

# HOUSE OF LORDS

## Delegated Powers and Regulatory Reform Committee

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10th Report of Session 2010-11

Government Bills

**Fixed-Term Parliaments Bill**

Private Member's Bills

**Devolution (Time) Bill [HL]**

**Remembrance Sunday (Closure of Shops) Bill [HL]**

**Torture (Damages) Bill [HL]**

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## The Delegated Powers and Regulatory Reform Committee

The Committee is appointed by the House of Lords each session with the terms of reference “to report whether the provisions of any bill inappropriately delegate legislative power, or whether they subject the exercise of legislative power to an inappropriate degree of parliamentary scrutiny; to report on documents and draft orders laid before Parliament under sections 14 and 18 of the Legislative and Regulatory Reform Act 2006; and to perform, in respect of such draft orders, and in respect of subordinate provisions orders made or proposed to be made under the Regulatory Reform Act 2001, the functions performed in respect of other instruments and draft instruments by the Joint Committee on Statutory Instruments”.

### *Current membership*

The members of the Delegated Powers and Regulatory Reform Committee are:

Baroness Andrews

Lord Blackwell

Rt Hon the Lord Butler of Brockwell

Lord Carlile of Berriew QC

Baroness Gardner of Parkes

Lord Haskel

Rt Hon. the Lord Mayhew of Twysden QC DL

Baroness O’Loan

Lord Soley

Baroness Thomas of Winchester (*Chairman*)

### *Registered Interests*

Members’ registered interests may be examined in the online Register of Lords’ Interests at [www.publications.parliament.uk/pa/ld/ldreg.htm](http://www.publications.parliament.uk/pa/ld/ldreg.htm). The Register may also be inspected in the House of Lords Record Office and is available for purchase from the Stationery Office. Declared interests for this Report are in the Appendix.

### *Publications*

The Committee’s reports are published by the Stationery Office by Order of the House in hard copy and on the internet at [www.parliament.uk/parliamentary\\_committees/dpr.cfm](http://www.parliament.uk/parliamentary_committees/dpr.cfm).

### *General Information*

General information about the House of Lords and its Committees, including guidance to witnesses, details of current inquiries and forthcoming meetings is on the internet at [www.parliament.uk/about\\_lords/about\\_lords.cfm](http://www.parliament.uk/about_lords/about_lords.cfm).

### *Contacts for the Delegated Powers and Regulatory Reform Committee*

Any query about the Committee or its work should be directed to the Clerk of the Delegated Powers and Regulatory Reform Committee, Delegated Legislation Office, House of Lords, London, SW1A 0PW. The telephone number is 020-7219 3103 and the fax number is 020-7219 2571. The Committee’s email address is [dpr@parliament.uk](mailto:dpr@parliament.uk).

### *Historical Note*

In February 1992, the Select Committee on the Committee work of the House, under the chairmanship of Earl Jellicoe, noted that “in recent years there has been considerable disquiet over the problem of wide and sometimes ill-defined order-making powers which give Ministers unlimited discretion” (Session 1991–92, HL Paper 35–I, paragraph 133). The Committee recommended the establishment of a delegated powers scrutiny committee which would, it suggested, “be well suited to the revising function of the House”. As a result, the Select Committee on the Scrutiny of Delegated Powers was appointed experimentally in the following session. It was established as a sessional committee from the beginning of Session 1994–95. The Committee also has responsibility for scrutinising legislative reform orders under the Legislative and Regulatory Reform Act 2006.

# Tenth Report

## FIXED-TERM PARLIAMENTS BILL

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1. This short Bill provides that parliamentary general elections will normally take place at five-yearly intervals, starting in 2015. This is subject to provision in clause 2 for an early general election where the Speaker of the Commons certifies that the Commons has passed a motion that there should be an early parliamentary general election, or has passed a motion of no confidence in the government. The Cabinet Office has prepared a memorandum for the Committee to explain the two delegated powers conferred or affected by the Bill.<sup>1</sup>

### Clause 1(5) – power to specify a different polling day

2. Each election will usually be held on the first Thursday in May, though in clause 1(5) the Prime Minister is given a significant power, subject to the affirmative procedure, to make an order varying the date of the election by up to two months either earlier or later than the first Thursday in May. In paragraph 6 of the memorandum, the Cabinet Office explains that “it is intended that this power would be used [...] where it would be inappropriate to hold the election on the specified date due to a short-term crisis”, and gives as an example the need to postpone local elections in 2001 on account of the outbreak of foot and mouth disease. The memorandum goes on to state that similar provisions exist in the legislation establishing the devolved legislatures in Northern Ireland, Scotland and Wales.
3. In the light of this explanation, the Committee does not consider the power to be inappropriate in principle. It notes, however, that clause 1(5) does not itself restrict the circumstances in which the power may be exercised to the kind of circumstances envisaged in paragraph 6 of the memorandum. While accepting that it would be unrealistic to specify in the Bill a constraint which would embrace all of the possible circumstances in which it might seem appropriate to change a polling day, the Committee considers it important that, when the House debates a motion to approve a draft order under clause 1(5), it should do so on the basis of a very clear understanding of the Prime Minister’s reasons for proposing the change. **The House may therefore wish to consider whether the Bill should be amended to require that a statement setting out the Prime Minister’s reasons for proposing the change of polling day must be laid before both Houses at the same time as the draft order.**

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<sup>1</sup> The memorandum is available via the Committee’s web pages:  
<http://www.parliament.uk/business/committees/committees-a-z/lords-select/delegated-powers-and-regulatory-reform-committee/bills-considered/>

### DEVOLUTION (TIME) BILL [HL]

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4. This Private Member's Bill omits provision in the Scotland Act 1998 which at present prevents 'timescales, time zones and the subject-matter of the Summer Time Act 1972' falling within the legislative competence of the Scottish Parliament (clause 1). It also requires the Minister to lay before Parliament a draft of an Order in Council to be made under section 58 of the Government of Wales Act 2006, which would transfer to the Welsh Ministers ministerial functions as respects those matters as they relate to Wales (clause 2).
5. As originally enacted, the 1972 Act conferred a power to alter by Order in Council the period during which British Summer Time was to have effect, and to provide that it was to be two hours (rather than one hour) ahead of Greenwich Mean Time; but that power was repealed in 2002. **Therefore, while the intent of clause 2 seems reasonably clear, the Committee draws the clause to the attention of the House so that it may invite the Member to explain which Ministerial functions under the 1972 Act it is envisaged must be transferred by Order in Council in accordance with that clause.**

## **APPENDIX: ATTENDANCE AND DECLARATION OF INTERESTS**

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Committee Members' registered interests may be examined in the online Register of Lords' Interests at [www.publications.parliament.uk/pa/ld/ldreg.htm](http://www.publications.parliament.uk/pa/ld/ldreg.htm). The Register may also be inspected in the Parliamentary Archives and is available for purchase from The Stationery Office.

For the meeting held on 9 February 2011 no interests were declared.

### **Attendance:**

The meeting was attended by Baroness Andrews, Lord Carlile of Berriew, Baroness Gardner of Parkes, Lord Mayhew of Twysden, Baroness O'Loan, Lord Soley and Baroness Thomas of Winchester.