



## BRIEFING PAPER

Number 07093, 1 July 2016

# House of Lords (Expulsion and Suspension) Act 2015

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## Summary

The *House of Lords (Expulsion and Suspension) Act 2015* provided for the House of Lords to make Standing Orders that:

- would enable a suspension to be imposed on a member that would run beyond the end of a Parliament; and
- would allow the House of Lords to expel members other than for non-attendance or being sentenced to over a year in prison (as provided for in the *House of Lords Reform Act 2014*).

Following a report from the Committee on Privileges and Conduct, the House of Lords agreed a new Standing Order in line with the provisions of the Act on 16 July 2015.

The Act started as a private Member's bill, introduced in the House of Lords by Baroness Hayman. In the House of Commons, it was sponsored by Sir George Young. The Bill received Royal Assent on 26 March 2016.

This Briefing Paper tracks the Bill's progress through both Houses, and notes the steps taken in the House of Lords to implement its provisions.

Whilst the Bill was being considered, the House of Lords accepted a recommendation from the House Committee that in the future, members "who are expelled, suspended, or cease to be a member under section 2 or section 3 of the House of Lords Reform Act 2014 should not have any access rights".

# 1. Progress of the Bill – Overview

The *House of Lords (Expulsion and Suspension) Bill [HL] 2014-15* was a private Member's bill that was introduced in the House of Lords by Baroness Hayman (the former Lord Speaker).

## House of Lords

- Introduction: [HL Deb 5 June 2014 c22](#)  
Second reading: [HL Deb 24 October 2014 cc924-940](#)  
Committee stage: [HL Deb 21 November 2014 cc644-651](#)  
Report stage: [HL Deb 12 December 2014 cc2092-2096](#)  
Third Reading [HL Deb 7 January 2015 c351](#)

The Bill as introduced [[HL Bill 007 2014-15](#)] was amended at Committee stage and reprinted [[HL Bill 61 2014-15](#)]. It was further amended at Report stage and again reprinted [[HL Bill 71 2014-15](#)].

## House of Commons

The Member in charge of the Bill was Sir George Young.

- Introduction: [Votes and Proceedings](#), 8 January 2015 (Items 6 and 7)  
Second Reading: [HC Deb 23 January 2015 c533](#)  
Committee stage [PBC Deb 4 February 2015 cc1-14](#)  
Report stage [HC Deb 27 February 2015 cc617-645](#) (business under consideration stood over);  
[HC Deb 6 March 2015 cc1203-1212](#)  
Third reading [HC Deb 6 March 2015 cc1212-1215](#)

The Bill as introduced in the Commons [[Bill 151 2014-15](#)] was reported without amendment by a public bill committee. Consideration on report began on 27 February 2015 and was completed on 6 March 2015, without the Bill being amended. The Bill was given a third reading on 6 March.

## Royal Assent

- Royal Assent [HL Deb 26 March 2015 c1589](#)

## 2. Progress of the Bill in the House of Lords

### 2.1 The Bill and Second Reading debate

In introducing the Bill at Second Reading, Baroness Hayman explained its objectives:

I have brought the Bill before the House because I believe that by enacting its provisions we could complete the series of reforms that have been made to the House's conduct, investigative and disciplinary systems since the events of 2008-09, and fill two important lacunae in the sanctions available to your Lordships' House.

[...]

My Bill would empower the House to make Standing Orders to enable a suspension to be imposed that would run beyond the end of a Parliament and during that time the right to receive a Writ of Summons would be suspended. The House would also be given the power to enact in Standing Orders the ability to expel a Member in circumstances other than the narrow ones set out in the House of Lords Reform Act 2014—non-attendance or being subject to a prison sentence of more than a year.<sup>1</sup>

Baroness Hayman (and a number of others) pointed to the fact that a suspension agreed early in a Parliament could be much longer than one agreed towards the end of the same Parliament. She hoped the powers would “simply lie unused”. She also commented that the Bill was “enabling, not prescriptive”. It would allow the House of Lords to determine its own procedures in its Standing Orders.<sup>2</sup>

The Bill was widely welcomed and Lord Brown of Eaton-under-Heywood, the chair of the Sub-Committee on Lords' Conduct said that “In that capacity I greatly welcome the Bill and the logical and highly desirable increments to the powers of the House that it would bring with it”.<sup>3</sup>

A number of peers pressed the Government to support the Bill. Lord Hunt of Kings Heath confirmed that the Opposition were “very happy to support it”.<sup>4</sup> Lord Wallace of Saltaire, for the Government, said that the Government had no settled view on the Bill.<sup>5</sup>

The Bill was given an unopposed second reading.<sup>6</sup>

### 2.2 Committee stage

The Bill was considered by a Committee of the whole House on 21 November 2014. Two amendments, both moved by Baroness Hayman were agreed to. Before outlining her amendments, Baroness Hayman

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<sup>1</sup> [HL Deb 24 October 2014 cc924-926](#)

<sup>2</sup> HL Deb 24 October 2014 c926

<sup>3</sup> HL Deb 24 October 2014 c930

<sup>4</sup> HL Deb 24 October 2014 c936

<sup>5</sup> HL Deb 24 October 2014 c937

<sup>6</sup> HL Deb 24 October 2014 c940

again confirmed that the Bill was “about conduct, not about composition”.<sup>7</sup>

Amendment 1 provided that the powers in the legislation could only be used in respect of “conduct by a member which takes place after the coming into force of this Act”. Baroness Hayman said that the amendment clarified that the Bill was not intended to be a retrospective measure.<sup>8</sup>

Peers again expressed support for the Bill, and for the amendment, although Lord Finkelstein while acknowledging that the principle of the amendment was “absolutely right” expressed concern that:

if we pass the amendment, that conduct, which would have taken place before the Bill came into force, may only be exposed after it came into force. The amendment would make it impossible to deal with that conduct.<sup>9</sup>

Lord Hunt of Kings Heath again expressed support for the Bill but acknowledged that Lord Finkelstein had raised an interesting point. He pressed the Minister to set out the Government’s attitude to the Bill.<sup>10</sup>

Lord Wallace of Saltaire confirmed that the Government would work with Baroness Hayman “to ensure that the amendments are tweaked into a form that would suit”. He said that the Government understood the spirit of the amendment but some issues of retrospectivity needed clarification. He confirmed that the Government was “giving the Bill a fair wind in this House”.<sup>11</sup>

Baroness Hayman acknowledged the concerns about addressing conduct that had taken place but raised the issue of double jeopardy, saying that conversations would take place between her and Government officials.<sup>12</sup>

Amendment 2 added a reference to sub-sections in the *House of Lords Reform Act 2014* to spell out that the consequences of expulsion in the Bill mirrored those in that Act.

Both amendments were agreed to and the Bill, as amended, was reported.

## 2.3 Report stage

At Report stage on 12 December 2014,<sup>13</sup> Baroness Hayman moved an amendment to allow conduct occurring before the coming into force of the legislation to be covered if it “was not public knowledge before that time”. She said that she hoped that the Bill met “the need for a more robust sanctions regime for the House but which also takes into account the necessity for this to be fair and balanced”. She explained that her amendment had “taken the wording in the 2012 House of Lords

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<sup>7</sup> [HL Deb 21 November 2014 c644](#)

<sup>8</sup> HL Deb 21 November 2014 cc644-645

<sup>9</sup> HL Deb 21 November 2014 c646

<sup>10</sup> HL Deb 21 November 2014 c646

<sup>11</sup> HL Deb 21 November 2014 c649

<sup>12</sup> HL Deb 21 November 2014 cc649-650

<sup>13</sup> [HL Deb 12 December 2014 cc2092-2096](#)



Reform Bill”, that is the Bill introduced by the Government in 2012-13.<sup>14</sup>

Baroness Hayman described two further amendments as technical amendments:

The other two amendments are of a technical nature. I am particularly grateful for the conversations that I had with officials, because I am not sure that I would have got there myself in understanding, in Amendment 2, the need to ensure that the interaction between the entitlement to receive the writ of summons, which is obviously a very important issue and one that stopped the House in the past being able to suspend Members beyond the lifetime of a single Parliament, and the House of Lords Reform Act 2014 should be made clear. Amendment 2, I am reliably informed, achieves that end and ensures that there is no lacuna between my Bill and the Act.

Equally, I attempted in my drafting to ensure that the effects of ceasing to be a Member in the case of expulsion should be the same under these provisions as they would be for expulsion under the provisions of the 2014 Act. I believe that the wording that we now have in Amendment 3 achieves that.<sup>15</sup>

Again Baroness Hayman was supported and again peers sought to know whether the Government would ensure that the Bill passed the Commons.

Lord Wallace of Saltaire argued that “the important thing is to get all stages of the Bill through the House in good order”. He said what happened next would be discussed, adding that “The Bill is now in good order”.<sup>16</sup>

All three amendments were agreed to.

## 2.4 Third reading

The Bill was given a formal third reading on 7 January 2015, and sent to the House of Commons.<sup>17</sup>

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<sup>14</sup> HL Deb 12 December 2014 cc2092-2093

<sup>15</sup> HL Deb 12 December 2014 c2093

<sup>16</sup> HL Deb 12 December 2014 cc2095-2096

<sup>17</sup> [HL Deb 7 January 2015 c351](#)

## 3. Progress of the Bill in the House of Commons

### 3.1 Introduction and second reading

The Bill was published in the Commons and Sir George Young sponsored the Bill. It was given a formal second reading on 23 January 2015, when Sir George signified Queen's Consent from the backbenches.<sup>18</sup> As a Privy Counsellor, he was able to do this.<sup>19</sup>

### 3.2 Public Bill Committee

The Bill was considered in a public bill committee on 4 February 2015.<sup>20</sup>

No amendments were tabled for consideration at Committee stage. In the public bill committee (PBC), all the clauses were debated together.<sup>21</sup>

Sir George Young outlined why the Bill was required:

At the moment, the maximum length of suspension in the upper House is in inverse proportion to the remaining length of the Parliament ... because the writ of summons trumps suspension, but that position is indefensible. Primary legislation is needed to correct the anomaly to ensure that peers serve the allotted time of suspension.<sup>22</sup>

He noted that peers considered it desirable that, like the Commons, the Lord should have the power to expel. He then continued that "There is a more powerful case for having the power in the Lords because peers cannot be expelled by constituents. I see no reason why we should deny that House a power that we have and that it wants".<sup>23</sup>

Christopher Chope noted that the House of Lords already had powers to suspend and expel. He expressed concern that:

... clause 1 contains an open-ended measure relating to the sort of conduct that gives rise to expulsion or suspension. It is wrong in principle that hon. Members should allow the other place to have an unlimited power to expel that is dependent only on its Standing Orders, because we should be nervous about their potential misuse.<sup>24</sup>

Another potential cause of concern he identified was that "the conduct that would give rise to expulsion is not specified in the Bill". He also expressed concerns about the way in which the retrospective aspects of the Bill were drafted, and Nick Raynsford noted that provisions could be retrospective if misdemeanours were not public knowledge at the time

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<sup>18</sup> [HC Deb 23 January 2015 c533](#)

<sup>19</sup> Political and Constitutional Reform Committee, *The impact of Queen's and Prince's Consent on the legislative process*, 26 March 2014, HC 784 2013-14, para 13; Erskine May, *Parliamentary Practice*, 24th edition, 2011, p166

<sup>20</sup> [PBC Deb 4 February 2015 cc1-14](#)

<sup>21</sup> Motions that clauses 2-4 stand part were grouped with the motion that clause 1 stand part

<sup>22</sup> [PBC Deb 4 February 2015 c4](#)

<sup>23</sup> [PBC Deb 4 February 2015 c4](#)

<sup>24</sup> [PBC Deb 4 February 2015 c6](#)



they occurred. He expressed concern that there was no definition of “not public knowledge”.<sup>25</sup>

Sam Gyimah, the Minister for the Constitution, explained why the Government supported the Bill:

The Government’s support for the Bill has just one principle behind it, which is that the Lords do not have adequate powers to deal with misconduct.<sup>26</sup>

In responding to the debate, Sir George Young addressed Christopher Chope’s concerns about the measure being open-ended. The provisions in the Bill related to the conduct of members of the House of Lords:

It has to be a matter of conduct, and “conduct” appears in the Bill. It cannot be used for matters not relating to conduct.<sup>27</sup>

He also undertook to take advice on Nick Raynsford’s point about the definition of “not public knowledge” and “come back to it on Report”.<sup>28</sup>

The Committee reported the Bill without amendment.

### 3.3 Report stage and third reading

Consideration on report began on 27 February 2015 but was not completed. It continued on 6 March 2015 when third reading was also taken.

A number of amendments were tabled.<sup>29</sup> They were arranged in two groupings:

- Code of conduct, Bill of Rights and fairness; and
- Expulsion and previous conduct.

Debate on the first group was completed on 27 February. At the end of the debate on the first group, a new clause, entitled “Natural Justice”, which was moved by Sir Tony Baldry, was withdrawn.<sup>30</sup> As he concluded his introductory remarks he explained why he had tabled his amendments:

We need to send a clear signal that we expect the process to have integrity and to accord with natural justice, and that is the gravamen of my new clauses.<sup>31</sup>

Another amendment from Christopher Chope, addressed concerns he had raised in committee. His new clause, entitled “Code of Conduct” required “the application of penalties under this Bill to be linked to that code [of Conduct, adopted by the House of Lords], if there was one”.<sup>32</sup>

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<sup>25</sup> [PBC Deb 4 February 2015 cc9-10](#)

<sup>26</sup> [PBC Deb 4 February 2015 c11](#)

<sup>27</sup> [PBC Deb 4 February 2015 c12](#)

<sup>28</sup> [PBC Deb 4 February 2015 c12](#)

<sup>29</sup> [Notices of Amendments, House of Lords \(Expulsion and Suspension\) Bill \[HL\] 2014-15](#), 25 February 2015

<sup>30</sup> [HC Deb 27 February 2015 c632](#)

<sup>31</sup> [HC Deb 27 February 2015 c623](#)

<sup>32</sup> [HC Deb 27 February 2015 c632](#)

He pressed new clause 3 to a division but it was negated, by 34 votes to 2.<sup>33</sup>

At the end of the debate on the second group of amendments, Christopher Chope pressed Amendment 1, which would have removed (with consequential amendments) references to expulsion from the Bill, to a division.

After the result of the division was reported to the House (Ayes 1, Noes 32), the Deputy Speaker declared that:

the Question was not decided because fewer than 40 Members had taken part in the Division, and the business under consideration stood over until the next sitting of the House (Standing Order No. 41)<sup>34</sup>

Erskine May, the authoritative guide to parliamentary procedure, notes that a debate ending in this way is not an adjourned debate and it could be restarted:

The subsequent consideration of business upon which a question has been put, but not decided because of the lack of a quorum in the division ... does not constitute an adjourned debate. When the business is considered again, the motion or order of the day concerned must be moved afresh, and Members who have spoken in the earlier debate may speak again.<sup>35</sup>

On 6 March, report stage continued. The debate on the second group of amendments started afresh. Christopher Chope spoke to an amendment (Amendment 6) that had not been discussed on 27 February. The amendment would ensure that the conduct giving rise to expulsion or suspension occurred after the relevant Standing Orders were made. The Bill already provided that it related to conduct after the Act came into force or conduct that was not public knowledge beforehand.<sup>36</sup>

He argued that without his amendment, Standing Orders could be changed so that behaviour not in breach of the code of conduct could be covered if the code was changed.

Sir George Young opposed the amendment, saying that members of the House of Lords would be judged in accordance with the code of conduct in force at the time of the offence.<sup>37</sup>

Christopher Chope pressed Amendment 6 to a division but it was negated by 44 votes to 2.<sup>38</sup>

In the third reading debate, Sir George Young reiterated that "The Bill is drafted to ensure that the powers apply only in respect of conduct that comes to light after the Bill's passing. There is no power to impose an

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<sup>33</sup> HC Deb 27 February 2015 cc632-633

<sup>34</sup> HC Deb 27 February 2015 c644

<sup>35</sup> Erskine May, *Parliamentary Practice*, 24th edition, 2011, p436

<sup>36</sup> [HC Deb 6 March 2015 cc1204-1206](#)

<sup>37</sup> [HC Deb 6 March 2015 c1206](#)

<sup>38</sup> [HC Deb 6 March 2015 c1211](#)

additional sanction on misbehaviour that has already been considered and sanctioned under the current regime”.<sup>39</sup>

Support for the Bill from both the Opposition and Government front benches was restated, and the Bill was given an unopposed third reading.<sup>40</sup>

The Bill received Royal Assent on 26 March 2015.<sup>41</sup> It came into force three months after it received Royal Assent, on 26 June 2016.<sup>42</sup>

### 3.4 Facilities for members dealt with by the Act

Whilst the legislation was still under consideration in the House of Lords, the House Committee recommended that in the future, members “who are expelled, suspended, or cease to be a member under section 2 or section 3 of the *House of Lords Reform Act 2014* should not have any access rights”.<sup>43</sup> (Section 3 of the *House of Lords Reform Act 2014* provides that a member of the House of Lords convicted of a serious offence and imprisoned for more than a year automatically loses their seat in the House.

The House of Lords agreed to these changes on 26 February 2015, when Lord Sewel, the Chairman of Committees, told the House that the changes would take effect from the start of the new Parliament.<sup>44</sup>

In March 2016, the House Committee confirmed that these privileges “are not afforded to members who lose their membership as a result of non-attendance or a sentence of imprisonment, nor by any member expelled under the provisions of the House of Lords (Expulsion and Suspension) Act 2015”.<sup>45</sup>

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<sup>39</sup> [HC Deb 6 March 2015 c1213](#)

<sup>40</sup> [HC Deb 6 March 2015 cc1214-1215](#)

<sup>41</sup> [HL Deb 26 March 2015 c1589](#)

<sup>42</sup> [House of Lords \(Expulsion and Suspension\) Act 2015](#) (chapter 14)

<sup>43</sup> House Committee, [Access and the use of facilities by members on leave of absence and disqualified members](#), 23 February 2015, HL Paper 104 2014-15, para 13

<sup>44</sup> [HL Deb 26 February 2015 c1764](#)

<sup>45</sup> House Committee, [Access and use of facilities by retired members](#), 21 March 2016, HL Paper 115 2015-16

## 4. Implementation of the Act through Standing Orders

### 4.1 Recommendations

On 8 July 2015, the Committee for Privileges and Conduct published a report containing a proposed Standing Order that would enable the House of Lords to expel a member and to suspend a member for any period of time (at that time suspension could not be beyond the end of a Parliament). The Committee also proposed a consequential change to another Standing Order to trigger a by-election to replace an hereditary peer who was expelled under the Act.<sup>46</sup>

The Committee's report provided a commentary on the draft Standing Order which was annexed to the report. In the commentary, the Committee addressed concerns about the power to expel and suspend and about retrospectivity that were raised in debates in the House of Commons. The Committee noted that the Standing Order:

- requires a motion to expel or suspend to follow a recommendation from the Committee for Privileges and Conduct to that effect because the member concerned has breached the Code of Conduct;
- requires a recommendation by the Committee for Privileges and Conduct to expel or suspend to follow a finding by the Commissioner for Standards that the member has breached the Code. The committee could not overturn an exoneration by the Commissioner;
- prevents expulsion or suspension being retrospective unless the conduct occurred before the Act came into force and was not public knowledge before then;
- requires a period to be specified for which the suspension will last;
- requires notice of a motion to expel or suspend to be given;
- provides that expulsion or suspension takes effect once the motion has been passed; and
- preserves the House's inherent power to suspend members. A member could be suspended for conduct not covered by the Act.<sup>47</sup>

If an hereditary peer is expelled, a revision to Standing Order 10 would mean that he or she was treated as if they left the House under the *House of Lords Reform Act 2014*, consequently a by-election would be triggered to replace the expelled hereditary peer.<sup>48</sup>

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<sup>46</sup> Committee for Privileges and Conduct, [House of Lords \(Expulsion and Suspension\) Act 2015: changes to standing orders](#), 8 July 2015, HL Paper 15 2015-16

<sup>47</sup> Committee for Privileges and Conduct, [House of Lords \(Expulsion and Suspension\) Act 2015: changes to standing orders](#), 8 July 2015, HL Paper 15 2015-16, paras 7-13

<sup>48</sup> Committee for Privileges and Conduct, [House of Lords \(Expulsion and Suspension\) Act 2015: changes to standing orders](#), 8 July 2015, HL Paper 15 2015-16, paras 15-16

## 4.2 Agreement

On 16 July 2015, the House of Lords agreed the new Standing Order and the revision to the existing Standing Order proposed by the Committee for Privileges and Conduct. Lord Sewel, then Chairman of Committees, outlined the effect of the new Standing Order and confirmed that “safeguards to ensure the proper use of the new power are in the Standing Order”.

Baroness Hayman, who took the legislation through the House of Lords, expressed her gratitude to the Committee and said that the new Standing Order ensured that the new powers would only be used after a proper process had been followed.

The proposed changes to Standing Orders were agreed without a division.<sup>49</sup>

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<sup>49</sup> [HL Deb 16 July 2015 cc693-695](#)

## 5. Background

### 5.1 Powers of the House of Lords

In May 2009, the Committee for Privileges reported on *The Powers of the House of Lords in respect of its Members*. It drew the following conclusions, which it invited the House to agree to:

- **The House possesses, and has possessed since before the 1705 resolution, an inherent power to discipline its Members; the means by which it chooses to exercise this power falls within the regulation by the House of its own procedures.**
- **The duty imposed upon Members, by virtue of the writs of summons, to attend Parliament, is subject to various implied conditions, which are reflected in the many rules governing the conduct of Members which have been adopted over time by the House.**
- **The House has no power, by resolution, to require that the writ of summons be withheld from a Member otherwise entitled to receive it; as a result, it is not within the power of the House by resolution to expel a Member permanently.**
- **The House does possess the power to suspend its Members for a defined period not longer than the remainder of the current Parliament.**<sup>50</sup>

The House of Lords agreed the Committee's report on 20 May 2009.<sup>51</sup>

(For background to the Committee for Privileges' report in 2009, see House of Commons Library Standard Note, [Resignation, suspension and expulsion from the House of Lords](#), 16 November 2010.)

The key thing to note is that the Committee concluded that the House of Lords did not have the power to expel a member, neither did it have the power to order the suspension of a Member beyond the end of a parliamentary session.

### 5.2 Previous attempt to provide for the expulsion of peers

At the beginning of the 2013–14 session, on 15 May 2013, the *House of Lords Reform Bill 2013-14* (HL Bill 23 of session 2013–14) was introduced by Baroness Hayman (Crossbench). The Bill would grant Members the opportunity to “permanently retire” (with no chance of rescission), would end the by-election process to replace hereditary Peers, and would allow the permanent removal of Members who did not attend for an entire session (unless on leave of absence or if the session was less than six months long) or who had committed a serious criminal offence. The Bill would also confer upon the House of Lords Appointments Commission sole responsibility for appointing Members.

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<sup>50</sup> Committee for Privileges, [The Powers of the House of Lords in respect of its Members](#), 14 May 2009, HL Paper 87 2008-09, para 8

<sup>51</sup> [HL Deb 20 May 2009 cc1394-1418](#)



Baroness Hayman's Bill did not make any further progress but the *House of Lords Reform (No 2) Bill 2013-14* was enacted as the *House of Lords Reform Act 2014*. The Act had been introduced as a private Members' bill. It was introduced in the Commons by Dan Byles, and in the Lords by Lord Steel of Aikwood. It was not as wide-ranging as Baroness Hayman's Bill. It contained provisions to allow members of the House of Lords to retire or resign permanently and provided that members who did not attend and those convicted of serious offences should cease to be members of the House of Lords. It received Royal Assent on 14 May 2014. (For further information, see House of Commons Library Standard Note, [House of Lords Reform \(No 2\) Bill 2013-14](#), SN/PC/6832.)

In her speech on second reading, Baroness Hayman also noted other antecedents of her Bill:

This is not a new idea. Provisions similar to those in my Bill were included in the Constitutional Reform and Governance Bill of 2010 but lost in the wash-up and therefore not included in that Act, and in the Government's own House of Lords Reform Bill of 2012, from which the provisions of my Bill are taken word for word. Equally, and as another guarantee of draftsmanship, the consequences of expulsion laid out in the Bill are taken from the 2014 Bill that was brought in by Mr Dan Byles in another place.<sup>52</sup>

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<sup>52</sup> HL Deb 24 October 2014 c926

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