

# Fixed-term Parliaments Bill

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Cabinet Office, are published separately as HL Bill 40 – EN.

## EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Wallace of Tankerness has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Fixed-term Parliaments Bill are compatible with the Convention rights.

# Fixed-term Parliaments Bill

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**B I L L**

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Make provision about the dissolution of Parliament and the determination of polling days for parliamentary general elections; and for connected purposes.

**B**E 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 Polling days for parliamentary general elections**

- (1) This section applies for the purposes of the Timetable in rule 1 in Schedule 1 to the Representation of the People Act 1983 and is subject to section 2.
- (2) The polling day for the next parliamentary general election after the passing of this Act is to be 7 May 2015. 5
- (3) The polling day for each subsequent parliamentary general election is to be the first Thursday in May in the fifth calendar year following that in which the polling day for the previous parliamentary general election fell.
- (4) But, if the polling day for the previous parliamentary general election—
  - (a) was appointed under section 2(6), and 10
  - (b) in the calendar year in which it fell, fell before the first Thursday in May,
 subsection (3) has effect as if for “fifth” there were substituted “fourth”.
- (5) The Prime Minister may by order made by statutory instrument provide that the polling day for a parliamentary general election in a specified calendar year is to be earlier or later than the day determined under subsection (2) or (3), but not more than two months earlier or later. 15
- (6) A statutory instrument containing an order under subsection (5) may not be made unless a draft has been laid before and approved by a resolution of each House of Parliament. 20

**2 Early parliamentary general elections**

- (1) An early parliamentary general election is to take place if the Speaker of the House of Commons issues a certificate—

- (a) certifying that the House has passed a motion that there should be an early parliamentary general election,
- (b) certifying whether or not the motion was passed on a division, and
- (c) if it is certified that the motion was passed on a division, certifying that the number of members who voted in favour of the motion was a number equal to or greater than two thirds of the number of seats in the House (including vacant seats). 5
- (2) An early parliamentary general election is also to take place if the Speaker of the House of Commons issues a certificate certifying that –
- (a) on a specified day the House passed a motion of no confidence in Her Majesty’s Government (as then constituted), and 10
- (b) the period of 14 days after the specified day has ended without the House passing any motion expressing confidence in any Government of Her Majesty.
- (3) A certificate under this section is conclusive for all purposes. 15
- (4) Before issuing a certificate, the Speaker of the House of Commons must consult the Deputy Speakers (so far as practicable).
- (5) Subsection (6) applies for the purposes of the Timetable in rule 1 in Schedule 1 to the Representation of the People Act 1983.
- (6) If a parliamentary general election is to take place as provided for by subsection (1) or (2), the polling day for the election is to be the day appointed by Her Majesty by proclamation on the recommendation of the Prime Minister (and, accordingly, the appointed day replaces the day which would otherwise have been the polling day for the next election determined under section 1). 20
- 3 Dissolution of Parliament** 25
- (1) The Parliament then in existence dissolves at the beginning of the 17th working day before the polling day for the next parliamentary general election as determined under section 1 or appointed under section 2(6).
- (2) Parliament cannot otherwise be dissolved.
- (3) Once Parliament dissolves, the Lord Chancellor and, in relation to Northern Ireland, the Secretary of State have the authority to have the writs for the election sealed and issued (see rule 3 in Schedule 1 to the Representation of the People Act 1983). 30
- (4) Once Parliament dissolves, Her Majesty may issue the proclamation summoning the new Parliament which may – 35
- (a) appoint the day for the first meeting of the new Parliament;
- (b) deal with any other matter which was normally dealt with before the passing of this Act by proclamations summoning new Parliaments (except a matter dealt with by subsection (1) or (3)).
- (5) In this section “working day” means any day other than – 40
- (a) a Saturday or Sunday;
- (b) a Christmas Eve, Christmas Day or Good Friday;
- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom;
- (d) a day appointed for public thanksgiving or mourning. 45

- (6) But, if—
- (a) on a day (“the relevant day”) one or more working days are fixed or appointed as bank holidays or days for public thanksgiving or mourning, and
  - (b) as a result, the day for the dissolution of a Parliament would (apart from this subsection) be brought forward from what it was immediately before the relevant day to a day that is earlier than 30 days after the relevant day,
- the day or days in question are to continue to be treated as working days (even if the polling day is subsequently changed).

#### **4 Supplementary provisions**

- (1) This Act does not affect Her Majesty’s power to prorogue Parliament.
- (2) This Act does not affect the way in which the sealing of a proclamation summoning a new Parliament may be authorised; and the sealing of a proclamation to be issued under section 2(6) may be authorised in the same way.
- (3) The Schedule (which contains consequential amendments etc) has effect.

#### **5 Final provisions**

- (1) This Act may be cited as the Fixed-term Parliaments Act 2011.
- (2) This Act comes into force on the day it is passed.
- (3) An amendment or repeal made by this Act has the same extent as the enactment or relevant part of the enactment to which the amendment or repeal relates.

## SCHEDULE

Section 4

## CONSEQUENTIAL AMENDMENTS ETC

*Succession to the Crown Act 1707 (c. 41)*

- 1 In section 7 of the Succession to the Crown Act 1707 omit “or dissolve”.

*Septennial Act 1715 (c. 38)*

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- 2 The Septennial Act 1715 is repealed.

*Representation of the People Act 1867 (c. 102)*

- 3 In section 51 of the Representation of the People Act 1867 omit “or dissolved” where it occurs second.

*Parliament Act 1911 (c. 13)*

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- 4 In the Parliament Act 1911 omit section 7.

*Regency Act 1937 (c. 16)*

- 5 In section 6(1) of the Regency Act 1937 omit the words from “to dissolve Parliament” to “telegraph), or”.

*Representation of the People Act 1983 (c. 2)*

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- 6 The Representation of the People Act 1983 is amended as follows.

- 7 In section 76ZA(3)(a) after “during” insert “or after”.

- 8 In section 93(5)(a) omit the words from “or any earlier time” to the end.

- 9 In section 119(2) after “mourning” insert “(but, in relation to a parliamentary general election, excluding any day to which rule 2 of the parliamentary elections rules does not apply by virtue of rule 2(2A))”.

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- 10 (1) Amend the Timetable in rule 1 in Schedule 1 as follows.

- (2) In the entry relating to “Issue of writ”, in column 2, for “issue of the proclamation summoning the new Parliament” substitute “dissolution of Parliament by section 3(1) of the Fixed-term Parliaments Act 2011”.

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- (3) In the entry relating to “Delivery of nomination papers”, in column 2, for “proclamation summoning the new Parliament” substitute “dissolution of Parliament by section 3(1) of the Fixed-term Parliaments Act 2011”.

- (4) In the entry relating to “Polling”, in column 2, for “eleventh day after the last day for delivery of nomination papers” substitute “day determined under section 1 of the Fixed-term Parliaments Act 2011 or appointed under section 2(6) of that Act”.

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- 11 (1) Amend rule 2 in Schedule 1 as follows.
- (2) In paragraph (1) omit the words from “, and any such day” to the end.
- (3) After paragraph (1) insert –
- “(1A) In relation to a general election, any day within paragraph (1)(a) to (c) shall not be treated as a day for the purpose of any proceedings in the Timetable before the polling day. 5
- (1B) In relation to a by-election, any day within paragraph (1)(a) to (c) shall not be treated as a day for the purpose of any proceedings in the Timetable up to the completion of the poll nor shall the returning officer be obliged to proceed with the counting of the votes on such a day.” 10
- (4) Omit paragraph (2)(ii) and the “and” before it.
- (5) After paragraph (2) insert –
- “(2A) In relation to a general election, this rule does not apply to a day which is a bank holiday or a day appointed for public thanksgiving or mourning if – 15
- (a) the day was not fixed or appointed as such before the dissolution of Parliament by section 3(1) of the Fixed-term Parliaments Act 2011, or
- (b) the day is one that is treated as a working day by section 3(6) of that Act. 20
- But, in relation to any proceedings commenced afresh by reason of a candidate’s death, this paragraph is to be ignored.”
- 12 In rule 6A(4) in Schedule 1 after “rule 2(1)” insert “(subject to rule 2(2A))”.
- 13 In the form of writ in the Appendix of Forms at the end of Schedule 1 for the words from “the advice” to “next” substitute “section 3(1) of the Fixed-term Parliaments Act 2011 Parliament has dissolved”. 25

*Representation of the People Act 1985 (c. 50)*

- 14 The Representation of the People Act 1985 is amended as follows.
- 15 (1) Amend section 15 as follows. 30
- (2) After subsection (3) insert –
- “(3A) Where the polls at an election of the Northern Ireland Assembly are to be taken on the same date as the polls at one or more elections of the kind mentioned in subsection (1), the Chief Electoral Officer for Northern Ireland may direct that the polls at the election of the Assembly are to be taken together with the polls at the other election or elections.” 35
- (3) After subsection (5A) insert –
- “(5B) The power under subsection (5) above to make provision in connection with the combining of polls under subsection (3A) includes power to modify – 40

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- (a) Part 2 or 3 of the Schedule to the Elections Act 2001 (in addition to the power conferred by paragraph 32 of that Schedule);
- (b) any provision made under section 34(4) or 84(1) of the Northern Ireland Act 1998 or section 38(1)(a) of the Northern Ireland Constitution Act 1973 (see section 95(1) of the 1998 Act); 5
- (c) any provision made by or under Northern Ireland legislation relating to local elections.”
- 16 For section 20 substitute— 10
- “20 Demise of the Crown and parliamentary elections etc**
- (1) Subject to what follows, the demise of the Crown does not affect any proclamation summoning a new Parliament issued before the demise (see section 3(4) of the Fixed-term Parliaments Act 2011) (or any other matter relating to a parliamentary election or the summoning of a new Parliament). 15
- (2) Subsections (3) to (6) apply if the demise occurs—
- (a) on the day of the dissolution of a Parliament by section 3(1) of the 2011 Act, or
- (b) after that day but before the polling day for the next parliamentary general election after the dissolution as determined under section 1 of the 2011 Act or appointed under section 2(6) of the 2011 Act (“the current election”); 20
- and any relevant writ, notice or other document is to be issued or, if already issued, read accordingly. 25
- (3) In relation to the current election, for the purposes of the timetable in rule 1 in Schedule 1 to the principal Act—
- (a) the polling day shall be—
- (i) the 14th day after the day which would otherwise have been the polling day, or 30
- (ii) if the 14th day is not a working day, the next working day after the 14th day;
- (b) any working day within the period of 13 days beginning with the day after the demise—
- (i) shall be disregarded in computing any period of time, and 35
- (ii) shall not be treated as a day for the purpose of any proceedings before the polling day.
- (4) If the polling day for the current election was appointed under section 2(6) of the 2011 Act, the reference to the polling day in section 1(4) of the 2011 Act is to be read, in relation to the current election, as a reference to the new polling day under subsection (3)(a). 40
- (5) Section 76 of the principal Act shall have effect in relation to any candidate at the current election as if the maximum amount specified in subsection (2)(a) of that section were increased by one half. 45
- (6) If the proclamation summoning the new Parliament after the current election was issued before the demise, the meeting of the new

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Parliament shall (subject to any prorogation subsequent to the demise) take place –	
(a) on the 14th day after the day appointed in the proclamation for the meeting, or	
(b) if the 14th day is not a working day, the next working day after the 14th day.	5
(7) If the demise occurs within the period of seven days before the day of the dissolution of a Parliament by section 3(1) of the 2011 Act, subsections (2) to (6) have effect as if the demise occurred on that day.	10
(8) In this section “working day” means any day other than one to which rule 2 in Schedule 1 to the principal Act applies in relation to the current election (or would have applied had it fallen before the polling day).”	
<i>Parliamentary Constituencies Act 1986 (c. 56)</i>	15
17 In section 4(6) of the Parliamentary Constituencies Act 1986 for the words from the first “until” to “affect” substitute “or”.	
<i>Political Parties, Elections and Referendums Act 2000 (c. 41)</i>	
18 The Political Parties, Elections and Referendums Act 2000 is amended as follows.	20
19 In section 22(2A) after “1983” insert “(subject to rule 2(2A))”.	
20 In section 63(6)(a) for the words from “Her Majesty’s” to “forthcoming” substitute “Parliament is dissolved by section 3(1) of the Fixed-term Parliaments Act 2011 for a”.	
21 (1) Amend Schedule 9 as follows.	25
(2) In paragraph 1(3)(a) for the words from “Her Majesty’s” to “forthcoming” substitute “Parliament is dissolved by section 3(1) of the Fixed-term Parliaments Act 2011 for a”.	
(3) In paragraph 9(6)(b) for the words from “Her Majesty’s” to “with” substitute “Parliament is dissolved by section 3(1) of the Fixed-term Parliaments Act 2011 for”.	30
22 (1) Amend Schedule 10 as follows.	
(2) In paragraph 1(2)(a) for the words from “Her Majesty’s” to “forthcoming” substitute “Parliament is dissolved by section 3(1) of the Fixed-term Parliaments Act 2011 for a”.	35
(3) In paragraph 9(6)(b) for the words from “Her Majesty’s” to “with” substitute “Parliament is dissolved by section 3(1) of the Fixed-term Parliaments Act 2011 for”.	

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To make provision about the dissolution of Parliament and the determination of polling days for parliamentary general elections; and for connected purposes.

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