



Extension of Franchise (House of Lords) Bill [HL] HL Bill 37 of 2017–19

Introduction

The Extension of Franchise (House of Lords) Bill [HL] is a private member's bill introduced by Lord Naseby (Conservative). The bill had its first reading in the House of Lords on 5 July 2017 and is scheduled to receive its second reading on 19 July 2019.

Key Provision

The bill's single substantive clause would provide for all current Members of the House of Lords to be eligible to vote in UK general elections, unless they were otherwise disqualified.¹ This provision would take effect twelve months after the bill was passed.²

Background

Peers who are current Members of the House of Lords are among those disqualified from voting in general elections. Other groups include:

- EU citizens (other than UK, Republic of Ireland, Cyprus and Malta) resident in the UK;
- anyone other than British, Irish and qualifying Commonwealth citizens;
- convicted persons detained in pursuance of their sentences, excluding contempt of court (though remand prisoners, unconvicted prisoners and civil prisoners can vote if they are on the electoral register); and
- anyone found guilty within the previous five years of corrupt or illegal practices in connection with an election.³

The principle that peers cannot vote in elections to the House of Commons has a long history. Between at least 1699 and 1998, the House of Commons passed a sessional order at the beginning of each session to the effect that no peer had any right to elect a Member of Parliament.⁴ Furthermore, the exclusion has a longstanding basis in common law.⁵ This was established by several cases, the foremost being *Earl Beauchamp v Madresfield* [1872] LR 8 CP 245. In this case Earl Beauchamp, and the Marquess of Salisbury in a related case, challenged being taken off the electoral register in their respective counties. The judgment that followed ruled that a peer of Parliament was incapacitated from voting at an election for a Member of the House of Commons and was therefore not entitled to be placed on the register of voters.⁶

The House of Lords Act 1999 provided for a holder of a hereditary peerage to be able to vote in elections to the House of Commons, if they were no longer a Member of the House of Lords.⁷ Lord Norton of Louth (Conservative) is among those who have argued that the Act had, by implication,

placed the disqualification for peers who remained Members of the House on a statutory footing:

Prior to 1999 it was held in common law that it was the status of being a peer that precluded one being able to vote. Since 1999 (and the House of Lords Act) it is the fact of being a member of the second chamber that prevents one from voting. Hereditary peers who are excluded from membership of the House are able, under the terms of the 1999 Act, to vote. Members of the Lords can vote in all other (European, local etc) elections.⁸

More recent legislation has updated the disqualification. The House of Lords Reform Act 2014 and House of Lords (Expulsion and Suspension) Act 2015 extended the right to vote in general elections to peers who ceased to be Members of the House in a way other than under the 1999 Act, for example through retirement; non-attendance; conviction of a serious offence; or expulsion.⁹

Lords Spiritual are not peers, and so bishops who sit in the House of Lords may vote in general elections. The Government has said that this is also due to the mandatory retirement age for bishops.¹⁰ Past declarations by senior clergy that they had voted in general elections have provoked controversy, but the issue does not appear to have been expressly considered by the courts.¹¹

Previous Iterations of the Bill

Attempts to change the status quo have a long history.¹² Most recently, Lord Blunkett (Labour) introduced a near identical bill in the 2016–17 session, but it did not progress beyond first reading.¹³ Prior to this, a near identical version of the bill was introduced by Lord Dubs (Labour) in the 2013–14 session.¹⁴ This passed through the House of Lords, but failed to progress in the House of Commons.

Lord Dubs set out arguments in support of his bill during its second reading debate.¹⁵ In particular, he cited Benjamin Disraeli's support for extending the right to vote in general elections to peers, expressed in 1868, because they "were now taxed by the votes of the House of Commons". Lord Dubs added: "perhaps there is not much more to be said".¹⁶ However, he went on to mention, in support of the bill's aim, that peers could vote in local elections, European elections and referenda; that the prohibition on voting for peers did not apply to the Lords Spiritual; and that Senators in the US could vote in elections in that country.¹⁷

Responding on behalf of the Coalition Government at the end of the debate, Lord Wallace of Saltaire (Liberal Democrat) said that "permanence of Lords membership has to be linked with the right to vote" and that Lords reform in general needed to be looked at "as a package". On that basis, he argued that the Government "resist[ed] this small, partial proposal".¹⁸

Further Information

- [Debate on 'Extension of Franchise \(House of Lords\) Bill \[HL\]'](#), HL *Hansard*, 5 July 2013, cols 1407–23
- House of Lords Library, [Extension of Franchise \(House of Lords\) Bill \[HL\]](#), 25 June 2013

- ¹ Extension of Franchise (House of Lords) Bill [HL], HL Bill 37 of 2017–19, clause 1. Lords Spiritual are not disqualified from voting in general elections (House of Lords Library, [Extension of Franchise \(House of Lords\) Bill \[HL\]](#), 25 June 2013, p 3).
- ² Extension of Franchise (House of Lords) Bill [HL], HL Bill 37 of 2017–19, clause 2(2).
- ³ Electoral Commission, '[Who is Eligible to Vote at a UK General Election?](#)', accessed 4 July 2019.
- ⁴ Example from 1699: "Resolved, nemine contradicente, that no peer of this Kingdom hath any right to give his vote in the election for any member to serve in Parliament" (House of Lords Library, [Extension of Franchise \(House of Lords\) Bill \[HL\]](#), 25 June 2013, p 2). Example from 1998: "Resolved, that no peer of the Realm, except a peer of Ireland, hath any right to give his vote in the election of any member to serve in Parliament" ([HC Hansard, 24 November 1998, col 1](#)).
- ⁵ *Halsbury's Laws of England*, '[Entitlement to Vote as Parliamentary Elector](#)', Lexis Library (£), accessed 4 July 2019.
- ⁶ House of Lords Library, [Extension of Franchise \(House of Lords\) Bill \[HL\]](#), 25 June 2013, p 2.
- ⁷ House of Lords Act 1999, s 3(1).
- ⁸ Lord Norton of Louth, '[Can Peers Vote?](#)', Lords of the Blog, 7 May 2008.
- ⁹ House of Lords Reform Act 2014, s 4; and House of Lords (Expulsion and Suspension) Act 2015, s 3.
- ¹⁰ [HL Hansard, 5 July 2013, col 1419](#).
- ¹¹ House of Lords Library, [Extension of Franchise \(House of Lords\) Bill \[HL\]](#), 25 June 2013, p 3; and [HL Hansard, 29 June 1983, cols 242–5](#).
- ¹² See the following Library Briefing for a detailed summary of debates from the mid-19th century: House of Lords Library, [Extension of Franchise \(House of Lords\) Bill \[HL\]](#), 25 June 2013.
- ¹³ UK Parliament website, '[Extension of Franchise \(House of Lords\) Bill \[HL\] 2016–17](#)', accessed 4 July 2019.
- ¹⁴ UK Parliament website, '[Extension of Franchise \(House of Lords\) Bill \[HL\] 2013–14](#)', accessed 4 July 2019.
- ¹⁵ [HL Hansard, 5 July 2013, cols 1407–23](#).
- ¹⁶ *ibid*, col 1407.
- ¹⁷ *ibid*, cols 1407–10.
- ¹⁸ *ibid*, cols 1419–21.

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