



European Union (Referendum) Bill and the Parliament Acts

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Author: Richard Kelly

Section Parliament and Constitution Centre

The *European Union (Referendum) Bill 2013-14*, a private Member's bill, provided for an in/out referendum on membership of the European Union to be held before the end of 2017. It was passed by the Commons in 2013-14 but not passed by the Lords.

During the debate on the Queen's Speech at the beginning of the 2014-15 Session, David Cameron, the Prime Minister, confirmed that he would support a bill to provide for an in/out referendum, if it were introduced in the current Session. Subject to certain conditions, such a bill could be presented for Royal Assent in accordance with the provisions of the Parliament Acts 1911 and 1949.

Robert Neill, who was drawn third in the private Members' bill ballot, has given notice of his intention to introduce the *European Union (Referendum) Bill 2014-15*.

The Parliament Acts 1911 and 1949 allow public bills* other than money bills rejected by the House of Lords in one parliamentary session to be presented for Royal Assent in the following session if they are passed by the House of Commons and rejected again by the House of Lords. Section 2(3) of the 1911 Act states that for this purpose a bill is deemed to be rejected by the House of Lords "if it is not passed by that House either without amendment or with such amendments only as may be agreed to by both Houses". A number of conditions about timing apply to the process. The Parliament Acts do not apply to bills that extend the life of a Parliament, bills which originated in the House of Lords, private bills or provisional order bills.

* The Parliament Acts 1911 and 1949 do not distinguish between government and private Members' bills.

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1 The *European Union (Referendum) Bill 2013-14*

The Prime Minister, David Cameron, announced on 23 January 2013 that if his party is elected to power following the next election expected in 2015, it would hold a referendum in the UK on European Union (EU) membership in the next Parliament, framed on an in/out question. The wording of the question was not specified.

The Conservative Party published a draft *European Union (Referendum) Bill* on 14 May 2013. This provided for a referendum to be held by the end of 2017, with the detail of the date and the conduct of the election to be contained in orders to be laid before both Houses. Subsequently in the ballot for Private Members' Bills on 16 May 2013, James Wharton, Conservative MP for Stockton South came first and announced that he would introduce a version of the Bill. According to BBC News, the Bill would receive the full support of the Conservative Party, including a three line whip.¹ In the context of a Coalition Government, this makes the Bill a rather unusual private Member's bill.

The Bill was introduced on 19 June 2013 [[Bill 11 of 2013-14](#)]. It was similar but not identical to the Conservative Party draft bill. The main changes were that this Bill required the Secretary of State to lay the necessary orders for the poll before December 2016, and that the Electoral Commission had a role in recommending appropriate rules for the referendum.

The Bill received a second reading on 5 July 2013. A Money Resolution was agreed in the Commons on 16 July 2013. The committee stage began on 17 July 2013, when the Public Bill Committee sat for over 10 hours. There were six sittings, ending on 11 September and no amendments were made. Once the Bill had been given a second reading, the Electoral Commission began its consultation on the intelligibility of the question, using its powers under section 104 of the *Political Parties, Elections and Referendums Act 2000*. It issued its

¹ BBC News, [EU referendum: Tory will take forward bill](#), 16 May 2013

report on 29 October 2013. It recommended that Parliament might want to consider a different formulation to the question, noting that some potential electors were unaware that the UK was currently a member of the EU.

Report stage took place on 8, 22 and 29 November 2013. A new clause was added allowing Commonwealth citizens in Gibraltar to vote in the EU referendum, but no other major amendments were made. The question in the referendum was not altered. The Bill was given a third reading on 29 November 2013.²

In the House of Lords, the Bill [[HL Bill 63](#)] received a second reading on 10 January 2014.

Committee stage began on 24 January and continued on 31 January 2014 and some amendments were agreed. A list of the amendments agreed in the House of Lords is appended to this Note. On the second day in Committee, in the House of Lords, debate was brought to a close before all amendments had been considered. Lord Lipsey had moved “That the House do now resume” just after 3pm.³ Baroness Anelay told the House that: if the motion was agreed to, she would not be able to offer any more time for consideration of the Bill.⁴ The Lords agreed to resume, on a division (180 Contents to 130 Not-Contents).⁵

Following this decision, it was reported that David Cameron said that:

We are going to try to re-introduce the same Bill in the next session of parliament and, if necessary, rely on the provisions in the Parliament Act to stop Labour and Liberal Democrat peers killing the Bill once again.⁶

And at Prime Minister’s Questions on 5 February 2014, he said that he hoped the Bill could “be resuscitated if one of my colleagues is fortunate enough to win the private Member’s Bill ballot”.⁷

During the debate on the Queen’s Speech at the beginning of the 2014-15 Session, David Cameron, the Prime Minister, confirmed that he would support a bill to provide for an in/out referendum, if it were introduced in the current Session:

James Wharton (Stockton South) (Con): Should a Member introduce a private Member’s Bill to legislate for an in/out referendum on our membership of the European Union in the coming Session, will the Prime Minister give that Member the same wholehearted support that he has shown to me during the past year?

The Prime Minister: I can certainly give my hon. Friend the undertaking for which he asks. He did a brilliant job in presenting his Bill to the House of Commons. The Leader of the Opposition mentioned some of the issues that turn people away from politics. I think that one of the ways in which we can turn people back on to politics is to make clear that, when it comes to the vital issue of whether or not Britain should be a

² For background information on the Bill, see House of Commons Library Research Paper, [European Union \(Referendum\) Bill](#) (RP 13/41), 28 June 2013, amended 9 July 2013; for a review of the passage of the Bill through the Commons, see House of Commons Library Standard Note, [European Union \(Referendum\) Bill 2013-14 – progress of the bill](#) (SN/PC/6711)

³ [HL Deb 31 January 2014 c1542](#). The expected time of the rise of the House on a Friday is 3pm [House of Lords, [Companion to the Standing Orders and Guide to the Proceedings of the House of Lords](#), 2013, para 3.01]

⁴ [HL Deb 31 January 2014 c1544](#)

⁵ [HL Deb 31 January 2014 c1545](#)

⁶ “Tories to force through referendum bill”, *Independent*, 1 February 2014

⁷ [HC Deb 5 February 2014 c272](#)

member of a reformed European Union, it is the British people who should have their say.⁸

2 Conditions of the Parliament Acts procedure

2.1 Rejection of the Bill by the House of Lords

The Parliament Acts 1911 and 1949 allow public bills other than money bills rejected by the House of Lords in one parliamentary session to be presented for Royal Assent in the following session if they are passed by the House of Commons and rejected again by the House of Lords.

The *Parliament Acts* require a number of other conditions to be met before a bill that has been rejected by the House of Lords can be presented for Royal Assent:

2 Restriction of the powers of the House of Lords as to Bills other than Money Bills

(1) If any Public Bill (other than a Money Bill or a Bill containing any provision to extend the maximum duration of Parliament beyond five years) is passed by the House of Commons in two successive sessions (whether of the same Parliament or not), and, having been sent up to the House of Lords at least one month before the end of the session, is rejected by the House of Lords in each of those sessions, that Bill shall, on its rejection for the second time by the House of Lords, unless the House of Commons direct to the contrary, be presented to His Majesty and become an Act of Parliament on the Royal Assent being signified thereto, notwithstanding that the House of Lords have not consented to the Bill: Provided that this provision shall not take effect unless one year has elapsed between the date of the second reading in the first of those sessions of the Bill in the House of Commons and the date on which it passes the House of Commons in the second of these sessions.⁹

Section 2(3) of the 1911 Act states that for this purpose a bill is deemed to be rejected by the House of Lords "if it is not passed by that House either without amendment or with such amendments only as may be agreed to by both Houses".

Erskine May provides a summary of the conditions under which bills other than money bills may be presented for Royal Assent under the Parliament Acts 1911 and 1949:

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. The conditions which must be fulfilled before a bill can be presented for Royal Assent under the Acts vary according to whether or not the bill is certified by the Speaker as a 'money bill' as defined in s 1(2) of the 1911 Act.¹⁰

Section 2(4) of the Parliament Acts states

A Bill shall be deemed to be the same Bill as a former Bill sent up to the House of Lords in the preceding session if, when it is sent up to the House of Lords, it is identical with the former Bill or contains only such alterations as are certified by the Speaker of the House of Commons to be necessary owing to the time which has elapsed since the date of the former Bill, or to represent any amendments which have been made by the

⁸ [HC Deb 4 June 2014 c24](#)

⁹ *Parliament Act 1911*, section 2(1), as amended

¹⁰ Erskine May, *Parliamentary Practice*, 24th edition, 2011, p648

House of Lords in the former Bill in the preceding session, and any amendments which are certified by the Speaker to have been made by the House of Lords in the second session and agreed to by the House of Commons shall be inserted in the Bill as presented for Royal Assent in pursuance of this section:

Provided that the House of Commons may, if they think fit, on the passage of such a Bill through the House in the second session, suggest any further amendments without inserting the amendments in the Bill, and any such suggested amendments shall be considered by the House of Lords, and, if agreed to by that House, shall be treated as amendments made by the House of Lords and agreed to by the House of Commons; but the exercise of this power by the House of Commons shall not affect the operation of this section in the event of the Bill being rejected by the House of Lords.

The Library Standard Note [The Parliament Acts](#) (SN/PC/675) gives details of the procedures governing the use of the Parliament Acts of 1911 and 1949 and of bills that have been presented for Royal Assent under those procedures.

2.2 Application to the *European Union (Referendum) Bill*

In the case of a *European Union (Referendum) Bill*, the following conditions would have to be satisfied:

(a) Bill in the first session

- **The Bill must be sent to the Lords at least one month before the end of Session 2013-14.** The Bill was sent to the Lords on 29 November 2013, the session ended on 13 May 2014.
- **The Bill must be rejected by the House of Lords in Session 2013-14.** “Rejected” has a wide meaning. As the Bill failed to pass through all of its stages in the Lords, it was deemed to have been rejected.

(b) Bill in the second session

- The Bill must be sent from the Commons to the Lords in the next Session of Parliament (2014-15). **One year has to elapse between the date of Second Reading in the Commons in Session 2013-14, and the date on which it is sent to the Lords in Session 2014-15.** The date of Second Reading in the Commons in Session 2013-14 was 5 July 2013.
- It must be **essentially identical** to the Bill **sent from the Commons** in Session 2013-14. Amendments which are necessary owing to the passage of time or represent amendments made in the Lords in 2013-14 are permissible. In addition, the Commons can suggest amendments to the Bill, which may or may not be agreed to by the Lords.¹¹
- It must be sent from the Commons to the Lords **at least one month before the end of Session 2014-15.** Under the *Fixed-term Parliaments Act 2011* and the *Electoral Registration and Administration Act 2013*, Parliament will be dissolved on 30 March 2015. However, Parliament could be prorogued before this.
- **And it must be rejected by the Lords in Session 2014-15.** “Rejected” has the same wide meaning as in Session 2013-14.

¹¹ *Parliament Act 1911*, section 2(4), as amended

- Finally, before the Bill can receive Royal Assent, **the Speaker of the House of Commons has to certify that the conditions set out in section 2 of the Parliament Act 1911** (the points highlighted in bold text above) **have been complied with.**

The *European Union (Referendum) Bill 2013-14* met the first two criteria, so if the reintroduced Bill as passed by the Commons in 2014-15 is certified by the Speaker as being identical with the Bill as sent to the Lords in 2013-14 and/or as containing only amendments made necessary by the passage of time or representing amendments made by the Lords in 2013-14 and is then rejected by the Lords for a second time, the *Parliament Acts* could be applied.

3 Proceedings on private Members' bills in 2014-15

Under Standing Orders, private Members' bills (PMBs) are given precedence on 13 Fridays in each session. Because time is limited, a ballot is held to choose 20 Members who have first claim on the time available.

3.1 Ballot

The ballot for PMBs was held on the second sitting Thursday of each Session,¹² 12 June 2014 in 2014-15. The following Members were drawn in the ballot:

- | | |
|--------------------|-----------------------|
| 1. Andrew George | 11. Ian Mearns |
| 2. Michael Moore | 12. Dan Jarvis |
| 3. Robert Neill | 13. Jake Berry |
| 4. Richard Bacon | 14. Andrew Bingham |
| 5. Jeremy Lefroy | 15. Yvonne Fovargue |
| 6. Clive Efford | 16. John Hemming |
| 7. Sarah Teather | 17. Christopher Chope |
| 8. Julian sturdy | 18. Mark Lazarowicz |
| 9. Mark Spencer | 19. David Davis |
| 10. Jonathan Evans | 20. Martin Horwood |

Robert Neill has said that he will introduce the *European Union (Referendum) Bill*,¹³ and has given notice that he will do so.¹⁴

3.2 Presentation

No PMBs can be presented before the ballot bills, which are presented on the fifth sitting Wednesday of the Session,¹⁵ 2 July 2014 in 2014-15.

3.3 Proceedings

The first seven of the 13 PMB Fridays are reserved for second reading debates, so the bills of the first seven Members drawn in the ballot are considered most likely to make progress. Thereafter bills that have progressed furthest generally have precedence, although

¹² House of Commons, *Standing Orders of the House of Commons, Public Business 2013*, December 2013, HC 900 2013-14, Standing Order No 14 (11)

¹³ Matthew Holehouse and Christopher Hope, "EU referendum could be law within a year", *The Telegraph* [online], 12 June 2014

¹⁴ House of Commons, *Future Business*, 16 June 2014, Section A: Wednesday 2 July

¹⁵ House of Commons, *Standing Orders of the House of Commons, Public Business 2013*, December 2013, HC 900 2013-14, Standing Order No 14 (11)

“consideration of reports not already entered upon” are taken ahead of “adjourned proceedings on report”.¹⁶

These Fridays were agreed on 9 June 2014 for 2014-15.¹⁷ They are listed below with notes about the progress of the *European Union (Referendum) Bill 2013-14* on corresponding Fridays:

PMB Fridays 2014-15	Proceedings on the <i>European Union (Referendum) Bill 2013-14</i>
1) 5 September 2014	Second reading (5 July 2013)
2) 12 September 2014	
3) 17 October 2014	
4) 24 October 2014	
5) 7 November 2014	
6) 21 November 2014	
7) 28 November 2014	
8) 5 December 2014	Report (consideration) stage – Day 1 (8 November 2013)
9) 9 January 2015	Report stage – Day 2 (22 November 2013)
10) 16 January 2015	Report stage – Day 3, and third reading (29 November 2013)
11) 23 January 2015	
12) 27 February 2015	
13) 6 March 2015	

In 2013-14, James Wharton, the sponsor of the *European Union (Referendum) Bill 2013-14*, was drawn in the top slot in the ballot. He was able to choose the first Friday for the Bill’s second reading; further progress was assisted by other Conservative Members ensuring that other PMBs were not put down for consideration on report before the Bill had completed its Report Stage, over three weeks.

¹⁶ House of Commons, [Standing Orders of the House of Commons, Public Business 2013](#), December 2013, HC 900 2013-14, Standing Order No 14 (9) and (10)

¹⁷ [HC Deb 9 June 2014 c380](#)

Appendix: Amendments made to the European Union (Referendum) Bill 2013-14 at Committee stage in the House of Lords

The following amendments were made to the *European Union (Referendum) Bill 2013-14* [[HL Bill 63](#), as brought from the Commons]

Amendments agreed on 24 January 2014

Amendment 1:

1: Clause 1, page 1, line 2, leave out subsection (1) and insert—

“(1) A referendum is to be held with the question—

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

appearing on the ballot papers.”¹⁸

Division on Amendment 1

Contents 245; Not-Contents 158.

*Amendment 1 agreed.*¹⁹

Amendment 9:

9: Clause 1, page 1, line 3, at end insert—

“() The holding of a referendum under subsection (1) is subject to the condition set out in section (referendum condition) below being met.”²⁰

Division on Amendment 9

Contents 183; Not-Contents 157.

*Amendment 9 agreed.*²¹

Note amendment 9 was a paving amendment for a new clause entitled “Referendum condition” (Amendment 74).²²

Amendment 28:

28: Clause 1, page 1, line 7, leave out subsection (4)

Lord Armstrong of Ilminster: This amendment is moved as a consequence of the passage of Amendment 1. If this amendment is accepted, Amendment 31 falls and I should not move it.

*Amendment 28 agreed.*²³

¹⁸ [HL Deb 24 January 2014 c853](#)

¹⁹ [HL Deb 24 January 2014 c889](#)

²⁰ [HL Deb 24 January 2014 c894](#)

²¹ [HL Deb 24 January 2014 c910](#)

²² House of Lords, *European Union (Referendum) Bill 2013-14 – Second Marshalled List of Amendments to be Moved in Committee*, 30 January 2014, Amendment 74

²³ [HL Deb 24 January 2014 c951](#)

Amendments agreed on 24 January 2014

Amendment 50A

50A: Clause 1, page 1, line 14, at end insert—

“(7) No order shall be made under subsection (6) until the Secretary of State has prepared, published and laid before Parliament an assessment of the United Kingdom’s intended relationship with the European Union in the event of withdrawal from the European Union.”²⁴

Division on Amendment 50A

Contents 198; Not-Contents 134. [...]

*Amendment 50A agreed.*²⁵

²⁴ [HL Deb 31 January 2014 c1488](#)

²⁵ [HL Deb 31 January 2014 c1512](#)