
The Elections Bill

08/03/22

Key Messages & Additional Amendments

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1. Extended Key Messages

- **A stain on our international standing.** At a time when Putin’s totalitarian regime is ravaging Ukraine, and posing a threat to the UK, to our allies, and to the international rules based order, we should be extolling the merits of democracy and providing the best example to other countries on accountability. Instead, this government appears to be taking a leaf out of Putin’s playbook by seeking to undermine free and fair elections in the UK.
- **A threat to our democracy.** With this Bill, the government is seeking to undermine free and fair elections in the UK as part of a broader campaign to shut down all avenues of accountability and scrutiny. This Bill targets the very foundation of our democracy and the most basic way we hold them to account, at the ballot box.
- **Electoral Commission:** How can the Government stand up to Putin and his totalitarian regime abroad, while compromising the independence of the elections regulator at home? Clauses 14,15 and 17 of this bill undermine free and fair elections by giving control of the independent elections regulator to the very politicians they must regulate at election time. This would be like letting the fox guard the henhouse and could allow the government of the day to use it as a weapon against their opponents or ensure the regulator turns a blind eye to potential wrongdoing by the governing party.
- **Campaigning Rules:** How can the Government stand up to Putin and his totalitarian regime abroad, while at the same time giving Ministers unprecedented powers to decide which campaigners can and cannot participate in elections at home? Clause 25 allows a government Minister to change election campaigning rules at a whim allowing them to crack down on anyone supporting or funding their rivals and intimidate civil and community organisations who fear running afoul of changing rules.

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- **Part of a broader government campaign against accountability:** Together with other parts of the government's legislative agenda, this bill represents a concerted effort to remove avenues to hold this government to account, in the media, in the courts, at the ballot box or on the streets. Whether through the Policing Bill, changes to the Official Secrets Act in order to prosecute Journalists, changes to Judicial Review, or the Elections Bill, the Government is challenging authoritarianism abroad, yet claiming it's necessary at home.

2. Suggested Additional Amendments to Clauses

2.1. Clause 14: Strategy and policy statement

Lord Wallace of Saltaire, Lord Judge, Lord Blunkett, Lord Butler of Brockwell have tabled an amendment to leave out Clause 14.

Speaker's notes

- These clauses on the elections bill are clearly designed to fit into the Government's broader campaign against accountability. By requiring the Electoral Commission - which is designed to be a neutral regulator - to follow the direction of the Secretary of State, this clause attempts to rig our electoral system in the Government's favour.
- Imagine if a football team had control of the referee - this would be an abomination and no-one would stand for it. So why are so many standing up in support of this clause? The Electoral Commission must remain neutral, because if it becomes a biased referee of our elections then we can have no doubt about which way our elections will go.

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- It is absolutely appropriate here to make reference to the wider authoritarian agenda we see playing out in Europe. Societies do not become autocracies overnight - it is a slow process whereby a Government or leader slowly consolidates power in their own hands - and we need to be alert to it happening here. A slide into authoritarianism really can happen anywhere, and complacency or dismissal of this notion helps no-one.

Additional Amendment 1

“Page 21, line 20, after ‘functions’ and before the full stop insert “but is not bound to follow the statement’s directives.”

Members explanatory statement

This would mean that the Electoral Commission would be required to consider but not strictly follow any strategy and policy statement designated by the Secretary of State. ”

Internal/general explanation: This clause would allow the Government of the day to produce directions for the Secretary of State but it would not require the Electoral Commission to adhere to those directions, thus maintaining the Commission’s independence from the Government.

Speaker’s notes

- This amendment hopefully alleviates the most worrisome parts of Clause 14. The thing that we should all fear is not the Electoral Commission having guidance - that is fine - but the guidance being issued by a party with a vested interest in the Electoral Commission’s operations. This should worry us all.

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- To alleviate the harms this Clause would do, we should look to reduce the binding nature of the guidance. Instead of the Secretary of State being able to issue a directive that the Commission must follow, instead the SoS should be allowed to share their thoughts and opinions with the Commission, but necessarily expect to see these taken on board.
 - The Electoral Commission is staffed by electoral experts. Certain members of our Government may be of the school of thought that we have had 'enough' of the experts but if there's anything this past couple of years under a health emergency has shown us, it's that experts' value and contributions should never be dismissed or downplayed. We need to let the electoral experts get on with doing their job, and not let that job be dictated to them by a non-expert with an ulterior motive.

2.2. Clause 15: Examination of duty to have regard to strategy and policy statement

Lord Wallace of Saltaire, Lord Judge, Lord Blunkett, Lord Butler of Brockwell have already tabled an amendment to leave out Clause 15.

Speaker's notes

- Clause 15 is yet another one of these clauses in the Elections Bill that purports to offer democratic checks and balances but which instead compromises the neutrality and independence of our electoral system.
- The Speaker's Committee on the Electoral Commission is no neutral body - it has an in-built Government majority. It will not offer neutral guidance or checks over the Commission, but will 'regulate' the Commission in a manner that is dictated by the majority that make up its membership.

2.3. Clause 17: Criminal proceedings

Additional Amendment 1

"Page 27, line 34, leave out subsection (b)."

Members explanatory statement

This would allow the Electoral Commission to retain its power to bring prosecutions."

Internal/general explanation: This clause would weaken the Electoral Commission as it stands; removing subsection (b) allows the Commission to retain its existing powers.

Speaker's notes

- The Committee on Standards in Public Life reported last year on the regulation of our election finances. The Committee did not find any evidence of overreach on the part of the Electoral Commission. In fact, its report suggested an expansion of the Electoral Commission's powers to sanction and investigate offences. Why should we weaken the Commission at a time when it needs empowering?
- We need to allow the body with the greatest expertise when it comes to election offences to have the ability to prosecute in cases where this is needed.

Additional Amendment 2

"Page 27, line 35, at end insert -

"(5) After paragraph 2 of Schedule 1 to PPERA (the Electoral Commission: incidental powers) insert -

“(1) A review of the Electoral Commission’s ability to exercise its powers must be carried out once every five years.”

Members explanatory statement

This is a probing amendment to establish whether the Electoral Commission is sufficiently able to use its existing powers.

Internal/general explanation: The Committee on Standards in Public Life’s report from July 2021 finds that the Electoral Commission perhaps does not use its powers to the extent that it should. This review or notion of a review could prompt consideration of where the Commission is not being empowered to do its work.

Speaker’s notes

- This probing amendment is tabled to highlight the fact that the Committee on Standards in Public Life has actually called for a strengthening of the Electoral Commission and for an empowerment of that Commission.
- It is important that our regulator of elections is not toothless - otherwise what is the point in it?
- That’s what we have to fear. Gradually, arguments may be made that the Electoral Commission has no power and cannot change anything. Then, it is quite easy to make arguments against its existence. That’s not such a big step. Should our Government eventually make those arguments we have to be very worried about the implications for our democracy.

2.4. Clause 24: Restriction on which third parties may incur controlled expenditure

Additional Amendment 1

“Page 33, line 26, at end insert “(a) Could not reasonably be expected to have known they were campaigning within a regulated period, and”

Members explanatory statement

This expands the conditions under which a third party may incur controlled expenditure during a regulated period.

Internal/general explanation: This would reduce the regulated period so that third-party campaigners would only have to control their expenditure for a (usually) shorter period and only when a general election has been confirmed - something that will require confirmation from the Prime Minister should the Dissolution and Calling of Parliament Bill pass. Essentially, until and unless a general election has been declared (or at the four year mark), a third party cannot be expected to know when a general election is to occur, now that snap elections are to be so much more common. This protects third parties from regulations around controlled expenditure so that they cannot be made to apply retrospectively when a third party cannot be expected to have known that a general election was in less than a year's time.

Speaker's notes

- The Dissolution and Calling of Parliament Bill will make it near impossible for anyone (other than the Government) to know when a general election is on the horizon.

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- But, in seeming defiance of all logic, the regulated period prior to an election will still be 365 days, regardless of whether the election was known about 365 days before the date set or not.
 - This essentially forces all groups who ever do anything like elections campaigning to be on an elections footing at all times. There are so many smaller civil society organisations that campaign at election time, but election campaigning is just a small part of their wider remit. Is it fair to put these groups (which are often under-resourced) on a constant footing of self-censorship and regulation?
 - We have a regulated period for a reason, but that reason becomes null and void if essentially all periods of campaigning time could be classified as part of the regulated period.
 - This amendment simply makes it clear that if a party or campaign group does not know that they are in a regulated period - i.e. an election date has not been set, then they are not required to act as though they are in a regulated period.

Additional Amendment 2

"Page 34, line 39, at end insert new subsections:

- "(a) In Schedule 10, Part II (3)(a) of PPERA, replace the words '365 days' with the words '120 days'.*
- (b) In Schedule 10, Part II (3)(b) of PPERA, replace the words '365 days' with the words '120 days'."*

Members explanatory statement

This reduces the timespan of the regulated period as set out in Schedule 10 of PPERA from one year to four months.

Internal/general explanation: It could be possible to add an additional subsection to the Elections Bill which would alter the Political Parties, Elections and Referendums Act 2000 (PPERA) to reduce the regulated period in all circumstances.

[Schedule 10, Part II](#) of PERA currently specifies that the regulated period before a general election is 12 months.

The broader scope amendment would alter Schedule 10, Part II of PERA to reduce the regulated period to four months.

Speaker's notes

- The Dissolution and Calling of Parliament Bill will make snap elections a far more common occurrence. Without a lengthy period leading up to an election and a sure knowledge of when an election will be, it's not fair to ask campaign groups to adhere to such a lengthy regulated period. It doesn't make sense anymore in such a fast-paced political sphere.

Additional Amendment 3

"Page 33, line 29, leave out (b)."

Members explanatory statement

This prevents unincorporated associations from being permitted to exercise controlled expenditure during regulated election campaigning periods.

Internal/general explanation: Unincorporated associations can lack transparency in their structure, and this clause could potentially allow campaigning by a large number of powerful and unregulated entities through this loophole.

Speaker's notes

- It is bizarre that Clause 24 seems to have been drawn up in the name of transparency but clearly allowing unincorporated associations to campaign in our elections without regulation is the very opposite of transparency.
- The opaque structures of many unincorporated associations need attention. Yes some may be simple interest groups, but just like civil society organisations and non-profits, unincorporated associations need oversight over their campaigning.
- It is possible for a group with seriously worrying motives to structure itself as an unincorporated association - why are we turning a blind eye to this?

2.5. Clause 25: Third parties capable of giving notification for purposes of Part 6 of PPERA

Amendment 1

"Page 35, line 1, leave out Clause 25."

This amendment has been tabled by Baroness Hayman of Ullock and Lord Wallace of Saltaire.

Speaker's notes

- This Clause is yet another example of where the Elections Bill seeks to suck power from society and hand it to the executive. Allowing a Government minister to unilaterally permit and ban campaigners is a move worthy of Putin's Russia. Why are we handing power to the executive so happily? Powers to the people are hard won and easily lost. Let us not be the Parliamentarians who preside over such a loss.
- Why should the Government be able to suppress voices it doesn't agree with? Because that is essentially what this Clause gives it the green light to do. By allowing the Secretary of State to ban categories of campaigner, this essentially gives the Government control over which voices can be heard as part of election campaigning.

Additional Amendment 2

"Page 35, line 6, leave out (b)."

"Page 35, line 6, leave out (c)."

Members explanatory statement

This would prevent the Secretary of State from being able to remove categories of campaigners who can incur controlled expenditure.

Internal/general explanation: this amendment would undo the worst element of Clause 25 and prevent the executive from being able to ban campaigners.

Speaker's notes

- This amendment would alleviate the worst effects of Clause 25. It would prevent the Secretary of State from being able to clamp down on voices and campaigners that the Government doesn't agree with. As long as the SoS is not permitted to shut down campaigning this should bode better for our legislation and better for our democracy.

Additional Amendment 3

"Page 35, line 4, leave out 'Secretary of State' and insert 'Electoral Commission'."

Members explanatory statement

This would give the Electoral Commission rather than the Secretary of State the power to amend, add and remove categories of campaigners who can incur controlled expenditure.

Internal/general explanation: This would allow for the amendment of the list of organisations which can incur controlled expenditure but only by the neutral Electoral Commission.

Speaker's notes

- If the ability to add and ban permitted categories of campaigner to the list of those who may incur regulated expenditure is deemed necessary, then this power should not fall in the Secretary of State's hands.
- Instead, such a power should be granted to the Electoral Commission (presuming that the Commission retains its neutrality of course).

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- This would allow for our campaigning landscape to only be altered by a neutral and disinterested body, rather than by an all-too-powerful individual with a vested interest.

2.6. Clause 26: Recognised third parties: changes to existing limits etc

“Page 36, line 13, leave out (a).”

Members explanatory statement

This would prevent the lower tier expenditure limit for third party campaigners from being reduced to £10,000.

Internal/general explanation: This prevents smaller charities and CICs from being burdened with extra administrative requirements and using excess resource to keep up with those requirements.

Speaker’s notes

- It is important that we have a vibrant and rich campaigning landscape, without stringent restrictions on the campaign groups that wish to make their opinions and messages heard.
- There are several countries that heavily restrict civil society campaigns. These are not democracies, and they are countries where authoritarian regimes prevail, to the detriment of their own people and other nations. We need no reminder of that.
- We have a duty to uphold our democracy and the rich mixture of voices that feed into it.
- Excessively burdening smaller civil society groups with administrative requirements is a form of silencing. No form of silencing is ever explicit, but it is worrying to see that in our democracy a sure but sneaky silencing is taking place.

- Unless we stop it now we will slip too far away from democracy.

2.7. Clause 27: Joint campaigning by registered parties and third parties

Lord Collins of Highbury has tabled an amendment to Clause 27. The explanation and speaking notes for the amendment tabled by Lord Collins of Highbury are given below.

Internal/general explanation: this would allow for greater transparency around third parties campaigning in favour of political parties, while not adding further red tape and restrictions to third party campaigners as Clause 27 currently would.

Speaker's notes

- There are already rules in place meaning that Political Parties must account for spending by third parties authorised to campaign in favour of them – but there is insufficient transparency about this. If the Government wants to ensure transparency and accountability where there are non-party campaigners advocating a vote for a political party then this would do that – it would force Parties to be transparent in their election returns where they are reporting their own spend.

Additional Amendment 1

"Page 37, line 23, leave out Clause 27."

Members explanatory statement

This would remove Clause 27 and prevent a change of the rules around joint campaigning.

Internal/general explanation: Clause 27 extends illogical and unfair spending limits on third parties when they campaign jointly to third parties deemed to be campaigning jointly with political

parties. These rules in effect force organisations to count their spending multiple times over. The consequence of this Clause would, in practice, not be felt by Political Parties, who could carry on as they do now. It risks making non party campaigners responsible for expenditure by a Political Party where they are deemed to be campaigning jointly. This risks tying non party campaigners up in red tape, and in some cases silencing them altogether. A broad range of organisations risk being directly affected, from party affiliates to small charities. This will increase the 'chilling effect' on NGOs and campaigning organisations.

Speaker's notes

- This clause needs to be kicked out of the Bill, because it has far-reaching consequences that haven't been thought through. It is completely illogical to regulate non-party campaigners, many of which are small and run by volunteers, on the same basis as Political Parties.
- This Clause silences campaigners – whether by using up their allowance by making them accountable for a Party's expenditure, or 'chilling' them into silence.
- This Clause is entirely unnecessary. Political Parties do not get 'two bites of the cherry' if non party campaigners advocate voting for them, because the 'targeted spend' rules brought in in the Lobbying Act mean that Parties *already* have to declare expenditure by non-party campaigners that advocates a vote for them against the Party's own limits.
- This Clause is unfair and partisan. It risks affecting organisations associated with all Parties, and also non-affiliated organisations, but it will have a significantly disproportionate impact on Labour and the trade unions because of the Party's historic links with the trade union movement.
- This whole bill is about the Government allowing our ostensible democracy to morph into an autocracy. They may scoff and deny this but we should keep being alert to the perils of

complacency here. We know what autocracies look like. They silence civil society, they unduly centralise control of our systems, they do not allow leaders to be held to account. We can see that in Russia, but we can also see the fruits of that in this Bill. What are we going to do about it?

2.8. Clause 1: Voter identification

Baroness Hayman of Ullock has already tabled an amendment to expand the list to include birth certificates.

This amendment must be made directly to Schedule 1, which sets out details of identity documents.

Schedule 1

"Page 67, leave out line 10."

Speaker's notes

- In a country where we do not have a system of national identification, not everyone has a form of photo ID or will necessarily have procured one in advance of the next election. To keep our elections as accessible as possible we must broaden the list of acceptable ID.
- We are going from a system of no ID now to a system of photo ID. At least while the system initially comes into force we should allow people to present other identification documents.
- Many things - like applications for credit cards - do not require photo ID and simply require evidence of a utility bill. This should suffice.

- Birth certificates as well should be an acceptable form of identification - as this is usually something that everyone will have.

2.9. Clause 2: Power to make regulations about registration, absent voting and other matters

Schedule 2

"Page 88, line 28, at end insert "1 In Section 1 of RPA 1983, after sub-paragraph (2) insert "(3) eligible voters will automatically be enrolled on the electoral register once they reach the age of 18."

Members explanatory statement

This would provide for automatic enrollment of voters on the electoral register once they reach the age of 18.

Internal/general explanation: this amendment will help expand the franchise and ensure that access to democratic participation is more widespread.

Speaker's notes

- Votes at election time should not simply be confined to the enthusiasts and the engaged. By instituting automatic enrollment, you automatically may make those who are less engaged in democracy feel as though they are a part of something.
- Automatic enrollment on the electoral register gives people one less hoop to jump through to vote - and let us be clear not everyone has the time, energy or even the forethought to jump through multiple hoops. Hoops are not constructive to accessible democracy.

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- Without automatic enrollment on the register, people may miss out on being able to vote because they realise too late that they are required to register.

2.10. Clause 11: Simple majority system to be used in elections for certain offices

Lord Wallace of Saltaire, Lord Lipsey, Lord Kerslake, Baroness Lister of Burtersett have already tabled an amendment to remove Clause 11.

Speaker's notes

- Current clause 11 was only moved at Committee stage and so was not immediately subject to the full consideration of the House of Commons. This hastily introduced clause suggests a mission creep where alternative voting systems are increasingly subsumed by first past the post even if they are working well.
- Admittedly the Conservatives' 2019 manifesto does promise continued support for first past the post as a system, but it makes no mention of overhauling existing alternative voting systems - that was not clear in the manifesto for which people voted.
- Many mayors and localities were not aware that this new simple majority voting system was on the cards. Introducing it suddenly in late-stage legislation is certainly not the best way for democratic institutions to communicate. This also leaves a big question mark as to the extent to which this part of the Bill has been consulted on. We know that Londoners who elect their mayor using the supplementary vote system are greatly in favour of this system. What is the minister's justification for such a change?

2.11. Clause 12: Extension of franchise for parliamentary elections: British citizens overseas

Additional Amendment 1

"Page 20, line 20, at end insert

"1F British citizens overseas: exceptions to eligibility to vote

British citizens who acquired citizenship through the Tier One (Investment) Visa and who have resided outside of the UK for a period to be determined by the Electoral Commission will not be eligible to vote in UK Parliamentary elections or donate to UK political parties."

Members explanatory statement

This would limit the eligibility of certain citizens who have gained their citizenship by a route that is no longer admissible with regards to voting and donating to UK political parties.

Internal/general explanation: the Tier One (Investment) Visa, commonly known as a 'Golden Visa' allowed passive investors in UK assets to fast-track their right to remain in the UK and acquire British citizenship. The visa actually allowed people to acquire citizenship faster if they invested more in the UK - which could have simply meant buying several expensive properties, even if only to leave them empty. This was also a route commonly used by Russian Oligarchs. Now more than ever it is important that we avoid undue and problematic influences in our domestic politics.

Speaker's notes

- Now that the Tier One (Investment) Visa route to residence in the UK has been revoked, we now need a consideration of whether those who have gained citizenship via this route and who treat the UK not as a home but as a nice place to pop their money really ought to

benefit from the same influence over our elections as ordinary, hardworking British citizens who either were born citizens or who gained their citizenship through non-disputed means.

- The Government has for far too long blocked off access to the UK and to UK citizenship for those in need and for those deserving of it - think of all our international veterans forced to pay extortionate amounts for themselves and their families to become citizens here. While adopting an extremely harsh agenda towards ordinary people, the Government has been incredibly lax when it comes to the extremely wealthy - and has disproportionately allowed them not only to access the UK but to influence our politics.

Additional Amendment 2

This requires a new clause to be added in to the Bill. We would add this after Clause 15 as it introduces a new directive for the Electoral Commission and so we are grouping with the clauses concerning the Electoral Commission.

After Clause 15

"Insert the following new clause

(1) Section 10 of the Political Parties and Elections Act 2009 (Non-Resident donors etc.) is amended as follows.

(2) After subsection (8) insert _ _ _

"(9) The Electoral Commission is required to implement these laws regarding non-Resident donors as soon as is practicable."

Members explanatory statement

This would compel the Electoral Commission to implement the regulations in the Political Parties and Elections Act 2009 as soon as possible after the passing of this bill."

Internal/general explanation: this would mean that the Electoral Commission would be required to implement laws banning non-doms from donating to political parties. This law has already received royal assent but is subject to the commission's implementation. This needs to be enacted immediately to reduce undue foreign interference in our elections.

Speaker's notes

- Regardless of which party is responsible, allowing wealthy people to influence our elections disproportionately simply because they can offer greater wealth to your party is always a mistake.
- Non-doms should not be afforded disproportionate political influence. This essentially allows richer people to influence politics more simply because they have wealth. This is a slippery slope to oligarchy - and we all know how that can turn out.
- Avoiding undue foreign influence in our elections should be easy - we already have the legislation drawn up and afforded Royal Assent in the Elections Act 2009. All we need to do now is implement it.

Additional Amendment 3:

"Page 20, line 20, at end insert -

"1F Statutory duty for a Select Committee inquiry on the impact of extending the franchise.

Following the first general election after which the franchise is extended to all British citizens, a Select Committee will be required to produce impact reports on the effect of the extension of the franchise on constituency numbers and demographics."

Members explanatory statement

This would require an assessment of how the extension of the franchise to all overseas British citizens is affecting the make-up of constituencies.”

Internal/general explanation: in the event that the franchise is extended to all British citizens overseas, we may find that certain constituencies change dramatically in terms of the number of electors. This amendment would require a review of those changes following the first general election after the franchise is extended.

Speaker’s notes

- We have not yet conducted an assessment of what the results of expanding the franchise to all overseas British citizens will be.
- We need to understand whether certain constituencies will be disproportionately impacted and whether expat votes will be funnelled back into specific constituencies or regions. This is something that we need to analyse as it could significantly either change the balance of our constituencies or leave certain constituencies without the representation they voted for.

Additional Amendment 4

This requires a new clause to be added to the Bill.

After Clause 12

"Insert the following new clause

(1) Section 54 of PPERA is amended as follows

(2) In subsection (2)(a) after 'register' insert 'and is resident in the UK'."

Members explanatory statement

This would require individual donors to UK political parties to be resident in the UK

Internal/general explanation: This amendment avoids the expansion of the franchise becoming something which enables more political donations from opaque foreign sources. This will instead limit donations to those who live and work in the UK, adding another tier which will further link an individual's ability to influence UK politics to living and working in this country.

Speaker's notes

- It should make sense that those living and working in a particular country ought to have the greatest stake in its politics. They are the people who are affected most by what happens in the political sphere.
- Donations to political parties allow individuals to make a tangible difference to the quality and reach (and even direction of) a party's campaigns. This extra influence should therefore be confined to those who will feel that difference most - those who live in the UK.
- This will also help with removing dodgy foreign influences from UK general elections.