

# HOUSE OF LORDS BILL [HL]

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the House of Lords Bill [HL] as introduced in the House of Lords on 25 May 2016 (HL Bill 15).

- These Explanatory Notes have been prepared by Lord Elton in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

## Overview of the Bill

- 1 The Bill aims to reduce the number of peers who are members of the House of Lords to a specified maximum number no greater than the number of Members of the House of Commons. The reduction would take place at the end of the first session after enactment, and at the end of the first session of every subsequent Parliament. The Prime Minister's power to appoint members of the House of Lords would continue. The size of the House could therefore increase during a Parliament, but would be reduced to the specified maximum number at the end of the first session of the next Parliament, and every subsequent Parliament.
- 2 The Bill would provide that the holder of a peerage would not be entitled to membership of the House of Lords after the first session of the Parliament following the one in which the holder first received a writ of summons unless the holder was excepted from this provision. The Bill would allow the House, through standing orders, to elect peers to be so excepted, and therefore entitled to membership of the House.
- 3 The provisions of the Bill would be implemented by a new Standing Order, a draft of which is in section 3 of these notes (overview of the draft new standing order). The draft Standing Order has been prepared by the peer in charge of this Bill.

## Commentary

- 4 **Clause 1** limits the period during which a peerage confers on the holder the right of membership of the House of Lords. The holder of a peerage would have the right of membership only until the end of the first session of the Parliament after the one in which the peer first received a writ of summons. A peer who received a writ of summons during or before the 2005-10 Parliament would remain a member of the House until the session after the session in which the Bill is passed.
- 5 Subsection (1) of **Clause 2** provides for members to be excepted from Clause 1. It provides for Standing Orders to set out a scheme for excepting members.
- 6 Subsection (2) provides that no more than a specified number of peers may be excepted under subsection (1), and that those so excepted are to be elected by peers who are members of the House in accordance with Standing Orders. Those elected would serve for a period starting with the beginning of the second session of a Parliament and concluding with the end of the first session of the following Parliament.
- 7 Subsection (3) sets the specified number at the number of constituencies returning an MP at the previous general election. This means that a change in the size of the House of Commons would not necessitate a revision of the Standing Orders.
- 8 Subsection (4) preserves the ex-officio membership of the Earl Marshal and the Lord Great Chamberlain.
- 9 Subsection (5) allows the Clerk of the Parliaments to determine if a peer is excepted from Clause 1, and provides that his certificate is conclusive.
- 10 **Clause 3** mirrors section 3 of the House of Lords Act 1999. Subsection (1) maintains the right of peers who do not have a seat in Parliament to vote and stand in elections to the House of Commons and subsection (2) maintains the disqualification of peers who do have a seat in Parliament from voting or standing in elections to the House of Commons.
- 11 **Clause 4** amends section 2(2) of the House of Lords Act 1999, which, at present, sets the current number of excepted hereditary peers at 90. This Clause provides for their number to be varied in accordance with this Bill and any amended Standing Orders.

*These Explanatory Notes relate to the House of Lords Bill [HL] as introduced in the House of Lords on 25 May 2016 (HL Bill 15)*

- 12 **Clause 5** defines the terms “peerage” and “peer”. Bishops are not peers; those who are members of the House of Lords are Lords Spiritual and would be unaffected by the Bill.
- 13 **Clause 6** applies the Bill to the whole of the United Kingdom.
- 14 Subsection (1) of **Clause 7** brings the Bill into force on the day it is passed. Subsection (2) provides that if the Bill is passed in the middle of a Parliament, the relevant Standing Order may be brought into effect during that Parliament.
- 15 **Clause 8** gives the Bill its short title.

## Overview of the draft new Standing Order

- 16 The draft Standing Order below has been prepared by the peer in charge of the Bill. Were the Bill to be enacted in its current form the draft Standing Order, or something similar to it, would need to be proposed to the House.

### **Draft new Standing Order**

#### **Election of peers [2016]**

- (1) In implementation of section 2 of the House of Lords Act 2016, this Standing Order makes provision for the election of peers who are excepted from section 1.
- (2) The excepted peers shall consist of the following categories:
  - (a) peers elected by the Conservative peers;
  - (b) peers elected by the Cross-bench peers;
  - (c) peers elected by the Labour peers;
  - (d) peers elected by the Liberal Democrat peers; and
  - (e) peers elected by a category of peers recognised under paragraph (3) of this Standing Order.
- (3) Two or more peers who are members of a party or group not in paragraph (2)(a) to (d) may apply to the Committee for Privileges and Conduct for recognition as a separate category under paragraph (2)(e) of this Standing Order if they satisfy criteria published by that committee.
- (4) For the purposes of this Standing Order peers unaffiliated to any of the parties or groups in paragraph (2) shall be treated as though they are Cross-bench peers.
- (5) The elections shall be held:
  - (a) within 10 calendar months of the first day of the session after the session in which this Act was passed; and
  - (b) within 10 calendar months of the State Opening of any Parliament after a Parliament in which, on the day before its dissolution, the number of peers exceeded the number specified in section 2 of the Act.
- (6) The proportion of the specified number of peers to be elected by each category in paragraph (2) shall be the same as the proportion of the total number of peers in the House that were members of that category five working days before the election is held.

*These Explanatory Notes relate to the House of Lords Bill [HL] as introduced in the House of Lords on 25 May 2016 (HL Bill 15)*

- (7) All peers who are members of the House at the time of an election are, subject to paragraph (8), eligible to stand as candidates in that election.
- (8) A peer may not stand for election nor vote if he has not taken the Oath or is on Leave of Absence.
- (9) In any one election a peer may not stand under more than one category in paragraph (2).
- (10) Elections shall be conducted in accordance with arrangements made by the Clerk of the Parliaments, and such arrangements shall provide that peers are to cast their votes in secret.
- (11) In order to stand for election or qualify as an elector under paragraph (2) a peer must register with the Clerk of the Parliaments, identifying the party, Cross-bench or other group to which he belongs.
- (12) A peer may not vote if he has not been a member of the House for at least one complete Parliament. For this purpose a peer is deemed to have been a member for a complete Parliament if he or she entered the House in the first session of that Parliament.
- (13) In the event of a tie between two or more candidates standing in an election, the matter (if not resolved by the electoral arrangements adopted by the House) shall be decided by the drawing of lots.
- (14) The Clerk of the Parliaments may refer any question concerning the propriety of the electoral process to the Committee for Privileges and Conduct.
- (15) A by-election shall be held under Standing Order 10 in the event of the death, resignation or expulsion of a hereditary peer elected under paragraph (2) of this Standing Order.

## Commentary on the draft new Standing Order

- 17 **Paragraph (1)** is introductory.
- 18 **Paragraph (2)(a) to (d)** provides that each of the four largest groups of peers shall elect peers from members of their group. Paragraph (e) provides that peers who are not members of those four groups may form a category in order to elect peers from the members of that category.
- 19 **Paragraph (3)** provides that in order to be recognised as a category under paragraph (2)(e) two or more peers must apply to the Committee for Privileges and Conduct and satisfy criteria published by that committee.
- 20 **Paragraph (4)** provides for unaffiliated peers to be treated for the purposes of the Standing Order as Cross-bench peers. They may therefore stand for election as Cross-bench peers and vote in such elections.
- 21 **Paragraph (5)(a)** provides for the first election to be held in the session after enactment of the Bill, and subsequently in the first session of succeeding Parliaments. If the Bill were to pass in session 2016–17 the first elections would be held within 10 months of the start of session 2017–18. **Paragraph (5)(b)** provides that subsequent elections will be held within 10 months of the State Opening of a new Parliament, assuming that the number of peers at the time of the dissolution before the new Parliament exceeded the number specified in section 2 of the Bill (650 at present). In the event of a relevant session lasting less than, or significantly longer than, 10 months, this paragraph might be amended or disapplied to enable the election to take place at a more convenient time.

- 22 **Paragraph (6)** provides that the proportion of the total number of peers elected by each group shall be the same as the proportion of the total number of peers in that group five working days before the election. This would mean that the balance between the component groups of peers would not be affected by the reduction in the number of members.
- 23 **Paragraph (7)** provides that all peers who are members of the House at the time of an election are eligible to stand as candidates in that election.
- 24 **Paragraph (8)** disqualifies peers who have not taken the Oath, or who are on Leave of Absence, from standing for and voting in an election.
- 25 **Paragraph (9)** provides that no peer may stand for election to more than one of the recognised groups in paragraph (2).
- 26 **Paragraph (10)** provides for the Clerk of the Parliaments to make arrangements for the conduct of the election, with one of the arrangements being that votes must be cast in secret.
- 27 **Paragraph (11)** requires those wishing to stand for election or to vote to register themselves, and the group to which they belong, with the Clerk of the Parliaments.
- 28 **Paragraph (12)** provides that peers must have been members for a whole Parliament before they may vote. Peers who joined the House in the first session of a Parliament are deemed to have been members for the whole of that Parliament.
- 29 **Paragraph (13)** provides that, in the absence of other arrangements made by the House, a tie between candidates shall be decided by the drawing of lots.
- 30 **Paragraph (14)** enables the Clerk of the Parliaments to refer any question concerning the propriety of an election to the Committee for Privileges and Conduct.
- 31 **Paragraph (15)** provides for a by-election to be held under Standing Order 10 to replace any hereditary peer who is elected under this Standing Order but who then dies, resigns or is expelled. Therefore, if X of the 90 hereditary peers are elected under this Standing Order, X number of hereditary peers would remain members of the House until the next election under this Standing Order.



# HOUSE OF LORDS BILL [HL]

## EXPLANATORY NOTES

These Explanatory Notes relate to the House of Lords Bill [HL] as introduced in the House of Lords on 25 May 2016 (HL Bill 15).

---

Ordered by the House of Lords to be printed, 8 September 2016

---

© Parliamentary copyright 2016

This publication may be reproduced under the terms of the Open Parliament License which is published at [www.parliament.uk/site-information/copyright](http://www.parliament.uk/site-information/copyright)

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS