



Elections Bill

HL Bill 96 of 2021–22

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The Elections Bill was introduced by the Government in the House of Commons on 5 July 2021. The bill would make changes to election laws, including:

- Requiring voters in UK parliamentary elections and local elections in England to produce photo ID at polling stations in order to vote.
- Introducing measures to prevent postal vote harvesting, the process by which someone collects and hands in multiple completed postal ballot packs to a polling station.
- Removing the 15-year time limit for overseas voters being able to vote in UK parliamentary elections.
- Removing automatic voting rights for some EU citizens in local elections in England.
- Enabling the Government to designate a strategy and policy statement for the Electoral Commission and preventing the Electoral Commission from bringing criminal prosecutions.
- Changing the rules on campaign expenditure, the activities of third-party campaigners and joint campaigning.
- Requiring digital campaign material to include a digital imprint with information on who produced the material

The Government has argued the bill would strengthen UK democracy. The Opposition has argued that the new voter ID requirements would reduce turnout, especially amongst people who do not already have access to photo ID. The Opposition has criticised other provisions in the bill, including those concerning oversight of the Electoral Commission. The Opposition has argued the bill would damage the commission's independence.

The Government tabled several amendments to the bill at committee stage and report stage in the House of Commons. This included an amendment passed at committee stage to change the voting system for elections for police and crime commissioners, elected mayors of local authorities and combined authority areas in England and elections for the Mayor of London. Under the bill as amended these elections would be conducted using the simple majority vote system, also known as 'first past the post' instead of the supplementary vote system".

The bill was introduced in the House of Lords on 18 January 2022. The bill is scheduled to have its second reading in the House of Lords on 23 February 2022.

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I. What does the bill seek to do?

The Elections Bill was first published in July 2021.¹ The Government has said that the purpose of the bill is to strengthen the integrity of UK elections.²

The bill includes several measures that were in the Conservative Party manifesto for the 2019 general election.³ These are the commitments to: introduce voter ID measures; prevent postal vote harvesting; provide the so-called ‘votes for life’ measures for overseas voters; and the creation of the new offence to prevent the intimidation of political candidates. The Conservative Party’s 2019 manifesto also included a commitment to “prevent any foreign interference in elections”.⁴

The measures in the bill include several changes recommended by former Secretary of State for Communities and Local Government Sir Eric Pickles (now Lord Pickles) in his report on electoral fraud published in 2016 (‘the Pickles review’).⁵ The government-commissioned report was undertaken after an elected mayor was found guilty of electoral fraud in Tower Hamlets in 2014.⁶ The report outlined 50 recommendations to improve the security of the UK’s electoral system. These included implementing a pilot of voter ID at polling stations and preventing so-called postal vote ‘harvesting’ by political activists.

The Government made amendments to the bill at committee stage and report stage. These include the following changes:

- At committee stage, the Government moved a new clause introducing the first-past-the-post system for elections for police and crime commissioners, elected mayors of local authorities and combined authority areas in England and elections for the Mayor of London.⁷
- At report stage, the Government moved a new clause and schedule to the bill to allow for the introduction of online application services.⁸ These services will be designed to enable people to apply online to vote by post or by proxy or to receive a free voter identification card.

¹ UK Parliament website, ‘[Elections Bill](#)’, accessed 24 January 2022.

² Cabinet Office, ‘[Elections Bill introduced in Parliament today](#)’, 5 July 2021.

³ Conservative Party, [Conservative Party Manifesto 2019](#), November 2019, p 48.

⁴ *ibid.*

⁵ Cabinet Office, [Securing the Ballot: Review into Electoral Fraud](#), 12 August 2016.

⁶ BBC News, ‘[Tower Hamlets election fraud mayor Lutfur Rahman removed from office](#)’, 23 April 2015.

⁷ Elections Bill 2021–22, clause 11.

⁸ *ibid.*, clause 2 and schedule 2.

1.1 Voter ID

The bill would amend the Representation of the People Act 1983 to require all electors in UK parliamentary elections and local elections in England to produce a photo ID at a polling station in order to vote.⁹ This is intended to prevent someone impersonating a registered voter, known as “personation”.

The new requirement for UK parliamentary elections would only directly affect voters in Great Britain. Voters in Northern Ireland have been required to produce a photo ID before receiving a ballot paper in a polling station since 2003, under the Electoral Fraud (Northern Ireland) Act 2002. The bill would make minor changes to the legislation affecting Northern Ireland to reflect the changes being made in Great Britain.¹⁰

Paragraph 18 of schedule 1 of the bill sets out the forms of photo ID that would be accepted. These include the following forms of existing photo ID:

- a UK passport or a passport issued by a European Economic Area (EEA) or Commonwealth state;
- a UK, Channel Islands, Isle of Man or EEA driving licence;
- a biometric immigration document;
- a Proof of Age Standards Scheme card;
- a Ministry of Defence-issued Defence Identity Card;
- a relevant concessionary travel pass;
- a Blue Badge Scheme card;
- a national identity card issued by an EEA state.

Under the bill, registered electors would also be able to apply for free voter ID cards.¹¹ These are intended to ensure people who do not already have one of the forms of identification listed above would still be able to vote. Electors would be able to apply for a free voter ID card from their local electoral registration officer.¹²

The bill provides that electors registered anonymously would be able to apply for an anonymous elector document.¹³ This would be used to identify the elector to enable them to vote in the same way as someone with a free

⁹ Elections Bill 2021–22, clause 1 and schedule 1.

¹⁰ [Explanatory Notes](#), p 25. At the time of writing this briefing, explanatory notes to accompany the bill as introduced in the House of Lords had not yet been published. References to the explanatory notes are to the version published to accompany the bill as introduced in the House of Commons in July 2021. This briefing indicates where the clause numbering of the bill has changed since then.

¹¹ Elections Bill 2021–22, schedule 1, paragraph 2.

¹² *ibid.*

¹³ *ibid.*

voter ID card. However, it would only include their registration number. It would not include their name and address.

The bill would enable the Government to establish the details of the application process for free voter ID cards and anonymous elector documents in secondary legislation.¹⁴

In 2018 and 2019, the Electoral Commission ran voter ID pilots in selected areas across England.¹⁵ The Electoral Commission concluded that most of those who tried to vote were able to do so by providing a relevant form of photo ID. However, the Electoral Commission recommended that, if voter ID requirements were introduced on a wider scale, the Government needed to ensure elections remained accessible for all voters. It also recommended that the Government should ensure adequate resources were available to administer such a scheme. Further information on the voter ID pilots scheme and their evaluation is provided in the House of Lords Library briefing ‘Integrity of the UK’s electoral processes’ (14 October 2021).¹⁶

1.2 Absentee voting

The bill would make the following changes to postal voting and proxy voting in Great Britain. These would apply for people voting in UK parliamentary elections in England, Wales and Scotland and in local government elections in England.

Postal voting

Currently, electors in Great Britain can apply for a postal ballot for any reason, a process referred to as “postal voting on demand”.¹⁷ Postal voting on demand is not allowed in Northern Ireland.

Once someone has successfully applied for a postal ballot, they are able to vote in this way in subsequent elections for an indefinite period. However, they must renew their signature every five years.

Under the bill, voters would still be able to apply for postal voting on demand. However, the bill would limit the period that someone may apply for a postal ballot to three years.¹⁸

¹⁴ Elections Bill 2021–22, schedule 1, paragraph 2. These would be set out in regulation that would be subject to the procedure for affirmative instruments.

¹⁵ Electoral Commission, ‘[Voter identification pilots](#)’, accessed 25 January 2021.

¹⁶ House of Lords Library, ‘[Integrity of the UK’s electoral processes](#)’, 14 October 2021.

¹⁷ Representation of the People Act 2000, s12. These changes were introduced in Great Britain using secondary legislation. In England, the relevant statutory instrument is the Representation of the People (England and Wales) Regulations 2001.

¹⁸ Elections Bill 2021–22, clause 3 and schedule 3.

Handling postal votes

The bill includes provisions concerning the handling of postal voting documents. The Government has said these provisions are intended to prevent “postal vote harvesting”. This is the process by which someone collects and hands in multiple completed postal ballot packs to a polling station. The Pickles review recommended that political activists should be prevented from harvesting postal votes, arguing the practice could give rise to electoral fraud.¹⁹

The bill would establish a new criminal offence preventing political campaigners from handling postal voting documents.²⁰ It would also give the Government the power to establish the requirements for handing postal votes to returning officers.²¹ The Government would have the power to set a limit on the number of postal votes someone can hand in at one time. These would be established through secondary legislation, introduced using the affirmative procedure.

Proxy voting

Under certain circumstances, electors can apply for someone to be appointed to act as a proxy voter on their behalf. These circumstances include being away from home on polling day, having a medical issue or disability or not being able to vote because of work or military service.²²

Currently, someone can act as proxy voter for an unlimited number of close relatives and a maximum of two other people. The bill would limit the number of people someone may act as a proxy voter for to four.²³ Of these four people, no more than two could be domestic electors. The remaining two could be overseas voters or service voters.

Requirement of secrecy

The bill would amend the Representation of the People Act 1983 to extend existing requirements protecting the secrecy of someone’s vote at the polling station.²⁴ The bill would apply these requirements to absentee voting. This includes restrictions on obtaining or communicating information about whether or for whom someone has voted. Someone found guilty of breaching these requirements would be guilty of an offence under the 1983 act.

¹⁹ Cabinet Office, [Securing the Ballot: Review into Electoral Fraud](#), 12 August 2016, p 23.

²⁰ Elections Bill 2021–22, clause 4.

²¹ *ibid*, clause 5.

²² HM Government, [‘How to vote: voting by proxy’](#), accessed 24 January 2022.

²³ Elections Bill 2021–22, clause 6 and schedule 4.

²⁴ *ibid*, clause 6.

1.3 Undue influence

The bill would amend the definition of the existing offence of undue influence.²⁵ Undue influence is described by the Electoral Commission as using, or threatening to use, force or violence to make someone vote in a certain way or not to vote.²⁶ The Government has said the purpose of the changes in the Elections Bill are to clarify the legal definition of undue influence.

Undue influence is currently defined in section 115 of the 1983 act, as amended. In 2016, the Law Commission, the Scottish Law Commission and the Northern Ireland Law Commission published a review which found the offence was poorly expressed in the legislation.²⁷ The report recommended that the definition should be redrafted in a way that could be more clearly understood. The Electoral Commission has also said that simplifying and defining the offence would help voters understand what appropriate behaviour would be.²⁸

1.4 Assistance with voting for people with disabilities

The bill would make changes to the rules concerning the assistance that can be made available to people voting who have a disability.²⁹ Currently, polling stations are required to provide voters with sight loss with a tactile voting device.³⁰ The bill would amend the 1983 act to remove this requirement. The new requirement in the bill would be for returning officers to provide equipment that is reasonable to enable voters with a disability to vote. The Government has argued this change will allow returning officers to provide a greater range of equipment for voters with a disability, based on what individual returning officers think is appropriate.³¹

The bill would also expand the criteria about who is able to act as a companion assisting a voter with a disability in a polling station.³² Currently, someone is only able to act as a companion if they are either entitled to vote themselves or are a close family member aged 18 or over. Under the bill, anyone aged 18 or over would be able to act as a companion.

²⁵ Elections Bill 2021–22, clause 8 and schedule 5.

²⁶ Electoral Commission, '[Preventing undue influence](#)', 5 July 2021.

²⁷ Law Commission et al, '[Electoral Law: An Interim Report](#)', February 2016. Accessible and Welsh language versions of the interim report can be found on the Law Commission website: Law Commission, '[Electoral Law](#)', accessed 26 January 2021.

²⁸ Electoral Commission, '[Preventing undue influence](#)', 5 July 2021.

²⁹ Elections Bill 2021–22, clause 9.

³⁰ Representation of the People Act 1983, schedule 1.

³¹ [HC Hansard, 7 September 2021, col 203](#).

³² Elections Bill 2021–22, clause 9.

These changes follow the recommendations made as a result of the Government's consultation on access to elections, launched in September 2017.³³

1.5 Mayoral and police and crime commissioner elections

The bill would change the voting system for elections for police and crime commissioners (PCCs) in England and Wales, directly elected mayors of local authorities and combined authority areas in England and elections for the Mayor of London.³⁴ Currently, these elections are held using the supplementary vote system.³⁵ The bill would change the voting system to a simple majority vote, also known as “first past the post”.

This proposal follows a commitment in the Conservative Party's manifesto for the 2019 general election to support the first past the post voting system. The manifesto contended that this system ensured voters were able to “kick out politicians who don't deliver, both locally and nationally”.³⁶

1.6 Overseas electors

Currently, British citizens resident abroad are only able to vote in UK parliamentary elections for a maximum of 15 years after leaving the UK.³⁷ The bill would remove this time limit.³⁸ The Government has said these changes fulfil the Conservative Party's 2019 manifesto commitment to introduce ‘votes for life’ for overseas voters.³⁹ The bill would also extend the period in which overseas electors are able to register themselves, from one year to three years.

³³ Cabinet Office, [‘Access to elections: call for evidence’](#), 5 September 2017

³⁴ Elections Bill 2021–22, clause 11.

³⁵ Further information on the supplementary vote system is provided on the following page of the UK Parliament website: Electoral Commission, [‘Voting systems in the UK’](#), accessed 25 January 2021.

³⁶ Conservative Party, [‘Conservative Party Manifesto 2019’](#), November 2019, p 48.

³⁷ Representation of the People Act 1983, sections 1 and 2.

³⁸ Elections Bill 2021–22, clause 12.

³⁹ Cabinet Office, [“‘Votes for life’ for British citizens living abroad’](#). 27 May 2021.

1.7 EU citizens

The bill would limit the rights of some EU citizens to vote in local elections in England and PCC elections or to stand as political candidates. Currently, EU citizens are granted voting and candidate rights in these elections automatically. Under the bill, EU citizens resident in the UK would only be eligible to participate in these elections if reciprocal voting arrangements for UK citizens were in place in the relevant EU member state.⁴⁰ This would apply to any EU citizen who came to the UK after 31 December 2020. This date was the end of the transition period following the UK's departure from the EU.

The Government has argued there is no longer a basis for giving all EU citizens the right to vote in local elections following the UK's withdrawal from the EU, unless separate reciprocal arrangements were in place.⁴¹ Based on current arrangements, citizens from Spain, Portugal, Luxembourg and Poland would be able to vote.⁴² Citizens from Ireland, Cyprus and Malta would also be able to vote on the basis of separate agreements.

These provisions would also apply to voting and candidate rights for local government elections in Northern Ireland and Northern Ireland Assembly elections. Legislation has been passed by both the Welsh and Scottish governments granting voting and candidate rights to all resident EU citizens. Under the legislation, EU citizens will be able to vote in local elections in Scotland and Wales and elections to the Scottish and Welsh parliaments.

1.8 Electoral Commission

The Electoral Commission is an independent body responsible for overseeing elections and regulating political finance in the UK.⁴³ It is accountable to Parliament through the Speaker's Committee on the Electoral Commission.⁴⁴

The bill would make the following changes to how the Electoral Commission is governed.

Strategy and policy statement

Under the bill, the Government would be given the power to designate a

⁴⁰ Elections Bill 2021–22, clause 13 and schedule 8.

⁴¹ [Explanatory Notes](#), p 10.

⁴² UK Government, '[Local voting rights for EU citizens living in the UK](#)', 17 June 2021.

⁴³ Electoral Commission, '[Who we are](#)', accessed 25 January 2022.

⁴⁴ UK Parliament, '[Speaker's Committee on the Electoral Commission: Role of the Committee](#)', accessed 25 January 2022.

strategy and policy statement for the Electoral Commission.⁴⁵ The bill says this statement would include the Government's strategic and policy priorities relating to elections, referendums and other matters concerning the role of the Electoral Commission. It would also set out the role and responsibilities of the Electoral Commission in enabling the Government to meet these priorities.

The bill would require the secretary of state to hold a consultation on a draft version of this statement with the following bodies:

- the Electoral Commission;
- the Speaker's Committee on the Electoral Commission; and
- the House of Commons Public Administration and Constitutional Affairs Committee.

The secretary of state would also be required to consult with Scottish and Welsh ministers in so far as the statement relates to the Electoral Commission's functions in Scotland and Wales. The statement would be subject to parliamentary approval.

Under the bill, once the statement had been approved, the Electoral Commission would be required to have regard to the statement when carrying out its functions. The extent to which the Electoral Commission had complied with the statement would be examined by the Speaker's Committee on the Electoral Commission.⁴⁶

Membership of Speaker's Committee

The bill would make the following changes to membership of the Speaker's Committee. Currently, the membership of the committee must include two specific government ministers: the minister for the cabinet office and the minister for local government.⁴⁷ Under the bill, both the secretary of state for levelling up, housing and communities and a further minister appointed by the prime minister would be allowed to sit on the committee instead.⁴⁸ The Government has said these changes are to reflect the recent change of the responsibility for electoral law from the Cabinet Office to the Department for Levelling Up, Housing and Communities.⁴⁹

⁴⁵ Elections Bill 2021–22, clause 14.

⁴⁶ *ibid*, clause 15.

⁴⁷ Political Parties, Elections and Referendums Act 2000, section 2.

⁴⁸ Elections Bill 2021–22, clause 16.

⁴⁹ [Explanatory Notes](#), p 87.

Criminal proceedings

Under the bill, the Electoral Commission would be expressly prevented from bringing criminal prosecutions in England, Wales and Northern Ireland.⁵⁰ Currently, the Electoral Commission does not bring prosecutions. However, it has sought to develop a prosecution function, enabling it to bring prosecutions for breaches of electoral law to court.⁵¹

The Electoral Commission has argued preventing it from establishing a prosecution function would reduce the scope for political finance offences to be prosecuted.⁵² However, the Government has argued the current situation should remain in place.⁵³ It has said that allowing the Electoral Commission to develop a prosecution function would risk duplicating the role of the Crown Prosecution Service and the Public Prosecution Service Northern Ireland.

1.9 Campaign expenditure

The bill would also make changes to the law concerning campaign expenditure.

Notional expenditure

The bill would change the legal definition of notional expenditure.⁵⁴ Notional expenditure refers to benefits in kind, such as property, goods, services or facilities, which are provided free of charge or at a discount to candidates, political parties or other campaigners.⁵⁵ This category applies to any benefits which would count as an election or campaign expense had they been paid for at full price. Notional expenditure is included as part of campaign expenditure in order to prevent candidates evading their spending limits.

The bill would amend the definition of notional expenditure currently set out in the 1983 act.⁵⁶ The Government has said its intention in drafting this new definition is to prevent candidates or agents from being liable for spending that they were not aware of or were not involved in but nonetheless may have benefited from.⁵⁷

⁵⁰ Elections Bill 2021–22, clause 17.

⁵¹ Electoral Commission, '[The Electoral Commission's ability to bring prosecutions](#)', 5 July 2021.

⁵² Public Administration and Constitutional Affairs Committee, '[Written evidence from the Electoral Commission \(TEB 06\)](#)', 7 September 2021.

⁵³ House of Commons, '[Written Question: Electoral Commission: Prosecutions](#)', 20 January 2022, 105424.

⁵⁴ Elections Bill 2021–22, Clauses 18–20.

⁵⁵ [Explanatory Notes](#), p 14.

⁵⁶ Representation of the People Act 1983, section 90C.

⁵⁷ [Explanatory Notes](#), p 15.

This follows the Supreme Court ruling in the case of *R v Mackinlay and others*. The Supreme Court found that, under the existing legislation, there was no requirement for the provision of a service to be authorised by the candidate or the election agent in order for it to count as notional expenditure.⁵⁸

Registration requirements

The bill would make changes to the rules concerning the requirements for political parties to register themselves with the Electoral Commission.⁵⁹ Currently, political parties are not required to declare whether they hold any assets before they register themselves with the Electoral Commission for the first time. The bill would require any group registering itself as a political party for the first time to confirm whether they hold assets of more than £500. If they hold such assets, they would be required to produce a record of those assets.

Registration of third-party campaigners

The bill includes provisions affecting third-party campaigners. Third-party campaigners are individuals or organisations that campaign but are not political parties or candidates.⁶⁰

The bill would change the law to prevent groups from registering as third-party campaigners and a political party at the same time.⁶¹ The Government has said this change is intended to prevent groups from bypassing the spending limits for political parties by appearing on both registers.⁶²

Controlled expenditure and third-party campaigners

The bill would make the following changes to the rules for campaign expenditure by third-party campaigners:

- The bill would restrict any unincorporated associations based outside the UK from registering as third-party campaigners unless they were solely composed of registered overseas electors.⁶³ The Government has said the purpose of these provisions is to prevent foreign entities from being able to

⁵⁸ [R v Mackinlay and others \[2018\] UKSC 42](#).

⁵⁹ Elections Bill 2021–22, clauses 21–3.

⁶⁰ Electoral Commission, '[Guidance: Non-party campaigner](#)', accessed 25 January 2021.

⁶¹ Elections Bill 2021–22, clause 22.

⁶² [Explanatory Notes](#), p 14.

⁶³ Elections Bill 2021–22, clause 24.

- donate money to a political campaign.⁶⁴
- The Government would be given the power to amend the list of eligibility categories concerning which types of organisation were able to register as third-party campaigners through secondary legislation.⁶⁵
 - Under the bill, all non-party campaigners spending over £10,000 in the period before a general election would be required to register with the Electoral Commission.⁶⁶ The current threshold for registration is £20,000 in England and £10,000 in Scotland, Wales or Northern Ireland at a general election.

Joint campaigning

The bill would amend the law concerning joint campaigning by registered political parties and third parties.⁶⁷ Currently, when third parties work together in a campaign, all those third parties must report their spending. This requirement is intended to prevent third parties from avoiding spending limits by registering as multiple organisations or from benefiting from an increased spending limit by working together with another group.⁶⁸ The bill would require the same rules to apply when registered political parties and a third party or parties campaign together.

1.10 Intimidation

The bill would create a new sanction for someone who had engaged in an act of political intimidation.⁶⁹ Under the bill, if someone was found guilty of one of the offences listed in schedule 9 and a court was satisfied beyond reasonable doubt that this offence was motivated by their hostility towards a political candidate or the holder of a relevant elected office, they would be subject to a disqualification order. This would only apply if the offender was aged over 18. This disqualification order would prevent that person from holding office or from standing for office for a period of five years. The offences listed in schedule 9 include violence, the threat of violence, criminal damage, theft and other offences.

1.11 Campaign material: digital imprints

Currently, printed material produced during a campaign must include an

⁶⁴ [Explanatory Notes](#), p15.

⁶⁵ Elections Bill 2021–22, clause 25. The categories are currently listed in section 88(2) of the Political Parties, Elections and Referendums Act 2000.

⁶⁶ Elections Bill 2021–22, clause 26.

⁶⁷ Elections Bill 2021–22, clause 27.

⁶⁸ [Explanatory Notes](#), p 16.

⁶⁹ Elections Bill 2021–22, clauses 28–36 and schedules 9 and 10.

imprint. This imprint provides information about who produced the material. In England, Wales and Northern Ireland, there is no similar requirement for digital campaign material.

Digital imprints for campaign material were introduced in Scotland in 2014 for the referendum on independence. It is now required for all Scottish parliamentary elections and local elections.⁷⁰

The bill would introduce a new requirement that digital campaign material in England, Wales and Northern Ireland must include an imprint.⁷¹ This would be included as part of the original image. Therefore, the imprint would be carried over to anyone sharing the material, unless the material was altered. This requirement would apply to any campaign material, including material produced when there is not an ongoing political campaign.

This requirement would apply to some unpaid material.⁷² However, this would only be during a length of an election or referendum campaign.

2. Committee on Standards in Public Life review of election finance

In June 2020, the Committee on Standards in Public Life (CSPL) announced it would be holding a review of the regulation of elections.⁷³ The CSPL published its final report, *Regulating Election Finance*, on 7 July 2021.⁷⁴ This was two days after the first reading of the Election Bill in the House of Commons. The report argued that there was an “unarguable” case in favour of consolidating and simplifying electoral law.⁷⁵ This followed similar recommendations made by the Law Commission and the Scottish Law Commission in their joint review of election law, published in 2020.⁷⁶

The Government published its response to this report on 15 September 2021.⁷⁷ It welcomed the CSPL’s report. It also said it would look at the CSPL’s recommendations as part of any future reforms (beyond those already set out the Election Bill).

⁷⁰ [Scottish Elections \(Details to appear on Election Publications\) Regulations 2020](#) and the [Scottish Elections \(Details to appear on Election Material\) Regulations 2020](#).

⁷¹ Elections Bill 2021–22, clauses 37–59.

⁷² *ibid*, clause 42–3.

⁷³ Committee on Standards in Public Life, ‘[Committee on Standards in Public Life announces review of electoral regulation](#)’, 8 June 2020.

⁷⁴ Committee on Standards in Public Life, [Regulating Election Finance: Report](#), 7 July 2021.

⁷⁵ *ibid*, p 4.

⁷⁶ Law Commission and the Scottish Law Commission, [Electoral Law: A joint final report](#), 2020. Accessible and Welsh language versions of the report can be found on the Law Commission website: Law Commission, ‘[Electoral Law](#)’, accessed 26 January 2021.

⁷⁷ Cabinet Office, ‘[Government response to Regulating Election Finance](#)’, 15 September 2021.

3. House of Commons second reading

Second reading of the Elections Bill took place in the House of Commons on 7 September 2021.⁷⁸ Chloe Smith, the then Minister for the Constitution and Devolution at the Cabinet Office, described the aim of the bill as ensuring elections in the UK were “secure, fair, transparent and up to date”.⁷⁹ She referred to the conclusions of the Pickles review and said that the bill would address the vulnerabilities that currently exist in election law, such as the risk of personation, postal vote harvesting and other forms of electoral fraud.

During her speech, Chloe Smith was challenged by Catherine West (Labour MP for Hornsey and Wood Green) in an intervention.⁸⁰ Ms West argued that the new voter ID requirements would damage voter turnout. Ms Smith responded, saying she did not believe the measures would do so. She argued the introduction of voter ID was a necessary modernisation of the voting system. She said it was a reasonable and proportionate way to confirm someone’s identity and the new requirement would increase confidence in UK elections.

Ms Smith addressed other provisions in the bill, including changes to the way in which the Electoral Commission was accountable to Parliament and the Government. She cited the Pickles review’s recommendation that the system of oversight for the Electoral Commission needed to be improved.⁸¹

Cat Smith, the then Shadow Cabinet Office Minister, criticised the bill, arguing the Government had not done enough to update and clarify the system for elections.⁸² She quoted from the interim report of the Law Commission review of election law, which described UK election law as “complex, voluminous and fragmented”.⁸³ She argued the Elections Bill would do nothing to address this situation.

Ms Smith argued the voter ID requirements in the bill would create barriers preventing some people from voting. She said that, while most people would be able to produce one of the documents required in the bill, the Cabinet Office had found two percent of the electorate did not currently have any form of photo ID.⁸⁴ She said this would affect 3.5 million people. She also

⁷⁸ [HC Hansard, 7 September 2021, cols 198–276.](#)

⁷⁹ [ibid](#), cols 198.

⁸⁰ [ibid](#), col 199.

⁸¹ [ibid](#), col 205.

⁸² [ibid](#), col 209.

⁸³ [ibid](#), col 209–10; Law Commission et al, [Electoral Law: An Interim Report](#), February 2016, p 5.

⁸⁴ Cabinet Office, [‘Voter identification: photographic ID ownership in Great Britain’](#), 11 May 2021, p7.

said the introduction of voter ID was disproportionate given the low number of prosecutions for personation in the past, arguing there had only been four cases of voter impersonation fraud in the past 10 years.⁸⁵

At the end of the debate, MPs voted on Ms Smith's motion to decline to give the bill a second reading. The motion criticised some of the provisions in the bill, including the introduction of voter ID and the changes affecting the Electoral Commission. It also criticised the bill for not including provisions to lower the voting age in parliamentary election to 16.⁸⁶ The motion was defeated by 329 votes to 230.⁸⁷ A separate division was held on the motion that the bill be read a second time. This motion was passed by 327 votes to 228.⁸⁸

Further information on the issues raised during second reading in the House of Commons is provided in the House of Commons Library briefing *Elections Bill 2021–22: Progress of the Bill* (13 January 2022).⁸⁹

4. House of Commons committee stage

Committee stage of the Elections Bill took place over the course of six days, from 15 September to 26 October 2021. Of the amendments tabled at this stage, only government amendments were passed.

On 20 September 2021, prior to committee stage, the House of Commons passed a government motion instructing the committee to consider amendments concerning the voting system in certain elections.⁹⁰ Normally, amendments to a bill can only be tabled if they fall within the scope of that bill's current provisions. MPs voted on the instruction motion and it was passed by 309 votes to 186. As a result, the Government was able to table a new clause at committee stage changing the voting system in elections for police and crime commissioners and elected mayors in England to first past the post.⁹¹

This new clause was debated during the twelfth sitting of the committee on 26 October 2021.⁹² The new clause was passed without a vote. In addition to this amendment, the Government tabled several technical amendments to the drafting of the bill. Further information on committee stage in the House

⁸⁵ [HC Hansard, 7 September 2021, col 213.](#)

⁸⁶ *ibid*, col 209.

⁸⁷ *ibid*, cols 266–70.

⁸⁸ *ibid*, cols 270–5.

⁸⁹ House of Commons Library, [Elections Bill 2021–22: Progress of the Bill](#), 13 January 2022.

⁹⁰ [HC Hansard, 20 September 2021, cols 107–19.](#)

⁹¹ Elections Bill 2021–22, clause 11.

⁹² Public Bill Committee, [Elections Bill](#), 26 October 2021, session 2021–22, 12th sitting, cols 350–8.

of Commons is provided in the House of Commons Library briefing *Elections Bill 2021–22: Progress of the Bill* (13 January 2022).⁹³

5. House of Commons Public Administration and Constitutional Affairs Committee report

On 13 December 2021, the House of Commons Public Administration and Constitutional Affairs Committee published a report on the Elections Bill.⁹⁴ The committee criticised the Government, arguing it had not put the bill through adequate pre-legislative scrutiny.⁹⁵ The committee recommended the Government should place a statutory commitment on the face of the bill to undertake post-legislative scrutiny.

The committee raised other concerns about the bill, including:

- The Government did not use the bill as an opportunity to make broader reforms and simplifications to election law.⁹⁶
- The bill would result in a large degree of divergence in the way in which elections are conducted across England, Scotland, Wales and Northern Ireland.⁹⁷
- That the introduction of voter ID requirements was not proportionate to the scale of the problem of personation in the UK.⁹⁸

The committee recommended that the Government should set a timetable for implementing further reforms to election law.⁹⁹ It also recommended that the Government should not introduce voter ID requirements until it had published an assessment of the impact of these measures and consulted on the effect of the requirements on groups protected under the Equalities Act 2010.¹⁰⁰

6. House of Commons report stage

Report stage took place in the House of Commons on 17 January 2022.¹⁰¹ MPs debated issues including the voter ID requirements in the bill,

⁹³ House of Commons Library, [Elections Bill 2021–22: Progress of the Bill](#), 13 January 2022.

⁹⁴ Public Administration and Constitutional Affairs Committee, [The Elections Bill](#), 13 December 2021, HC 597.

⁹⁵ *ibid*, p 3.

⁹⁶ *ibid*.

⁹⁷ *ibid* p 17.

⁹⁸ *ibid*, pp 31–2.

⁹⁹ *ibid*, p 12.

¹⁰⁰ *ibid*, pp 31–2.

¹⁰¹ [HC Hansard, 17 January 2022, cols 75–168](#).

provisions in the bill concerning the Electoral Commission, campaign finance and other measures. MPs also returned to issues debated previously during the bill's passage through the House of Commons, such as lowering the voting age to 16.

6.1 Government amendments

The Government tabled the following amendments to the bill at report stage. All of these amendments were passed and made to the bill.

Online application for absentee voting and free voter cards

New clause 11 and new schedule 1 would give new powers to the Government to introduce an online absentee voting application process. The same amendments would enable the Government to introduce an online application process for free voter ID cards.

Voter ID

The Government tabled several amendments concerning the new voter ID rules in the bill. These amendments were described by Kemi Badenoch, Minister of State at the Department for Levelling Up, Housing and Communities, as “clarificatory”.¹⁰² This included amendments 82, 84 and 87, which clarified which forms of concessionary travel passes would be accepted at polling stations.¹⁰³ The Government also tabled amendment 74 to enable an appeal to be made against the refusal of an application for a free voter ID or an anonymous elector’s document.¹⁰⁴

In addition to these changes, the Government tabled the following amendments concerning the new voter ID regime:

- Amendments 53–6 and amendments 62–5 would enable someone to apply for a free voter ID or an anonymous elector’s document at the same time as registering to vote.
- Amendments 57 and 66 would clarify that, if someone was resident at multiple addresses, they would only need to register with one registration officer when applying for a free voter ID or an anonymous elector’s document.
- Amendments 71, 80, 83, 85 and 88 would ensure that the identity of someone applying for an anonymous elector’s document was protected at the polling station.

¹⁰² [HC Hansard, 17 January 2022, col 84.](#)

¹⁰³ Amendments 82, 84 and 87.

¹⁰⁴ Amendment 74.

- Amendments 81 and 86 would clarify that temporary versions of voter cards and anonymous elector's documents issued by electoral registration officers in certain circumstances could not be used after the date at which they have expired.
- Amendments 49–50, 76–9, 89, 90, 92, 93, 96, 105 and 108 would enable polling stations in Northern Ireland to access confidential lists of dates of birth.

Digital imprints

The Government tabled new clause 12 and amendments 22 and 23 to change the definition of what would constitute paid-for digital campaign material in the bill.¹⁰⁵ Kemi Badenoch said these changes would clarify that material did not have to express the names of any relevant parties, candidates or elected office holders to fall under the requirement for digital imprints.¹⁰⁶ A further government amendment, amendment 25, clarified that electronic material concerning a referendum would only fall under the new requirements if it was published during the period of the relevant referendum.

Speaker's Committee

The Government tabled amendments 13–15 to change the membership of the Speaker's Committee on the Electoral Commission. The amendments would enable the secretary of state for levelling up, housing and communities and the minister with responsibilities for the constitution to attend the committee. This followed changes to the machinery of government in September 2021 whereby responsibility for elections moved from the Cabinet Office to the Department for Levelling Up, Housing and Communities.¹⁰⁷

Further technical amendments

The Government tabled further amendments concerning EU citizen voting and candidate provisions, including clarifying the definition of a qualifying Commonwealth citizen.¹⁰⁸

All of these amendments were passed and made to the bill.

¹⁰⁵ Elections Bill 2021–22, clause 41.

¹⁰⁶ [HC Hansard, 17 January 2022, col 87.](#)

¹⁰⁷ House of Commons, '[Machinery of Government](#)', 23 September 2021, HCWS309.

¹⁰⁸ Amendments 116 and 117.

6.2 Voter ID

In addition to those tabled by the Government, MPs debated the following amendment concerning the introduction of voter ID requirements.

Amendments 1 and 5 were tabled by Alex Norris, Shadow Minister for Levelling Up, Housing, Communities and Local Government. These amendments would have removed the voter ID provisions from the bill.

In her speech at the beginning of the debate, Kemi Badenoch noted the level of interest in clause 1 of the bill amongst MPs.¹⁰⁹ She said the Government intended to ensure that the voter ID rules worked for all eligible voters. She also said the Government was committed to being open about its plans, saying that updated details of the proposals had been published on 6 January 2022.¹¹⁰ She also argued that voters who may not already have a photo ID would be able to access a new voter ID card free of charge.¹¹¹

Alex Norris repeated the argument put forward by the Opposition at second reading that the introduction of voter ID was unnecessary given the low number of convictions for personation.¹¹² He said voter ID requirements would prevent people from being able to vote if they did not have the correct form of identification. He also argued any hurdles put in the way of voting would result in a reduction in voter turnout.

Amendment 1 was defeated in a division by 327 votes to 234.¹¹³ Amendment 5 was not moved.

6.3 Electoral Commission

MPs debated the following amendments concerning the Electoral Commission:

- Amendment 10, tabled by Brendan O’Hara, the Shadow Scottish National Party (SNP) Deputy Spokesperson for the Cabinet Office. This would have removed the provisions in the bill enabling the secretary of state to designate the Electoral Commission strategy and policy statement.
- Amendments 4 and 127, tabled by Brendan O’Hara and Ben Lake (Plaid Cymru MP for Ceredigion) respectively. Amendment 4

¹⁰⁹ [HC Hansard, 17 January 2022, col 84.](#)

¹¹⁰ Department for Levelling Up, Housing and Communities, ‘[Protecting the integrity of our elections: Voter identification at polling stations and the new Voter Card](#)’, 6 January 2022.

¹¹¹ [HC Hansard, 17 January 2022, col 86.](#)

¹¹² *ibid*, col 89.

¹¹³ *ibid*, cols 134–7.

would have required the Scottish Parliament to approve those aspects of the Electoral Commission strategy and policy statement in so far as it related to the commission's work in Scotland. Amendment 127 would have required the Welsh Parliament to approve those aspects of the statement in so far as it related to the commission's work in Wales.

Brendan O'Hara said the bill gave the Government the power to set the strategy and policy of the Electoral Commission, thereby limiting its independence. He described this and other measures in the bill, such as the introduction of voter ID, as representing a "fundamental threat" to democracy.¹¹⁴ Valerie Vaz (Labour MP for Walsall South) also criticised the changes in the bill affecting the Electoral Commission. She argued the bill would result in the commission being unable to operate as an independent regulator.¹¹⁵ Cat Smith also argued the bill would throw into doubt the commission's independence.¹¹⁶

The amendments were not addressed directly by Kemi Badenoch in her speech at the end of the debate. The amendments were withdrawn and not made to the bill.

6.4 Campaign finance

MPs debated the following amendments concerning campaign finance:

- New clause 2, tabled by Alex Norris. This new clause would have prevented overseas electors from donating to political parties in the UK.
- New clause 9, tabled by Alex Norris. This new clause would have required all individual and company donors to be based in the UK. It would also have made the persons running a company liable for any offences concerning the evasion of restrictions on donations.
- Amendments 11 and 12, tabled by Brendan O'Hara. These new amendments would have removed the new restrictions on third-party expenditure from the bill.¹¹⁷
- New clause 16, tabled by Liam Byrne (Labour MP for Birmingham, Hodge Hill). This new clause would have placed additional restrictions on foreign and foreign-influenced donations.
- New clause 18, tabled by Deidre Brock (SNP MP for Edinburgh

¹¹⁴ [HC Hansard, 17 January 2022, col 95.](#)

¹¹⁵ *ibid*, col 109.

¹¹⁶ *ibid*, col 120.

¹¹⁷ Elections Bill 2021–22, clauses 24–5,

North and Leith). This new clause would have required unincorporated associations to establish whether any donations they might receive were from someone legally allowed to donate.

Alex Norris criticised the provisions in the bill allowing unincorporated associations based outside the UK to register as third-party campaigners on the basis they are solely composed of registered overseas electors.¹¹⁸ He argued that the bill would make campaign finance more vulnerable to overseas interference as a result. Instead, he advocated a ban on donations by all overseas electors. Brendan O’Hara also argued new restrictions on third-party expenditure should be removed from the bill as they would prevent organisations such as charities from being able to participate in campaigning.¹¹⁹

Liam Byrne argued new clause 16 would ensure that the UK was able to prevent the kinds of foreign influence identified by the Intelligence and Security Committee of Parliament in its report on Russia.¹²⁰ He argued that the bill in its current form did not address the problem of money from corrupt sources entering UK politics. He described the UK political system as currently “awash with dark money from dubious sources”.¹²¹ Deidre Brock also argued the bill did not do enough to stop the flow of “dark money” into the UK’s electoral system.¹²²

These new clauses and amendments were not referred to directly by Kemi Badenoch in her speech at the end of the debate. New clause 2 was defeated in a division by 322 votes to 237.¹²³ The other amendments were withdrawn following the debate.

6.5 Joint campaigning

Amendment 3, tabled by Alex Norris, would have removed provisions from the bill concerning joint campaigning by political parties and third-party campaigners. Alex Norris argued that the bill in its current form would “undermine the ability of civil society organisations, charities and trade unions to engage in [the UK’s] democracy”.¹²⁴ Valerie Vaz argued the new requirements would penalise smaller organisations for joint campaigning.¹²⁵

¹¹⁸ [HC Hansard, 17 January 2022, cols 92–3.](#)

¹¹⁹ [ibid, cols 93–4.](#)

¹²⁰ [ibid, cols 112–13; Intelligence and Security Select Committee of Parliament, *Russia*, 21 July 2020, HC 632 of session 2019–21.](#)

¹²¹ [HC Hansard, 17 January 2022, cols 112.](#)

¹²² [ibid, cols 115.](#)

¹²³ [ibid, cols 130–3.](#)

¹²⁴ [ibid, col 93.](#)

¹²⁵ [ibid, col 111.](#)

She also said the bill would prevent the Labour Party from having affiliated organisations. She asked the minister whether non-party political organisations would be affected by the provisions on joint campaigning, such as Operation Black Vote.

Responding to Valerie Vaz's criticism of these provisions, Kemi Badenoch argued the measures in the bill were intended to strengthen spending limits that were already established in law.¹²⁶ She said that Operation Black Vote would not be affected by the new rules.

Amendment 3 was defeated in a division by 328 votes to 234.¹²⁷

6.6 Voting rights of EU citizens

MPs debated the following amendments concerning the voting rights of EU citizens in the UK:

- New clause 14, tabled by Alex Norris. This would have enabled foreign nationals to vote in parliamentary elections if they had: the right of abode in UK; settled status under the EU settlement scheme; indefinite leave to enter the UK; or indefinite leave to remain in the UK.
- Amendment 9, tabled by Brendan O'Hara. This amendment would have removed the provisions from the bill limiting the voting and candidate rights of some EU citizens.¹²⁸
- New clauses 6 and 7, tabled by Brendan O'Hara, would also have allowed EU citizens to vote in UK parliamentary elections.

Alex Norris argued that arrangements concerning voting rights for EU citizens following the UK's departure from the EU needed to be simplified.¹²⁹ He also argued it would be unfair if EU citizens living in the UK were unable to have a say on how the country is run.

Chris Clarkson (Conservative MP for Heywood and Middleton) criticised these amendments, arguing they were unnecessary.¹³⁰ He argued the UK should not extend voting rights to EU citizens living in the UK if there were no reciprocal arrangements in the relevant EU state.

Kemi Badenoch said that the issue of the voting and candidate rights of EU citizens had already been resolved in multiple debates in Parliament

¹²⁶ [HC Hansard, 17 January 2022, cols 112.](#)

¹²⁷ *ibid*, cols 139–42.

¹²⁸ Elections Bill 2021–22, clause 13.

¹²⁹ [HC Hansard, 17 January 2022, col 92.](#)

¹³⁰ *ibid*, col 100.

concerning the process for the UK's withdrawal from the EU.¹³¹ Following the debate, the amendments and new clauses were withdrawn.

6.7 Assistance for voters with a disability

Amendment 2, tabled by Alex Norris, would have changed the provisions in the bill concerning the forms of assistance available at polling stations to people with a disability.¹³² Alex Norris argued the bill in its current form would limit the type of assistance available to voters living with blindness or partial sightedness. He argued these voters would no longer be able to automatically access assistance enabling them to vote without the help of a companion or the returning officer.¹³³ Amendment 2 was not addressed directly by Kemi Badenoch. At the end of the debate the amendment was withdrawn.

6.8 Voting age

New clause 1, tabled by Alex Norris, would have lowered the voting age in UK parliamentary elections to 16. Alex Norris argued lowering the voting age in this way would help combat apathy by increasing the turn out in UK elections.¹³⁴ He proposed that this would strengthen UK democracy. Brendan O'Hara also spoke in support of new clause 1, arguing the voting age for UK parliamentary elections should be brought in line with the voting age for elections to the Scottish and Welsh parliaments.¹³⁵

Richard Holden (Conservative MP for North West Durham) spoke against the new clause, arguing that people aged 16 and 17 were more likely to be swayed in their decisions by others.¹³⁶ Steve Baker (Conservative MP for Wycombe) also argued against lowering the voting age to 16 on the basis that 18 should be kept as the age at which someone is considered to be an adult.¹³⁷ He argued retaining this threshold was important for maintaining consistency.

New clause 1 was not addressed directly by Kemi Badenoch in her speech at the end of the debate. The new clause was defeated in a division by 327 votes to 236.¹³⁸

¹³¹ [HC Hansard, 17 January 2022, col 86.](#)

¹³² Elections Bill 2021–22, clause 9.

¹³³ [HC Hansard, 17 January 2022, cols 90–1.](#)

¹³⁴ *ibid*, col 91.

¹³⁵ *ibid*, col 96.

¹³⁶ *ibid*, cols 104–5.

¹³⁷ *ibid*, col 108.

¹³⁸ *ibid*, cols 125–8.

6.9 Other voting reform proposals

In addition to proposals in new clause 1, MPs debated several amendments which would have made further changes to how elections and referendums are conducted in the UK. Brendan O'Hara tabled the following amendments to the bill:

- New clause 3 would have established a citizens' assembly into the electoral system. Mr O'Hara said this would be similar to the citizens' assemblies conducted in the Republic of Ireland concerning changes to the law on abortion.¹³⁹
- New clause 4 would have introduced automatic voter registration in the UK.
- New clause 5 would have allowed prisoners convicted for a term of 12 months or less to vote in UK parliamentary elections.
- New clause 6 would have allowed all foreign nationals to vote in UK parliamentary elections if they have been granted leave to remain in the UK.

Alistair Carmichael, the Liberal Democrat Spokesperson for the Cabinet Office, also tabled new clause 13. This would have introduced proportional representation for elections to the House of Commons.

These proposals were not referred to by Kemi Badenoch during report stage. At the end of the debate these amendments and new clauses were withdrawn.

7. Third reading

Third reading took place in the House of Commons on 17 January 2022, immediately following report stage. Kemi Badenoch said the bill delivered on the Government's manifesto commitment to protect and reinforce the integrity of UK elections.¹⁴⁰ Alex Norris repeated the Opposition's criticism of the bill, arguing it would make it harder for people to vote and that it would limit the independence of the Electoral Commission. He also argued the introduction of the bill had been rushed and there had not been adequate pre-legislative scrutiny.

The House divided on the motion to give the bill a third reading. The motion was passed by 325 votes to 234.¹⁴¹

¹³⁹ [HC Hansard, 17 January 2022, col 97.](#)

¹⁴⁰ *ibid*, col 162.

¹⁴¹ *ibid*, cols 164–8.

8. Voter ID: legal challenge

In 2018, Neil Coughlan, one of the electors in an area where voter ID pilots took place, began a legal challenge. The pilots were introduced by the Government using secondary legislation. Mr Coughlan sought a judicial review of the Minister for the Cabinet Office's decision to make the orders under section 10 of the Representation of the People Act 2000 allowing these pilots to take place. Mr Coughlan has argued the orders establishing these pilots were outside the powers given to the minister under the 2000 act.

Mr Coughlan was granted leave to appeal to the Supreme Court following his claim being rejected in the High Court and the Court of Appeal. The hearing start date for the Supreme Court is set as 15 February 2022.¹⁴²

¹⁴² Supreme Court, [R \(on the application of Coughlan\) \(Appellant\) v Minister for the Cabinet Office \(Respondent\)](#), accessed 26 January 2021.

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