



# Recall of MPs Act 2015

## 2015 CHAPTER 25

*How an MP becomes subject to a recall petition process*

### **1 How an MP becomes subject to a recall petition process**

- (1) An MP becomes subject to a recall petition process if—
  - (a) the first, second or third recall condition has been met in relation to the MP, and
  - (b) the Speaker gives notice of that fact under section 5.
- (2) In this Act “recall petition” means a petition calling—
  - (a) for an MP to lose his or her seat in the House of Commons, and
  - (b) for a by-election to be held to decide who should be the MP for the constituency in question.
- (3) The first recall condition is that—
  - (a) the MP has, after becoming an MP, been convicted in the United Kingdom of an offence and sentenced or ordered to be imprisoned or detained, and
  - (b) the appeal period expires without the conviction, sentence or order having been overturned on appeal.

Sections 2 to 4 contain more about the first recall condition.

- (4) The second recall condition is that, following on from a report from the Committee on Standards in relation to the MP, the House of Commons orders the suspension of the MP from the service of the House for a specified period of the requisite length.
- (5) A specified period is “of the requisite length” for the purposes of subsection (4) if—
  - (a) where the period is expressed as a number of sitting days, the period specified is of at least 10 sitting days, or
  - (b) in any other case, the period specified (however expressed) is a period of at least 14 days.
- (6) For the purposes of subsection (4) it does not matter—
  - (a) when the period of suspension starts, and

- (b) where that period is expressed as a number of sitting days, what provision (if any) is made by the House regarding what does, or does not, count as a sitting day for the purpose of calculating that period.
- (7) The reference in subsection (4) to the Committee on Standards is to any committee of the House of Commons concerned with the standards of conduct of individual members of that House.
- (8) Any question arising under subsection (7) is to be determined by the Speaker.
- (9) The third recall condition is that—
  - (a) the MP has, after becoming an MP, been convicted of an offence under section 10 of the Parliamentary Standards Act 2009 (offence of providing false or misleading information for allowances claims), and
  - (b) the appeal period expires without the conviction having been overturned on appeal.

Sections 2 to 4 contain more about the third recall condition.

- (10) The provision made by or under this Act does not affect other ways in which an MP's seat may be vacated, whether—
  - (a) by the MP's disqualification - for example, under the Representation of the People Act 1981 (disqualification of certain offenders), or
  - (b) by the MP's death or otherwise.
- (11) The loss by an MP of his or her seat under this Act as a result of a recall petition does not prevent him or her standing in the resulting by-election.

## **2 The first and third recall conditions: further provision**

- (1) In section 1(3) and (9) (the first and third recall conditions)—
  - (a) the reference to an offence includes an offence committed before the MP became an MP and an offence committed before the day on which section 1 comes into force, but
  - (b) the reference to an MP being convicted of an offence is only to an MP being convicted of an offence on or after the day on which section 1 comes into force.
- (2) The reference in section 1(3) to an offence does not include an offence mentioned in section 1(9).
- (3) The reference in section 1(3) to an MP being sentenced or ordered—
  - (a) includes the MP being sentenced or ordered where the sentence or order is suspended,
  - (b) does not include the MP being remanded in custody, and
  - (c) does not include the MP being authorised to be detained under mental health legislation if there is no sentence or order for imprisonment or detention other than under that legislation.
- (4) “Mental health legislation” means—
  - (a) the Mental Health Act 1983,
  - (b) Part 6 or section 200(2)(b) of the Criminal Procedure (Scotland) Act 1995, or
  - (c) the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)).

- (5) For the purposes of this Act the time at which a person becomes an MP is the beginning of the day after—
- (a) the polling day for the parliamentary election at which the person is elected as an MP, or
  - (b) where the person has been elected as an MP more than once, the polling day for the parliamentary election at which the person was last so elected.

### **3 The first and third recall conditions: expiry of appeal period**

- (1) For the purposes of section 1(3) and (9) (the first and third recall conditions), the appeal period expires at the earliest time at which—
- (a) it is no longer possible for there to be a relevant appeal, and
  - (b) all relevant appeals have been determined or otherwise disposed of.
- (2) “Relevant appeal”, in relation to the first recall condition, means—
- (a) an appeal that—
    - (i) is in respect of the conviction, sentence or order mentioned in section 1(3), and
    - (ii) is brought within the usual period, or
  - (b) an appeal that—
    - (i) is in respect of the determination of an appeal that was itself a relevant appeal, and
    - (ii) is brought within the period of 28 days beginning with the date of that determination or, if it ends earlier, the usual period.
- (3) “Relevant appeal”, in relation to the third recall condition, means—
- (a) an appeal that—
    - (i) is in respect of the conviction mentioned in section 1(9) or of any sentence or order imposed in relation to that conviction, and
    - (ii) is brought within the usual period, or
  - (b) an appeal that—
    - (i) is in respect of the determination of an appeal that was itself a relevant appeal, and
    - (ii) is brought within the period of 28 days beginning with the date of that determination or, if it ends earlier, the usual period.
- (4) References in this section to an appeal being brought within the usual period are to the appeal being brought within the period allowed for bringing an appeal of the kind in question, disregarding the possibility of an appeal out of time with permission.
- (5) References in this section to an appeal—
- (a) are to an appeal to a court in the United Kingdom;
  - (b) include an application (and accordingly references to an appeal being brought include an application being made);
  - (c) include an appeal under paragraph 13(a) of Schedule 6 to the Scotland Act 1998, paragraph 31(a) of Schedule 10 to the Northern Ireland Act 1998 or paragraph 21(a) of Schedule 9 to the Government of Wales Act 2006 (appeal against a determination, in proceedings in Scotland, of a Scottish, Northern Irish or Welsh devolution issue), or an appeal under section 288AA of the Criminal Procedure (Scotland) Act 1995 (appeal on compatibility issues);

- (d) do not include a reference under Part 2 of the Criminal Appeal Act 1995 (the Criminal Cases Review Commission) or Part 10A of the Criminal Procedure (Scotland) Act 1995 (the Scottish Criminal Cases Review Commission), or a petition to the nobile officium.
- (6) References in this section to the determination of an appeal are, where the court to which the appeal is brought remits the matter to another court, to the disposal of the proceedings by that other court.

#### **4 The first and third recall conditions: courts to notify the Speaker**

- (1) This section applies if an MP, after becoming an MP—
- (a) is convicted in the United Kingdom of an offence and sentenced or ordered to be imprisoned or detained within the meaning of section 1(3) (see section 2), or
  - (b) is convicted of an offence mentioned in section 1(9) within the meaning of that provision (see section 2).
- (2) The court that imposes the sentence or order in relation to the conviction must notify the Speaker—
- (a) of the conviction and of the sentence or order, and
  - (b) whether an appeal may be brought in respect of the conviction, sentence or order.
- (3) Subsections (4) to (6) apply in a case in which an appeal is brought in respect of the conviction, sentence or order (including from a court that determines or otherwise disposes of such an appeal).
- (4) The court to which the appeal is brought must notify the Speaker that an appeal has been brought in respect of the conviction, sentence or order.
- (5) Where the appeal is determined or otherwise disposed of, the relevant court must notify the Speaker—
- (a) that the appeal has been determined or otherwise disposed of,
  - (b) that—
    - (i) in a case within subsection (1)(a), the conviction, sentence or order has, or has not, been overturned on appeal;
    - (ii) in a case within subsection (1)(b), the conviction has, or has not, been overturned on appeal, and
  - (c) whether any further appeal may be brought in respect of the conviction, sentence or order.
- (6) “The relevant court” means—
- (a) the court to which the appeal is brought, or
  - (b) if that court remits the matter to another court, that other court.
- (7) Section 3(5) and (6) (interpretation of references to an appeal and to the determination of an appeal) apply in relation to this section as they apply in relation to section 3, except that references in this section to an appeal do include a petition to the nobile officium.

- (8) A court is not required under this section to notify the Speaker if, at any time since the application of the section, the MP's seat has been vacated (whether by the MP's disqualification or death, or otherwise).

## **5 Speaker's notice that first, second or third recall condition has been met**

- (1) As soon as reasonably practicable after becoming aware that the first, second or third recall condition has been met in relation to an MP, the Speaker must give notice of that fact to the petition officer for the MP's constituency.
- (2) But subsection (1) does not apply if it would require the Speaker to give notice at a time—
- (a) within the period of 6 months ending with the polling day for the next parliamentary general election,
  - (b) when the MP is already subject to a recall petition process, or
  - (c) when the MP's seat has already been vacated (whether by the MP's disqualification or death, or otherwise).
- (3) For the purposes of subsection (2)(a), the possibility that, after the time mentioned in that subsection, the polling day for a parliamentary general election will be altered by virtue of section 1(5) or 2(7) of the Fixed-term Parliaments Act 2011 is to be disregarded.
- (4) For the purposes of subsection (2)(b), an MP is "subject to a recall petition process" during the period beginning with the giving of a notice under this section in relation to the MP and ending with—
- (a) the receipt by the petition officer of a notice under section 13(6) (early termination of recall petition process) in relation to the recall petition in question, or
  - (b) the giving by the petition officer of a notice under section 14(2)(b) (determination of whether recall petition successful) of the outcome of that recall petition.
- (5) A notice under this section—
- (a) must specify the day on which it is given,
  - (b) must specify which of the recall conditions has been met in relation to the MP, and
  - (c) in a case in which the first recall condition has been met, must specify the offence of which the MP has been convicted.
- (6) For the purposes of this Act, a notice under this section—
- (a) is to be treated as given on the day specified in it under subsection (5)(a), and
  - (b) is to be treated as received by the petition officer on the first working day after the day on which it is given.
- (7) References in this Act to a "Speaker's notice" are to a notice under this section.