligibility of a question included in a referendum bill as soon as is practicable once it has been laid before Parliament.³² The report on the European referendum question was the ninth question assessment exercise produced by the Commission, but the first to deal with a question included in a private member's bill.³³

The Commission's evaluation of a question follows a 'question assessment process', the guidelines to which state that a question should be: clear and simple; easy to understand and not ambiguous; and neutral (in not encouraging voters to consider one response more favourably than another, or to mislead voters).³⁴

The Commission's report on the European Union (Referendum) Bill recommended that the wording of the proposed referendum question be amended to make it more direct and to the point, and to improve clarity and understanding. The Commission proposed two alternatives to the question included in the original Bill. The first maintained the referendum question as a 'yes/no' choice:

Making the question more direct and to the point

We recommend that the opening phrase "Do you think..." should be replaced with the word "Should...". This would make the question shorter, more direct and to the point. It would also reinforce the importance and significance of the referendum as a formal mechanism for seeking consent from the electorate.

³¹ HC Hansard, 8 November 2013, [col 607](#).

³² Political Parties, Elections and Referendums Act 2000, s 104.

³³ The Electoral Commission has produced question assessment reports on, amongst others, the UK wide referendum on the parliamentary voting system, the forthcoming referendum on independence for Scotland and a range of local government referendums held in England since 2008.

³⁴ Electoral Commission, [Referendum on the United Kingdom's Membership of the European Union: Advice of the Electoral Commission on the Referendum Question](#), October 2013. More details on the Electoral Commission's question assessment process can be found on their [website](#).

Making the question clearer and improving understanding

We recommend that the description in the question of the referendum choice for the UK (currently “should be a member of the European Union”) should be replaced with wording which more clearly reflects the current position of the UK within the European Union. Clarifying the current status of the UK within the EU is necessary to help voters better understand the choice of actions proposed for the UK, and would also reduce the risk of ambiguity about the consequences of the referendum which could mislead some voters.

We considered and tested a range of alternative approaches for amending the wording of the proposed question to more clearly reflect the current status of the UK within the EU. On balance, taking into account the views from participants in our research with the public, input from those who sent us their views and advice from plain language experts, we have concluded that the proposed referendum question would be improved by amending the description of the referendum choice to “remain a member of the European Union”.

The wording of the referendum question under this recommendation would be:

“Should the United Kingdom remain a member of the European Union?”³⁵

The Commission’s second proposal was for a ‘non yes/no’ approach, which would include alternative responses:

It is clear from our research that some people will perceive either positive or negative associations with the phrase ‘remain a member of the European Union’, although there was no evidence to suggest that this wording resulted in participants changing their voting preference in any way.

We recommend that Parliament should consider very carefully whether it wishes to retain the approach of a referendum question which uses ‘Yes’ and ‘No’ as response options, taking into account the risk of a perception of bias which might be associated with the question wording set out in recommendation I [...] If Parliament decides not to retain a referendum question which uses ‘Yes’ and ‘No’ as response options, we recommend that the referendum question should be amended to reflect the alternative version of the wording included in our research with the public, which was considered to be the most neutral of the six versions tested. The wording of the referendum question under this recommendation would be:

“Should the United Kingdom remain a member of the European Union or leave the European Union?”

The response options would be “Remain a member of the European Union” and “Leave the European Union”.³⁶

³⁵ Electoral Commission, [Referendum on the United Kingdom’s Membership of the European Union: Advice of the Electoral Commission on the Referendum Question](#), October 2013, p 3.

³⁶ *ibid.*

The Electoral Commission highlighted that further assessment and research of the amended wording suggested in the ‘non yes/no’ alternative response would be necessary should the Bill be amended to adopt that approach.³⁷ The Commission further noted that such assessment would have time implications:

While we could commence this assessment immediately if the Bill is amended, it would not be possible for us to complete it in the relatively short time available before the Bill completes its passage through the House of Commons. Our assessment would, however, be published and made available to Parliament before the Bill completes its passage through the House of Lords.³⁸

Press comment on the Electoral Commission’s report centred on the potential for voter confusion on the UK’s membership of the European Union. The *New Statesman* reported that:

If politicians are sometimes guilty of underestimating the public’s knowledge, they are also often guilty of overestimating it. It is the latter fault that the Electoral Commission has identified in its response to the EU referendum question proposed in Tory MP James Wharton’s EU Referendum Bill (which has the support of the Conservative leadership). It warns that the current question—“Do you think that the United Kingdom should be a member of the European Union?”—could create confusion since “a few people did not know whether or not the UK is currently a member of the EU”.³⁹

While the *Guardian* noted:

The planned referendum on the UK’s membership of the European Union should be changed because some voters are unaware Britain is already a member, the elections watchdog has said. MPs are currently considering proposals to go to voters in 2017 asking: “Do you think that the United Kingdom should be a member of the European Union?”.

But the Electoral Commission said a more neutral alternative would be “Should the United Kingdom remain a member of the European Union or leave the European Union?”.

Any change in the wording is likely to delay the passage of Tory MP James Wharton’s private member’s bill, which is already likely to have a rocky ride through parliament.⁴⁰

The *Telegraph* reported that the promoter of the Bill, James Wharton, was reluctant to change the question because the necessary debate and scrutiny could lead to the Bill running out of parliamentary time and failing to become law.⁴¹ Responding to the Electoral Commission’s

³⁷ *ibid*, p 7.

³⁸ *ibid*.

³⁹ *New Statesman*, [‘EU Referendum Question Should be Changed to Avoid Confusion, Says Electoral Commission’](#), 29 October 2013.

⁴⁰ *Guardian*, [‘Quit the EU? Some Voters Don’t Know Britain is Already a Member, Warns Watchdog’](#), 29 October 2013.

⁴¹ *Telegraph*, [‘EU Referendum May Confuse Voters “Not Aware Country is Part of the Union”’](#), 29 October 2013.

report on his Twitter account, James Wharton noted:

[I have] just received [the Electoral Commission report] this morning but initial reaction is no need to change q[uestion], recommendation not strong but will reflect.⁴²

Following the publication of the Electoral Commission's report, several amendments were tabled during report stage of the Bill on the referendum question with reference to the Commission's findings. Gareth Thomas, Shadow Minister for Europe, moved amendment 72 which would have required the Secretary of State to conduct a consultation lasting not less than six months on what question would appear on the ballot paper. Speaking to his amendment, Gareth Thomas said:

[The Commission] would like further time for research and, especially, to consult potential referendum campaigners. Amendment 72 would build on the provisions of the 2000 Act [PPERA], which led to this first useful report from the Commission, by allowing further consultation to uncover any further problems in the wording of possible questions and to suggest what the wording should be.⁴³

Also within this group, Mike Gapes (Labour/Co-op MP for Ilford South) moved two amendments. The first, amendment 35, retained a 'yes/no' question but, as recommended by the Electoral Commission, provided for replacing "Should the United Kingdom remain a member of European Union?" with "Do you think that the United Kingdom should be a member of the European Union?".⁴⁴ Mr Gapes' second amendment 36 provided for a 'non yes/no' question, again using the alternative wording suggested by the Electoral Commission.⁴⁵

Responding to amendment 72, David Lidington, Minister for Europe, said:

The amendment that would provide for an additional consultation process on the referendum question, going beyond what is set out and what has already been undertaken. The key point that I want to make is that it has been normal practice under successive Governments for a referendum question to be spelled out very clearly on the face of the Bill that authorises that referendum, and the Bill introduced by my hon Friend the Member for Stockton South (James Wharton) therefore follows that established practice.⁴⁶

Mr Lidington also rejected the case for amending the wording of the referendum question.⁴⁷ He noted that the Commission "did not put forward an alternative wording but, rather usually, suggested—I use the term deliberately—two possible alternative wordings", adding that the Electoral Commission "believed that the question drafted by my hon. Friend met pretty much all the tests it would expect". The Minister also felt that any potential voter confusion about the UK's membership of the European Union would be addressed during the referendum campaign.

⁴² James Wharton MP, Personal Twitter Account, [@jameswhartonmp](https://twitter.com/jameswhartonmp).

⁴³ HC *Hansard*, 22 November 2013, [col 1525](#).

⁴⁴ House of Commons, *Consideration of the Bill as at 8 November 2013*, [col 1239](#).

⁴⁵ *ibid.*

⁴⁶ HC *Hansard*, 22 November 2013, [col 1525](#).

⁴⁷ *ibid.*, [col 1528](#).

Martin Horwood (Liberal Democrat MP for Cheltenham) noted:

Surely the whole point of having an Electoral Commission is that we do not settle for referendum questions that are just about satisfactory and that we certainly go for those that it decides are the best and clearest. On a matter of such critical importance, surely the Minister should accept that.⁴⁸

Amendment 72, which referred to a six month consultation on the referendum question, was negated on division by 255 votes to 16.

Amendment 35, which provided for the wording of a ‘yes/no’ referendum question in line with the Electoral Commission’s proposal, was also negated on division by 244 votes to 3 (amendment 36 was not moved to a vote.) Therefore, the question contained within clause 1 of the Bill remains unamended.

The final amendment in the group moved to a vote was amendment 71 tabled by William Bain (Labour MP for Glasgow North East), which called for the date of a referendum to be included in the Bill rather than to be determined by the Secretary of State by order. During the debate, Mr Bain explained the rationale for the amendment:

An unusual aspect of this Bill is that it purports to hold a referendum on the question of whether to remain part of the European Union, without specifying the date on which such a referendum would be held. That is most unlike the practice that we have seen when this House has passed similar legislation to create the opportunity for referendums to take place in Scotland, Wales and Northern Ireland—and, indeed, for the referendum held two years ago on the alternative vote. It is also unlike what is happening in the process for a referendum in Scotland. The great danger that the Bill in its current form presents is that it gives the Executive too much power in the setting of the referendum date. The Bill gives the Government a blank cheque for the setting of that date, and who knows what sort of factors will be considered when the Government come to set it [...]

Amendment 71 would limit that discretion quite substantially. If we look at the wording of clause 1, we see that it is technically possible for this House and the other place to pass a resolution, setting a particular date for a referendum, and there could be general election in the interim. In the increasingly—by the day—unlikely event of this Government being returned to office at that election, they could come forward with an order in the next Parliament with a different date for the holding of the referendum.

The purpose of the amendment is to ensure that, if this Bill were passed, any date specified in a resolution passed by this House and the other place for the holding of a referendum would be the same as the date in the final order. In so doing, it would reassert the sovereignty of this House.⁴⁹

David Lidington, Minister for Europe, noted:

[Amendment 71] seeks to add to the requirements for when the power to set the date of the referendum is used. The amendment specifies that the Secretary of State could

⁴⁸ *ibid.*

⁴⁹ *ibid.*, [cols 1539–40](#).

appoint only the day for the referendum that was specified in a resolution in each House. I draw the attention of the House to the fact that under clause 1(6) the Bill already requires the order to be approved in draft by a resolution of each House, and that draft would include the date of the referendum.⁵⁰

The amendment was negated on division by 241 votes to 7.

4.2 Clause 2: Entitlement to Vote in the Referendum

Clause 2 of the Bill provides for the franchise for the proposed referendum. As currently drafted, the Bill would enable those who are able to cast their ballot in a Parliamentary election to vote in the proposed referendum, including citizens of Ireland, Malta and Cyprus who are legally resident in the UK and registered to vote. The Bill also provides Members of the House of Lords with the right to vote. Clause 4 of the Bill (new clause 1 as introduced at report stage in the House of Commons) also extends the franchise to citizens of Gibraltar, and is discussed in more detail below.

Debate on the franchise at both committee and report stage in the House of Commons focused on the entitlement to vote for those aged 16 and over, the situation of EU citizens living in the UK and of residents of British Overseas Territories and Crown Dependencies.

16 Year Olds

At both committee and report stage there was debate about extending voting rights in the proposed referendum to those aged 16 years and above. Clause 2 was debated at the fourth sitting of the committee stage on 4 September 2013, where Barry Sheerman (Labour/Co-op MP for Huddersfield) moved amendment 93, which would have extended the franchise in the referendum to those over 16 years old. Mr Sheerman said that he was a “passionate opponent of votes at 16”, but he thought that it was only right to include discussion and debate on this issue during passage of the Bill as the Scottish independence referendum will enable those over 16 to vote.⁵¹ However, David Lidington, Minister for Europe, responded that he was not convinced that the proposed referendum was the right vehicle to “experiment with changes to the established general election franchise”.⁵² The amendment was subsequently withdrawn.

At report stage, the subject of reducing the voting age for the proposed referendum to 16 was further debated. Martin Horwood, Liberal Democrat spokesman, said that extending voting rights to those aged under 18 was important for young people and “to the future of our democracy”.⁵³ Representing “one of the youngest constituencies in the UK”,⁵⁴ Meg Hillier (Labour/Co-op MP for Hackney South and Shoreditch) also spoke in favour of a move to give 16 and 17 year olds the right to vote and said that it would considerably affect how young people in the UK are listened to.⁵⁵ In addition, Steve McCabe, Shadow Minister for Education, raised the fact that 16 year olds will be able to vote in the referendum on Scottish independence, saying that he was “perplexed [...] that the Government can justify reducing the

⁵⁰ *ibid*, [col 1526](#).

⁵¹ HC *Hansard*, European Union (Referendum) Bill: Public Bill Committee, 4 September 2013, [col 188](#).

⁵² *ibid*, [col 199](#).

⁵³ HC *Hansard* 8 November 2013, [col 546](#).

⁵⁴ *ibid*, [cols 564–6](#).

⁵⁵ *ibid*.

voting age in Scotland [...] but will deny them that privilege in a referendum that will determine the long-term future of the entire UK in deciding whether we should be in or out of Europe”.⁵⁶

Mike Gapes (Labour/Co-op MP for Ilford South) pressed his amendment 44 to enable those aged 16 and over to vote in the referendum to a division, where it was defeated by 235 votes to 29.

Members of the House of Lords

Members of the House of Lords are ordinarily disqualified from voting at parliamentary elections. Clause 2 of the Bill would enable Members of the House of Lords to vote in the proposed referendum. This issue was addressed briefly in committee by David Lidington, Minister for Europe, who said that it was logical for members of the Upper House to be able to vote in the referendum, but not in a general election:

Peers who would normally be disqualified from voting because they sit in the House of Lords would be enfranchised for the purposes of the referendum [...] I do not think that it is unreasonable for us to follow historical practice: Members of the upper House, who by virtue of their person and status as Peers are legislators in that Chamber, should not have the additional right to vote for the composition of the lower House. There is a logic to those arrangements: if someone sits in one place, they do not vote for the other.⁵⁷

EU Citizens and British Overseas Territories

There was debate at both committee and report stage on whether EU citizens living in the UK should be able to vote in the proposed referendum. At committee stage, David Lidington, Minister for Europe, said:

I understand the case that my hon Friend and others have made for using the local election franchise and extending the vote to citizens of other EU countries, but British citizens would find that hard to swallow. We have large numbers of people from other EU countries here, and London is something like the seventh-largest French city, which is why French presidential candidates come over here during their election campaigns. However, the decision should be primarily for British citizens.⁵⁸

Mr Lidington subsequently confirmed his support for the right to vote for Irish and Commonwealth citizens, as determined by the Parliamentary franchise.⁵⁹

At report stage, Mike Gapes (Labour/Co-op MP for Ilford South) tabled a series of amendments which would have widened the franchise of the referendum to include: those who have right of abode in the UK (amendment 43); those entitled to vote in European Parliamentary elections (amendment 45); those entitled to vote in local government elections (amendment 46); all British citizens resident in any European Union member states (amendment 47); prisoners

⁵⁶ *ibid*, [col 547](#).

⁵⁷ HC *Hansard*, European Union (Referendum) Bill: Public Bill Committee, 4 September 2013, [col 201](#).

⁵⁸ *ibid*, [col 201](#).

⁵⁹ *ibid*, [cols 201–2](#).

(amendment 48); residents of all Crown Dependencies (amendment 50); and residents of all British Overseas Territories (amendment 51).⁶⁰ Introducing his amendments, Mr Gapes said:

It is important to understand why there are so many amendments on the franchise to be used in a referendum: because this short Bill is woefully inadequate. It would create a referendum held on the basis of the franchise for the parliamentary elections, not the European elections, even though it would have enormous implications for the 1.4 million British people living in other European Union countries. It would also affect British people who live elsewhere in the world, perhaps working for companies based in the UK, with families still living in the UK. Their prosperity depends on our membership of the EU.⁶¹

Speaking to the need to be registered as an overseas voter in order to participate in the referendum, Mr Gapes also said:

The figures I have seen show that there were fewer than 20,000 registered overseas voters in December 2012. The future of [...] British people living elsewhere in the EU could be seriously and adversely affected by the consequences of a referendum that leads to withdrawal, but they will not be given a say.⁶²

Speaking in support of Mr Gapes' amendments, William Bain (Labour MP for Glasgow North East) said that there are now 260,000 people living in the British Overseas Territories, and the Minister should ensure they will have an opportunity to be consulted.⁶³ A further issue was raised by Gareth Thomas, Shadow Minister for Europe, who said that a number of British Overseas Territories have benefitted from financial support from the EU through the European development fund.⁶⁴ As a result, he said:

[I am] therefore sympathetic to the amendments [...] that seek to address the problem that the British Overseas Territories will be excluded from a matter that could have a detrimental effect not only on their income, but on their trading ability. I am interested to hear how the Minister can justify their exclusion.⁶⁵

David Lidington responded that the proposal to alter the general election franchise to include European citizens in addition to UK and Commonwealth citizens was a legitimate question, "but the purpose of the Bill is to apply the UK's general election terms to the proposed franchise".⁶⁶ With regard to the position of citizens of Cyprus, Malta and Ireland resident in the UK, Mr Lidington said:

[That electors from those countries will be able to vote in the referendum] is no more or less anomalous than the situation which applies already at our general elections, where citizens of those European Commonwealth countries who are legally resident here and registered as voters are entitled to participate, whereas nationals of other EU

⁶⁰ HC *Hansard*, 8 November 2013, [cols 537–8](#). Mr Gapes also tabled further amendments with regard to Gibraltar which are discussed below, and other areas of the franchise which were not called.

⁶¹ *ibid.*, [col 548](#).

⁶² *ibid.*, [col 554](#).

⁶³ *ibid.*, [col 564](#).

⁶⁴ *ibid.*, [col 573–4](#).

⁶⁵ *ibid.*, [col 574](#).

⁶⁶ *ibid.*, [col 560](#).

member states who are also lawfully resident are not entitled to vote in a UK general election.⁶⁷

Only amendment 51 (enabling the residents of all British Overseas Territories to participate in the referendum) was pressed to a division at report stage, where it was negated by 233 votes to 5.⁶⁸

4.3 Clause 3: Conduct of the Referendum and Further Provisions

Clause 3 of the Bill relates to the conduct of the referendum and further provisions. The clause requires the Electoral Commission to publish a report for the Secretary of State which sets out recommendations for the rules under which to hold the referendum. Having regard to that report, the Bill enables the Secretary of State to provide for rules for the conduct of the poll to be set out in orders subject to affirmative resolution in both Houses.

The House of Commons Library Research Paper, *European Union (Referendum) Bill*, published 28 June 2013, states:

The Bill takes account of the role of the Electoral Commission in oversight of referendums, but makes no reference to the Political Parties, Electoral and Referendums Act 2000 (PPERA). Section 101 of PERA states that the legislation applies to any UK referendum held under a UK Act of Parliament. Presumably, the Electoral Commission recommendations provided for in clause 3 would take account of the overall PERA framework.⁶⁹

The Electoral Commission provides the following information regarding its role in UK referendums:

Except where a referendum bill makes specific provision to dis-apply the relevant provisions of the PERA, the Commission will also have responsibility in any UK-wide referendum for:

- Registering organisations or individuals who want to campaign in the referendum.
- Monitoring spending on referendum campaigning, in line with the referendum spending limits imposed by the PERA.
- Considering applications for designation as lead campaign groups for each referendum outcome.
- Ensuring that designated organisations (if appointed) have access to certain assistance.
- Reporting on the administration of the referendum and referendum campaign spending.

⁶⁷ *ibid*, [col 560](#).

⁶⁸ HC *Hansard*, 29 November 2013, [col 534](#).

⁶⁹ House of Commons Library, [European Union \(Referendum\) Bill](#), 28 June 2013, RP 13/41, p 7.

Under the provisions of the PPERA, the Chair of the Commission, or someone she appoints, must act as Chief Counting Officer for the referendum and will be responsible for certifying the outcome of the referendum.⁷⁰

Further information regarding the regulation of referendums can be found in the House of Commons Library Research Paper, *European Union (Referendum) Bill*.

During committee stage of the Bill, there was debate on: a threshold for the referendum; public information campaigns; the length of the campaign period before the referendum; and the interaction of the Bill with the Political Parties, Elections and Referendums Act 2000. No amendments were made to the clause 3 at committee stage.

At report stage, amendments debated on clause 3 included stipulating a timeframe for the Electoral Commission to provide recommendations on rules for the referendum to the Government (amendments 52, 53, 54), and inserting a provision into the Bill under which the referendum result would not be considered valid if it did not reach a certain threshold (amendment 17).⁷¹ In addition, provisions relating to the amount of press coverage and broadcast media time provided to each campaign (amendments 6 and 7) were considered, as was the provision of public funding for campaigns (amendment 5), the introduction of compulsory voting in the referendum (amendment 85), the opening hours of polling booths (amendment 16) and the need the Electoral Commission to undertake a review of the conduct of the referendum not more than twelve months after the referendum (amendment 84).⁷²

Two amendments were pushed to a division. Amendment 52 by Mike Gapes (Labour/Co-op MP for Ilford South) would have required that the Electoral Commission report on its recommendations for the rules under which the referendum should be conducted by 1 March 2015. Speaking to his amendment, Mike Gapes said:

Amendment 52 is probably the most important amendment in the group. We have now voted for the referendum, if there is one, to take place by the end of 2017. Other proposed amendments to clause 3 have not been agreed to.

Specifying the date of 1 March 2015 would oblige the Electoral Commission to present its proposals and recommendations about the conduct of the referendum not just well before the general election—which might be pertinent, because any incoming Government could bear in mind any difficulties that the Electoral Commission had highlighted—but at a time that would allow proper consideration and preparation, including legislation or any other measures that the Government might wish to take, to begin up to two and a half years before the referendum, given that, although we do not know the exact date of the referendum, we have been told that it must take place by the end of 2017.⁷³

Responding, David Lidington, Minister for Europe, stated:

Amendments 52 to 55 would impose deadlines on the Electoral Commission. Existing legislation gives the Commission appropriate powers and responsibilities. Particularly as

⁷⁰ Electoral Commission, [Referendum on the United Kingdom's Membership of the European Union: Advice of the Electoral Commission on the Referendum Question](#), October 2013, p 6.

⁷¹ House of Commons, *Consideration of the Bill as at 8 November 2013*, [col 1243](#).

⁷² *ibid*, cols 1243–4.

⁷³ HC *Hansard*, 29 November 2013, [col 540](#).

we do not yet know the exact date on which the referendum will take place, it would be wrong to impose undue inflexibility on the Commission, as these amendments would do.⁷⁴

The amendment was negated by 247 votes to 5.

Amendment 64, moved by Gareth Thomas, Shadow Minister for Europe, would have required the results of the referendum to be published for European parliamentary constituencies, except in the case of Gibraltar which would have its results published separately rather than in the European parliamentary constituency it sits within, the South West. Speaking to his amendment, Gareth Thomas stated:

As the House will know, in ordinary European parliamentary elections the results of voting in Gibraltar are included in the south-west region of the UK. My amendment suggests a provision to allow a change from this norm whereby for referendums only the results are published separately, allowing it to be clear and beyond doubt how the Gibraltar people have voted should such a referendum go ahead. I cannot, in all honesty, foresee a great added expense in such an arrangement. I gently suggest to Conservative Members that adding such a provision to the Bill might go some way towards making up to the Gibraltar people for the rather—dare I say?—rude way in which they were treated in this proposed legislation at the outset. I would have welcomed the Minister's comments on the amendment, but I do not think he touched on it at all.⁷⁵

Responding, David Lidington, said:

Amendments 16, 64 and 65 propose detailed rules for the conduct of the referendum, but these kinds of detailed arrangements will be dealt with in secondary legislation, provision for which is already included in the Bill.⁷⁶

The amendment was negated on division by 247 votes to 25.

4.4 Clause 4: Gibraltar

The Bill as introduced in the House of Commons did not extend the electoral franchise to allow residents of Gibraltar to vote in the proposed referendum. At the first sitting of committee stage, attention was drawn to the omission of Gibraltar, with Martin Horwood, Liberal Democrat Spokesperson, pointing out that the Bill created a “bizarre situation” that would use the Westminster franchise for the referendum and exclude Gibraltar, yet include Maltese and Cypriot citizens living in this country and able to vote.⁷⁷ Emma Reynolds, the then Shadow Minister for Europe, agreed that there was a strong case for including Gibraltar in the referendum franchise and said that she had written to the Chief Minister of Gibraltar about the omission of Gibraltar from the Bill.⁷⁸

⁷⁴ *ibid*, [col 547](#).

⁷⁵ *ibid*, [col 565](#).

⁷⁶ *ibid*, [col 548](#).

⁷⁷ HC *Hansard*, 11 September 2013, [col 239](#).

⁷⁸ HC *Hansard*, European Union (Referendum) Bill: Public Bill Committee, 4 September 2013, [col 197](#).

At the fourth sitting of committee stage, David Lidington, Minister for Europe, said he would deliberate further on the issue of Gibraltar:

I do not deny that the people of Gibraltar have a unique status compared with residents of other British overseas territories. When Parliament agreed to the European Union Act 2011, we made a careful and tailored arrangement for the people of Gibraltar. We provided for them to participate in a United Kingdom referendum where a proposed treaty change would affect those parts of EU competences that involved Gibraltar, but Gibraltar did not have the right to take part in such a referendum if it was about a treaty change that did not affect Gibraltar because it covered areas outside Gibraltar's EU engagement. As I said at the outset, this is complicated. I have some sympathy for what members of the Committee have argued, and I propose to reflect further on the Gibraltar issue. I do not give any promises now, but I want to consider it further. Perhaps we will return to the matter here or in the House of Lords.⁷⁹

Consequently, Andrew Rosindell (Conservative MP for Romford) moved new clause 1 at report stage (clause 4 in the Bill as introduced in the House of Lords) which would provide for the people of Gibraltar to vote in the referendum. Speaking to his amendment, Mr Rosindell said that it was right that the provisions of the Bill were extended to the people of Gibraltar, particularly after a long battle for the right to vote in European elections granted in June 2004.⁸⁰

There was a broad consensus of support for new clause 1 at report stage.⁸¹ However, a number of members raised consequential points in relation to its addition to the Bill, including the situation should Gibraltar vote to remain in the EU but residents of the UK vote to leave. Martin Horwood said:

[Gibraltar] is included in the European Union only by virtue of the UK's membership of the EU [and] does not have separate representation in its own right in the European Parliament. [...] We could end up in a bizarre situation whereby Gibraltar votes to remain in the EU and the rest of the UK votes to leave it. We face the prospect of going to the effort of accepting this new clause and giving Gibraltarians their say and the ability to express their own view on their own destiny, but then expelling them from the EU against their wishes.⁸²

Responding, David Lidington said:

To those hon Members who have asked, "What would happen if in 2017 the UK voted to leave the EU?", the answer is that in subsequent negotiations about the UK's future relationship with the EU, the future relationship of Gibraltar with the EU and the acquis would have to form one aspect of those considerations.⁸³

He continued:

I have consulted the Chief Minister of Gibraltar about his Government's wishes, and he has advised me that they wish the franchise for this proposed referendum to be extended to the citizens of Gibraltar. Having taken advice, I am confident that the

⁷⁹ *ibid*, [col 204](#).

⁸⁰ HC Hansard, 8 November 2013, [col 539](#); enacted through the European Parliament (Representation) Act 2003.

⁸¹ *ibid*, [cols 533–65](#).

⁸² *ibid*, [col 543](#).

⁸³ *ibid*, [col 558](#).

wording of my hon. Friend's new clause would give proper effect to that wish by enfranchising Gibraltarians.⁸⁴

During the debate, other Members, including Gareth Thomas, Shadow Minister for Europe, and Thomas Docherty (Labour MP for Dunfermline and West Fife), also raised the inclusion of reference to the Colonial Laws Validity Act 1865⁸⁵ in the wording of new clause 1. In response, and with particular regard to Mr Thomas' charge that its inclusion was "overkill", Mr Lidington said:

No, it is not overkill. This is a sensible piece of legislative drafting designed to put it beyond the risk of any misunderstanding or misinterpretation that the underlying constitutional relationship would remain undisturbed, despite the specific and exceptional provisions of the Bill.⁸⁶

The House divided on new clause 1, which was passed by 299 votes to 0.

4.5 Clause 5: Expenditure

Clause 5 of the Bill dictates that money will be provided by Parliament to meet any expenditure of the Secretary of State in consequence of the Act, and other related expenditure pertaining to any increases in related acts. No amount, limit or ceiling on such expenditure is detailed. A money resolution on the Bill was debated in the House of Commons on 16 July 2013. During the debate, David Lidington, Minister for Europe, clarified that it was standard Government procedure to introduce a money resolution for any private member's bill to which the House had given a second reading, and that costs would inevitably be incurred as a result of any referendum and therefore a money resolution would be required to ensure those costs could be paid.⁸⁷ Mr Lidington said a detailed estimate of the cost of any referendum had not been made, but that the precedent was the figure of £75.3 million spent on the Alternative Vote referendum in 2011. Exact costs would be dependent on whether the poll was combined with other elections.

Speaking for the Opposition, Emma Reynolds said that the Labour Front Bench would not oppose the resolution, but that questions over the expenditure implications of the Bill remained.⁸⁸ The resolution was passed without division.

As noted above, the Bill takes account of the role of the Electoral Commission in oversight of referendums, but makes no reference to the Political Parties, Electoral and Referendums Act 2000. That Act established maximum expenditure limits for regional and national referendums, which apply during the 'referendum period' (as determined and set out in legislation authorising a particular referendum). The House of Commons Library Note on the Bill adds:

Groups (including political parties, campaign groups and other bodies) must register with the Electoral Commission if they plan to spend more than £10,000 during the

⁸⁴ *ibid.*

⁸⁵ The Colonial Laws Validity Act 1865, was intended to "remove doubts as to the validity of colonial laws". According to [Thomas Mohr](#), the Act was introduced to ensure that British Imperial statutes were given precedence over the laws of British colonies and Dominions. Mohr, T, 'The Colonial Laws Act and the Validity of the Irish Free State', University College Dublin, 2009.

⁸⁶ HC *Hansard*, 8 November 2013, [cols 558–9](#).

⁸⁷ HC *Hansard*, 16 July 2013, [col 1019](#).

⁸⁸ *ibid.*, [col 1020](#).

referendum period. These are called permitted participants. The maximum expenditure is £0.5 million except for political parties, where the limit is related to share of the vote at the last general election, ranging up to £5 million. These limits are set out in Schedule 14 of PPERA.

Permitted participants must submit returns of expenditure to the Electoral Commission, within six months of the poll. More detail is required where participants have spent over £250,000.⁸⁹

Further detail on public funding to designated organisations, the regulation of campaigns, and public awareness and information is also provided in the House of Commons Library Note.⁹⁰

5. Third Reading in the House of Commons

Speaking in the third reading debate on 29 November 2013, the Bill's sponsor, James Wharton, noted:

We have had extensive debate, discussion and scrutiny of what is a short bill with but a handful of clauses. However, its significance should not be underestimated.⁹¹

Referring to issues of the franchise, electors in Gibraltar, the wording of the referendum question, the timing and the conduct of the referendum, Mr Wharton concluded:

We have had a good and thorough debate. It is time that we let Britain decide. I commend the Bill to the House.⁹²

The Foreign Secretary, William Hague, spoke in favour of the Bill, outlining the Conservative Party's policy on Europe and its plans to renegotiate a new settlement in Europe. He said:

This Bill is about democracy and Britain's future in Europe. It will set down in law the British people's right to decide at the right time on the right question.⁹³

The Shadow Foreign Secretary, Douglas Alexander, thanked Members from his own party who had provided the "appropriate and necessary level of scrutiny in both the committee stage and on report".⁹⁴ Mr Alexander highlighted his belief that negotiating a new deal for the UK on Europe was not possible, and that the "arbitrary" 2017 referendum date was "more to do with Tory Party management than EU-wide treaty changes". The Shadow Foreign Secretary reiterated concerns from his party that an EU referendum would create uncertainty for potential investors in the UK, concluding:

Any judgement about an in/out referendum on the United Kingdom's membership of the European Union has to be based on what is in the UK's national interest. We do not believe that the Bill's proposals for an in/out referendum in 2017 is in the national interest, that is why we are not supporting it.⁹⁵

⁸⁹ House of Commons Library, [European Union \(Referendum\) Bill](#), 28 June 2013, RP 13/41, p 12.

⁹⁰ *ibid*, pp 12–15.

⁹¹ HC *Hansard*, 29 November 2013, [col 571](#).

⁹² *ibid*.

⁹³ *ibid*, [col 573](#).

⁹⁴ *ibid*.

⁹⁵ *ibid*, [col 575](#).

The Bill was subsequently read a third time and passed without division.

Appendix I: Private Members' Bills and the Parliament Acts

On 18 December 2013, the *Daily Telegraph* reported that the Prime Minister, David Cameron, had “pledged to use the Parliament Act” to ensure the passage of the European Union (Referendum) Bill onto the statute book.⁹⁶ As noted in the *Companion to the Standing Orders and Guide to the Proceedings in the House of Lords*, under the Parliament Acts 1911 and 1949 certain public bills may be presented for Royal Assent without the consent of the Lords. The Acts do not apply to bills originating in the Lords, bills to extend the life of a Parliament beyond five years, provisional order confirmation bills, private bills or delegated legislation.⁹⁷ The conditions which must be fulfilled before a bill can be presented for Royal Assent under the Acts also vary according to whether or not the bill is certified by the Speaker of the House of Commons as a money bill.⁹⁸

These exemptions aside, the Parliament Acts apply to both government and non-government public bills. The *Companion* adds:

If the Lords reject any other public bill to which the Acts apply which has been sent up from the Commons in two successive sessions, whether of the same Parliament or not, then that bill shall, unless the Commons direct to the contrary, be presented for Royal Assent without the consent of the Lords. The bill must be sent up to the Lords at least one calendar month before the end of each session; and one year must elapse between second reading in the Commons in the first session and the passing of the bill by the Commons in the second. The Lords are deemed to have rejected a bill if they do not pass it, either without amendment or with such amendments only as are acceptable to the Commons. The effect of the Parliament Acts is that the Lords have power to delay enactment of a public bill until the session after that in which it was first introduced and until at least 13 months have elapsed from the date of second reading in the Commons in the first session.⁹⁹

Three acts passed into law under the terms of the 1911 Act without the agreement of the Lords. These were:

- Government of Ireland Act 1914
- Welsh Church Act 1914
- Parliament Act 1949

Four acts have been passed since the 1949 Act:

- War Crimes Act 1991
- European Parliamentary Elections Act 1999
- Sexual Offences (Amendment) Act 2000
- Hunting Act 2004¹⁰⁰

⁹⁶ *Telegraph*, ‘[Cameron Prepares “Nuclear Option” on EU Referendum](#)’, 18 December 2013

⁹⁷ House of Lords, [Companion to the Standing Orders and Guide to the Proceedings in the House of Lords](#), 2013, para 8.196.

⁹⁸ *ibid*, para 8.196.

⁹⁹ *ibid*, para 8.198.

¹⁰⁰ House of Commons Library Standard Note, [The Parliament Acts](#), 28 June 2012, p 9.

Each of the statutes above was introduced as a government bill. Therefore, should the Parliament Acts be used to pass the European Union (Referendum) Bill into law, it would be the first time that a public bill which began as a private member's bill was enacted in this way.

Appendix 2: Report by the House of Lords Constitution Committee

The House of Lords Constitution Committee published a report on the Bill (the [European Union \(Referendum\) Bill](#), HL Paper 109 of session 2013–14), on 2 January 2014. The Committee made a number of observations regarding the process, referendum question and regulation of the referendum, as summarised below.

Process

The Committee highlighted that as a result of the procedure for considering Lords amendments to private member's bills in the House of Commons, and the opportunities for doing so left in the current session, there may not be sufficient time for any amendments to be considered on the scheduled days:

Three further private members' Fridays are scheduled in the House of Commons this session: on Fridays 17 January, 24 January and 28 February 2014. So if the Lords were to pass any amendments to the Bill, in order for it to become law in this session it would have to return to the Commons in time for the Lords amendments to be considered on Friday 28 February 2014. The requirement in the House of Lords for minimum intervals between stages of a bill¹⁰¹ may make it unlikely that the Bill would finish the Lords in time for any amendments passed by the Lords to be considered by the Commons on Friday 28 February 2014.¹⁰²

The Referendum Question

As above, on 29 November 2013, Members of the House of Commons voted to reject an amendment to clause 1(4) of the Bill which would have replaced the proposed referendum question with an alternative formulation proposed by the Electoral Commission. Commenting on that vote, the Committee said that, taking into account the above issue of process, the "House will wish to consider the case for following or rejecting the advice offered by the Electoral Commission on the referendum question proposed in the Bill".¹⁰³

Regulation of the Referendum

Commenting on the provision in the Bill for the Secretary of State to make rules regarding the conduct of the referendum (clause 3(2)), the Committee contrasted this situation with the Alternative Vote referendum 2011 and the forthcoming Scottish independence referendum, where these powers were not delegated and detailed rules of conduct were set out in legislation. The Committee suggested:

If power is delegated to the Secretary of State to make the rules on the conduct of the referendum, those rules could be subject to challenge in the courts in the way that primary legislation could not be. Taking account of [the above issue of process] the House may wish to consider whether the conduct of the referendum is a matter which

¹⁰¹ Committee report footnote: Paragraph 8.04 of the *Companion to the Standing Orders* (2013) provides that there should be a minimum interval of 14 days between second reading and the start of committee stage; "on all bills of considerable length and complexity" there should be 14 days between the end of committee stage and the start of report stage; and there should be three sitting days between the end of report stage and third reading.

¹⁰² House of Lords Constitution Committee, [European Union \(Referendum\) Bill, HL Paper 109 of session 2013–14](#), 2 January 2014, p 4.

¹⁰³ *ibid*, p 5,

should be decided by a process that is set out in full in the Act of Parliament which authorises the referendum. Alternatively, the House may wish to seek clear undertakings whilst the Bill is before it as to how the Secretary of State would intend to fulfil the duty imposed by clause 3(2) to have regard to the Electoral Commission's recommendations for the rules under which the referendum is to be conducted.¹⁰⁴

¹⁰⁴ *ibid*, p 6.