

[This Bill has been re-issued. It was formerly printed as HL Bill 48. No changes have been made other than to the short title.]

Borough Freedom (No. 2) Bill [HL]

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Communities and Local Government with the consent of Lord Graham of Edmonton, are published separately as HL Bill 48 (Rev) – EN.

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B I L L

TO

Enable rights of admission to the freedom of cities or towns to be extended to women; to enable other amendments relating to admission to be made; to confer powers to admit persons as honorary freemen of certain places in the Confederation of the Cinque Ports; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Admission of freemen

- (1) After section 248 of the Local Government Act 1972 (c. 70) (freemen and inhabitants of existing boroughs) insert—

“248A Powers to amend rights of admission to freedom of existing boroughs

- | | | |
|-----|--|----|
| (1) | The law relating to rights of admission to the freedom of a city or town may be amended in accordance with this section. | 5 |
| (2) | An amendment of a royal charter may be made by Her Majesty by Order in Council, if a resolution proposing the amendment has been passed under section 248C. | |
| (3) | An amendment to which subsection (4) applies (including an amendment of a charter) may be made by resolution passed under section 248C. | 10 |
| (4) | This subsection applies to an amendment providing that a woman has the right to be admitted to the freedom of a city or town in cases or circumstances which are specified in the amendment and in which a man has that right. | 15 |
| (5) | But subsection (4) does not apply to an amendment if its effect in any case or circumstances would be that a woman has the right to be admitted to the freedom of the city or town in place of a man. | |
| (6) | Any other amendment within subsection (1) may be made by resolution passed under section 248C, so far as the law amended is established by custom. | 20 |

- (7) An Order in Council under this section is not a statutory instrument for the purposes of the Statutory Instruments Act 1946.
- (8) Nothing in this section, and no amendment made under it, affects any other power to make an amendment.
- (9) In this section – 5
- (a) the reference to the law relating to rights of admission to the freedom of a city or town includes a reference to any enactment making provision as to that law;
- (b) “enactment” includes provision contained in a charter or other instrument made under the royal prerogative, and provision made under an enactment; 10
- (c) references to amendment include references to repeal or revocation.
- (10) A provision of a public general Act may not be amended under this section unless it relates only to the city or town concerned or to a specified group of cities or towns. 15

248B Powers supplementary to section 248A

- (1) If an amendment is made under section 248A (“the admissions amendment”), subsections (3) and (4) apply to any amendment consequential on the admissions amendment, including in particular any amendment for the purpose of putting – 20
- (a) a freeman of a city or town admitted by virtue of the admissions amendment,
- (b) a person who by marriage, descent, employment or otherwise is or has been related to or associated with such a freeman, or 25
- (c) a person who is or has been related by marriage to the widow or widower, or to a child, of such a freeman,
- in the same position as a freeman admitted otherwise than by virtue of the admissions amendment, as a person correspondingly related to or associated with such a freeman or, as the case may be, as a person correspondingly related by marriage to the widow or widower, or to a child, of such a freeman. 30
- (2) For the purposes of subsection (1), where A is related to B, C is correspondingly related to D if, in particular, A is B’s husband or widower and C is D’s wife or widow, or B is A’s mother and D is C’s father. 35
- (3) Where the admissions amendment is made under section 248A(2), an amendment within subsection (1) may be made by Her Majesty by Order in Council, if a resolution proposing the amendment has been passed under section 248C. 40
- (4) Where the admissions amendment is made under section 248A(3) or (6), an amendment within subsection (1) may be made by resolution passed under section 248C.
- (5) It does not matter for the purposes of either subsection (3) or (4) whether the amendment within subsection (1) is an amendment to a charter, to any other enactment, or to the law established by custom. 45

- (6) Section 248A(7) to (10) apply in relation to this section as they apply in relation to section 248A.

248C Resolutions to make an amendment under section 248A or 248B

- (1) This section applies to any resolution which is proposed for the purposes of section 248A or section 248B by a registered freeman (“the proposer”). 5
- (2) Voting on the resolution is to be by postal ballot.
- (3) The proposer must make reasonable endeavours to secure that each registered freeman is sent – 10
- (a) notice of the ballot, and
 - (b) a ballot paper.
- (4) The notice must state – 15
- (a) the rule of admission in relation to which any amendment under section 248A is proposed,
 - (b) the enactment or other source of law by which the rule is established,
 - (c) the resolution proposed, and
 - (d) the date by which ballot papers must be returned (the “voting date”).
- (5) Any notice and ballot paper must be sent at least 28 days before the voting date. 20
- (6) For the purposes of this section, a notice or ballot paper is sent to a freeman on the day it is posted by first class post to the last known address of the freeman.
- (7) The resolution is passed under this section if – 25
- (a) it is passed by a majority of the registered freemen voting on the resolution,
 - (b) the number of registered freemen voting on the resolution is at least 10% of the number of registered freemen to whom notice is sent under subsection (3), and 30
 - (c) the resolution is notified to the relevant council within six weeks from the voting date.
- (8) The resolution is notified by delivery of the following documents to the relevant council – 35
- (a) a copy of the resolution;
 - (b) a copy of the notice sent under subsection (3);
 - (c) a statement in writing of the names of the freemen to whom the notice was sent;
 - (d) a statement in writing of the number of freemen who voted on the resolution and of the number who voted in favour of the resolution; 40
 - (e) all ballot papers returned in accordance with the notice.
- (9) The relevant council must keep the documents delivered under subsection (8), but need not keep the documents within paragraphs (b) to (e) of that subsection if it considers that it is no longer reasonably necessary to do so. 45

- (10) In this section—
 “registered freeman” means a freeman whose name is on the roll of freemen of the city or town concerned kept under section 248(2);
 “relevant council” means— 5
 (a) the relevant district council;
 (b) for an area for which there is no district council, the relevant county council;
 (c) in Wales, the relevant principal council.”
- (2) In section 248(1) of that Act— 10
 (a) after “of this section” insert “and to section 248A below”;
 (b) after “in this section” insert “and section 248A below”.
- 2 Admission of honorary freemen**
- (1) Section 249 of the Local Government Act 1972 (c. 70) (honorary aldermen and freemen) is amended as follows. 15
- (2) In subsection (5)—
 (a) for the words from “London borough” to “royal town” substitute “relevant area”;
 (b) for the words “as aforesaid” in the first place where they occur, substitute “or town or place concerned”; 20
 (c) for the words “as aforesaid” in the second place where they occur, substitute “or town or place”.
- (3) In subsection (6)—
 (a) for the words from “London borough” to “aforesaid”, in the first place where it occurs, substitute “relevant area”; 25
 (b) for the words “as aforesaid”, in the second place where they occur, substitute “or town or place concerned”.
- (4) After subsection (6) insert—
 “(6A) In this section, “relevant area” means— 30
 (a) a London borough;
 (b) a district having the status of a city, borough or royal borough;
 (c) any parish or community having by grant under the royal prerogative the status of city;
 (d) any parish or community entitled by grant under the royal prerogative to be called and styled a royal town; 35
 (e) a port, ancient town or corporate limb of the Confederation of the Cinque Ports—
 (i) having the status of a town, or
 (ii) being a place for which charter trustees have been constituted. 40
- (6B) In this section as it applies to a relevant area within subsection (6A)(e)(ii)—
 (a) references to the council of that area are to be read as references to the charter trustees of that area, and

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- (b) references to the members of the council are to be read as references to the trustees.”

3 Short title, commencement and extent

- (1) This Act may be cited as the Borough Freedom Act 2008.
- (2) This Act comes into force at the end of the period of two months beginning with the day on which it is passed. 5
- (3) This Act extends to England and Wales only.

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Lord Graham of Edmonton

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