

HOUSE OF LORDS (REMOVAL OF BISHOPS) BILL [HL]

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the House of Lords (Removal of Bishops) Bill [HL] as introduced in the House of Lords on 28 January 2020 (HL Bill 68).

- These Explanatory Notes have been prepared by Lord Taverne, the peer in charge of the bill, 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.

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Overview of the Bill

- 1 The Bill has a single purpose, which is to bring to an end the practice according to which 26 bishops of Church of England are entitled at any one time to sit as members of the House of Lords.

Policy background

- 2 The two Church of England Archbishops and 24 of its other diocesan bishops are entitled to sit in the House of Lords, as the Lords Spiritual. They do so by virtue of ancient usage and statute. Five of the 26 automatically receive writs of summons to attend the House of Lords on the basis of the seats they occupy (Canterbury, York, Durham, London and Winchester; the five “ex officio sees”). The remaining 21 are issued with writs of summons on the basis of seniority (i.e. length of tenure as a diocesan bishop) when a vacancy arises. This mechanism is set out in section 5 of the Bishops Act 1878.⁷
- 3 The Lords Spiritual (Women) Act 2015 makes arrangements to accelerate the entry of female bishops to the House of Lords for a 10-year period.

Territorial extent and application

- 4 Clause 3(2) of the Bill provides that it extends to England and Wales, Scotland and Northern Ireland, since the House of Lords is part of the Parliament of the United Kingdom; however, it relates only to bishops of the Church of England.

Commentary on provisions of Bill

Clause 1: Exclusion of Bishops

- 5 This clause enacts the proposition that nobody is entitled to membership of the House of Lords by virtue of being a bishop or Archbishop.
- 6 The clause also clarifies that the exclusion of the bishops from membership of the Lords as of right does not prevent them from being made life peers (as is presently customary for, in particular, the Archbishops of Canterbury and York following retirement).
- 7 The clause also clarifies that it would still be open to the House of Lords to make arrangements for a bishop to lead prayers at the start of each day's sitting of the House. In the House of Commons, the Speaker's Chaplain usually reads prayers at the beginning of each sitting, without being a member of the House; and having a bishop or other member of the clergy enter the House of Lords only for the purpose of reading prayers would be an equivalent practice. There would be no entitlement to read prayers: it would be entirely a matter for the two Houses, following the enactment of this Bill, to choose whether or not they wished to have a bishop or other Church of England cleric read prayers.

Clause 2: Consequential provisions

- 8 The most far-reaching consequential amendment affects the enactment formula of Acts of Parliament. At present, most Acts are preceded by the formula “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:—”. The clause amends this enactment formula so as to omit reference to the Lords Spiritual.

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- 9 Finance Acts and certain other fiscal Acts are preceded by the following enactment formula: “Most Gracious Sovereign WE, Your Majesty’s most dutiful and loyal subjects, the Commons of the United Kingdom in Parliament assembled, towards raising the necessary supplies to defray Your Majesty’s public expenses, and making an addition to the public revenue, have freely and voluntarily resolved to give and to grant unto Your Majesty the several duties hereinafter mentioned; and do therefore most humbly beseech Your Majesty that it may be enacted, and 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:—”. The clause amends this formula, again to remove the reference to the Lords Spiritual.
- 10 Bills passed under the Parliament Act 1911 omit reference to the House of Lords in their enactment formula (because the 1911 Act permits the Commons to by-pass the Lords for certain Acts rejected in the previous Session by the Lords). Their enactment formula is as follows: “Be it enacted by The Queen’s most Excellent Majesty, by and with the advice and consent of the Commons in this present Parliament assembled, in accordance with the provisions of the Parliament Acts 1911 and 1949, and by the authority of the same, as follows:—”; so there is no need for the clause to make any amendment in these cases.
- 11 The remainder of the clause repeals provisions which relate to the Lords Spiritual, which will no longer have any effect once clause 1 comes into force.

Commencement

- 12 Clause 3 provides for the Bill to come into force two months after Royal Assent.

Financial implications of the Bill

- 13 The Bill has no significant impact on public expenditure. It imposes no new charges on public funds. There would be savings of public expenditure as a result of the bishops no longer being entitled to claim attendance allowances and expenses as members of the House of Lords; by reference to recent claims, the savings would be less than £100,000 per year.

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