

Overseas Electors Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Cabinet Office with the consent of Glyn Davies, the Member in charge of the Bill, are published separately as Bill 16 – EN.

Overseas Electors Bill

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B I L L

TO

Make provision extending the basis on which British citizens outside the UK qualify to participate in parliamentary elections; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Extension of franchise for parliamentary elections: British citizens overseas

(1) For sections 1 and 2 of the Representation of the People Act 1985 substitute—

“1 Extension of parliamentary franchise

- (1) A person is entitled to vote as an elector at a parliamentary election in a constituency if— 5
- (a) on the relevant date, the person—
 - (i) qualifies as an overseas elector in respect of that constituency (see section 1A),
 - (ii) is not subject to any legal incapacity to vote (age apart), 10
and
 - (iii) is a British citizen, and
 - (b) on the date of the poll, the person—
 - (i) is not subject to any legal incapacity to vote,
 - (ii) is a British citizen, and
 - (iii) is registered in a register of parliamentary electors for that constituency. 15
- (2) In this section, “the relevant date” means—
- (a) the date on which the person makes a declaration under and in accordance with section 1C (overseas elector’s declaration), or
 - (b) where the person makes a declaration under and in accordance with section 1E (renewal declaration), the date on which the person makes the declaration. 20

- 1A Qualification as an overseas elector in respect of a constituency**
- (1) For the purposes of this Act and the principal Act, a person qualifies as an overseas elector in respect of a constituency on the relevant date if—
- (a) on that date the person is not resident in the United Kingdom, and
 - (b) the person satisfies the previous registration condition or the previous residence condition.
- (2) A person satisfies the previous registration condition if—
- (a) *the person has at some time in the past been entered in an electoral register in respect of an address at a place that is situated within the constituency, and*
 - (b) subsequent to that entry ceasing to have effect, the person has not been included in any electoral register (whether in respect of the address mentioned in paragraph (a) or any other address).
- (3) A person satisfies the previous residence condition if—
- (a) *the person has at some time in the past been resident in the United Kingdom,*
 - (b) on the last day on which the person was resident in the United Kingdom, the person—
 - (i) was resident at an address at a place that is situated within the constituency, or
 - (ii) was not so resident but could have made a declaration under section 7B of the principal Act (a “declaration of local connection”) in respect of such an address, and
 - (c) subject to section 1B(4), the person has not at any time been included in any electoral register (whether in respect of the address mentioned in paragraph (b) or any other address).
- (4) For the purposes of subsection (3)(b)(ii), it is to be assumed that section 7B of the principal Act was in force on the last day on which the person was resident in the United Kingdom.
- (5) In this section—
- “electoral register” means—
 - (a) a register of parliamentary electors, or
 - (b) a register of local government electors (including a register of electors prepared for the purposes of local elections (within the meaning of the Electoral Law Act (Northern Ireland) 1962));
 - “relevant date” has the same meaning as in section 1.
- 1B British citizens overseas: entitlement to be registered**
- (1) A person is entitled to be registered in a register of parliamentary electors in pursuance of a declaration made by the person under and in accordance with section 1C (an “overseas elector’s declaration”) if the conditions mentioned in subsections (2) and (3) are satisfied.
- (2) The first condition is that the register is for the constituency or part of the constituency within which is situated the address that is specified in the declaration by virtue of—

- (a) section 1C(2)(a) (where the person is seeking to be registered on the basis of the previous registration condition), or
- (b) section 1C(3)(a) or (4) (where the person is seeking to be registered on the basis of the previous residence condition).
- (3) The second condition is that the registration officer concerned is satisfied that, on the date on which the person makes the declaration, the person qualifies as an overseas elector in respect of the constituency. 5
- (4) Where –
- (a) a person applies to be registered in a register of parliamentary electors on the basis that the person satisfies the previous residence condition, and 10
- (b) the registration officer concerned considers that insufficient evidence is available for the purpose of determining whether the person has at any time been included in any electoral register (within the meaning of section 1A), 15
- the officer may determine that paragraph (c) of section 1A(3) (person not previously included in any electoral register) is to be disregarded in the case of the application.
- (5) An overseas elector’s declaration made by a person is of no effect unless received by the registration officer concerned within the period of 3 months beginning with the date on which the person makes the declaration. 20
- (6) For the purposes of section 1A, where a person is registered in a register of parliamentary electors for a constituency or part of a constituency in pursuance of an overseas elector’s declaration, it is to be conclusively presumed that the person was not resident in the United Kingdom on the date on which the person made the declaration. 25
- (7) See also sections 10ZC and 10A of the principal Act, which (amongst other things) contain provision about the making of applications for registration. 30

1C Overseas elector’s declaration

- (1) An overseas elector’s declaration must –
- (a) give the full name of the person making the declaration (“the declarant”), 35
- (b) state the date of the declaration,
- (c) state that the declarant is a British citizen,
- (d) state that the declarant is not resident in the United Kingdom on the date of the declaration,
- (e) state whether the declarant is seeking to be registered on the basis of the previous registration condition or the previous residence condition, 40
- (f) contain any other prescribed information and satisfy any other prescribed requirements (which may include requirements for the declaration to be attested and for the charging of fees for attestation), and 45
- (g) state that the declarant believes the matters stated in the declaration by virtue of paragraphs (a) to (d) and (f) to be true.

- (2) Where the declarant is seeking to be registered on the basis of the previous registration condition, the declaration must also –
- (a) specify –
 - (i) the address in the United Kingdom in respect of which the declarant was included in an electoral register, and 5
 - (ii) when the declarant was last included in such a register in respect of that address, and
 - (b) state that since the declarant’s entry in that register in respect of that address ceased to have effect, the declarant has not been included in any electoral register (whether in respect of that or any other address). 10
- (3) Where the declarant is seeking to be registered on the basis of the previous residence condition by virtue of section 1A(3)(b)(i), the declaration must also –
- (a) specify – 15
 - (i) the address in the United Kingdom at which the declarant was resident, and
 - (ii) when the declarant was last resident at that address, and
 - (b) state that since being resident at that address, the declarant has not been resident at any other address in the United Kingdom. 20
- (4) Where the declarant is seeking to be registered on the basis of the previous residence condition by virtue of section 1A(3)(b)(ii), the declaration must also specify an address in respect of which the declarant could have made a declaration of local connection on the last day on which the declarant was resident in the United Kingdom. 25
- (5) An overseas elector’s declaration that specifies an address in Northern Ireland under subsection (2)(a), (3)(a) or (4) may, instead of or in addition to including a statement under subsection (1)(c), state that the declarant is an Irish citizen who –
- (a) was born in Northern Ireland, and 30
 - (b) qualifies as a British citizen (whether or not the declarant identifies as such).
- (6) If the declarant –
- (a) makes an overseas elector’s declaration that specifies more than one address under subsection (2)(a), (3)(a) or (4), or 35
 - (b) makes two or more overseas elector’s declarations that bear the same date and specify different addresses in the United Kingdom under subsection (2)(a), (3)(a) or (4),
- the declaration or declarations are void.
- (7) The declarant may at any time cancel an overseas elector’s declaration made by the declarant. 40
- (8) In this section –
- “electoral register” has the same meaning as in section 1A;
 - “registered” means registered in a register of parliamentary electors. 45
- (9) A person found abandoned in Northern Ireland as a new-born infant is, unless the contrary is shown, deemed for the purposes of subsection (5) to have been born in Northern Ireland.

1D Duration of entitlement to be registered

- (1) Where a person is registered in a register of parliamentary electors in pursuance of an overseas elector's declaration, the person is entitled to remain so registered until—
- (a) the end of the period of 12 months beginning with the date when the person's entry on the register takes effect (subject to any extension under subsections (2) and (3)), or 5
 - (b) if earlier, the occurrence of an event specified in subsection (4).
- (2) Subsection (3) applies if—
- (a) during the 3 months ending with the last day of the initial registration period or of any further registration period, the person makes a declaration under and in accordance with section 1E (a "renewal declaration"), and 10
 - (b) the registration officer concerned is satisfied that, on the date the declaration is made, the person is entitled to remain registered in the register. 15
- (3) The person is entitled to remain registered in the register until—
- (a) the end of the period of 12 months beginning with the day after the last day of the initial registration period or of the further registration period in question (subject to any further extension), or 20
 - (b) if earlier, the occurrence of an event specified in subsection (4).
- (4) These are the events referred to in subsections (1)(b) and (3)(b)—
- (a) a determination by the registration officer, in accordance with regulations, that the person was not entitled to be registered or to remain registered (as the case may be); 25
 - (b) a determination by the registration officer, in accordance with regulations—
 - (i) that the person was registered as the result of an application under section 10ZC or 10A(1) of the principal Act made by some other person, or 30
 - (ii) that the person's entry has been altered as the result of an application under section 10ZD or 10A(4) of that Act made by some other person;
 - (c) the cancellation of the overseas elector's declaration (see section 1C(7)) or of the renewal declaration (see section 1E(5)); 35
 - (d) the taking effect of another entry made in respect of the person in any electoral register (in the case of a register of parliamentary electors, whether or not in pursuance of an overseas elector's declaration). 40
- (5) In this section—
- "electoral register" has the same meaning as in section 1A;
 - "initial registration period" means the period referred to in subsection (1)(a);
 - "further registration period" means a period for which a person is entitled to remain registered by virtue of subsection (3)(a). 45
- (6) Where a person is entitled to remain registered in a register of parliamentary electors for a constituency or part of a constituency by virtue of subsections (2) and (3), it is to be conclusively presumed for

the purposes of section 1A that the person was not resident in the United Kingdom on the date on which the person made the renewal declaration in question.

- (7) Where a person's entitlement to remain registered in a register of parliamentary electors terminates by virtue of subsection (1) or (3), the registration officer concerned must remove the person's entry from the register. 5

1E Renewal declaration

- (1) A renewal declaration must—
- (a) give the full name and date of birth of the person making the declaration ("the declarant"), 10
 - (b) state the date of the declaration,
 - (c) state that the declarant is a British citizen,
 - (d) state that the declarant is not resident in the United Kingdom on the date of the declaration, 15
 - (e) contain any other prescribed information and satisfy any other prescribed requirements (which may include requirements for the declaration to be attested and for the charging of fees for attestation), and
 - (f) state that the declarant believes the matters stated in the declaration to be true. 20
- (2) A renewal declaration must also—
- (a) specify the address in respect of which the declarant is registered, and
 - (b) state that since the declarant was registered in respect of that address, no other entry has been made in respect of the declarant in any electoral register (whether in respect of the address mentioned in paragraph (a) or any other address). 25
- (3) A renewal declaration that specifies an address in Northern Ireland under subsection (2)(a) may, instead of or in addition to the statement under subsection (1)(c), state that the declarant is an Irish citizen who—
- (a) was born in Northern Ireland, and
 - (b) qualifies as a British citizen (whether or not the declarant identifies as such),
- (and section 1C(9) applies as it applies for the purposes of section 1C(5)). 30 35
- (4) If the declarant—
- (a) makes a renewal declaration that specifies more than one address under subsection (2)(a), or
 - (b) makes two or more renewal declarations that bear the same date and specify different addresses under subsection (2)(a), 40
- the declaration or declarations are void.
- (5) The declarant may at any time cancel a renewal declaration made by the declarant.
- (6) In this section— 45
- “electoral register” has the same meaning as in section 1A;

“registered” means registered in a register of parliamentary electors in pursuance of an overseas elector’s declaration.

1F Power to amend period specified in section 1D

- (1) The Minister for the Cabinet Office or the Secretary of State may by order substitute a different period (not exceeding 5 years) for the period for the time being specified in section 1D(1)(a) and (3)(a). 5
- (2) An order under this section may contain incidental or consequential provision.
- (3) Before making an order under this section, the Minister for the Cabinet Office or the Secretary of State must consult the Electoral Commission. 10
- (4) An order under this section is to be made by statutory instrument.
- (5) A statutory instrument containing an order under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) If the period substituted by an order under this section is longer than the period in force immediately before the making of the order, the longer period has effect in relation to a person who immediately before the making of the order was entitled to remain registered by virtue of section 1D(1) or (3). 15

1G Guidance

- (1) Registration officers must have regard to any guidance given by the Minister for the Cabinet Office or the Secretary of State about—
 - (a) the determination of applications for registration in pursuance of an overseas elector’s declaration, and
 - (b) the renewal of a person’s registration in pursuance of such a declaration. 25
- (2) The guidance that may be given includes, amongst other things, guidance about—
 - (a) determining whether a person qualifies as an overseas elector in respect of a constituency; 30
 - (b) the making of a determination under section 1B(4) (which enables a registration officer to disapply section 1A(3)(c) in relation to an application based on the previous residence condition);
 - (c) determining whether a person is entitled to remain registered in a register of parliamentary electors following the making of a renewal declaration. 35
- (3) In this section, “registration” means registration in a register of parliamentary electors.”
- (2) For the purposes of—
 - (a) section 3 of the Representation of the People Act 1985 and regulations made under that section (franchise for European Parliamentary elections), and
 - (b) section 17(3)(c) of the European Parliament (Representation) Act 2003 and regulations made by virtue of that provision (Gibraltar register: provision about overseas electors), 40 45

sections 1 and 2 of the Representation of the People Act 1985 are to be treated as not having been amended by subsection (1) of this section.

2 Minor and consequential amendments and transitional provision

- (1) Schedule 1 contains minor and consequential amendments.
- (2) Schedule 2 contains transitional provision. 5

3 Extent, commencement and short title

- (1) Any amendment or repeal made by this Act has the same extent as the provision to which it relates.
- (2) The provisions of this Act (other than this section) come into force on such day or days as may be appointed by regulations made by the Minister for the Cabinet Office or the Secretary of State. 10
- (3) Regulations under subsection (2) are to be made by statutory instrument.
- (4) Regulations under subsection (2) –
 - (a) may appoint different days for different purposes;
 - (b) may include transitional, transitory or saving provision. 15
- (5) This section comes into force on the day on which this Act is passed.
- (6) This Act may be cited as the Overseas Electors Act 2018.

SCHEDULES

SCHEDULE 1

Section 2(1)

MINOR AND CONSEQUENTIAL AMENDMENTS

Representation of the People Act 1983

- | | | |
|---|--|----|
| 1 | The Representation of the People Act 1983 is amended as follows. | 5 |
| 2 | In section 4 (entitlement to be registered as parliamentary or local government elector), in subsection (4)(b), for “section 2(1)” substitute “section 1B(1)”. | |
| 3 | (1) Schedule 2 (provisions which may be contained in regulations as to registration etc) is amended as follows. | 10 |
| | (2) After paragraph 3ZA insert – | |
| | “3ZB(1) Provision about renewal declarations (within the meaning given by section 1D(2) of the Representation of the People Act 1985), including in particular provision about their form and contents. | |
| | (2) Provision made under sub-paragraph (1) may include provision conferring functions on the Electoral Commission.” | 15 |
| | (3) In paragraph 4, after sub-paragraph (2) insert – | |
| | “(3) Provision as to the manner in which renewal declarations (within the meaning given by section 1D(2) of the Representation of the People Act 1985) are to be transmitted to the registration officer.” | 20 |
| | (4) In paragraph 5, after sub-paragraph (1A) insert – | |
| | “(1AA) The provision that may be made under sub-paragraph (1A) includes provision authorising a registration officer, despite provision contained in regulations made by virtue of that sub-paragraph – | 25 |
| | (a) to require such other kind of evidence as the officer considers appropriate, or | |
| | (b) to deem such other kind of evidence as the officer considers appropriate to be sufficient or conclusive evidence.” | 30 |

Representation of the People Act 1985

- | | | |
|---|--|--|
| 4 | In section 12 of the Representation of the People Act 1985 (offences as to declarations) – | |
|---|--|--|

	(a) in subsection (1), after “elector’s declaration” (in the second place it occurs) insert “, or a renewal declaration or a declaration purporting to be a renewal declaration”, and	
	(b) in subsection (2), after “elector’s declaration” (in the second place it occurs) insert “, or a renewal declaration or a declaration purporting to be a renewal declaration,”.	5
<i>Finance Act 1996</i>		
5	In section 200 of the Finance Act 1996 (domicile for tax purposes of overseas electors), in subsection (3)(a), for “section 1(1)(a)” substitute “section 1(2)(a)”.	
<i>Income Tax Act 2007</i>		
6	In section 835B of the Income Tax Act 2007 (domicile for income tax purposes of overseas electors), in subsection (3)(a), for “section 1(1)(a)” substitute “section 1(2)(a)”.	10
<i>Constitutional Reform and Governance Act 2010</i>		
7	In section 42 of the Constitutional Reform and Governance Act 2010 (tax status of members of the House of Lords: transitional provision), omit subsection (7).	15
<i>House of Lords Reform Act 2014</i>		
8	In section 4 of the House of Lords Reform Act 2014 (effect of ceasing to be a member of the House of Lords), omit subsection (6).	20

SCHEDULE 2

Section 2(2)

TRANSITIONAL PROVISION

Interpretation of Schedule

- | | | |
|---|--|----|
| 1 | (1) In this Schedule –
“the commencement date” means the date appointed for section 1 to come fully into force;
“RPA 1985” means the Representation of the People Act 1985. | 25 |
| | (2) References in this Schedule to provisions of RPA 1985 are (except where indicated) to provisions as they had effect immediately before the coming into force of any of the provisions of this Act. | 30 |

Pre-commencement applications for registration in a register of parliamentary electors

- | | | |
|---|---|----|
| 2 | (1) The amendments made by this Act do not apply in relation to an application for registration in a register of parliamentary electors in pursuance of a pre-commencement declaration (even if the application is determined after the commencement date). | 35 |
|---|---|----|

- (2) In this paragraph, “pre-commencement declaration” means an overseas elector’s declaration (as defined by section 2(1) of RPA 1985) made at any time before the commencement date.

Overseas electors registered pursuant to pre-commencement applications

- 3 (1) This paragraph applies to a person where – 5
- (a) the person is for the time being registered in a register of parliamentary electors in pursuance of a pre-commencement declaration, and
 - (b) either –
 - (i) the person has been registered in pursuance of the declaration since immediately before the commencement date, or 10
 - (ii) the person became registered in pursuance of the declaration on or after that date as the result of an application made before that date. 15
- (2) In such a case –
- (a) the person is to be treated after the commencement date as being registered in that register in pursuance of a post-commencement declaration on the basis that the person satisfied the previous registration condition (within the meaning of section 1A(2) of RPA 1985, as substituted by section 1 of this Act); 20
 - (b) the address in respect of which the person is registered is the address specified in the pre-commencement declaration;
 - (c) sections 1D and 1E of RPA 1985 (as substituted by section 1 of this Act) have effect accordingly. 25
- (3) In this paragraph –
- “pre-commencement declaration” has the same meaning as in paragraph 2;
 - “post-commencement declaration” means an overseas elector’s declaration (as defined by section 1B(1) of RPA 1985 (as substituted by section 1 of this Act)) made at any time on or after the commencement date. 30

Power to make supplementary provision

- 4 (1) The Minister for the Cabinet Office or the Secretary of State may by regulations make provision for supplementing, or provision incidental to, the provision made by this Schedule. 35
- (2) Regulations under sub-paragraph (1) may make different provision for different purposes or areas.
- (3) Regulations under sub-paragraph (1) are to be made by statutory instrument. 40
- (4) A statutory instrument containing regulations under sub-paragraph (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

Overseas Electors Bill

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B I L L

To make provision extending the basis on which British citizens outside the UK qualify to participate in parliamentary elections; and for connected purposes.

Presented by Glyn Davies

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