

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

ELECTIONS BILL

Ninth Sitting

Thursday 21 October 2021

(Morning)

CONTENTS

CLAUSE 9 agreed to.
SCHEDULE 5 agreed to.
CLAUSE 10 agreed to.
SCHEDULE 6 agreed to.
CLAUSE 11 agreed to.
SCHEDULE 7 agreed to, with amendments.
Adjourned till this day at Two o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Monday 25 October 2021

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The Committee consisted of the following Members:

Chairs: CHRISTINA REES, SIR EDWARD LEIGH, MARK PRITCHARD, † RUSHANARA ALI

† Anderson, Fleur (*Putney*) (Lab)
 † Badenoch, Kemi (*Minister of State, Department for Levelling Up, Housing and Communities*)
 † Bell, Aaron (*Newcastle-under-Lyme*) (Con)
 Bristow, Paul (*Peterborough*) (Con)
 † Clarkson, Chris (*Heywood and Middleton*) (Con)
 † Furniss, Gill (*Sheffield, Brightside and Hillsborough*) (Lab)
 Gibson, Peter (*Darlington*) (Con)
 † Grady, Patrick (*Glasgow North*) (SNP)
 † Harris, Rebecca (*Lord Commissioner of Her Majesty's Treasury*)

Hollern, Kate (*Blackburn*) (Lab)
 † Kruger, Danny (*Devizes*) (Con)
 † Mayhew, Jerome (*Broadland*) (Con)
 O'Hara, Brendan (*Argyll and Bute*) (SNP)
 † Randall, Tom (*Gedling*) (Con)
 † Shelbrooke, Alec (*Elmet and Rothwell*) (Con)
 † Smith, Cat (*Lancaster and Fleetwood*) (Lab)
 Smith, Nick (*Blaenau Gwent*) (Lab)

Adam Mellows-Facer, Chris Stanton, *Committee Clerks*

† **attended the Committee**

Public Bill Committee

Thursday 21 October 2021

(Morning)

[RUSHANARA ALI *in the Chair*]

Elections Bill

11.30 am

The Chair: Before we begin, I have some preliminary reminders for Committee members. Please switch electronic devices to silent if you have not already. Please wear masks when you are not speaking, in line with Government and House of Commons Commission guidance. Please give each other and members of staff space when seated and when entering and leaving the room. Please send your notes to our *Hansard* colleagues at hansardnotes@parliament.uk.

Clause 9

LOCAL ELECTIONS AND ASSEMBLY ELECTIONS IN
NORTHERN IRELAND

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider that schedule 5 be the Fifth schedule to the Bill.

The Minister of State, Department for Levelling Up, Housing and Communities (Kemi Badenoch): Clause 9 and schedule 5 ensure that the changes made to parliamentary elections in Northern Ireland in part 1 of the Bill are applied to local and Assembly elections in Northern Ireland. We have already considered the substantive detail of these changes to parliamentary elections in clauses 1 to 8. The same measures will apply to Northern Ireland's local and Assembly elections. For that reason, I do not want to go through the detail of the changes again. However, hon. Members may note that, although the existing Northern Ireland identification provisions remain unaltered, some small technical changes made in clause 1 will apply to the equivalent rule in Northern Ireland, including the requirement that the returning officer must provide a private space for voters to produce their identification should they require it.

Question put and agreed to.

Clause 9 accordingly ordered to stand part of the Bill.

Schedule 5 agreed to.

Clause 10

EXTENSION OF FRANCHISE FOR PARLIAMENTARY
ELECTIONS: BRITISH CITIZENS OVERSEAS

Cat Smith (Lancaster and Fleetwood) (Lab): I beg to move amendment 79, in clause 10, page 13, line 4, at end insert

“and

- (c) the person satisfies at least one of the following conditions—
- (i) he or she was included in a register of parliamentary electors at some time in the past fifteen years;
 - (ii) he or she was resident in the United Kingdom at some point in the last fifteen years;
 - (iii) he or she is a member of the United Kingdom armed forces;
 - (iv) he or she is employed in the service of the Crown;
 - (v) he or she is employed by the British Council;
 - (vi) he or she is employed by a United Kingdom public authority;
 - (vii) he or she is employed by a designated humanitarian agency; or
 - (viii) he or she is the spouse or civil partner of a person mentioned in sub-paragraphs (iii) to (vii) above and is residing outside the United Kingdom to be with his or her spouse or civil partner.

(1A) The Minister for the Cabinet Office or the Secretary of State may by statutory instrument define ‘United Kingdom public authority’ and ‘designated humanitarian agency’ for the purposes of subsection (1)(c).

(1B) A statutory instrument containing regulations under subsection (1A) is subject to annulment in pursuance of a resolution of either House of Parliament.”

This amendment is a probing amendment to enable debate on the premise of maintaining 15-year rule with exemptions for certain citizens.

It is a pleasure to serve under your chairship, Ms Ali. The amendment relates to the 15-year rule exemptions. I will make some introductory comments on overseas electors as a whole, in order to put the amendment into context. As a modern, progressive party, Labour is committed to building a truly global Britain and championing our core values of equality, social justice and opportunity for all. All hon. Members will agree that no area of electoral law is more important than the franchise—who gets to vote and is able to participate in our democracy. Overseas electors play a significant role in providing a close connection not only to our European neighbours but to countries across the world, and we must continue to encourage that valuable connection.

Under the current system, British citizens who have moved abroad can register to vote as an overseas elector in the last constituency in which they were entered on an electoral register. British citizens who have lived overseas for more than 15 years cannot register to become an overseas elector. The Opposition are committed to taking radical steps to ensure that all eligible voters are registered and able to use their vote. The issue of extending voting rights for overseas electors is important and must be considered properly.

The extension of overseas voting rights has come a long way since 1985, when British citizens living outside the UK were unable to register to vote in any elections. The Representation of the People Act 1985 introduced new provisions allowing British citizens living overseas to qualify as electors in the constituency where they were last registered to vote before moving. The time limit from 1985 was only five years. In 1989, that was extended to 20 years, before being reduced to 15 years in 2002.

In the 2015 and 2017 general elections, it was a Conservative party manifesto commitment to abolish the 15-year rule and allow British citizens a vote for life in parliamentary elections. Indeed, about three years ago, a private Member's Bill was tabled by the then

Member for Montgomeryshire that would have changed voting rights for overseas electors, but it did not progress in the previous Parliament. Our position has not changed since those debates in 2018: we are committed to building a franchise that ensures that everyone living in, and contributing to, the UK has their voice heard and represented. The current 15-year rule strikes the right balance between allowing expats to maintain strong links with the UK and ensuring the integrity of the electoral process. It means that expats can continue to engage with our democracy for a significant period of time after they have left the UK, but it maintains the balance in our representative democracy by which people who are affected by rules and laws get to decide who makes them.

My biggest concern about the overseas electors section of this Bill is the fact that it could undermine the integrity of our electoral process. Not only does this change threaten to overwhelm our election teams—who, frankly, are already overworked and under-resourced enough—it threatens to allow foreign money to flood into our democracy. Let us be clear: the true motivation behind these changes to overseas voting is to create a loophole in donation law that would allow donors unlimited access to our democracy, and allow them to bankroll Tory campaigns from their offshore tax havens. There is no possible justification for changing the law, other than to open a loophole so that donors can continue to funnel money into the Conservative party. For example, the new law will allow one of the Tories' biggest donors to keep bankrolling the party for life, despite having reportedly lived in the Bahamas for a decade. John Gore has given almost £4.2 million to the Conservative party, making him the Tories' No. 1 donor, despite his having spent more than a decade away from the UK.

The Conservative party accepted more than £1 million from UK citizens living in tax havens ahead of 2017 through existing methods, as reported in *The Times*. The new law will remove those barriers, and what angers me most is that in one fell swoop, expats will be granted more flexibility in registering to vote than people who live in this country. If the Conservatives were serious about improving democratic engagement, they would be extending the franchise to 16 and 17-year-olds, as well as concentrating efforts on registering the millions of adults in this country who are not currently on the electoral roll. This Bill allows expats to vote in UK elections regardless of whether they have previously been on an electoral register. It is a free ticket for anyone hoping to fraudulently register in a swing seat, who only require another expat to vouch for them.

Patrick Grady (Glasgow North) (SNP): The hon. Lady can be assured of the Scottish National party's support for these amendments. It is interesting that she mentioned that many of these voters live in places that are described as tax havens, because when I tabled a written question to the Treasury to ask what estimate it had made

“of the total tax receipts paid to the UK Exchequer by UK citizens registered as overseas electors in each of the last five financial years”,

the Treasury Minister said:

“No estimate has been made of the information requested. HM Revenue and Customs (HMRC) cannot identify individuals registered as overseas electors within tax data.”

That puts quite an interesting spin on the old phrase “no taxation without representation”, does it not? It is very possible that we might see quite a lot of people getting representation without any taxation.

Cat Smith: The hon. Member could not have made his point about the loophole that this legislation will create any more clearly, and I agree about the principle of no taxation without representation. It strikes me that there are 16-year-olds in this country who are going out to work and are paying tax, and are affected by things such as the rise in national insurance contributions, who have no say in who their UK parliamentarians are, while overseas electors who live in tax havens will suddenly get free rein. Rather than taking the necessary steps to safeguard British democracy from malign foreign influences, as highlighted in the Russia report, the UK Government are instead allowing even more foreign interference in our democracy.

Turning to the issue of the election teams that register electors in councils up and down the country, the representations this Committee has heard have proven that those teams are already under a lot of pressure. They cannot cope, and if this clause becomes part of the Bill, the impacts on electoral return officers and councils is going to be huge, because the process of registering an overseas elector can take around two hours. If those officers were to see a huge increase in the number of overseas electors registering to vote, at a time when councils already face huge funding cuts and pressures, that would threaten the integrity of our elections as well.

Obviously, overseas electors fall off the register every 12 months, so the vast majority of registration applications occur immediately ahead of a general election, when the pressure on our electoral administrators is already at its most intense. Abolishing the 15-year rule and therefore increasing the number of British citizens overseas who can register to vote would completely overstretch electoral administrators, who are already being pushed to the limit.

I put three questions to the Minister, which I hope she will answer in her response. Do the Government have any indication of how many of the estimated 5 million Britons living abroad would apply to be overseas electors in the run-up to a UK parliamentary election or national referendum if the 15-year rule were removed? How does the Government intend to fund the electoral registration officers for the additional costs that will be incurred by the proposals, and what steps will the Government take to ensure that election teams have the resources and capacity to manage that increased volume of electors? If the Government are so intent on granting votes for life, why do they not focus on domestic voters and grant 16 and 17-year-olds the vote? The Bill will further embed and entrench current laws that prevent 16 and 17-year-olds, either abroad or in the UK, from engaging in parliamentary elections.

I will not speak for long on amendment 79 because it is probing, and I wish to trigger a debate on the premise of maintaining the 15-year rule with exemptions for certain citizens. The amendment attempts to demonstrate that abolishing the 15-year rule entirely is a drastic, extreme move that will flood our democracy with money from overseas and threaten its integrity. Instead of abolishing it entirely, the Minister could exempt certain

[Cat Smith]

groups of people from the 15-year rule, with the necessary checks in place. For example, the Minister might want to exempt those who have fought for our country and might lose their right to vote by being away, which seems very unfair. In the same spirit, we may not want those who serve our country in the service of the Crown—some 1% of our civil service are permanently based abroad—to miss out on their chance to vote, nor those working for the British Council, with the services they perform for our nation and standing in the world, or those employed by a UK public authority or a designated humanitarian agency. Will the Minister consider that this approach might achieve her aim of enfranchising expats while still protecting our democracy?

Kemi Badenoch: I read the amendment very carefully, and it is a shame so much was put into it because it contains some interesting points that we could discuss with the Opposition given the spirit of what they are trying to do. I recognise it is a probing amendment as well. Unfortunately, the way the amendment has been worded would completely undermine our manifesto commitment to scrap the 15-year time limit on British citizens voting from overseas. I reiterate that we intend to deliver votes for life and extend the franchise for UK parliamentary elections to all British citizens living overseas who have previously been registered in the UK, and extending the franchise to those people sets a sensible boundary for the franchise for those who have a strong connection to the country.

Given that we have been talking about fraud and ensuring that the franchise is protected, proposed new paragraph (c)(ii) is interesting, and I would have liked to have spoken to the hon. Lady about it. I know these amendments came in fairly late and perhaps we might be able to discuss what she is seeking to achieve there.

However, the additional conditions set out in the amendment would weaken the sensible boundary I mentioned and exclude a large number of citizens with a deep relationship with the UK, so we cannot accept the amendment for that reason. Most British citizens overseas retain those deep ties: many still have family here; some will return here; many will have a lifetime of hard work in the UK behind them; and some will have fought for our country in the past but are no longer a member of the armed forces. We can see the strength of their continuing connections in the passion of the campaigns for votes for life. The amendment purposely excludes the voices of those who have deep ties and wish to participate in our democracy, but through no fault of their own do not meet those strict conditions.

Patrick Grady: The Minister is speaking of the deep ties that people who have lived away from this country for more than 15 years continue to maintain. Given that the Treasury told me it has not made any estimate of and “cannot identify” individuals registered as overseas electors within tax data, does she think that, once the system is up and running, some kind of survey, canvass or random sample might be worthwhile? That would help us understand the demographics and nature of those electors. Perhaps, as part of that survey, there could be an assessment of what tax those people pay to the UK Exchequer.

11.45 am

Kemi Badenoch: I do not think there is anything wrong with the hon. Gentleman’s suggestion. Obviously, I will not commit to anything here, but it is always useful to know the exact demographic information and what people are and are not doing. We have done more than any other Government to prevent tax avoidance in this country. If he has good suggestions for what we can do, I am sure that the Treasury will take them up.

The hon. Gentleman and the hon. Member for Lancaster and Fleetwood made a point about political donations. It is a shame that we are not rising above the fray and that we are making out that things are done for political reasons when they are not. A long-standing principle originally recommended by the Committee on Standards in Public Life is that permissible donors are those on the UK electoral register: if someone can vote for a party, they should be able to donate to it. Election law allows registered British expats to vote in UK parliamentary elections and to make those donations for up to 15 years.

I understand the point about taxation. However, since the adoption of universal suffrage, taxation has never been the basis of enfranchisement in the UK. Many people who could donate now pay tax in the countries they live in; others who pay tax on their pensions, property and investments in the UK might still not have a right to vote. Opposition Members’ tax explanation does not really add up.

Cat Smith: I just wonder whether the Minister is aware of the famous suffragette slogan, “No taxation without representation”.

Kemi Badenoch: Yes, I have just referred to that. However, within the UK, there are many who do not pay tax who can still vote. That is my point: the principle is not used universally at the moment. Many of the people who they are claiming do not pay tax actually quite often do. A classic example is full-time students, who do not pay tax but are allowed to vote.

The hon. Member for Lancaster and Fleetwood asked whether the Government have an indication of how many people we are talking about enfranchising. I do not have that information at my fingertips, but I can write to her on that specific point.

On the funding of electoral registration officers, the new burdens doctrine applies. We will not ask people to do things for which they do not have the resources.

The House has debated votes for 16 and 17-year-olds exhaustively. The fact is that 16 and 17-year-olds will eventually get the right to vote. The clause is a completely different issue, and we should not muddle them up. Based on those answers, I hope the hon. Lady feels we have had a sufficient debate and agrees to withdraw her probing amendment. We can have discussions on what else we can do to tighten up the franchise.

Alec Shelbrooke (Elmet and Rothwell) (Con): It is a pleasure to serve under your chairmanship, Ms Ali. I was not going to comment on the amendment. However, while I have great regard for the shadow Minister, as she knows, I was disappointed in the route her speech went down by trying to make the issue about political donations. There is a system in this country for how our political

parties are funded, and it is a cheap kick-around to try to say that our system is being corrupted. Donations to the Conservative party are declared through the official lines. Some of the examples the hon. Lady gave would still be eligible to make donations under existing legislation.

I make that point because this clause offered the possibility for some probing amendments to try to expand this issue, because it does need a great deal of thought. I am disappointed because the amendment is perhaps not clean enough to go down that road. However, I think that we are doing all of us in this House a disservice when we try to link a political issue to extending the franchise and the reasons behind that.

The Committee may recall that my right hon. Friend the Member for North Thanet (Sir Roger Gale) gave the example of Harry Shindler and that question is the driving force behind why he feels, despite being a Labour party member, that it is important to try to extend the franchise. Within the thinking—I say this as a former vice-chairman of the Conservative party, the international chairman of the Conservative party—at no time in any of the discussions about the idea was it linked to trying to bring in further funding from abroad.

We can get into a real political knockabout on political funding. We can talk about union funding; we can talk about the lack of tax returns from Unite the union. We can have that knockabout. What I have found over the years is that, yes, political funding can be a problematic thing, and it can be kicked about, but it is still a better position to have it than to have state funding for political parties, whereby people have their taxation used to fund a whole bunch of political parties whose political beliefs are nowhere near their own.

When we probe the clause, I make the plea that we should move away from trying to make out that there is some kind of corruption behind it, and stick to the arguments that many have made over a great period of time. I am sure that there are varying views in my party, even though there was a very clean line in the manifesto on this issue, about how things should go ahead and the implications, including about somebody who has basically absented themselves from this country for a long time—these are issues that are to be debated.

I put on the record my disappointment about how the amendment has been drafted and that it has been brought down to an issue that I do not think does anybody in this House a service—that is, when we try to paint the picture that there is something corrupt underlying legislation. My plea to the shadow Minister, when she sums up, is that she speak more to the amendments, because I am genuinely interested in them, although I do not think they are quite clean enough. My plea would be that we should please not bring this down to a level of, “This is just so you can expand your political funding”.

Cat Smith: I thank the right hon. Gentleman for his contribution. We always have very interesting to-ing and fro-ing in these Committees, as we both have a keen interest in elections and constitutional matters.

I will specifically address amendment 79. I am conscious not to stray too much into wider discussion of the clause, because we are debating the amendment. I am quite pleased with some of the reactions to it from the Government Benches, in exploring the options—not all of them. It would have been nice to have had a little

more pre-legislative scrutiny, and maybe a draft Bill, because I think there was common ground on some of these issues.

I am keen not to stray too much into discussing political donations right now, but I am aware that I did set out my broad response to clause 10 to put amendment 79 into context. There is one very easy way of clearing up the matter, which would be basically not to have political donations attached to it, because then of course there would not be a debate at all.

I very much welcome the Minister saying that there was nothing wrong with the suggestion by the hon. Member for Glasgow North that there might be some Government assessment of tax intake from the voters who are likely to be enfranchised by this legislation. I certainly look forward to seeing such an assessment and I also look forward to her writing to me with the estimated number of overseas electors that the Department feels are likely to be enfranchised by the changes that clause 10 makes.

In that spirit, I beg to ask leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Cat Smith: I beg to move amendment 80, in clause 10, page 13, line 36, at end insert—

“‘resident’ must be defined in regulations made by the Minister for the Cabinet Office or the Secretary of State”.

This amendment asks the Minister to address the challenges in defining residency.

The Chair: With this, it will be convenient to discuss amendment 81, in clause 10, page 14, leave out lines 8 to 11 and insert—

“(3) The second condition is that the person making the declaration (“the declarant”) proves that they qualify as an overseas elector in respect of the constituency by providing valid supporting documentation to the registration officer.

(3A) Valid supporting documentation for the purposes of proving qualification for the previous registration condition are—

- (a) a poll card, or
- (b) a letter from the appropriate local authority stating that the person was on the electoral roll at the appropriate time.

(3B) Valid supporting documentation for the purposes of proving qualification for the previous residence condition must include—

- (a) one document from List A, or
- (b) two documents from List B.

(3C) For the purposes of subsection (3B), List A documents include but are not limited to—

- household utility bill (such as gas, electric, water or telephone);
- full UK photocard driving licence with signature or ‘old style’ driving licence (including provisional or expired licences);
- bank, building society or credit card statement, or bank or building society passbook, local authority tax bill (e.g. council tax bill);
- local authority rent book;
- solicitor’s letter confirming house purchase or land registry confirmation, or an official copy of the land register or other proof of title;
- HM Revenue & Customs (Inland Revenue) tax document such as a tax assessment, statement of account or notice of coding;

[The Chair]

original notification letter from the relevant benefits agency confirming entitlement to benefits or the state pension;

pension or benefit correspondence from the Department for Work and Pensions;

instrument of a court appointment, e.g. probate or court-registered power of attorney.

(3D) For the purposes of subsection (3B), List B documents include but are not limited to—

payslip;

employment document, such offer of employment or reference;

school, college or university (or UCAS) document, such as offer of a place, or confirmation of attendance;

insurance documents, such as full insurance schedule, or letter confirming insurance cover;

student loans company letter;

mobile telephone bill;

other evidence prescribed in guidance given by the Minister.

(3E) To be valid supporting documentation, a document must contain both a date (which can be earlier than the date the declarant left the address concerned) and the declarant's declared last address in the United Kingdom."

This amendment puts pre-existing guidance for providing documentary evidence for residency (see 3C and 3D) on the face of the Bill. The amendment also outlines additional evidence for proving previous registration.

Cat Smith: Amendments 80 and 81 both relate to the definition of residency and the evidence that is needed for someone to be classed as a resident. Amendment 80 is a probing amendment, with which I ask the Minister to address the challenges involved in defining residency. The ambiguity surrounding the notion of residency is critical to the future integrity of the franchise. There must be a clear definition of residency before the Government can consider enfranchising the millions of overseas electors who would be eligible under the new provisions. As yet, we have not seen any definition of electoral residence.

Currently, residence is understood to mean a considerable degree of permanence. That means that a person with two homes who spends the same amount of time in each can legally register at both addresses. A lot of hon. Members might be familiar with that situation, as many are registered to vote in both London and their constituencies. The Law Commission's 2016 interim report recommended:

"The law on electoral residence, including factors to be considered by electoral registration officers, and on special category electors, should be restated clearly and simply in primary legislation."

Over five years later, we have not had a Government response on that issue.

Although the definition of residence might seem a tedious issue, it is critical to the Bill. The Bill provides that overseas electors can register to vote using only evidence of previous residency, and that is an entirely new and untested voting qualification. The checks on residency in the Bill are very weak. A British expat qualifies to vote as a previous resident if they can provide one piece of evidence connecting them to a residence in the UK at any point in their lives. However, supplying a single piece of evidence at a single point in time does not actually prove residency. According to the Association of Electoral Administrators, scrapping the

15-year rule would increase the potential for electoral fraud, and it would be extremely difficult for EROs to determine the residency of overseas voters and check the validity of the attestation. Marginal constituencies in the UK could see an influx of overseas voters because of the changes brought in by the Bill. It is undoubtedly possible for a determined individual wishing to sway the result of a close election to forge documentation tying them to a past residency in a particular constituency. Moreover, there are no provisions to prevent an overseas elector registering with more than one local authority where they had been on the register. The Bill could open a Pandora's box of unknown implications for the security of our elections, and for this reason the Government should define what exactly they mean by residency before we plough ahead with the policy.

Amendment 81 is also a probing amendment. It seeks to clarify what documentary evidence the Government see as necessary to register as an overseas elector. If an electoral registration officer needed to check on the registration of a domestic voter, they could simply go to the property, but that is not the case with overseas voters. The Bill asks EROs to determine whether evidence from overseas voters is sufficient. Although I trust the skill and experience of electoral registration officers, I am concerned that there will be a lack of consistent practice across the United Kingdom when it comes to deciding what is acceptable proof of previous residency or connection to a constituency.

Amendment 81 would put into the Bill the pre-existing Government guidance on declaration requirements. All domestic voters are now required to provide a national insurance number, full name and passport details, and they must be made aware of the criminal penalty for false declaration; the same should also be required for overseas voters. If it is good enough for domestic voters, overseas voters should be held to the same standard. I do not intend to press either amendment 80 or amendment 81 to a Division, but I hope the Minister might take the opportunity to clarify the issues that I have raised and perhaps to clarify the Bill with a Government amendment.

Kemi Badenoch: There are two aspects to this group of amendments: creating a statutory definition of residence and the list of evidence of residency. A statutory definition of residence, however well drafted, could end up inadvertently disenfranchising some groups or individuals. Linking the definition to physical residence could be problematic. For instance, an elector may be classed as resident at an address despite not being physically resident: they may be working in a different location, studying—students can register in two constituencies—or in hospital for a long time. Any definition must capture every eventuality; the risk is that, if it cannot, the results may not be as the hon. Member for Lancaster and Fleetwood intended as it would mean the inadvertent exclusion of these groups.

12 noon

Turning to the question of supporting evidence, I do think that the hon. Member for Lancaster and Fleetwood is right. We are trying to make sure that there are fewer opportunities for fraud. There are many important questions touched on by amendment 81 about how someone demonstrates their connection to a person's

UK address. We had similar discussions around voter identification; the Government do not want to create new loopholes just after we have closed previous ones. Having said that, I do not think that to include this level of detail in primary legislation is the right approach. We have said that we are going to deal with things in secondary legislation; we do not want to be inflexible, and that is not the approach that we have taken elsewhere. I looked at the list of supporting documentation, and these are some of the things that we regularly see when we are asked to prove residency. However, at this point, I would not feel confident accepting all of these without further advice from, and discussions with, officials. I can go away and look at what we can do to provide some assurances, not just to the hon. Member for Lancaster and Fleetwood, but to colleagues on the Government side who are also concerned about this—not necessarily just members of the Bill Committee, but Members elsewhere.

Both existing electoral legislation and the Bill contain provisions that allow secondary legislation to be made relating to the evidence requirements for proving a previous address. We can talk more in our next sitting, and we will work with the hon. Member for Lancaster and Fleetwood and with other stakeholders on the detail to ensure that what is required is appropriate and proportionate. As part of this, it is definitely our intention to strike the right balance between ensuring the integrity of elections, facilitating participation and creating a workable system for electoral administrators. I hope the hon. Member understands why we will not accept the amendment at this point; hopefully she will withdraw it and we can look at other ways to achieve what I believe are our shared ambitions.

Cat Smith: I welcome the Minister's commitment to speak to her officials about ways that we can strengthen this—that is great.

I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Cat Smith: I beg to move amendment 82, in clause 10, page 15, line 5, leave out from first “requirements” to end of line 6 and insert—

“(fa) contain a valid attestation of identity under section [Attestation of identity],”.

This amendment requires an overseas elector's declaration to include a valid attestation of identity in accordance with the requirements of Amendment 83.

The Chair: With this it will be convenient to discuss amendment 83, in clause 10, page 16, line 15, at end insert—

“1CA Attestation of identity

(1) A valid attestation of identity must contain attestations from two attestors.

(2) The first attestor must be a registered elector resident in the constituency in which the declarant wishes to be registered.

(3) The second attestor must be a registered overseas elector.

(4) An attestor must not be the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the declarant.

(5) An attestation must—

(a) be in writing and signed by the attestor,

(b) swear that, to the best of the attestor's knowledge, the declarant is the person named in the declaration,

(c) state the attestor's British passport number together with its date of issue,

(d) be dated on the date on which the attestation is made,

(e) confirm that the person attestor is aware of the offence, under section 13D of the Representation of the People Act 1983, of providing false information to a registration officer, and

(f) confirm that the attestor is a person of good standing in the community.

(6) For the purposes of paragraph (5)(f), examples of a person of good standing in the community include, but are not limited to, the following or their local equivalents—

accountant

airline pilot

articled clerk of a limited company

assurance agent of recognised company

bank or building society official

barrister

chiroprapist

Commissioner of Oaths

civil servant (permanent)

dentist

director, manager or personnel officer of a limited company

director or manager of a VAT-registered charity

director or manager or personnel officer of a VAT-registered company

engineer (with professional qualifications)

financial services intermediary (e.g. a stockbroker or insurance broker)

fire service official

funeral director

insurance agent (full time) of a recognised company

journalist

Justice of the Peace

lecturer

legal secretary (fellow or associate member of the Institute of Legal Secretaries and PAs)

licensee of public house

local government officer

medical professional

member, associate or fellow of a professional body

Merchant Navy officer

minister of a recognised religion (including Christian Science)

nurse (Registered General Nurse or Mental Health Nurse)

officer of the armed services

optician

paralegal (certified paralegal, qualified paralegal or associate member of the Institute of Paralegals)

pharmacist

photographer (professional)

police officer

Post Office official

publicly-elected representative (such as MP, Councillor or MEP)

president or secretary of a recognised organisation

Salvation Army officer

social worker

solicitor

surveyor

teacher

trade union officer

travel agent (qualified)

[The Chair]

valuer or auctioneer (fellows and associate members of the Incorporated Society of Valuers and Auctioneers)

warrant officers and chief petty officers.”

This amendment, which relates to Amendment 82, requires overseas electors to provide two forms of attestation of identity – one from an individual living in the constituency in which the elector is registering and one from an overseas elector.

Cat Smith: As is the theme, amendments 82 and 83 are probing amendments. They relate to attestation requirements for overseas voters, which there is space for the Government to strengthen substantially to prevent foreign interference in our elections. The amendments say that there should be two forms of attestation: one from an individual in the constituency where the elector is registering, and one from an overseas elector. This should provide a more robust approach to verifying the identity of an overseas elector. The Association of Electoral Administrators said that it had

“concerns as to integrity, with the possibility of increased applications via this route in a marginal UK parliamentary constituency.”

Such declarations could be made without documentary evidence, and the AEA questioned how likely it is that a false declaration would result in prosecution, when the attester, as well as the applicant, live abroad. Given that, I do not think that a sworn statement is sufficient security to prevent fraudulent applications. Currently, all we require is that identity must be attested to by another overseas-registered elector who is not a close relative.

More worryingly, overseas electors who do not have access to documentary evidence are entitled to make a declaration of local connection. They can still register even if they have no proof that they were ever resident in the UK; they simply need another overseas elector to make a sworn statement about their identity. Effectively, multiple fraudulent overseas electors could attest for each other at different addresses in the UK using a declaration of local connection; that would allow for multiple false registrations. If it comes down to just a handful of votes—as does happen—fraudulent applications to register to vote could swing elections to this place. I ask the Minister to consider amendments 82 and 83, and to see ways that we can strengthen the integrity of our elections in this regard.

Kemi Badenoch: The amendments would require all declarations from overseas electors to contain two attestations, which is linked to the important principle of the Bill that only those entitled to register are permitted to do so. However, mandating applicants to in all cases provide an attestation of identity as part of their application would be inconsistent with the application process for domestic voters and the current process for overseas electors. The Government do not accept the principle that overseas electors ought to be treated differently and certainly cannot agree to such a burdensome threshold, which would add a significant extra layer of bureaucracy not only for the applicant but for the electoral registration officer, which the hon. Lady just mentioned wanting to avoid. Indeed, it could preclude people who are currently eligible from registering. We intend to strike that balance between ensuring that the registration system works well for citizens and administrators and maintaining the security of our elections.

I take the hon. Lady’s point that we should not create more opportunities for people overseas to do fraudulent things in order to get on the electoral register; that is quite right. We need to make sure that effective measures will be in place for overseas electors to prove their identity. That is absolutely our intention. As I have said when discussing previous amendments, the Bill contains provisions to make secondary legislation that will enable an electoral registration officer to seek additional evidence to verify an applicant’s identity where they consider that that is required, but it is not prescriptive about the nature of that evidence. I suggest that the Government continue to work closely with the hon. Lady and stakeholders to develop a balanced solution. To reassure her, I share her sentiments completely regarding the importance of having in place robust processes for applicants, but I hope she understands why, at this point, we cannot accept the amendment.

Cat Smith: I thank the Minister for her comments. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Cat Smith: I beg to move amendment 84, in clause 10, page 16, line 15, at end insert—

“1CA Closing date for electoral registration applications by overseas electors

(1) The Representation of the People (England and Wales) Regulations 2001 are amended in accordance with subsections (2) and (3).

(2) In regulation 56, after paragraph (7), insert—

‘(8) This regulation does not apply to applications by overseas electors.’

(3) After regulation 56 insert—

‘56A Closing date for electoral registration applications by overseas electors

(1) The provisions in this regulation relate to applications to vote by post or proxy by overseas electors in parliamentary elections.

(2) An application by an overseas elector under paragraph 3(6) or (7) of Schedule 4 shall be disregarded for the purposes of a particular parliamentary election and an application under paragraph 4(3) of Schedule 4 shall be refused if it is received by the registration officer after 5 p.m. on the eighteenth day before the date of the poll at that election.

(3) An application under paragraph 3(1) or (2), or 6(7) or 7(4) of Schedule 4 shall be disregarded for the purposes of a particular parliamentary election if it is received by the registration officer after 5 p.m. on the thirteenth day before the date of the poll at that election.

(4) An application under paragraph 4(1) or (2) or 6(8) of Schedule 4 shall be refused if it is received by the registration officer after 5 p.m. on the thirteenth day before the date of the poll at the election for which it is made.

(5) An application under paragraph 7(7) of Schedule 4 shall be refused if it is received by the registration officer after 5 p.m. on the eighteenth day before the date of the poll at the election for which it is made.

(6) An application under—

(a) paragraph 3(5)(a) of Schedule 4 by an elector to be removed from the record kept under paragraph 3(4) of that Schedule, or

(b) paragraph 7(9)(a) of Schedule 4 by a proxy to be removed from the record kept under paragraph 7(6) of that Schedule,

and a notice under paragraph 6(10) of that Schedule by an elector cancelling a proxy’s appointment shall be disregarded for the purposes of a particular parliamentary election if it is received by the registration officer after—

- (i) 5 p.m. on the eighteenth day before the date of the poll at that election in the case of an application by an elector who is entitled to vote by post to be removed from the record kept under paragraph 3(4) of Schedule 4, and
- (ii) 5 p.m. on the thirteenth day before the date of the poll at that election in any other case.

(7) In computing a period of days for the purposes of this regulation, the same rules shall apply as in regulation 56.’

(4) The Secretary of State must, by regulations, amend—

- (a) the Representation of the People (Scotland) Regulations 2001, and
- (b) the Representation of the People (Northern Ireland) Regulations

so that each closing date in Scotland and Northern Ireland for electoral registration applications by overseas electors moves back by seven days in keeping with the amendments made for England under subsections (2) and (3).”

This amendment pushes back the deadlines to register to vote for overseas voters by 1 week to allow electoral administrators more time to process applications.

Amendment 84 would push back the deadline for overseas electors to register to vote by one week, allowing electoral administrators more time to process applications. The timescale for registration deadlines does not work, as we heard in evidence, and the amendment seeks to improve that situation.

The single biggest concern I hear from overseas voters is that they do not receive their postal vote in time and so are not able to return it in time for their vote to count. Concern has already been raised with the Committee by the sector and more widely about the timescale for postal ballots for overseas voters to go out, which of course is not easy when postal systems globally are so varied. In many ways, there is currently simply insufficient time for an ERO to register and process overseas electors’ last-minute postal vote applications and to send them so that they can be returned in a timely manner. I seek a practical solution for this issue.

Alec Shelbrooke: This may purely be my misunderstanding of the amendment, so I stand to be corrected, but would the consequence of the amendment be to extend the election period beyond 25 days?

Cat Smith: I do not believe that it would; perhaps I have misunderstood the right hon. Gentleman’s intervention. The amendment would make overseas electors’ deadline to register as an elector in a constituency a week earlier than that for domestic voters so that EROs would be able to prioritise getting those postal votes out. In the evidence sessions, I was struck by what EROs were saying. An overseas elector currently has the same deadline to register to vote as a domestic voter. If EROs send a ballot paper to a postal voter in Lancaster who registered on the deadline day, we can be quite confident that our postal system is robust enough that the ballot paper could reach the voter and that the voter could return it. However, when it is going to the other side of the world, we know that they could not. Allowing that extra week would ensure that overseas voters’ votes are more likely to count when they cast their ballots, rather than so many, as currently, being disenfranchised because postal systems do not allow their ballot paper to get back in time.

Alec Shelbrooke: I understand the point that the hon. Lady is making. What I am unclear about is what happens if the registration deadline is moved further

into the election. I am not sure where the hon. Lady is going, because she is talking about the time to return the mail, so we are talking about registration and then the ballot being sent out and coming back. Is there confidence in the timeframe for the ballot itself to come back, if we are talking about delays in the timeframe, or do we need to add more time to the overall short campaign as a consequence of the amendment? I could be entirely wrong on all of this, which is why I am probing the hon. Lady on the amendment.

Cat Smith: If I understand the right hon. Gentleman correctly, I think we have identified the same issue, and I am going to go out on a limb here and say that we probably agree it is a problem that so many of these electors’ ballots are not returned. My proposed solution—I would be very keen to hear solutions from any member of this Committee; I do not believe any one of us has a monopoly on knowledge or innovation—is that allowing EROs an extra week on the UK end, at the start of the process of issuing a postal ballot to an overseas elector, would increase the chances of many of these ballot papers being returned in time. I do not see the amendment as changing the electoral timetable for domestic voters or the wider election, which I think is what the right hon. Gentleman is asking.

I hope that the exchange that I and the right hon. Gentleman have just had has not confused the Committee too much. My intention is to give EROs the extra time that they will need to register overseas electors, which takes longer than registering a domestic elector. The aim is for them to be able to issue, post and have returned a postal voting form from overseas electors, thereby ensuring that fewer overseas electors are disenfranchised in future elections.

Kemi Badenoch: I am afraid that the amendment would have what I suspect is an unintended consequence, so we cannot accept it. In short, it prevents many overseas electors from casting their ballots, for this reason: the registration deadline for overseas electors is 12 working days before the poll. The amendment does not change that, but it makes the deadline for applying for an absent vote earlier than the registration deadline. The effect is that someone who registers by the registration deadline would not be able to vote because they would not have made their absent vote application, and the only way they could fix that would be to travel back to the UK for polling day. The proposed changes to move other absent vote deadlines further from polling day would make it more difficult for some overseas electors to update or alter their absent voting arrangements ahead of the election. Because our intention is to facilitate greater participation in our democracy among British citizens living overseas, we cannot accept the amendment.

Fleur Anderson: May I ask a question about potentially putting some aspects of this into secondary legislation? In other countries, overseas electors are able to avail themselves of the opportunity of going to their embassy—or our equivalent, the high commission—in order to post their ballot paper. That might help with some of the short timings, and also with the burden that we are putting on our EROs in local councils here. Have there been any discussions with the Foreign,

[Fleur Anderson]

Commonwealth and Development Office about the use of embassies within this process to enable our overseas voters to vote?

Kemi Badenoch: I have not had a formal conversation with the FCDO, but I have had conversations with officials about what else we could do on the specific point that the hon. Lady has raised. The issue is that not everybody lives near an embassy, so that does not necessarily solve the problem that she has described, but we have tried to solve the problem of registration and making things easier for electoral registration officers in another way. The Bill enables overseas electors to remain registered for longer with an absent vote arrangement in place ahead of the election, so that is a burden that is being taken off the EROs. At the moment, the registration period for overseas electors is one year, so that is what those EROs have to deal with. We will extend that to three years in the Bill. Then, in addition, electors will be able to reapply or refresh their postal absent vote arrangements, as appropriate, at the same time as renewing their registrations. I think those changes will have the effect that Opposition Members want, by reducing the workload on electoral administrators during the busy election period.

12.15 pm

Cat Smith: Obviously, I am shocked that the Minister has not accepted my amendment. [Laughter.] That does not get away from the fact that we have a real problem with overseas electors not being able to cast their votes, and I feel that there is nothing in the Bill that goes far enough to ensure that overseas electors can get a vote returned to the UK in time for it to be counted in an election. Because of my frustration with that situation, I would like to press the amendment to a vote.

The Committee divided: Ayes 4, Noes 8.

Division No. 18]

AYES

Anderson, Fleur
Furniss, Gill

Grady, Patrick
Smith, Cat

NOES

Badenoch, Kemi
Bell, Aaron
Clarkson, Chris
Harris, Rebecca

Kruger, Danny
Mayhew, Jerome
Randall, Tom
Shelbrooke, rh Alec

Question accordingly negated.

Cat Smith: I beg to move amendment 85, in clause 10, page 18, line 31, at end insert—

“1F Report on awareness of how to participate in elections as an overseas elector

(1) The Secretary of State must publish a report on levels of awareness of how to participate in parliamentary elections as a UK elector among—

- (a) persons entitled to vote as an overseas elector under the provisions of this Act, and
- (b) overseas electors in general.

(2) The report shall consider awareness of—

- (a) the law governing entitlement to qualify and vote as an overseas elector,

- (b) the processes of registering and voting, and
- (c) other matters as the Secretary of State sees fit.

(3) The report shall set out any steps the Secretary of State intends to take to increase awareness of—

- (a) how to participate in elections as an overseas elector, and
- (b) the provisions of sections 1 to 1E of this Act.

(4) The Minister may not make regulations to bring section 10 of the Elections Act 2021 into force until the report under this section has been laid before Parliament.”

This amendment would require the Government to report on levels of awareness among overseas electors as to how to participate in UK parliamentary elections before the provisions on overseas electors can come into force.

The Chair: With this, it will be convenient to discuss amendment 86, in clause 10, page 18, line 31, at end insert—

“1F Report on the effects on the number of registered electors

(1) The Secretary of State must prepare and publish a report on the effects of sections 1 to 1E of this Act on—

- (a) the number of overseas electors registered to vote in Parliamentary elections in each constituency, and
- (b) the policy implications of any such changes.

(2) The report must consider—

- (a) whether any differential effects on the electorates of constituencies necessitates a review of constituency boundaries, and
- (b) the merits of creating one or more constituencies with electorates comprised of overseas electors.

(3) The report must be laid before Parliament no later than three years after the day on which the Elections Act 2021 is passed.”

Cat Smith: Amendments 85 and 86 are on a report on awareness of overseas electors and a report on the effects of the number of registered electors. These two amendments ask the Government to provide crucial detail about the true impact of clause 10.

Amendment 85 would require the Government to report on levels of awareness among overseas electors about how to participate in UK parliamentary elections before the provisions on overseas electors can come into force. Surveys by the Electoral Commission have demonstrated the widespread lack of awareness about what it means to be an overseas voter and the eligibility criteria necessary to vote. That lack of awareness has no doubt created a significant barrier to casting a ballot.

An Electoral Commission survey found that there was a widespread lack of awareness about eligibility requirements, with 31% of respondents believing that eligibility required receiving a UK state pension and 22% believing that owning a property in the UK was required. Indeed, the Association of Electoral Administrators has previously stated that

“voter education is needed to inform overseas electors about the different ways available to them to cast their ballot.”

Before enfranchising millions more overseas electors, should not the Government focus on ensuring that those people who already have the vote are actually aware of their rights and how to exercise them?

Amendment 86 is tabled in a very similar spirit. It attempts to answer the number of unanswered questions that have resulted from clause 10. It is essential that

there is appropriate evaluation and investigation of the effects on our democracy of passing the Bill. We must have a clear idea about the sheer volume of people who we are enfranchising and whether that is likely to impact our finely balanced constituency maps.

The potential introduction of millions of new voters will undoubtedly have consequences for our constituency boundaries—some Members have endured the attentions of the Boundary Commission as well. The number of overseas voters registering to vote has risen exponentially over the past 10 years and it continues to rise. It is estimated that potentially 5 million new voters will be enfranchised, so detailed provision must be put in place as to how those voters will affect current UK constituencies.

As the Minister knows well, the Opposition want a fair boundary system that benefits our democracy and not only the electoral interests of the Conservative party. The spread of new voters across these constituencies and how they will be allocated is crucial, and there must be detailed consideration to prepare for that.

In addition, I wonder whether the Minister has considered the benefits of introducing a separate constituency for overseas electors. On Second Reading of the Overseas Electors Bill in 2017, several Members referenced arrangements in France, where 11 seats in the *Assemblée Nationale* are reserved for French nationals living overseas, covering different zones of the world outside France and French territories, which of course have their own seats within the *Assemblée Nationale*. Will the Minister confirm whether any efforts have been made to investigate the potential benefits of overseas constituencies?

Kemi Badenoch: Unlike the previous amendments that we discussed, we are in complete disagreement with these amendments; the Government just do not believe that they are necessary. Amendment 85 would require the Government to produce a report that would unnecessarily delay the implementation of these measures. It is of course important that our fellow citizens are informed of these changes to their rights, and the Government fully intend to play our part in that process, working closely with the Electoral Commission and others. The transitional provisions in the Bill also include a discretionary power that would enable the Government to use the data we hold to promote awareness of the franchise changes around the time that they come into effect. In line with its statutory duties, the Electoral Commission will work on specific communications activity designed to target those overseas residents who have been added to the franchise, to raise awareness of the removal of the 15-year limit and how best to participate in future elections.

Chris Clarkson (Heywood and Middleton) (Con): I want to pick up on what the shadow Minister said; Government Members have a great deal of regard for her, so this is purely a geeky rhetorical point. On overseas constituencies and the French example, the Third constituency for French residents overseas contains the United Kingdom and has about 85% of its electorate in Greater London. Does the Minister agree that that does not particularly serve the interests of constituents living in, for example, Estonia or northern Greenland, which are in the same constituency, who may not be able to access their Member of Parliament? Those

constituents may have closer links with their home constituencies, where family members or friends may live.

Kemi Badenoch: My hon. Friend makes a good point about the complexity of that, which I will touch on later.

We do not agree with amendment 85. We encourage campaigners, parties and interested people of whatever political stripe to play their part in informing British citizens living overseas about these changes and related matters.

Amendment 86 would require a separate report on the impact on constituencies of the number of overseas electors. As my hon. Friend the Member for Heywood and Middleton sort of alluded to, overseas electors come from all corners of the United Kingdom. They will be entitled to register in the last place that they were registered or, if they were never registered, the last place that they were resident, which could be in any constituency. At each boundary review, the four boundary commissions take account of changes to the electorate to ensure a more equal distribution of electors across constituencies. All registered electors, whether domestic or overseas, form part of that electorate and will be part of the calculations for boundary reviews, so we do not need a report to determine whether a review of constituency boundaries is needed; that is already taken into account by the boundary commissions.

The proposed report in amendment 86 also refers to creating new separate overseas constituencies. We do not need a report to know that that is unnecessary and undesirable, not only because we are not French, but because overseas electors will continue to register in constituencies to which they have a significant and demonstrable connection. That constituency link is a cornerstone of our democracy.

On the shadow Minister's point about effectively establishing an MP solely to represent overseas electors, that would be a significant change to the UK parliamentary system. The French have had it quite possibly even back to colonial times—I seem to recall that there were colonial MPs there; it is something that they have been doing for a very long time—but it would be a significant change to the UK parliamentary system, which would require complex bureaucratic deliberations to decide how many constituencies would be created and then to draw up and maintain those constituency boundaries. Overseas constituencies would also require changes to the way that the electoral administration of voters and conduct of polls is organised in Great Britain, where responsibility lies at local authority level.

The Government's proposals in the Bill are the product of careful consideration. We want to work well with the Opposition and will continue to work closely with the electoral administration community and relevant stakeholders on the technical aspects of the policy's implantation. However, the proposed report would not do what the amendment says and would not be a good use of that community's time and resources.

Cat Smith: I suppose this is the opportunity to respond to the hon. Member for Heywood and Middleton, who picked up on the issue of overseas constituencies being quite large. He gave the example of the northern European

[Cat Smith]

constituency in the French Parliament. Many UK constituencies are quite large—not quite as large as that, admittedly, but it would take me an hour and a half to drive from the most easterly to the most westerly point of my constituency.

Chris Clarkson: Will the hon. Lady give way?

Cat Smith: I will; I decided to respond to his point in the hope that he would intervene on me so that we could further this exciting debate.

Chris Clarkson: The problem is that we actually find it exciting. Does the hon. Lady accept that the boundaries Bill Committee, which we both served on, set a geographical limit on the size of constituencies; and that the proposed Highland North constituency, which will actually be slightly larger than Qatar, is at the extant limit of that?

Cat Smith: We were right to do that in that Committee. I am conscious that I am veering into discussing an Act not related to this Bill Committee, so I will be careful in what I say and how I frame this.

There is a difference between UK constituencies and overseas constituencies. I envisage an overseas Member of Parliament communicating using electronic means. If we have learned anything from the last 18 months during the covid pandemic, it is that, even when we are locked in our own back bedroom because of lockdown, we are still able to communicate with our constituents via Zoom and telephone surgeries. The advancement of technology is, as we always say, making the world a smaller place and offers us more opportunities, as parliamentarians, to engage with our electorates.

However, one challenge with the current system of enfranchising overseas electors—I am interested in the hon. Gentleman's thoughts on this—is that as the hon. Member for Heywood and Middleton, for example, he does not have an opportunity to canvass and knock on the doors of the overseas electors who will vote for him, or not, in a subsequent general election. Those voters often only register a matter of weeks before a general election. What he writes in his local paper as the Member of Parliament will often not be read by those voters, because they are not going down to the local shop and buying that paper. There is more space to explore.

The Minister said that introducing overseas constituencies would be a radical change to our democracy. That is not a reason to overlook it. There have been radical changes to our democracy before. The enfranchisement of women was a fairly radical change to our democracy—I would argue, and I am sure Committee members agree, that that was a good change—as was lowering the voting age from 21 to 18. I do not think that radical change is necessarily bad change, and I think we should explore overseas constituencies as a Committee. I can see that the hon. Gentleman is keen to intervene.

Chris Clarkson: I will start on a note of agreement: radical change does not have to be bad change. I am the proud great-grandson of a suffragette who was arrested with Mrs Pankhurst—something we are very proud of in our family. However, I will pick up on the hon. Lady's

point about not being able to communicate with electors. I think she will agree that, in her constituency, for example, issues raised in Fleetwood might not necessarily be the same as those raised in Lancaster, so there is already diversity within constituencies. That is certainly the case with Heywood and Middleton, two very different towns. Let us extrapolate from that. Hypothetically, if I represented a constituency that involved Israel, Cyprus and Egypt, very different issues would affect my constituents, and I would not actually be on the ground and directly engaged with those issues; I might live in one of those countries, but I might not be directly engaged with the issues affecting my constituents. The hon. Lady made a salient point about being able to use technology to communicate with people. If I want to speak to my overseas electors now, all I need to do is get the electoral roll, find out who is registered and put out a notice on my Facebook page—for example, “Are you registered to vote in Heywood and Middleton while living abroad? Here's a Zoom call with Chris.”

There are ways of making this work—in fact, technology has made it more practical to do it as we are doing. Having overseas constituencies, however, creates disparate groupings; it would be very hard to represent the commonality of British citizens living in two different countries, with different ways of life, facing different challenges. They might include aid workers in the middle east and expats living next door to RAF Akrotiri. They will have very different interests. It is extremely difficult for an MP to represent that range, especially if they are not physically present most of the time.

12.30 pm

Cat Smith: I may have forgotten the first part of the hon. Gentleman's intervention; I ask his forgiveness if I do not respond to that. If the hon. Gentleman put out a Facebook ask to his overseas electors about a Zoom surgery, I would be interested in how successful that was. Perhaps we can discuss that in the Tea Room when the Committee adjourns.

I come back to amendments 85 and 86, Ms Ali; I can sense your mood. They are probing amendments, and I am glad that they have stimulated debate—across the whole Committee, I hope, and not just from the hon. Member for Heywood and Middleton. He obviously has a varied constituency, with the issues raised in Heywood being very different from those raised in Middleton. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to consider that schedule 6 be the Sixth schedule to the Bill.

Kemi Badenoch: Clause 10 and schedule 6 deliver on the Government's manifesto commitments to make it easier for British expats to vote in parliamentary elections and to get rid of the arbitrary 15-year limit on their voting rights. That will enable greater participation in our democracy among our fellow British citizens living overseas.

The Government believe that the current 15-year limit is arbitrary and anachronistic in an increasingly global and connected world. Most British citizens overseas

retain deep ties to the United Kingdom. Many still have family here, some will return here, and many will have a lifetime of hard work in the UK behind them. Some will have fought for our country.

Going forward, any British citizen who has previously registered to vote in the UK or was previously resident in the UK will be able to register as an overseas elector. That sets a reasonable boundary for the overseas elector franchise. Previous registration or residence denotes a strong connection to the UK. Individuals will be eligible to register in respect of one UK address—the last address at which they were registered to vote, or, if they were never registered in the UK, the last address at which they were resident. This approach maximises continuity with the existing registration system, which electors and administrators are familiar with. It puts in place clear rules regarding where persons may register. It will also ensure that overseas electors, like now, have a demonstrable connection to the place where they vote.

As I stated when we were debating amendments 79, 80 and 81, I recognise and share some Opposition concerns, such as those about reducing the opportunities for fraud and for using loopholes. I will work with the hon. Member for Lancaster and Fleetwood and other stakeholders to make sure that we confer these rights properly. I reiterate that the changes will facilitate participation by making it easier for overseas electors to remain on the register, and there will be an absent vote arrangement in place as well.

Clause 10 will extend the registration period for overseas electors from one year to three years. That will be accompanied by a fixed-point renewal cycle, under which all overseas electors' declarations will expire on the third 1 November after they are made. That three-year cycle aligns with the postal vote renewal measures elsewhere in the Bill, to make it easier for overseas electors to reapply or renew their absent vote arrangements at the same time as renewing their registration. Changes to the registration period and the registration renewal process will benefit not only citizens but electoral administrators by reducing their workload during busy electoral periods.

Finally, the transitional provisions in schedule 6 include a discretionary power that will enable the Government to use the data they hold to promote awareness of the franchise changes around the time when they come into effect.

Cat Smith: I feel that the Committee has already heard my views on this clause, so I have nothing further to add.

Patrick Grady: I do not have much to add, because I think the matter has been dealt with pretty well in debates, and in the evidence sessions. I reiterate that UK voters do pay tax if they live here, because they buy things and pay VAT, so there is a point about taxation and representation. I appreciated the Minister's earlier comments, and I hope for a little more analysis of exactly how people who have lived away from this country for a long time and can now vote will do so.

Engagement with overseas electors is valuable. I have a small number registered in Glasgow North, and they will sometimes offer quite valuable perspectives. Perhaps one of the takeaways from this is that we can all organise Zoom surgeries for our overseas electors. SNP

Members will continue to do our best to increase the number of overseas electors in the UK Parliament, largely by making Scotland an independent country, and then people who live in Scotland who want to register as overseas electors for elections to the UK Parliament will be able to do so.

Alec Shelbrooke: On that basis, will Scottish residents living in England be able to vote in any possible future referendum?

Patrick Grady: I think that may be outwith the scope of the Bill, although I will speak later about encroachment into devolved matters. There was some call for what the right hon. Gentleman suggests, but it would be difficult for the Scottish Parliament to legislate for it. We have a legislative framework here that defines an overseas elector, and that would not apply to people who live elsewhere in the United Kingdom, but I can see from the Chair that this is definitely outwith the scope of the Bill, so I will leave it at that.

Question put and agreed to.

Clause 10 accordingly ordered to stand part of the Bill.

Schedule 6 agreed to.

Clause 11

VOTING AND CANDIDACY RIGHTS OF EU CITIZENS

Question proposed, That the clause stand part of the Bill.

The Chair: With this it will be convenient to discuss the following:

Government amendments 8 to 20.

That schedule 7 be the Seventh schedule to the Bill.

Government amendment 7.

Kemi Badenoch: Clause 11 and schedule 7, which is associated with it, amend the voting and candidacy rights of European Union citizens. The law as it stands reflects our old obligations under EU law. It grants local voting and candidacy rights automatically to all EU citizens resident in England and Northern Ireland. That extends to Wales for police and crime commissioner elections. Since those rights were granted under freedom of movement rules, no immigration-based eligibility requirements are attached to them. Now that the UK has left the EU, it is no longer appropriate for there to be a continued automatic right to vote in, and to stand in, local elections solely by virtue of being an EU citizen. The concept of the UK participating in joint EU citizenship has ended.

The clause and the associated schedule will remove the automatic granting of rights to EU citizens to vote, to register to vote, and to stand in all levels of council election and referendums in England, Greater London Assembly and mayoral elections, elections for local authority and combined authority mayors in England, council elections in Northern Ireland, and Northern Ireland Assembly elections.

The Government believe that the voting and candidacy rights of EU citizens living here must be considered alongside those of citizens of the UK living in EU

[*Kemi Badenoch*]

member states. The Government's approach is a sensible one of recognising established rights, while moving to new bilateral agreements with individual nation states in the EU. That ensures we are protecting the rights of British citizens living in EU countries.

To give effect to that intention, the clause and the associated schedule will grant local voting and candidacy rights only to those EU citizens legally resident in the UK who are from countries with which the UK has a voting and candidacy rights treaty. Such treaties will ensure the preservation of voting and candidacy rights for citizens of the UK living in EU member states with which such a treaty has been agreed. We have four such treaties, and we remain open to negotiating with other EU countries.

Over and above that, provisions are included to honour our commitment to respect the rights of those EU citizens who chose to make their home in the UK before our departure from the EU. The relevant provisions preserve the rights of all EU citizens who were resident in the UK at the end of the implementation period and have lawful immigration status to vote and stand in local elections. In line with Home Office policy, specific and limited exceptions are included in the provisions, which relate to the operation of the grace period regulations and the EU settlement scheme.

I draw Members' attention to part 4 of the schedule, which gives effect to the Government's public commitment that persons elected to office before the measures come into effect will be enabled to serve their full term in office. Additionally, the Government have tabled minor and technical amendments that do not change the intended scope or effect of the provisions but ensure that they will operate as intended. The Government therefore urge hon. Members to accept the amendments, and to agree that clause 11 stand part and that schedule 7 be the Seventh schedule to the Bill.

Cat Smith: The Labour party strongly believes that all those who are subject to local laws and politics have a claim to political representation. Essentially, anyone who lives in a local area and uses public services should have a say in how they are run. That fits with our arguments on overseas electors. Anyone who has lived outside a country for a substantial amount of time can no longer claim to have such a close connection.

Although the Labour party welcomes efforts to ensure that some UK residents from the EU will retain their voting rights, we do not think that the provisions go far enough. At present, citizens of European Union member states resident in England and Northern Ireland are automatically granted voting and candidacy rights in local elections, Northern Ireland Assembly elections and police and crime commissioner elections by virtue of being EU citizens. The rights granted to EU citizens in the United Kingdom were reciprocated, so that UK citizens living in EU member states were also granted local voting and candidacy rights in their respective countries.

Now that the UK has left the European Union, and with the ending of free movement, the basis for an automatic grant of voting and candidacy rights to a European citizen of course no longer exists. Correspondingly,

individual EU member states are now able to set their own rules for local voting rights with reference to resident UK citizens. I put on record that the Labour party would like to see measures to ensure that citizens from countries that already unilaterally grant local electoral rights to British citizens resident there are granted local electoral rights in England and Northern Ireland, regardless of whether the UK has negotiated a bilateral treaty with that country.

Luxembourg citizens resident in the UK can vote in England and Northern Ireland local elections, whereas Dutch citizens cannot, even though British citizens resident in both Luxembourg and the Netherlands have local electoral rights in those countries. Since the Secretary of State already has the power to remove from the list a country that ceases to be party to the relevant bilateral treaty, they should similarly have the power to remove countries from the list when the local electoral rights of British citizens in that country are unilaterally removed.

Although the Labour party welcomes efforts to ensure that some UK residents from the EU retain their voting rights, we do not think that the provisions go far enough. We emphasise that people who live here, who contribute to society in a broader sense than just through paying taxes, and who stand to be affected by the outcomes of any electoral process, should have the right to vote. That principle is already active in UK electoral law as it relates to overseas voters.

Patrick Grady: It is regrettable that the Government have had to table such a substantial number of technical and drafting amendments. It goes back to the point that we made yesterday about what could have been achieved had there been a comprehensive programme of prelegislative scrutiny and a bit more preparation before we launched this parliamentary phase of scrutiny of the Bill, but there we go. I agree with the Labour Front-Bench spokesperson that the Government could have applied a far more generous approach to the franchise here—the approach being taken in Scotland to next year's local elections. It is in line with the basic principle that was articulated: if someone lives in an area, is affected by the decisions made by the local authority, and is legally resident, by and large they will have a vote.

Some of that is reflected in the new clauses that we have tabled on UK parliamentary elections, but the Scottish National party has not tabled amendments to the provisions we are considering, because we recognise that they affect local elections in England and Northern Ireland. We respect the devolution settlement. Just as we would not expect the UK Parliament to legislate on matters that are devolved to the Scottish Parliament, though it increasingly does, we do not seek to amend this part of the Bill, because it affects local elections. We are, however, disappointed that the more generous and wider application of the principle of franchise has not been applied. It will be a loss to democracy in this part of the world, and to residents who will be affected by decisions over which they will have no say.

12.45 pm

Question put and agreed to.

Clause 11 accordingly ordered to stand part of the Bill.

Schedule 7

VOTING AND CANDIDACY RIGHTS OF EU CITIZENS

Amendments made: 8, in schedule 7, page 122, line 8, leave out sub-paragraphs (1) to (7) and insert—

‘(1) In section 2 of RPA 1983 (local government electors), in subsection (1)(c), for the words from “Ireland” to the end substitute “Ireland or—

- (i) in relation to a local government election in England, a qualifying EU citizen or an EU citizen with retained rights, or
- (ii) in relation to a local government election in Wales, a relevant citizen of the Union or a qualifying foreign citizen; and”.

(2) In section 4 of that Act (entitlement to be registered as local government elector), in subsection (3)(c), for the words from “Ireland” to the end substitute “Ireland or—

- (i) in relation to a local government election in England, a qualifying EU citizen or an EU citizen with retained rights, or
- (ii) in relation to a local government election in Wales, a relevant citizen of the Union or a qualifying foreign citizen; and”.

(3) In section 7B of that Act (notional residence: declarations of local connection)—

(a) in subsection (3)(e), for the words from “Ireland” to the end substitute “Ireland or—

- (i) if the declaration is made for the purposes only of the registration of local government electors in England, a qualifying EU citizen or an EU citizen with retained rights, or
- (ii) if the declaration is made for the purposes only of the registration of local government electors in Wales, a relevant citizen of the Union or a qualifying foreign citizen;”;

(b) in subsection (7)(a), for “by a relevant citizen of the Union; and” substitute “—

- (i) in relation to local government elections in England, by a qualifying EU citizen or an EU citizen with retained rights, or
- (ii) in relation to local government elections in Wales, by a relevant citizen of the Union; and”.

(4) In section 15 of that Act (service declaration), in subsection (5)(a), for “, or by a relevant citizen of the Union; and” substitute “or—

- (i) in relation to local government elections in England, by a qualifying EU citizen or an EU citizen with retained rights, or
- (ii) in relation to local government elections in Wales, by a relevant citizen of the Union; and”.

(5) In section 16 of that Act (contents of service declaration), as it extends to England and Wales, in subsection (1)(e) for the words from “a relevant” to the end substitute “—

- (i) if the declaration is made for the purposes only of the registration of local government electors in England, a qualifying EU citizen or an EU citizen with retained rights, or
- (ii) if the declaration is made for the purposes only of the registration of local government electors in Wales, a relevant citizen of the Union or a qualifying foreign citizen.”.

(6) In section 16 of that Act (contents of service declaration), as it extends to Northern Ireland, in paragraph (e) for “or a relevant citizen of the Union” substitute “or a qualifying EU citizen or an EU citizen with retained rights”.

(7) In section 17 of that Act (effect of service declaration), in subsection (1)(c), for the words from “a relevant” to the end substitute “—

- (i) if the declaration is made for the purposes only of the registration of local government electors in England, a qualifying EU citizen or an EU citizen with retained rights, or

- (ii) if the declaration is made for the purposes only of the registration of local government electors in Wales, a relevant citizen of the Union or a qualifying foreign citizen,

of the age appearing from the declaration and as not being subject to any legal incapacity except as so appearing.”’

This amendment makes technical amendments to provisions of the Representation of the People Act 1983, to clarify that changes affecting the rights of EU citizens to vote in local government elections in England do not affect the position in relation to local government elections in Wales.

Amendment 9, in schedule 7, page 123, line 6, after “elector” insert “in England”.

This amendment clarifies that section 49(5)(b)(iiiia) of the Representation of the People Act 1983 (inserted by paragraph 1(8)(a) of Schedule 7) will apply to England only.

Amendment 10, in schedule 7, page 123, line 11, leave out paragraph (b) and insert—

‘(b) in sub-paragraph (iv), after “elector” insert “in Wales”.’

This amendment clarifies that section 49(5)(b)(iv) of the Representation of the People Act 1983 will continue to apply, but to Wales only.

Amendment 11, in schedule 7, page 124, line 38, leave out “(5)” and insert “(4)”.

This amendment is consequential on Amendment 14.

Amendment 12, in schedule 7, page 125, line 1, leave out from “has” to “granted” in line 2 and insert “UK or Islands leave”.

This amendment and Amendment 16 introduce the term “UK or Islands leave” to mean leave under the Immigration Act 1971 to enter or remain in the United Kingdom, the Channel Islands or the Isle of Man.

Amendment 13, in schedule 7, page 125, line 4, leave out from “with” to end of line 7 and insert

“provision in residence scheme immigration rules for joining family members”.

This amendment expands subsection (2)(b) of inserted section 203B of the Representation of the People Act 1983 to cover provision in residence scheme immigration rules for the Channel Islands and the Isle of Man in relation to joining family members.

Amendment 14, in schedule 7, page 125, line 8, leave out from beginning to end of line 2 on page 126 and insert—

‘(3) A person falls within this subsection if—

- (a) the person has UK or Islands leave but does not fall within subsection (2), and
- (b) the requirements of subsection (5) are met in relation to the person.

(4) A person falls within this subsection if—

- (a) the person does not require UK or Islands leave,
- (b) the person is resident in the United Kingdom or any of the Islands, and
- (c) the requirements of subsection (5) are met in relation to the person.

(5) The requirements referred to in subsections (3)(b) and (4)(c) are that—

- (a) at all times since the relevant date, the person has either had UK or Islands leave or not required UK or Islands leave, and
- (b) the person was resident in the United Kingdom or any of the Islands at all times after the relevant date when the person did not require UK or Islands leave.

(6) In determining whether the requirement in subsection (5)(a) is met in relation to a person, any period to which subsection (6A) applies is to be disregarded if the person was resident in the United Kingdom or any of the Islands during the period.

(6A) This subsection applies to any period after the relevant date during which the person required UK or Islands leave but did not have it, if at the end of the period the person was granted UK or Islands leave—

- (a) in pursuance of an application made before the end of the relevant date, or
- (b) in pursuance of an application made after the relevant date, where the leave was granted—
 - (i) by virtue of residence scheme immigration rules, and
 - (ii) otherwise than in accordance with provision in such rules for joining family members.’

This amendment replaces subsections (3) to (6) of inserted section 203B of the Representation of the People Act 1983 with two categories of “EU citizens with retained rights”: those with immigration leave who are not caught by subsection (2), and those who do not require immigration leave but are resident in the United Kingdom, the Channel Islands or the Isle of Man.

Amendment 15, in schedule 7, page 126, line 11, leave out from “having” to “includes” in line 13 and insert “UK or Islands leave”.

See the explanatory statement for Amendment 12.

Amendment 16, in schedule 7, page 126, line 28, at end insert—

“‘UK or Islands leave’ means leave under the 1971 Act to enter or remain in the United Kingdom or any of the Islands.’

See the explanatory statement for Amendment 12.

Amendment 17, in schedule 7, page 126, leave out lines 29 and 30 and insert “In this section—”.

See the explanatory statement for Amendment 13.

Amendment 18, in schedule 7, page 126, line 40, at end insert—

‘(11) References in this section to provision in residence scheme immigration rules for joining family members are references to—

- (a) paragraph EU11A or EU14A of Appendix EU to the immigration rules or provision replacing either of those paragraphs, or
- (b) provision corresponding to provision within paragraph (a) in the Guernsey immigration rules, the Isle of Man immigration rules or the Jersey immigration rules.’

See the explanatory statement for Amendment 13.

Amendment 19, in schedule 7, page 130, line 1, leave out sub-paragraph (5) and insert—

‘(5) In Part 2 of Schedule 1 (modifications of provisions of RPA 1983 applied to local elections)—

- (a) in paragraph 7, before sub-paragraph (2) insert—

“(1A) In section 4(3)(c)—

- (a) in sub-paragraph (i), omit ‘in relation to a local government election in England,’ and
- (b) omit sub-paragraph (ii) (and the ‘or’ preceding it).”;
- (b) for paragraph 7A substitute—

“7A In section 7B—

- (a) references to the United Kingdom are to be read as references to Northern Ireland;

(b) in subsection (3)(e)—

- (i) in sub-paragraph (i), omit ‘in England,’ and
- (ii) omit sub-paragraph (ii) (and the ‘or’ preceding it);

(c) in subsection (7)(a)—

- (i) in sub-paragraph (i), omit ‘in England,’ and
- (ii) omit sub-paragraph (ii) (and the ‘or’ preceding it).”;

(c) before paragraph 12 insert—

“11A In section 15(5)(a)—

- (a) in sub-paragraph (i), omit ‘in England,’ and
- (b) omit sub-paragraph (ii) (and the ‘or’ preceding it).

11B In section 17(1)(c)—

- (a) in sub-paragraph (i), omit ‘in England,’ and
- (b) omit sub-paragraph (ii) (and the ‘or’ preceding it).”;
- (d) in paragraph 12, for paragraph (b) substitute—

“(b) in subsection (5)—

- (i) in the first sentence, omit ‘, or entered in the list of proxies,’
- (ii) in paragraph (b)(iii), omit ‘in England or entered in the list of proxies,’ and
- (iii) omit paragraph (b)(iv).”

This amendment ensures that the amendments made by Part 1 of Schedule 7 to the Bill apply correctly for the purposes of local elections in Northern Ireland.

Amendment 20, in schedule 7, page 130, line 22, at end insert—

‘Northern Ireland Assembly (Elections) Order 2001

9A (1) In Schedule 1 to the Northern Ireland Assembly (Elections) Order 2001 (S.I. 2001/2599) (application with modifications of RPA 1983 etc), the table is amended as follows.

(2) In the right-hand column of the entry for section 49 of RPA 1983 (effect of registers), for the existing text substitute “In subsection (5)(b)(iii), for ‘a local government elector in England’ substitute ‘an elector’”.

(3) After the entry for section 202 of RPA 1983 insert—

“Section 203A (meaning of ‘qualifying EU citizen’)

Section 203B (meaning of ‘EU citizen with retained rights’)”.

(4) After the entry for Schedule 4A to RPA 1983 insert—

“Schedule 6A (list of countries for purposes of section 203A).”—
(*Kemi Badenoch.*)

This amendment makes changes, in consequence of Schedule 7 to the Bill, to the Northern Ireland Assembly (Elections) Order 2001 (Schedule 1 of which applies provisions of RPA 1983 in relation to elections to the Northern Ireland Assembly).

Schedule 7, as amended, agreed to.

The Chair: The decision on Government amendment 7 will be taken when we consider clause 60.

Ordered, That further consideration be now adjourned.
—(*Rebecca Harris.*)

12.46 pm

Adjourned till this day at Two o’clock.

