

Constitutional Reform Bill [HL]

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TO

Repeal the European Communities Act 1972 and the Human Rights Act 1998; to introduce binding referendum powers at national and local level; to require the approval of Parliament to enter into international treaties and to declare war; to make provision about the work of Parliament; to devolve legislative responsibility for certain policy areas to local authorities; and for connected purposes. 5

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:— 10

PART 1

INTERNATIONAL MATTERS

1 Withdrawal from the European Union

- (1) The European Communities Act 1972 (c. 68) is repealed. 15
- (2) Courts in the United Kingdom shall no longer have judicial notice of decisions of the Court of Justice of the European Communities or the Court of First Instance.

2 Human rights

The Human Rights Act 1998 (c. 42) is repealed. 20

3 International treaties

Neither Her Majesty, nor any Minister of the Crown on Her behalf, may enter into treaties, agreements or other binding international instruments without the prior authorisation of Parliament.

4 Military action

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- (1) Subject to subsection (2), neither Her Majesty, nor any Minister of the Crown on Her behalf, may declare war, nor engage in any hostile military engagement without the prior authorisation of Parliament.
- (2) Subsection (1) does not restrict the ability of Her Majesty or Her Ministers to take emergency action to protect the territorial sovereignty of any part of the United Kingdom or its Dependencies or Overseas Territories or otherwise to protect the interests of the United Kingdom or to implement resolutions of the Security Council of the United Nations. 10
- (3) Any action taken pursuant to subsection (2) shall as soon as practicable be the subject of a debate before Parliament with a view to Parliament authorising or discontinuing the action taken. 15

PART 2

UNITED KINGDOM PARLIAMENT

*House of Commons***5 Number of Parliamentary constituencies**

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- (1) The Parliamentary Constituencies Act 1986 (c. 56) (“the 1986 Act”) is amended as follows.
- (2) In Schedule 2, for paragraph 1 substitute—
“1. The number of constituencies in the United Kingdom shall not be substantially greater or less than 250.” 25
- (3) Omit paragraph 3A (Orkney and Shetland Islands).
- (4) Each Boundary Commission shall conduct a general review of parliamentary constituency boundaries in accordance with section 3 of the 1986 Act following the passing of this Act.

6 Fixed parliamentary term

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- (1) The next parliamentary general election is to take place on 6th May 2010.
- (2) Each subsequent parliamentary general election is to take place on the first Thursday in May in the fifth year after the previous parliamentary general election.
- (3) Parliament is to be dissolved 30 days before each parliamentary general election. 35

7 Number of sitting days

The total number of sitting days of the House of Commons in any calendar year shall not exceed 100, save for extraordinary sittings convened by the Speaker.

8 Payment of members of the House of Commons

- (1) For the year beginning with the next parliamentary general election, each member of the House of Commons is to be paid—
 - (a) a salary of £30,000,
 - (b) expenses of up to £170,000, to cover—
 - (i) premises, consumables and staffing for a constituency office,
 - (ii) consumables and staffing for an office in the Palace of Westminster,
 - (c) travel expenses between the member's constituency and the Houses of Parliament, and
 - (d) (for members whose constituencies are outside Greater London), the reasonable costs of accommodation in London.
- (2) For each subsequent year, the amounts given in subsection (1)(a) and (b) shall be adjusted according to any increase or decrease in the retail prices index.
- (3) The expenditure incurred under subsections (1)(b) to (d) by each member of the House of Commons shall be published annually in an Annual Report on Members' Expenses no later than 5th April in the year following the year in which the expenses were incurred.
- (4) A member of the House of Commons may not be prevented from earning income other than that set out in this section.

House of Lords

9 Reform of the House of Lords

- (1) Within seven years of the passing of this Act, a national referendum is to be held on reform of the House of Lords.
- (2) The House of Commons shall draw up four options for reform which set out proposals for the size, composition, cost and method of appointment or election to the House of Lords, including—
 - (a) no change to the present arrangements, and
 - (b) abolition of the House of Lords.
- (3) In deciding the options for the referendum, the House of Commons shall consult the House of Lords and local authorities and take any representations made into account.

*Legislative competence and referendums***10 Legislative competence of Parliament**

- (1) Local authorities may legislate in any area that is not a national reserved matter.
- (2) National reserved matters are the fields of—
- (a) the national treasury, 5
 - (b) defence,
 - (c) foreign affairs,
 - (d) border control,
 - (e) criminal law,
 - (f) agriculture, fisheries and food, 10
 - (g) national energy policy,
 - (h) national transport policy,
 - (i) the national education curriculum and teaching qualifications, and
 - (j) medical and nursing qualifications.

11 Referendums 15

- (1) The government shall fund and hold a referendum on any question—
- (a) whenever the government thinks fit, or
 - (b) whenever it is raised in a qualifying petition,
- and the result of such a referendum, calculated by simple majority, shall be binding on the government. 20
- (2) The question to be put to a referendum may include the question of whether a parliamentary general election should be held.
- (3) Part 7 of the Political Parties, Elections and Referendums Act 2000 (c. 41) shall apply to any referendum held under this section, subject to necessary modifications to be made in regulations by the Secretary of State. 25
- (4) In this section, a “qualifying petition” is a petition that—
- (a) is not in the opinion of the government vexatious or abusive, and
 - (b) is signed by at least one sixtieth of the total number of persons registered on the electoral registers of local authorities in the United Kingdom. 30

PART 3

REGIONAL AND LOCAL DEMOCRACY

12 Local authority powers

- (1) As from the empowerment date—
- (a) every matter that is not a national reserved matter shall be a local matter; 35
 - (b) every local authority shall in its area be responsible for all local matters;

- (c) every local authority shall be free to determine its own policy in relation to any local matter; and
 - (d) subject to section 13, every local authority shall have power to do anything which it considers necessary to implement its policy in relation to any local matter. 5
- (2) The powers in subsection (1)(d) shall include the power for a local authority to—
 - (a) incur expenditure,
 - (b) give financial assistance to any person,
 - (c) enter into arrangements or agreements with any person, 10
 - (d) co-operate with, or facilitate or co-ordinate the activities of, any person,
 - (e) exercise on behalf of any person any functions of that person,
 - (f) provide staff, goods, services or accommodation to any person,
 - (g) levy a taxation on local taxpayers, and
 - (h) make laws, to be known as Local Authority Acts. 15
- (3) Every Local Authority Act shall be judicially noticed in relation to the area in which that Local Authority Act applies.
- (4) The Secretary of State shall introduce regulations in advance of the empowerment date for the purposes of providing for the enforcement of any local taxation as income tax and for the enforcement of Local Authority Acts. 20

13 Local authority control

- (1) A local authority may not take any act or purport to pass any Local Authority Act so far as that act or Local Authority Act purports to have effect outside the competence of the local authority.
- (2) An act or Local Authority Act is outside the competence of the local authority so far as the following apply— 25
 - (a) it purports to have effect in an area other than the area of the local authority or to confer or remove functions exercisable otherwise than in or as regards that area, or
 - (b) it relates to national reserved matters. 30

14 Local authority elections

- (1) The ordinary elections of every local authority shall take place on the empowerment date and every 5 years thereafter.
- (2) In addition, a local authority shall hold an election during any 5 year period within one month of a referendum held pursuant to section 16(2) where that referendum decides that an election should be held. 35
- (3) Any local authority re-elected pursuant to subsection (2) shall only be elected for the period of time up until the date on which an election would in any case have been held under subsection (1).

15 Local authority funding

- (1) Subject to subsection (2), local authorities shall fund themselves from local taxation.
- (2) Within six months of an ordinary election pursuant to section 14(1), each local authority shall submit to Her Majesty's Treasury a bid for such supplemental funding, if any, that the local authority believes it requires to carry out its functions adequately until the next election pursuant to section 14(1). 5
- (3) There shall be paid to each local authority out of central funds all or such part of the funding sought pursuant to subsection (2) as Her Majesty's Treasury deems fit in relation to that local authority. 10

16 Local authority referendums

- (1) A local authority shall fund and hold a referendum on any question relating to a local matter in its area—
- (a) whenever the local authority thinks fit, or
- (b) whenever it is raised in a qualifying petition, 15
- and the result of such a referendum, calculated by simple majority, shall be binding on the local authority.
- (2) The question to be put to a referendum may include the question of whether a local authority should hold an election.
- (3) Part 7 of the Political Parties, Elections and Referendums Act 2000 (c. 41) shall apply to any referendum held under this section, subject to necessary modifications to be made in regulations by the Secretary of State. 20
- (4) In this section, a "qualifying petition" is a petition that—
- (a) relates to a local matter,
- (b) is not in the opinion of the local authority vexatious, abusive or otherwise outside the competence of the local authority under section 13(2), and 25
- (c) is signed by at least one sixtieth of the persons registered on the electoral register for the area of the local authority.

17 Review of public bodies 30

- (1) The Secretary of State shall, within 2 years of the empowerment date—
- (a) carry out a review of the functions of all public bodies,
- (b) as a result of that review, determine which public bodies carry out functions that are local matters and to which local authority areas those functions relate, and 35
- (c) as a result of that determination, make orders to—
- (i) transfer all assets, liabilities and functions of public bodies which carry out functions that are local matters to local authorities in such proportions and in such manner as the Secretary of State thinks fit, and 40

- (ii) abolish all public bodies that carry out functions that are local matters in so far as those public bodies only carry out functions that are local matters.
- (2) As from the empowerment date pending the coming into force of orders under subsection (1), any public body with any function or power that is a local matter shall not exercise that function or power without first consulting the local authority or local authorities in respect of whose area that function or power is to be exercised. 5
- (3) To the extent that the Secretary of State cannot make provision to abolish any public body by way of an order under subsection (1)— 10
 - (a) Her Majesty may by Order in Council make such provision, and
 - (b) if necessary, the Secretary of State shall lay before Parliament draft Bills to make such provision.
- (4) There shall be a Royal Commission comprising members of both Houses of Parliament and others, with a majority of members from the House of Commons. 15
- (5) The Royal Commission shall report, within two years of the passing of this Act, on—
 - (a) the effectiveness of arrangements in the United Kingdom Parliament for the scrutiny of legislation and other matters affecting England, 20
 - (b) the level of democratic involvement in any public body not carrying out functions that are purely local matters,
 - (c) the extent to which such a public body carries out its functions in an efficient, economic and effective manner.
- (6) The Royal Commission established under subsection (4) shall recommend the abolition of those of the public bodies that appear to it to be undemocratic or inefficient, uneconomic or ineffective and shall recommend the transfer of the functions of those bodies to the Secretary of State, local authorities or such other bodies as the Royal Commission believes would be beneficial to the matters in subsection (5). 25 30
- (7) Within 6 months of the Royal Commission's report, the Secretary of State shall lay before Parliament for Parliament's consideration a scheme, including draft Bills, to implement the recommendations of the Royal Commission.

PART 4

LEGISLATION 35

18 Consolidation of legislation

- (1) Parliament shall not enact any enactment without first considering other enactments dealing with the same matter and to the greatest extent possible repealing those other enactments and consolidating the remaining provisions within the new enactment. 40
- (2) In passing any enactment, Parliament shall at all times endeavour to simplify and codify the resultant body of legislation.

19 Expiry of Acts

Any Act passed following the passing of this Act will expire at the end of the period of 5 years beginning with the day on which it was passed.

PART 5

FINAL PROVISIONS

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20 Transitional provisions

The Secretary of State may by order make such amendments to other Acts as appear to the Secretary of State to be appropriate in consequence of the provisions of this Act.

21 Orders

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- (1) Any power to make any order or regulations under this Act is exercisable by statutory instrument.
- (2) A statutory instrument containing an order or regulations under this Act may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 15
- (3) If, apart from this subsection, an instrument containing an order under this Act would be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it shall proceed in that House as if it were not a hybrid instrument.

22 Duration of this Act

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This Act shall expire at the end of the period of 10 years beginning with the day on which it is passed.

23 Interpretation

In this Act—

“the empowerment date” means the Thursday following the third anniversary of the parliamentary general election provided for by section 6(1); 25

“local authority” means any council which at the date of this Act, is—

- (a) in England, a principal council for the purposes of Part 1 of the Local Government Act 1972 (c. 70), 30
- (b) in Wales, a principal council for the purposes of Part 2 of that Act, and
- (c) in Scotland, a council constituted by the Local Government etc. (Scotland) Act 1994 (c. 39);

“local matter” has the meaning given to it in section 12(1); 35

“national reserved matter” has the meaning given to it by section 10;

- “public body” means—
- (a) any government department in the charge of any Minister of the Crown,
 - (b) any Regional Assembly,
 - (c) any— 5
 - (i) body corporate, or
 - (ii) office,
created by any enactment or Royal Charter,
 - (d) the Scottish Parliament,
 - (e) the Scottish Executive, 10
 - (f) the Welsh Assembly,
 - (g) the Welsh Ministers,
 - (h) the Northern Ireland Assembly, and
 - (i) the Northern Ireland Executive;
- “the retail prices index” means the general index of prices (for all items) published by the Statistics Board. 15

24 Extent

- (1) This Act extends to Scotland.
- (2) With the exception of Part 3, this Act extends to Northern Ireland.

25 Short title

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This Act may be cited as the Constitutional Reform Act 2009.

Constitutional Reform Bill [HL]

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To repeal the European Communities Act 1972 and the Human Rights Act 1998; to introduce binding referendum powers at national and local level; to require the approval of Parliament to enter into international treaties and to declare war; to make provision about the work of Parliament; to devolve legislative responsibility for certain policy areas to local authorities; and for connected purpose.

Lord Willoughby de Broke

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