

EARLY PARLIAMENTARY GENERAL ELECTION BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Early Parliamentary General Election Bill as brought from the House of Commons on 29 October 2019 (HL Bill 43).

- These Explanatory Notes have been prepared by the Cabinet Office 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.

Table of Contents

Subject	Page of these Notes
Overview of the Bill	2
Policy background	2
Legal background	3
Territorial extent and application	4
Commentary on provisions of Bill	5
Clause 1: Early parliamentary general election	5
Clause 2: Commencement and short title	5
Commencement	5
Financial implications of the Bill	5
Parliamentary approval for financial costs or for charges imposed	5
Compatibility with the European Convention on Human Rights	5
Annex A – Territorial extent and application in the United Kingdom	6

Overview of the Bill

- 1 The Early Parliamentary General Election Bill provides for a parliamentary general election to be held on 12 December 2019.

Policy background

- 2 The Government considers it desirable to hold a general election on the date set out in the Bill. The Government wishes to set out the date that the election will take place in legislation, in order to provide maximum transparency in relation thereto.
- 3 It is a statutory requirement that Parliament must dissolve 25 working days before polling day. An election on 9 December 2019 would mean the House dissolving at one minute past midnight on Friday 1 November. This would require the Early Parliamentary General Election Bill currently before the House to complete passage through the House of Commons and House of Lords and achieve Royal Assent on Thursday 31 October.
- 4 All Parliamentary business planned that relies on the House sitting next week could not proceed, for example the election of a new Speaker on 4 November. The Government would also need to pass the Northern Ireland Budget Bill before dissolution to ensure the NI Civil Service can access the funding it needs to deliver public services and proper governance in the continued absence of a functioning Executive.
- 5 The 9 December would make the polling day a Monday and this places additional burdens on administrative preparations for polling stations and getting casual staff to work over the weekend. This could increase the cost of the election. In the modern era for elections there has never been a Monday election. It is also the case that a 9 December election could lead to two different voter registration deadlines across Scotland which could be confusing for Scottish electors.
- 6 The Government intends to ask Parliament to expedite the parliamentary progress of this Bill. In their report on Fast-track Legislation: Constitutional Implications and Safeguards¹, the House of Lords Select Committee on the Constitution recommended that the Government should provide more information as to why a piece of legislation should be fast-tracked².

Why is fast-tracking necessary?

- 7 Fast-tracking enables a polling date of 12 December, whilst maintaining the 25-working day period between the dissolution of Parliament and polling day (as provided for by the 2011 Act). A later polling date would be closer to Christmas, which may have adverse impacts on the administration of the poll.

What is the justification for fast-tracking each element of the bill?

- 8 The Bill is a straightforward one. Its impact is limited to ensuring that a General Election is held on the specified date. Given this, it is not necessary to take up parliamentary time as the effect can be readily understood and therefore fast-tracking of the Bill is justified.

¹ House of Lords' Constitution Committee, 15th report of session 2008/09, HL paper 116-I

² House of Lords' Constitution Committee, 15th report of session 2008/09, HL paper 116-I, para. 186

What efforts have been made to ensure the amount of time made available for parliamentary scrutiny has been maximised?

- 9 Due to the straightforward nature of the Bill, consisting of two clauses, there will be sufficient time for Parliament to scrutinise the impact of the Bill as introduced.

To what extent have interested parties and outside groups been given an opportunity to influence the policy proposal?

- 10 This Bill does not include new policy proposals and instead provides for an early General Election on the specified date. It has therefore not been necessary to consult on the proposal, though due consideration have been given to the compatibility with the ECHR as below.

Does the bill include a sunset clause (as well as any appropriate renewal procedure)? If not, why does the Government judge that their inclusion is not appropriate?

- 11 A sunset clause is not necessary as the Bill is limited to specifying the date for the next general election. The only other consequence flowing from the Bill will be to change the date of subsequent general elections, pursuant to the 2011 Act, which will be held on the first Thursday in May in the fifth calendar year following 12 December 2019.

Are mechanisms for effective post-legislative scrutiny and review in place? If not, why does the Government judge that their inclusion is not appropriate?

- 12 As the effect of the Bill is limited to altering the date of the next (and subsequent) General Elections, post-legislative scrutiny would not be appropriate in this case. The Fixed-term Parliaments Act includes provision for a statutory review of that Act in 2020.

Has an assessment been made as to whether existing legislation is sufficient to deal with any or all of the issues in question?

- 13 Yes, and the conclusion is that existing legislation, including the 2011 Act, is not sufficient in this circumstance.

Has the relevant parliamentary committee been given the opportunity to scrutinise the legislation?

- 14 The Bill is a straightforward one and therefore scrutiny of the legislation by a parliamentary committee is not necessary in this case.

Legal background

- 15 The 2011 Act provides for fixed days for polls for parliamentary general elections. In accordance with section 1(2) of the 2011 Act, the polling day for elections is ordinarily the first Thursday in May in the fifth calendar year following that in which the polling day for the previous parliamentary general election fell.
- 16 The 2011 Act also makes provision for early parliamentary general elections. This Bill provides that the 12 December 2019 be treated as polling day appointed under section 2(7) of the 2011 Act. This means that the provisions in section 3 of the 2011 Act in respect of the dissolution of Parliament will apply to the early parliamentary general election.

Territorial extent and application

- 17 The Bill extends and applies to the whole of the United Kingdom. It is concerned only with the Westminster parliamentary elections and will not have an impact on matters which are devolved in respect of Scotland and Wales, or matters which are transferred in respect of Northern Ireland.
- 18 The Parliament of the United Kingdom is a reserved matter under paragraph 1(c) of Schedule 5 to the Scotland Act 1998 and under paragraph 1(c) of Schedule 7A to the Government of Wales Act 2006. Elections for membership of the House of Commons, including the subject-matter of the Representation of the People Act 1983, the Representation of the People Act 1985 and the Parliamentary Constituencies Act 1986, so far as those enactments apply, or may be applied, in respect of such membership are reserved matters under reservation B3 of Schedule 5 to the Scotland Act 1998 and under reservation B1 of Schedule 7A to the Government of Wales Act 2006. The provisions of the Bill will not have an impact on matters which are devolved.
- 19 The Parliament of the United Kingdom and parliamentary elections, including the franchise and disqualifications for membership of that Parliament, are an excepted matter under paragraph 2 of Schedule 2 to the Northern Ireland Act 1998. The provisions of the Bill will not have an impact on matters which are transferred.
- 20 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom. The table also summarises the position regarding legislative consent motions and matters relevant to Standing Orders Nos. 83J to 83X of the Standing Orders of the House of Commons relating to Public Business.

Commentary on provisions of Bill

Clause 1: Early parliamentary general election

- 21 *Clause 1* provides for a parliamentary general election to be held on 12 December 2019. This is to be treated as a polling day appointed under *section 2(7)* of the 2011 Act.
- 22 *Subsection (3)* provides that the early parliamentary general election is to be treated as taking place in accordance with section 2 of the 2011 Act for the purposes of the specified provisions in the two listed Acts (section 96A(9) of the Welfare Reform Act 2012, and section 23(8) of the Small Business, Enterprise and Employment Act 2015). In respect of the former, the provision has the effect of disapplying a requirement to review the benefit cap 'in each Parliament'. In respect of the latter, the provision has the effect of amending the time for compliance with certain reporting requirements. The amendments are necessary in order that the periods specified for the review and reporting requirements will work correctly given the changes to the period of the Parliament that will result from the holding of an early parliamentary general election.
- 23 *Subsection (4)* amends the Representation of the People (Scotland) Regulations 2001 to align the registration deadline for Scotland with the registration deadline in the rest of the United Kingdom by discounting the St. Andrew's Day bank holiday from the registration timetable.

Clause 2: Commencement and short title

- 24 *Clause 2* provides that the Bill will come into force on the day it is passed and deals with its short title.

Commencement

- 25 The Bill will come into force on the day it is passed.

Financial implications of the Bill

- 26 The early nature of the poll and shorter notice period for preparations are likely to result in higher costs overall than for a scheduled poll. The Government will fund reasonable election expenses and will carefully consider each claim on a case by case basis.

Parliamentary approval for financial costs or for charges imposed

- 27 Although the Bill will cost money, no money resolution is required because the Bill does not involve any new expenditure not already authorised by the money resolution passed for previous legislation relating to parliamentary general elections.

Compatibility with the European Convention on Human Rights

- 28 The Government considers that the Early Parliamentary General Election Bill is compatible with the European Convention on Human Rights ("ECHR"). Accordingly, the Prime Minister has made a statement under section 19(1)(a) of the Human Rights Act 1998 to that effect.

Annex A – Territorial extent and application in the United Kingdom

29 The Bill will extend and apply to the whole of the United Kingdom, including Northern Ireland. This is the Government’s view at the publication of the Bill in draft and is subject to change.³

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?	Would corresponding provision be within the competence of the National Assembly for Wales?	Would corresponding provision be within the competence of the Scottish Parliament?	Would corresponding provision be within the competence of the Northern Ireland Assembly?	Legislative Consent Motion needed?
Clause 1	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No
Clause 2	Yes	Yes	Yes	Yes	N/A	N/A	N/A	No

³ References in this Annex to a provision being within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly are to the provision being within the legislative competence of the relevant devolved legislature for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business.

EARLY PARLIAMENTARY GENERAL ELECTION BILL

EXPLANATORY NOTES

These Explanatory Notes relate to the Early Parliamentary General Election Bill as brought from the House of Commons on 29 October 2019 (HL Bill 43).

Ordered by the House of Lords to be printed, 29 October 2019

© Parliamentary copyright 2019

This publication may be reproduced under the terms of the Open Parliament Licence which is published at www.parliament.uk/site-information/copyright

PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS