

FIXED-TERM PARLIAMENTS ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1: Polling days for parliamentary general elections

25. *Section 1* states that the polling day for the next parliamentary general election is to be 7 May 2015. *Subsection (3)* sets out that the polling day for every subsequent general election is to be held on the first Thursday in May five years from the date of the last election. *Subsection (4)* provides that where an early general election takes place under section 2 of the Act, the next general election will generally take place on the first Thursday in May in the fifth year from the date of the last election. However, if the early election is held before the first Thursday in May in an election year, the next general election will be held on the first Thursday in May in the fourth year from the previous election. The effect being when an early general election is held, the election day of the first Thursday in May is restored at the next election, and the duration of the Parliament resulting from the early election will normally be no more than five years in length.
26. *Subsection (5)* provides a power for the Prime Minister to defer the date of a scheduled parliamentary general election under section 1 by a period of no more than two months. This is to accommodate short term crises or other conditions which might make it inappropriate to hold the election on the scheduled date, for example, a repeat of the foot and mouth crisis which led to the postponement of the local elections in 2001. The power to defer by up to two months would be exercisable by statutory instrument subject to the affirmative procedure. This means that the order could not be made until it had been approved by both Houses of Parliament. *Subsection (7)* provides that any such draft order must be accompanied by a statement from the Prime Minister setting out his reasons for proposing a change to the polling day.

Section 2: Early parliamentary general elections

27. *Section 2* provides for the circumstances in which an early parliamentary general election can be held, that is, an election with a date of poll which must be earlier than the date of poll for an election under section 1. *Subsection (1)* provides for an early election if the House of Commons passes a motion that there should be such an election. It also states that where such a motion is passed on a division of the House of Commons, the number of members who voted in favour must be at least two thirds of the number of seats in the House, including any vacant seats.
28. *Subsection (3)* provides the second trigger for an early election. Where the House of Commons passes a motion of no confidence in the Government, an election must be held, unless within the period of 14 days, the House passes a motion expressing confidence in a Government. The intention is to provide an opportunity for an alternative Government to be formed without an election.
29. *Subsections (2), (4) and (5)* set out the exact form of motions for early election, votes of no confidence and of confidence in the Government respectively, which can be passed by the House of Commons in order to generate an early general election.

30. *Subsection (7)* provides that the Queen sets the date for an early election by proclamation on the recommendation of the Prime Minister. This means that, taken in conjunction with the rules in section 3, a suitable date for an election can be set. Dissolution does not follow immediately on the triggering event, but can be timed so that, for example, essential business can be completed or the date of the election can be set to fall on a Thursday.

Section 3: Dissolution of Parliament

31. **Section 3** makes the key necessary changes to elections law and the law concerning the meeting of Parliament in light of fixed days for elections. It:
- provides that Parliament dissolves automatically 17 working days before the polling day which has been fixed for the general election under the Act (this enables Parliament to dissolve, which will begin the parliamentary elections timetable in the Parliamentary Elections Rules);
 - provides that Parliament cannot otherwise be dissolved; the Queen will not be able to dissolve Parliament in exercise of the prerogative;
 - gives the authority to the Lord Chancellor and Secretary of State for Northern Ireland to issue the writs for elections after dissolution (this is presently dealt with in the proclamation summoning the new Parliament and an associated Order in Council); and
 - specifically preserves the power to set the first day for the meeting of the new Parliament by proclamation and any other matter which was normally dealt with by the proclamation, except those matters where the Act sets out procedure.
32. *Subsection (5)* sets out the definition of “working day” for the purposes of calculating the period between dissolution and the date of the poll. This definition is the same as the definition in rule 2 of the Parliamentary Elections Rules. The definition includes as days which are not working days, bank holidays and days appointed for public thanksgiving or mourning. It is possible for such days to be fixed or appointed from time to time thereby bringing forward the day for dissolution. The effect of *subsection (6)* is that the fixing or appointment of a bank holiday or day for public thanksgiving or mourning is to be disregarded if it would bring forward dissolution to a day which is earlier than 30 days after the day on which the fixing or appointment occurs. The purpose of this provision is so that there is no uncertainty about the date of dissolution at a certain point in advance of dissolution.

Section 4: General election for Scottish Parliament not to fall on same date as parliamentary general election under section 1(2)

33. **Section 4** provides that the general elections for the Scottish Parliament which were scheduled to take place on 7 May 2015 will instead be scheduled to take place on 5 May 2016. Subsequent ordinary general elections will be scheduled to be held on the first Thursday in May in the fourth calendar year after the May 2016 general elections.
34. The provisions under the Scotland Act 1998 which relate to setting and varying the date of ordinary and extraordinary general elections still apply.

Section 5: General election for National Assembly for Wales not to fall on same date as parliamentary general election under section 1(2)

35. **Section 5** provides that the general elections for the National Assembly for Wales which are scheduled to take place on 7 May 2015 will instead take place on 5 May 2016. Subsequent ordinary general elections will be scheduled to be held on the first Thursday in May in the fourth calendar year after the May 2016 general elections.

*These notes refer to the Fixed-term Parliaments Act 2011
(c.14) which received Royal Assent on 15 September 2011*

36. The provisions under the Government of Wales Act 2006 which relate to setting and varying the date of ordinary and extraordinary general elections still apply.

Section 6: Supplementary provisions

37. *Subsection (1)* preserves the Queen's power to prorogue Parliament. *Subsection (2)* preserves the traditional way in which the sealing of a proclamation summoning a new Parliament under the Great Seal of the Realm is authorised, which is by Order in Council rather than a warrant under the Royal Sign Manual. *Subsection (3)* introduces the Schedule of consequential amendments etc.

Section 7: Final provisions

38. *Subsection (1)* contains the short title of the Act, and *subsection (2)* provides that the Act comes into force on Royal Assent.
39. *Subsections (4)-(6)* provide that the Prime Minister is to make arrangements in 2020 for a committee to carry out a review of the operation of the Act. If appropriate, the committee is to make recommendations for the repeal or amendment of the Act, and the Prime Minister must make arrangements for the publication of the committee's findings and recommendations. A majority of the members of the committee are to be MPs.

Schedule

40. The Schedule contains amendments of Acts of Parliament. The key amendments are:
- The Septennial Act 1715 (which sets the current five-year term for a Parliament) is repealed. It will be superseded by the provisions of the Act.
 - The Regency Act 1937 presently provides that Counsellors of State (certain members of the Royal family to whom the Sovereign's royal functions may be delegated) may not exercise the power to dissolve Parliament otherwise than on the express instructions of the Sovereign. This limitation on Counsellors of State is no longer relevant because the Sovereign will not retain a power to dissolve Parliament and is therefore repealed.
 - There are other consequential changes to the parliamentary elections timetable, to the procedure which applies to that timetable in the event of the demise of the Crown, to the regulated periods for party funding and the spending by people who become candidates at a parliamentary general election. There are also amendments to deal with combination of polls in Northern Ireland where parliamentary general elections and/or other elections take place on the same day as elections to the Northern Ireland Assembly.