



Factsheet M7 Members Series

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House of Commons Information Office

Parliamentary Elections

This **Factsheet** explains aspects of elections and by-elections which immediately affect the House of Commons. It does not look at the process of the election itself. As much of the procedure surrounding an election occurs outside the House, an election can be said to be the stage before Parliament's work begins. The *Political Parties, Elections and Referendum Act 2000* created an Electoral Commission that now reviews electoral law and procedures and makes recommendations for change. The Commission also publishes guidance for electors and those involved in running elections. The Ministry of Justice administers electoral law in England & Wales. In Scotland responsibility lies with the Scottish Executive. Most current electoral law is contained in the *Representation of the People Act 1983* (as amended).

This Factsheet and any links mentioned within it are available on the internet at:
http://www.parliament.uk/parliamentary_publications_and_archives/factsheets.cfm

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Introduction

This Factsheet looks at the procedures by which General Elections and by-elections are called and how the successful candidates are returned to the House of Commons. It does not deal with matters such as European Parliament or local elections, agents, candidates, election petitions, election expenses, electoral quotas, returning officers, eligibility to vote or the procedure of casting a vote.

For more information on how elections are run you can contact the Electoral Commission (contact details at the end of this Factsheet) who produce their own series of Factsheets on various aspects of electoral procedure. The *Parliament Explained* booklet on Parliamentary Elections produced by the Parliamentary Education Unit may also be of interest:

<http://www.explore.parliament.uk/cms/DocumentUploads/Gen%20Elec%20Explained.pdf>

General Elections

The *Parliament Act 1911* established the maximum life of a Parliament as five years. Parliaments have twice been extended beyond five years, during the two world wars. The 1911 Parliament was extended to eight years by the *Parliament and Registration Act 1916*, and the *Parliament and Local Elections Acts 1916* and *1918*. The 1935 Parliament was extended to ten years by the *Prolongation of Parliament Acts 1940, 1941, 1942, 1943 and 1944*.

A Parliament is dissolved either by the passage of time or by a proclamation of the Sovereign on the advice of the Prime Minister. Dissolution may occur at any time; Parliament does not need to be sitting, nor to be recalled, for the purpose of dissolution. It was customary during much of the twentieth century for dissolution to be preceded by prorogation of Parliament.

From September 1974 until 1992, and again in 2001, an alternative practice was used of dissolving Parliament by proclamation following the adjournment of both Houses. The prorogation procedure was reinstated in 1992, 1997 and 2005 however. An adjournment merely suspends the House's business within a session for a specified period of time, and the exercise of the power remains with the Lords and Commons separately. All that is required is a resolution of the House or for the Speaker to declare that under Standing Orders the House is adjourned. It is not, therefore, a prerogative act. The practice of dissolving Parliament following the adjournment of both Houses appears to have been first used in 1922 following the sudden collapse of the coalition government. Since Parliament had already adjourned for the summer recess, Parliament was dissolved by royal proclamation on the same day as the calling of a general election, and no prorogation took place.

Prorogation of Parliament is a prerogative act of the Crown, which suspends nearly all business of both Houses, including the sitting of committees, until Parliament is summoned again. It is the normal instrument for ending an individual session of Parliament, but it has been the custom for much of the twentieth century also to prorogue Parliament before its dissolution. The ceremony normally takes place when both Houses are sitting; a Commission in the House of Lords, usually made up of five peers, requests the attendance of the Commons and Royal Assent is signified to outstanding Acts followed by a nominal speech from the throne (The last Monarch to prorogue and dissolve Parliament on the same day in person was Queen Victoria on 23 July 1847). Alternatively, Parliament can be prorogued by proclamation when either House is adjourned.

Announcements

For the 1997, 2001 and 2005 elections, the Prime Minister announced the date of dissolution in person. Prior to 1997 it was generally done by press release.

A general election is one in which all the constituencies in the United Kingdom are contested. The size and number of constituencies are reviewed at intervals of between 8 and 12 years by the Parliamentary Boundary Commissioners and agreed by Parliament. There were 646 constituencies fought at the 2005 general election. The latest Review of the Parliamentary Constituencies in England, completed in October 2006, has recommended an increase of four constituencies in England, from 529 to 533. Constituency numbers in Scotland, Wales and Northern Ireland will remain the same at 59, 40 and 18 respectively. This means that the total number of constituencies to be contested at the next UK General Election will rise from 646 to 650.

The reasons for calling a general election are varied, but generally originate from the desire of governments to obtain a further and/or increased majority in the House of Commons for the next five years. Naturally, in such instances, the timing may be determined by the government's view of its chances of victory. But governments may be forced into a position whereby they have no option but to seek a renewal of confidence by the country in their own policies.

Motion of no confidence

A government cannot operate effectively unless it can command a majority within the House of Commons. Should it fail to enjoy the confidence of the majority of the House, it has to hold a general election. For example, on 28 March 1979, the Conservative Opposition defeated the Labour Government by 311-310 votes on the motion "That this House has no confidence in Her Majesty's Government". Parliament was dissolved on 7 April, the General Election was won by the Conservatives on 3 May, with the new Parliament summoned to meet on 9 May 1979. Governments can also be forced into resignation or into calling a general election by being defeated in the debate on the Queen's Speech (its legislative programme for the session) as for instance on 21 January 1924, or losing its Finance Bill, or other major items of legislation on which it fought a general election campaign.

Death of the Monarch

Before the *Representation of the People Act 1867*, the death of the Monarch resulted in dissolution within 6 months, but under that Act Parliament continues to meet for as long as it would otherwise have done. Parliament meets immediately for Members to take the Oath to the new Sovereign, but does not conduct normal business for a few days. In February 1952, when King George VI died, Parliament was already in session and continued to meet each day for Members led by the Speaker to take the Oath and hear messages of condolences, until 11 February when, following the visit by the House to the lying-in-state in Westminster Hall, the Commons adjourned until 19 February.

If Parliament is in recess at the time of the Monarch's death, then it is immediately recalled. Should the death occur after a dissolution but before votes have been cast at a General Election, then polling day will be postponed by a fortnight (*Representation of the People Act 1985* s20), subject to those days that are disregarded by the Electoral Timetable (see Appendix 2, note 2).

Writs

Once dissolution has been announced, Writs of Elections are issued by the Clerk of the Crown in Chancery, and the Timetable (Appendix B) commences. These writs are the official notices to Acting Returning Officers that an election is to be held in their constituency. Writs also give the date on which Parliament is to be opened and forms for Returning Officers to complete to certify which Member has been elected.

At this time, the date of meeting for the new Parliament will also be announced. Although the Government continues in office, there cease to be any Members of Parliament, and former Members may not enter or use the facilities of the House during the election campaign.

Return book

At the beginning of the new Parliament, the Clerk of the Crown in Chancery will deliver a Return Book to the Clerk of the House of Commons (see Factsheet **G7**); in practice the Return Book is handed to the Clerk Assistant below the Bar of the House. This book contains the names of Members returned to serve in the Parliament and is sufficient evidence that a Member won a constituency seat at the General Election, and has the right to represent that constituency in Parliament.

Oath and affirmation

After the Speaker (see Factsheet **M2**) has been duly elected by the House and taken the Oath, Members (led by the Government and Opposition Front Benches) approach the Table of the House. Here they swear the Oath or take the Affirmation (see Appendix A for text) and sign the Test Roll. This was formerly a roll of parchment folded in the shape of a book, headed by the Oath or Affirmation, but is now a book with pages of parchment interleaved with pages of blotting paper. It remains in the possession of the Clerk of the House.

After signing the Test Roll, Members are introduced to the Speaker by the Clerk of the House. Once the majority of Members have been sworn in (this usually takes a few days), the House is properly constituted and ready to process to the House of Lords and hear the Queen's Speech. This speech outlines the Government's legislative programme for the session. It is not necessary for Members to be sworn in at the commencement of subsequent sessions of that Parliament, although there will, of course, be further Queen's Speeches at the opening of each session.

By-elections

A by-election occurs when a seat becomes vacant during the lifetime of a Parliament due to the resignation (see **Factsheet P11**), expulsion, elevation to the Peerage, bankruptcy, lunacy or death of the sitting Member. A by-election does not take place if a Member changes their political allegiance.

A statutory procedure exists under the *Mental Health Act 1959* (amended by the *Mental Health (Amendment) Act 1982*), whereby the seat of a Member detained on the grounds of mental illness can be declared vacant. On notification of such a detention, the Speaker authorises two specialists in mental disorders (appointed for the purpose by the President of the Royal College of Psychiatrists) to visit the Member. If they report that the Member is suffering from mental illness then, after six months have elapsed, the Speaker will again cause two specialists to visit the Member. If their subsequent report is the same, the seat becomes vacant. This procedure has never been used. Under the terms of the procedure laid down by the *Mental Health Act 1959*, the Writ for a by-election cannot be issued during a recess.

In session

If a vacancy occurs when the House is in session, the Motion for a new Writ is customarily moved by the Chief Whip of the party that formerly held the seat. Prior notice does not have to be given in the Order Paper of the House. The motion takes the following form:

"That the Speaker do issue the Warrant to the Clerk of the Crown to make out a new Writ for the electing of a Member to serve in this present Parliament for the (here is inserted the type, i.e. Borough, Burgh or County) Constituency of (name of constituency) in the room of (name of former Member and reason for by-election)."

The Writ is usually issued on the same day as the issue of the Warrant, and the Timetable (see Appendix B) commences.

There is no time limit within which a new Writ has to be issued following the vacancy occurring although, by convention, it is usually executed within three months. There have been instances of seats remaining vacant longer than six months before a by-election was called. Seats have also been left vacant towards the end of a Parliament to be filled at the subsequent general election.

The motion is generally moved without debate, although debate will occur if the motion is opposed when it can be voted on (and possibly defeated). The motion cannot be moved again (for the same constituency) within the same session of Parliament if it is defeated. It is possible for a Member belonging to a party other than that holding the seat to move such a motion. However this will involve debate, and, unless the Member can command enough support, the motion would be defeated. This method has been used in the past, typically in frustration at the delay of the sitting party at moving the writ, or as a Parliamentary tactic to attempt to delay or lose the day's business (or to make political capital out of a given situation). However, on 21 February 1990, the House agreed to a motion that if a writ was moved on a day when private Members' business had precedence, and was opposed, then debate on the motion would lapse, thereby saving the day's business.

While a vacant seat exists, the convention is that its constituency cases are handled by a Member from a neighbouring constituency who is of the same political party, although there are no formal rules governing such arrangements. When a new Member has been elected s/he takes on all outstanding matters.

In recess

If a vacancy occurs due to death or elevation to the Peerage during a recess, the Speaker has the authority, by the *Recess Election Act 1975*, to issue his warrant; any two MPs must certify that the seat is vacant and the Speaker gives six days notice in the London Gazette. If the vacancy occurs through the death of a Member, the warrant may not be issued unless the return of the election of the late Member has been reported to the office of the Clerk of the Crown at least fifteen days before the end of the last sitting of the House. Neither may the warrant be issued if, after taking into account the six days required notice in the London Gazette, the House would again be in session. In this instance the procedure described for vacancies occurring in session is applied.

The *Recess Election Act* procedure was used for the South Antrim by-election in September 2000. The sitting Member died in April 2000 and the House had risen for recess on 28 July, allowing the fifteen-day period to be completed. The notice was placed in the *London Gazette* by the Speaker on 15 August 2000, and the by-election took place on 21 September 2000.

If a vacancy occurs because a Member has resigned, the Speaker cannot issue a Warrant during a Recess. If the vacancy is because of bankruptcy as defined by the *Insolvency Act 1986*, and the order for bankruptcy is not removed in six months, the Speaker will issue the Warrant on receipt of a certificate of bankruptcy from the Court. A Member may continue to sit and vote during that six month period unless ordered to withdraw by the House.

At the beginning of a Parliament, the Speaker appoints between three and seven MPs for the duration of that Parliament to exercise his powers with reference to a warrant in recess should there be no Speaker or if the Speaker is absent from the UK. Should the number of Members fall below three, other Members will be appointed by the Speaker. Once these appointments are made, they are entered in the Journal of the House of Commons and published in the *London Gazette*.

The instrument of appointment is retained by the Clerk of the House and a duplicate kept by the Clerk of the Crown. Any one of the Members so appointed may exercise these powers if so required, but only the name of the first to do so is recorded in the *London Gazette* in each instance.

After a new Member has been elected, the Clerk of the Crown sends a certificate of return to the Clerk of the House. The new Member must obtain a receipt for the certificate from the public bill office. This must be produced at the Table before he or she can be sworn in.

Introduction of new Members

By a resolution of the House of 23 February 1688, Members returned at a by-election are customarily escorted into the Chamber by two fellow MPs, usually of the same party. The new Member then takes the Oath or Affirmation, signs the Test Roll, and is introduced by the Clerk of the House to the Speaker. The swearing-in of a new Member takes place after Questions, but before the main business of the day begins, so that he or she may take a full part in it.

A Member cannot vote or take part in debates in the House if he or she has not first been sworn in. Should the Member do so, they would be liable to a fine of £500 for each offence, and the seat would be declared vacant as if a death had occurred. Similarly, a Member may not draw a Parliamentary salary unless they have taken the Oath or Affirmation. Following an order agreed by the House on 18 December 2001 it was agreed that Members who have chosen not to take their seats are entitled to use the facilities within the Palace of Westminster and may receive staffing and other office costs allowances, including travel (see **Factsheet M5**).

For more details on the Parliamentary Oath see House of Commons Library Research Paper 01/116 *The Parliamentary Oath*.

<http://www.parliament.uk/commons/lib/research/rp2001/rp01-116.pdf>

Appendix A

Oath and Affirmation

The current wording of the Oath was established under the provisions of the *Promissory Oaths Act 1868*. The current form and manner of administering the Oath are prescribed by section 1 of the *Oaths Act 1978*, which prefaced the Oath with the phrase “*I swear by Almighty God...*”.

The usual wording of the oath is thus:

I swear by Almighty God that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth, her heirs and successors, according to law. So help me God.

The text of the *Promissory Oaths Act* specified Queen Victoria, although section 10 allows for the substitution of the name of the reigning Sovereign.

The Oath is said while holding a copy of the New Testament, or if a Jew, the Old Testament. Section 1(3) of the *Oaths Act 1978* permits persons of neither the Christian nor Jewish faiths to take the Oath “in any lawful manner”. For example, Moslems or Sikhs would be sworn in the usual manner except a Koran (in an envelope, to avoid it being touched by one not of the faith), or Granth would be substituted for the Bible.

There are, however, two further options available to Members. If a Member so chooses, the form of wording in the *Promissory Oaths Act* (without the 1978 prefatory phrase) can be used when swearing the Oath, in which case it would begin:

I do swear that I will be faithful ...

Members who object to swearing the oath are permitted by section 5 of the *Oaths Act 1978* (and also by Standing Order No 5) to make a “solemn affirmation”, the text of which is set out in section 6. The full wording of the Affirmation is:

I..... do solemnly, sincerely and truly declare and affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth, her heirs and successors, according to law.

The Oath or Affirmation must be taken in English, as set out in *Erskine May*, although the Speaker has allowed Members to recite Welsh and Gaelic forms as well.

Appendix B

The Electoral Timetable

Statutory electoral timetables for both general and by-elections are laid down in the Parliamentary Elections Rules appended to the *Representation of the People Act 1983*. The timetable was amended in the *Representation of the People Act 1985*. For the background to the timetable see House of Commons Library Research Paper 07/31.

General elections	Day of timetable	By-elections
Royal Proclamation and issue of writs	0	Issue of new writ
Receipt of writs	1	Receipt of writ
	2	
Last day for publication of notice of elections	3	Last day for publication of notice of election
Earliest day for nomination	4	Earliest day for nomination
	5	
Latest day for nomination	6	Earliest day for nominations to close
	7	
	8	Latest day for nominations to close
	9	
	10	
	11	
	12	
	13	
	14	
	15	Earliest polling day
	16	
Polling day	17	
	18	
	19	Latest polling day

Notes:-

(1) In the case of by-elections, the last day for nominations and polling day are fixed, within certain limits, by the Returning Officer.

(2) For the purposes of the timetable, Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday, a bank holiday, and any day appointed for public thanksgiving or mourning are disregarded.

(3) The latest possible date for the next General Election is Thursday 3 June 2010 (see House of Commons Library Research Paper 07/31 for details on how this is calculated).

Appendix C

Dates of General Elections since 1945

Day of election	Government Elected
Thursday 5 July 1945	Labour
Thursday 23 February 1950	Labour
Thursday 25 October 1951	Conservative
Thursday 26 May 1955	Conservative
Thursday 8 October 1959	Conservative
Thursday 15 October 1964	Labour
Thursday 31 March 1966	Labour
Thursday 18 June 1970	Conservative
Thursday 28 February 1974	Labour
Thursday 10 October 1974	Labour
Thursday 3 May 1979	Conservative
Thursday 9 June 1983	Conservative
Thursday 11 June 1987	Conservative
Thursday 9 April 1992	Conservative
Thursday 1 May 1997	Labour
Thursday 7 June 2001	Labour
Thursday 5 May 2005	Labour

It is customary for an election to be held on a Thursday. The last General Election held on a day other than a Thursday was Tuesday 27 October 1931.

Further reading

The Meeting of Parliament: a study of the law and practice relating to the frequency and duration of the United Kingdom Parliament
Robert Blackburn
Dartmouth, 1990

Election Timetables
House of Commons Library Research Paper 07/31

The Parliamentary Oath
House of Commons Library Research Paper 01/116

Guidance for Electoral Administrators
See Electoral Commission website
<http://www.electoralcommission.org.uk/about-us/guidancepub.cfm>

Contact information

House of Commons Information Office
House of Commons
London SW1A 2TT
Phone 020 7219 4272
Fax 020 7219 5839
hcinfo@parliament.uk
www.parliament.uk

House of Lords Information Office
House of Lords
London SW1A 0PW
Phone 020 7219 3107
Fax 020 7219 0620
hlinfo@parliament.uk

Education Services
Houses of Parliament
London SW1A 2TT
Enquiry line 020 7219 2105
Booking line 020 7219 4496
Fax 020 7219 0818
education@parliament.uk

Parliamentary Archives
Houses of Parliament
London SW1A 0PW
Phone 020 7219 3074
Fax 020 7219 2570
archives@parliament.uk

The Electoral Commission
Trevelyan House
Great Peter Street
London
SW1P 2HW
Phone: 020 7271 0500 (switchboard)
Fax 020 7271 0505
info@electoralcommission.org.uk
www.electoralcommission.org.uk

Factsheet M7 Parliamentary Elections

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