

House of Lords (Hereditary Peers) (Abolition of By-Elections) Bill [HL]

AMENDMENTS
TO BE MOVED
ON REPORT

Clause 1

LORD NORTHBROOK

As an amendment to the first Amendment tabled by Lord Cormack on HL Bill 144(a)

At end insert “, and who thereby remain members of the House of Lords.”

Clause 2

LORD NORTHBROOK

Page 1, line 8, leave out subsections (2) and (3) and insert –

- “(2) Section 2 is amended as follows.
- (3) At the beginning of subsection (3) insert “Subject to subsection (3A),”
- (4) After subsection (3) insert –
 - “(3A) An excepted person elected to the House of Lords under subsection (4) after the House of Lords has passed a resolution that steps have been taken to implement paragraphs 29, 35, 50, and 51 of the Burns Report (fixed-term appointments) remains a member of the House of Lords for a period of 10 years beginning with the day on which they receive a Writ of Summons.
 - (3B) In this section “Burns Report” means the report of the Lords Speaker's committee on the size of the House of Lords, published on 31 October 2017.”
- (5) At the end of subsection (4)(b) insert “, or
 - (c) a vacancy arises on the end of the 10 year period of an excepted person under subsection (3A),”

Page 1, line 8, leave out subsections (2) and (3) and insert –

- “(2) In section 2, after subsection (4) insert –

Clause 2 - continued

“(4A) Standing Orders must provide for future vacancies to be filled using a method which ensures that over time excepted hereditary peers are elected on a basis which retains a fair representation of hereditary peers representing Scotland, while over time reaching the same proportion of Northern Irish and Welsh excepted hereditary peers in relation to the total number of excepted hereditary peers as the proportion of MPs for Northern Ireland and Wales, in relation to the total number of MPs in the House of Commons.””

Page 1, line 16, at end insert –

“() After Schedule 1 insert –

“SCHEDULE 1A

HEREDITARY PEERS COMMISSION

- 1 The Hereditary Peers Commission (“the Commission”) is to comprise two persons nominated by the leader of each political party which gained more than 5% of the share of the vote at the previous general election and two nominated by the House of Lords Appointments Commission on behalf of the Crossbench peers.
- 2 The Clerk of the Crown in Chancery is to be the secretary of the Commission and must provide it with necessary resources.
- 3 The secretary must maintain a register of hereditary peers who wish to be members of the House of Lords.
- 4 The Commission must meet –
 - (a) for the first time, within one week of the passing of this Act; and
 - (b) every time thereafter, within one week of the proclamation of the summoning of a new Parliament, to decide which hereditary peers will be members of the House of Lords for the duration of that Parliament.
- 5 The Commission must take into account the following factors –
 - (a) party balance;
 - (b) age;
 - (c) interests and expertise;
 - (d) commitment to participate; and
 - (e) that each of the nations of the United Kingdom is represented, as far as is practicable, in accordance with its population.
- 6 In exercising its functions, the Commission must ensure that, at the outset of a Parliament, the party balance amongst the hereditary peers who are to be members of the House of Lords helps to ensure that the overall party balance in the House of Lords reflects the share of vote secured by the main political parties at the general election.
- 7 The Commission may allocate membership by any means of its own choosing, including election, lottery and party lists.
- 8 The Commission is responsible for overseeing any election or by-election conducted under paragraph 7.””

Clause 3

LORD NORTHBROOK
THE EARL OF CAITHNESS

Page 2, line 2, at end insert –

- “(3) Section 2 comes into force after the period of two months beginning with the first day on which the conditions in subsections (4) and (5) are met.
- (4) The condition in this subsection is that a House of Lords Appointments Commission, as set out in Schedule (*The House of Lords Appointments Commission*), is in operation on a statutory basis, with the role of screening, selecting and recommending all persons for appointment to the House of Lords.
- (5) The condition in this subsection is that a Speakers’ Committee on the House of Lords Appointments Commission, as set out in Schedule (*The Speakers’ Committee on the House of Lords Appointments Commission*), is in operation on a statutory basis, with the role of scrutinising the work of a House of Lords Appointments Commission set up in accordance with subsection (4).
- (6) This section comes into force on the day on which this Act is passed.”

After Clause 3

THE EARL OF CAITHNESS

Insert the following new Schedule –

“THE HOUSE OF LORDS APPOINTMENTS COMMISSION

The Commissioners

- 1 (1) The Appointments Commission is to consist of seven members (“Commissioners”) appointed by Her Majesty.
- (2) One of the Commissioners (“the chair”) is to be appointed by Her Majesty to chair the Appointments Commission.
- (3) Her Majesty’s powers under sub-paragraphs (1) and (2) are exercisable on the recommendation of the Prime Minister.
- (4) The Prime Minister is to select persons for recommendation on merit on the basis of fair and open competition.
- (5) A Minister of the Crown may not be appointed as a Commissioner.
- (6) If a Commissioner becomes a Minister of the Crown, that person ceases to be a Commissioner.

Terms and conditions: general

- 2 (1) Subject to the provisions of this Schedule, the chair and the other Commissioners hold office in accordance with the terms and conditions of their appointment.
- (2) Those terms and conditions are to be determined by the Speakers’ Committee.

Terms of office

- 3 (1) The chair and the other Commissioners are to be appointed for a fixed term of 10 years.

After Clause 3 - continued

- (2) A person who ceases to hold office as the chair also ceases to hold office as a Commissioner.
- (3) A person may not be appointed as a Commissioner more than once.

Resignation

- 4 (1) The chair may resign from office by notifying the Prime Minister.
- (2) The other Commissioners may resign from office by notifying the chair (or, if the office of chair is vacant, the Prime Minister).

Removal from office

- 5 (1) Her Majesty may remove the chair, or any of the other Commissioners, from office on an address of both Houses of Parliament.
- (2) A motion for an address under sub-paragraph (1) may be made (in either House) only if the Speakers' Committee has reported to the House that it is satisfied that one or more of the removal conditions is met.
- (3) The removal conditions are—
 - (a) that the person is absent from 3 successive meetings of the Appointments Commission without its approval;
 - (b) that the person has been convicted (anywhere in the world) of an offence (committed anywhere);
 - (c) that an insolvency order or undertaking comes into force in relation to the person;
 - (d) that the person is unfit or unable to carry out the functions of the office.
- (4) In sub-paragraph (3)(b) “offence” includes any act punishable under the law of a country or territory outside the United Kingdom (however it is described in that law).

Remuneration

- 6 (1) The terms and conditions on which a person is appointed as the chair or as one of the other Commissioners may provide for the Appointments Commission—
 - (a) to pay remuneration and allowances to the person;
 - (b) to make provision for a pension to or in respect of that person.
- (2) The Appointments Commission must make the payment or provision accordingly.

Code of conduct

- 7 (1) The Appointments Commission must prepare, and may from time to time revise, a code of conduct for the chair and the other Commissioners.
- (2) The code must in particular—
 - (a) incorporate the Nolan principles or such other similar principles as may be adopted by the Appointments Commission from time to time, and
 - (b) include provision about the disclosure of interests by the chair and the other Commissioners.
- (3) The Appointments Commission must submit the code (or revision) to the Speakers' Committee.

After Clause 3 - continued

- (4) The code (or revision) does not come into effect until it is approved by the Speakers' Committee.

Powers

- 8 The Appointments Commission may do anything (except borrow money) which is calculated to facilitate the carrying out of its functions or is incidental or conducive to the carrying out of those functions.

Committees etc

- 9 (1) The Appointments Commission may establish committees, and any committee may establish sub-committees.
- (2) All members of a committee or sub-committee must be Commissioners.
- (3) The Appointments Commission may delegate functions, other than the functions listed in sub-paragraph (5), to a committee or to one of the Commissioners.
- (4) A committee may delegate functions (including functions delegated to it) to a sub-committee or to one of the Commissioners.
- (5) The functions which the Appointments Commission may not delegate are—
- (a) the preparation of the criteria and scheme for selection;
 - (b) the selection of persons to recommend to the Prime Minister for appointment;
 - (c) the withdrawal of recommendations;
 - (d) the appointment of a chief executive under paragraph 11(1).

Procedure and proceedings

- 10 (1) The Appointments Commission may determine its own procedure and the procedure of its committees and sub-committees (including quorum).
- (2) The validity of proceedings of the Appointments Commission or a committee or sub-committee is not affected by—
- (a) a vacancy among its members, or
 - (b) a defect in the appointment of a member.

Staff

- 11 (1) The Appointments Commission must appoint a chief executive.
- (2) The Appointments Commission may appoint other staff.
- (3) The chief executive and other staff are to be appointed on terms and conditions determined by the Appointments Commission, having regard to the desirability of keeping them broadly in line with those applying to persons employed in the civil service of the State.

Interim staff

- 12 (1) The chair of the Speakers' Committee may appoint a person to act as chief executive until the first appointment under paragraph 11(1) takes effect.
- (2) A person acting under sub-paragraph (1) may incur expenditure and do other things (including appointing staff) in the name and on behalf of the Appointments Commission—

After Clause 3 - continued

- (a) before the membership of the Commission is first constituted in accordance with paragraph 1, and
 - (b) after that, until the Commission determines otherwise.
- (3) A person's powers under sub-paragraph (2) are exercisable subject to any directions given to the person by the chair of the Speakers' Committee.
- (4) The chair of the Speakers' Committee may, until the membership of the Appointments Commission is first constituted in accordance with paragraph 1, appoint other persons to the Commission's staff.

Staff pensions

- 13 (1) In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which a scheme under section 1 of the Act may apply), at the end of the list of "Royal Commissions and other Commissions" insert –
- "House of Lords Appointments Commission."
- (2) The Appointments Commission must pay to the Minister for the Civil Service the sums determined by the Minister in respect of any increase attributable to this paragraph in the sums payable out of money provided by Parliament under that Act.

Delegation to staff

- 14 (1) Any of the following may delegate any function (except one listed in paragraph 9(5)) to any of the Appointments Commission's staff –
- (a) the Appointments Commission;
 - (b) a committee or sub-committee;
 - (c) a Commissioner;
 - (d) the chief executive.
- (2) The functions that may be delegated under sub-paragraph (1) include any function that has been delegated to the body or person in question.
- 15 (1) Section 1(2) of the Superannuation Act 1972 (delegation of functions relating to civil service superannuation schemes by Minister for the Civil Service to another officer of the Crown etc.) has effect as if the reference to an officer of the Crown other than a Minister included a reference to the Appointments Commission's chief executive.
- (2) Any administration function conferred on the chief executive under section 1(2) of that Act (in accordance with sub-paragraph (1)) may be carried out by, or by employees of, any person authorised by the chief executive.
- (3) "Administration function" means a function of administering schemes made under section 1 of that Act.
- (4) Under sub-paragraph (2) the chief executive may authorise a person to carry out administration functions –
- (a) to their full extent or to a specified extent;
 - (b) in all cases or in specified cases;
 - (c) unconditionally or subject to specified conditions.
- (5) An authorisation under sub-paragraph (2) –

After Clause 3 - continued

- (a) is to be treated for all purposes as given by virtue of an order under section 69 of the Deregulation and Contracting Out Act 1994 (contracting out of functions of Ministers and office-holders);
- (b) may be revoked at any time by the Appointments Commission or the chief executive.

Status

- 16 (1) The Appointments Commission, its members and its staff are not to be regarded –
- (a) as the servants or agents of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The Appointments Commission's property is not to be regarded as property of, or property held on behalf of, the Crown.

Funding

- 17 (1) The Appointments Commission's expenditure is to be paid out of money provided by Parliament.
- (2) For each financial year other than its first, the Appointments Commission must prepare an estimate of its use of resources and submit it to the Speakers' Committee.
- (3) The Speakers' Committee must review the estimate and decide whether it is satisfied that the estimate is consistent with the efficient and cost-effective performance by the Appointments Commission of its functions.
- (4) If not so satisfied, the Speakers' Committee must make such modifications to the estimate as it considers necessary for achieving that consistency.
- (5) Before deciding whether it is satisfied or making modifications, the Speakers' Committee must consult the Treasury and have regard to any advice given.
- (6) After the Speakers' Committee has reviewed the estimate and made any modifications, its chair must arrange for the estimate to be laid before the House of Commons.
- (7) If the Speakers' Committee does not follow any advice given by the Treasury, or makes any modifications to the estimate –
- (a) it must prepare a statement of its reasons, and
 - (b) its chair must arrange for the statement to be laid before the House of Commons.

Accounts and accounting officer

- 18 (1) The Appointments Commission must keep proper accounting records.
- (2) The Appointments Commission must, for each financial year, prepare accounts in accordance with directions given to it by the Treasury.
- (3) The Treasury may, in particular, give the Appointments Commission directions as to –
- (a) the information to be contained in the accounts and how it is to be presented,
 - (b) the methods and principles in accordance with which the accounts are to be prepared, and

After Clause 3 - continued

- (c) any additional information that is to accompany the accounts.
- (4) The Appointments Commission's chief executive is its accounting officer.

Audit

- 19 (1) As soon as reasonably practicable after the end of each financial year, the Appointments Commission must submit its accounts for that year to—
 - (a) the Comptroller and Auditor General, and
 - (b) the Speakers' Committee.
- (2) The Comptroller and Auditor General must—
 - (a) examine and certify the accounts, and
 - (b) arrange for a copy of the certificate and the accounts, together with a report on them, to be laid before Parliament.

Reports

- 20 (1) As soon as reasonably practicable after the end of each financial year, the Appointments Commission must—
 - (a) prepare a report about the performance of its functions during that year, and
 - (b) give a copy of it to the chair of the Speakers' Committee.
- (2) The Speakers' Committee must consider the report.
- (3) When the Speakers' Committee has considered the report, its chair must arrange for the following documents to be laid before Parliament—
 - (a) a copy of the report, and
 - (b) a copy of any statement produced by the Committee setting out its views on the report.
- (4) Where a statement within sub-paragraph (3)(b) is laid before Parliament, the chair of the Speakers' Committee must give a copy of the statement to the Appointments Commission.
- (5) When the report has been laid, the Appointments Commission must publish it and any statement received under sub-paragraph (4).

Documentary evidence

- 21 (1) A document purporting to be duly executed under the seal of the Appointments Commission or signed on its behalf—
 - (a) is to be received in evidence, and
 - (b) unless the contrary is proved, is to be taken to be executed or signed in that way.
- (2) But this paragraph does not apply in relation to a document signed in accordance with the law of Scotland.

Disqualification

- 22 (1) In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert—

“The House of Lords Appointments Commission.”

After Clause 3 - continued

- (2) In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), at the appropriate place insert—

“The House of Lords Appointments Commission.”

Freedom of information

- 23 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices which are public authorities), the entry for “The House of Lords Appointments Commission” is to be treated as a reference to the Appointments Commission.

Public records

- 24 In Schedule 1 to the Public Records Act 1958 (definition of public records) at the appropriate place in Part 2 of the Table at the end of paragraph 3 insert—

“The House of Lords Appointments Commission.”

Interpretation

- 25 In this Schedule “financial year” means—
- (a) the period beginning with the day on which the Appointments Commission is established and ending with the next 31 March, and
 - (b) each successive period of 12 months.”

Insert the following new Schedule—

“THE SPEAKERS’ COMMITTEE ON THE HOUSE OF LORDS APPOINTMENTS COMMISSION

Members

- 1 (1) The Speakers’ Committee is to consist of the following—
- (a) the Speaker of the House of Commons;
 - (b) the Speaker of the House of Lords;
 - (c) a Minister of the Crown with responsibilities in relation to constitutional matters who is a member of the House of Commons;
 - (d) four members of the House of Lords who are not Ministers of the Crown;
 - (e) four members of the House of Commons who are not Ministers of the Crown;
 - (f) the person who chairs the relevant committee of the House of Lords;
 - (g) the person who chairs the relevant committee of the House of Commons.
- (2) Members of the Speakers’ Committee are to be appointed—
- (a) for the purposes of sub-paragraph (1)(c), by the Prime Minister,
 - (b) for the purposes of sub-paragraph (1)(d), by the House of Lords, and
 - (c) for the purposes of sub-paragraph (1)(e), by the House of Commons.
- (3) The Speakers’ Committee is to select one of its members to chair it.

After Clause 3 - continued

- (4) For the purposes of sub-paragraph (1)(f) and (g), the relevant committee of the House of Lords or the House of Commons is the committee of that House concerned with constitutional matters, so far as relating to membership of the House of Lords.
- (5) Any question arising under sub-paragraph (4) is to be determined by the Speaker of the House in question.

Term of office of members

- 2 (1) In this paragraph “appointed member of the Speakers’ Committee” means a member appointed under paragraph 1(2).
- (2) Except as provided by this paragraph, an appointed member of the Speakers’ Committee is a member of the Speakers’ Committee for the remainder of the Parliament in which the person is appointed.
- (3) If an appointed member of the Speakers’ Committee who is a member of the House of Lords ceases to be a member of that House, that person ceases to be a member of the Speakers’ Committee.
- (4) If an appointed member of the Speakers’ Committee who is a member of the House of Commons ceases to be a member of that House, that person ceases to be a member of the Speakers’ Committee.
- (5) If an appointed member of the Speakers’ Committee within paragraph 1(1)(d) or (e) becomes a Minister of the Crown, that person ceases to be a member of the Speakers’ Committee.
- (6) An appointed member of the Speakers’ Committee ceases to be a member of the Speakers’ Committee if another person is appointed in that person’s place.
- (7) An appointed member of the Speakers’ Committee may resign from the Speakers’ Committee by notifying the Committee.
- (8) An appointed member of the Speakers’ Committee may be reappointed (more than once).

Procedure

- 3 (1) The Speakers’ Committee may establish sub-committees.
- (2) The functions of the Speakers’ Committee under paragraph 17 of Schedule (*The House of Lords Appointments Commission*) (review of Appointments Commission’s estimates) are to be exercised by a sub-committee which does not include any member of the House of Lords.
- (3) Subject to that, the Speakers’ Committee may determine its own procedure and the procedure of its sub-committees (including quorum).
- (4) The validity of proceedings of the Speakers’ Committee or a sub-committee is not affected by –
 - (a) a vacancy among its members, or
 - (b) a defect in the appointment of a member.”

House of Lords (Hereditary Peers) (Abolition of By-Elections) Bill [HL]

AMENDMENTS
TO BE MOVED
ON REPORT

12 March 2019
