



FIXED-TERM PARLIAMENTS

Prepared by The Constitution Society
for the APPG on the Constitution

NOVEMBER 2010

Contents

1	PROPOSALS AT A GLANCE	3
2	POLICY HISTORY AND PASSAGE OF BILL	4
3	SOME ISSUES FOR DEBATE	5
4	USEFUL REFERENCES	7

1 Proposals at a glance

Current situation	Proposed changes
<p>No fixed-term. Parliament must be dissolved within 5 years of election.</p>	<p>5-year fixed-terms. A general election will be held every 5 years, ordinarily the first Thursday of May. The next general election will be 7th May 2015.</p> <p>The PM will be able to move the date by up to two months earlier or later if May is unsuitable.</p> <p>Early dissolution of Parliament will “re-set the clock” on the 5-year fixed term, unless it occurs within 1 year of the last general election.</p>
<p>The dissolution of Parliament is the monarch’s prerogative power. In reality, the Prime Minister decides when to call a General Election.</p>	<p>The monarch will lose the prerogative power. Dissolution will occur automatically.</p>
<p>In the event of a vote of no confidence, convention dictates that a Government must resign, <i>triggering the dissolution of Parliament</i>.</p> <p>Considerable discretion is involved in the definition of a vote of no confidence.</p>	<p>The early dissolution of Parliament will be triggered by:</p> <p><i>a) A vote of no confidence passed by a simple majority, followed by a 14 day period during which no other Government receives a vote of confidence.</i></p> <p><i>b) A vote for immediate dissolution passed by a two-thirds majority of all MPS, including vacant seats - 434/650 or 400/600¹.</i></p> <p>The definition of a vote of no confidence will be determined by the Speaker.</p>

¹ The two thirds majority replaced an original proposal for a vote of 55%.

2 Policy history and passage of Bill

2.1. Liberal Democrat manifesto:

Introduce fixed-term parliaments to ensure that the Prime Minister of the day cannot change the date of an election to suit themselves.

2.2. Conservative manifesto:

No specific reference to fixed-term parliaments.

2.3. Labour manifesto:

Introducing fixed-term parliaments as part of a radical reform of our democracy to reconnect politics to the people it should serve.

2.4. Coalition agreement:

We will establish five-year fixed-term Parliaments... dissolution [of Parliament] if 55% or more of the House votes in favour.

2.5. House of Commons debate, 5th July 2010:

The Government announced that the 55% requirement for early dissolution would be changed to a two thirds majority.

"Votes of no confidence and votes for early Dissolution are entirely separate ...we are putting in place safeguards against a lame-duck Government being left in limbo if the House passes a vote of no confidence but does not vote for early Dissolution."

2.6. Fixed-term Parliaments Bill **First Reading in the Commons:** 22nd July 2010

2.7. **Second Reading.** Bill passed with a majority of 288 votes: 13th September

2.8. **Committee Stage: 1st Sitting:** 16th November

Mark Harper announced that the Government would allow Devolved Assembly elections to be brought forward by up to six months in the event of a their being scheduled at the same time as a general election.

Amendment to reduce the length of the fixed term was defeated.

2.9. **Committee Stage: 2nd Sitting:** 24th November

Programme motion varied to allow an extra day for consideration at Commons Committee Stage.

Amendment to remove the provision for immediate dissolution of the House by support of two-thirds of MPs defeated.

3 Some issues for debate

3.1 Length of fixed term

3.1.1 Arguments in favour of four years:

- a) Professor Robert Hazell: 5 year terms are long by comparison with most other parliamentary systems and are not reflective of the length of UK Parliaments since the Second World War, most of which have lasted less than 4 years.

“Although the balance of Parliaments has been between four and five years, those that went the whole term were those governed by Prime Ministers who did not believe that they would win an election after four years.”²

- b) 4 year fixed-terms are the ‘norm’ in other areas of the UK. They are used in the Welsh Assembly, the Scottish Parliament, the Northern Ireland Assembly, the London Assembly, and London mayoral elections.
- c) The Political and Constitutional Reform Select Committee noted that much of the evidence it received was against the idea of a 5-year fixed parliamentary term.
- d) By lengthening the parliamentary term, many voters will partake less in democracy as they only engage at this national level.

3.1.2 Arguments in favour of five years:

- a) Nick Clegg in evidence to the PCRSC argued that:

“There is a pattern of five-year Parliaments, at least recently. Certainly, since the war there has been a pattern of Parliaments lasting. As I said, I think ten of the 17 or 18 since the war have lasted more than four years. Of the last five Parliaments, I think three of them have been for five years. The last Parliament was five years.”

- b) In debate at the Second Reading Clegg argued that a five year term is necessary to ensure a four year working period, since time is lost in the run up to elections.
- c) 5 years is the current maximum term and therefore should become the fixed norm.

3.2 How the five year term will interact with other electoral cycles in the UK.

3.2.1 Arguments against coincidence of Westminster and devolved Assembly elections:

- a) Coincidence may lead to confusion of the electorate. It was argued during Committee that the coincidence of Scottish Parliament and local elections in 2007 contributed to the 147,000 spoilt ballot papers recorded.

² Written evidence to the Political and Constitutional Reform Select Committee.

- b) The decoupling of Welsh Assembly and Westminster constituencies means that voters would be voting for different assemblies using different constituencies and different electoral systems on the same day.
- c) Nick Clegg stated at Second Reading that he was minded to amend proposals to avoid coincidence. Mark Harper reported at the first Sitting of the Committee that the Government would propose for devolved Assemblies to be given the power to move their elections by six months in the event of a scheduled coincidence.

3.2.2 Arguments in favour of coincidence:

- a) Cost benefit of holding elections on the same day.

3.3 The implications of a dual threshold for the early dissolution of Parliament.

3.3.1 Arguments in favour of a dual threshold for dissolution:

- a) Mark Harper argued at 2nd Sitting of Committee that the two-thirds majority was chosen because;

“It was the number used in the Scotland Act 1998, which set up the Scottish Parliament.”

“If a simple majority is required to have an early election, we do not have fixed-term Parliaments because if the governing party or parties have a majority in this House, they will simply be able to table a motion, their own side will support it and we will have an election whenever the Prime Minister chooses.”

3.3.2 Arguments against a dual threshold:

- a) The 'super' two-thirds majority vote for immediate dissolution is easily capable of being blocked by any party holding more than 33% of the votes in the House. In no general election since 1900 has the party forming the government or the principle party in a coalition achieved less than 41% of the total number of MPs.

3.4 The definition of a confidence motion and the possibility of the Speaker being involved in controversy.

3.4.1 Arguments in favour of a loose definition:

- a) In response to questions before the Lords Constitution Committee, Nick Clegg argued in favour of a loose definition:

“It is for the House and the Speaker to make his and its own determinations about what they consider to be a motion of no confidence. In a sense, we have provided the tramlines in this draft Bill, but at the same time, I clearly want to retain as much flexibility and autonomy as possible for the House to decide for itself how it then interprets that.”

3.4.2 Arguments in favour of a more constrained definition:

- a) The Speaker could become embroiled in controversy if the nature of a vote of no confidence is not closely defined.

- b) The system is more open to manipulation with a loose definition as a vote of no confidence could be engineered in order for a move to early dissolution to require the support of only a simple majority.
- c) There is concern that certificates of no confidence could be open to legal challenge, thus undermining parliamentary privilege.

3.5 Whether early dissolution should ‘reset the clock’ (begin a new fixed term).

3.5.1 Arguments in favour of “resetting the clock”

- a) The electorate expects to be electing a government for a full term.
- b) If a Government were elected with a large majority then it would make little sense for them to have to return to the polls
- c) If dissolution happened close to the end of a term, not resetting the clock would force two very close elections.

Arguments in favour of continuing the existing fixed term

- a) There would be no risk of Governments engineering no confidence votes to trigger an election when popular.
- b) It would create genuine fixed-terms, i.e. it would make the date of future elections entirely predictable and stop election and boundary review cycles getting out of kilter

4 Useful References

House of Commons Briefing Paper:

Fixed-term Parliaments Bill, August 2010

<http://www.parliament.uk/documents/commons/lib/research/rp2010/RP10-054.pdf>

The Constitution Unit, UCL:

Fixed-term Parliaments, August 2010

<http://www.ucl.ac.uk/constitution-unit/publications/tabs/unit-publications/150.pdf>