



Fixed term parliaments- early dissolution arrangements

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This Note is intended to be a companion to Library Standard Note 831 [Fixed Term Parliaments](#). It explains how fixed term parliaments operate in a number of other advanced democracies, both parliamentary and presidential. There is normally some mechanism which allows for an early election, but these differ, according to the constitution or procedural rules for each country. Some states have provision for a majority vote in parliament, precipitating an early general election, others allow for early dissolutions by constitutional conventions that are not clearly delineated.

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1 Background

Most democracies operate with some element of a fixed term Parliament, with arrangements for early election in certain circumstances. However there are differences according to the identity and role of the head of state, the nature of the constitution and electoral system, whether the parliament is bicameral, and other state specific features. It is important to note that there is not necessarily a neat dividing line between parliaments with fixed terms with set procedures for early elections and those without fixed terms. Rather, there is a sliding scale in which the extent to which the date of the next election can be predicted with any certainty varies considerably. The UK is at one end of this scale and the US can be seen as at the other.

There is also an important difference between those states with a fixed electoral cycle, where extraordinary elections are fitted in mid cycle, and those, such as Sweden, where an early election pre-empts the planned cycle and the clock starts again for a further three four or five year term. This is a disincentive to governments capitalising on favourable polling conditions by forcing premature elections. In Denmark, there is a moratorium on early dissolutions to prevent one taking place within a year of a new Parliament being re-elected. This prevents minority administrations from dissolving in order to bolster their positions.

The position in the UK, including the Scottish Parliament and the National Assembly for Wales, is described in Library Standard Note 831 [Fixed Term Parliaments](#). The Westminster Parliament must be dissolved within a maximum five year period under the *Septennial Act 1715* as amended, but early dissolutions are common and are at the discretion of the Prime Minister. In some other states, such as Australia, there is a similar emphasis on the expiry of Parliament through efflux of time, but more defined arrangements for dissolution in exceptional circumstances and for the election of a new parliament.

It is important to make a distinction between presidential and parliamentary systems. In parliamentary systems it is always possible to engineer a "constructive vote of no confidence" to trigger an election at the most convenient moment for the government. Finally, as Ben Seyd notes in *Coalition Government in Britain: Lessons from Overseas* the rules may be supplemented by more informal understandings or conventions about the appropriate procedures:

It is important to study the rules covering government formation and termination for a number of reasons. First, the mere existence of a distinct set of rules brings a certain clarity to the process. If government formation and termination is not covered by any rules these processes must of necessity be dictated either by convention, the role of an external figure (such as the Head of State) or political expediency.¹:

A key categorisation is the type of majority required for an early dissolution or a vote of no confidence. Seyd categorises Germany and Spain as having the most restrictive rules. For a vote of no confidence to succeed, a majority of all MPs (not just those voting) must pass the motion and the motion must be framed in a way which proposes a successor- known technically as a constructive no confidence provision. This motion does not lead to early dissolution, except in rare occasions when a Government manipulates the rules to force an early election. A variant is the system in Belgium in which the opposition may indicate a replacement when passing a no confidence motion. Here the person indicated may take office should the motion pass, but he is not bound to.

¹ *Coalition Government in Britain: Lessons from Overseas* Constitution Unit, University College London 2002

Other European democracies such as Greece, France, Portugal and Sweden, also require an absolute majority of all MPs to win a vote of no confidence i.e. a majority of all MPs. In Austria, Denmark, Ireland, Italy, Netherlands New Zealand, and Norway a Government can be defeated by a relative majority i.e. a majority of those MPs voting.

Early dissolutions are at the discretion of heads of state in a number of countries, and do not automatically follow a vote of no confidence. In France, it is at the discretion of the President who has been known to engineer an early dissolution at a moment of electoral advantage in 1997. The Prime Minister may tender his resignation on a vote of no confidence, but this has not in fact occurred since the early days of the Fifth Republic in 1962. What is much more common is for the President to form a new administration within the Parliament. Dissolution is therefore not constitutionally linked to a vote of no confidence.

In Germany, a dissolution following upon a successful constructive vote of no confidence is rare, since the constitution requires the Chancellor to call and lose a confidence vote before a dissolution is allowable. Normally a new government would be formed. However, these votes have been engineered, most recently in 2005, as described in the Standard Note. In Italy, the President has discretion to call an early dissolution if inter-party talks result in the failure to form a new Government and this has been a common occurrence. In Sweden, once a vote of confidence is lost by absolute majority, the Government may opt to declare a general election.

Some states refuse the incumbent Prime Minister any right to an early dissolution. A European example of this is Norway. Most place some obstacles. In Belgium an absolute majority of MPs must vote for a dissolution. In Austria and the Netherlands, a dissolution requires a majority of those voting. The practice in Austria is for the coalition agreement between parties to agree that a breakdown of the agreement would automatically lead to a new election.² Denmark has no formal limit on the power of the prime minister to gain a dissolution. In Ireland, Australia and Canada, the President or Governor General has reserve powers to refuse a dissolution request from the Prime Minister, if considered unreasonable, or to set a dissolution in train. This power is used only sparingly, as controversy results, for example in Australia in 1975. The normal practice in Ireland is for a government resignation to trigger a dissolution, but in 1994 there was a change of government without an election, after the President suggested that her constitutional role might require her to ask the junior coalition partner if an alternative government could be formed, rather than accede to an early dissolution.³

Canada and Japan appear to be closest to the current UK practice, which accords the Prime Minister considerable discretion in respect of an early dissolution. As the Standard Note relates, both current Prime Ministers have recently opted for early dissolution which was not forced by a no confidence vote.

2 Examples in Europe

1.1 France⁴

The National Assembly (the directly-elected lower house of parliament) is entirely renewed, in principle, every five years. Thus the powers of the National Assembly expire “on the third

² *Coalition Governments in Western Europe* ed Wolfgang Muller and Kaare Strom (2000) p103

³ *Coalition Government in Britain: Lessons from Overseas* Ben Seyd p51

⁴ See Assemblée nationale, *The National Assembly in French Institutions* (undated; viewed 26 March 2010)

Tuesday of June of the fifth year following its election” and general elections must take place within the sixty days preceding this date.⁵

In addition, the President of the Republic may decide to exercise the right to dissolve the National Assembly, granted to him by article 12 of the Constitution. Before declaring the National Assembly dissolved, the President must consult the Prime Minister and the Presidents of the two assemblies. The Prime Minister may call upon the President to dissolve the National Assembly. The Constitution sets three limits on dissolution; it may not be declared:

- During an interim presidency;
- During the implementation of emergency powers (article 16 of the constitution); or
- During the twelve months following a previous dissolution.

Although it was originally foreseen either as a means to solve a serious crisis by asking the opinion of the people or as a way of deciding or preventing a disagreement with the National Assembly, dissolution has only been used twice for such reasons (1962 and 1968). In the three other cases, it was declared by the President of the Republic either at the beginning of a term to gain a majority in the National Assembly which would support his policies (1981 and 1988) or to bring forward an election to a moment considered more advantageous (1997).

Once the National Assembly has been dissolved, a general election must take place between 20 and 40 days later.

The Senate is elected for six years by indirect universal suffrage by a college of around 150,000 grand electors (95% of whom are the delegates of municipal councils). As opposed to the National Assembly, which is totally re-elected each election, half the Senate is renewed every three years. The constitution provides no power to dissolve the Senate.

The President of the Republic is elected for five years by direct, universal suffrage.⁶ The election takes place between twenty and thirty-five days before the expiry of the term of the President of the Republic in office. The end of the term may be brought forward in the case of the death, resignation or dismissal of the President of the Republic (the vacancy is so declared by the Constitutional Council) or in the case of permanent incapacity of the President (the matter is referred to the Constitutional Council by the Government and the former must declare the incapacity permanent by an absolute majority of its members). The official election campaign lasts one month. It opens two weeks before the first round and continues during the two weeks which separate the two rounds. In practice, the debates begin well before the official opening of the campaign. The election is held according to a two-round majority system. Only the first two candidates after the first round go forward to compete in the second round. This second round is held two weeks after the first.

The Prime Minister can tender the resignation of the government in four circumstances:

⁵ Institutional Law no. 2001-419 of May 15, 2001

⁶ Article 6 of the Constitution

- As the result of a vote of no confidence by the National Assembly on the Government's programme or on a statement of its general policy⁷ (such a case has not, as yet, occurred) or of the adoption of a censure motion⁸ (this procedure was used in 1962);
- Systematically (following a presidential election);
- Voluntarily (in the wake of general elections or as a means of carrying out a large-scale ministerial reshuffle without actually changing the Prime Minister);
- By obligation and thus tantamount to dismissal by the President of the Republic (this case is only possible when the two heads of the executive belong to the same political family).

2.1 Germany

The 1949 German Constitution, the *Grundgesetz* (Basic Law), provides that the Chancellor (*Bundeskanzler*) may only be removed from office by a majority vote of Parliament (the *Bundestag*) if a prospective successor also has the support of a majority. A motion of no confidence must contain a proposal for the election of a new Federal Chancellor and be signed by a quarter of the Members of the Bundestag or by a parliamentary group, which comprises at least a quarter of the Members.⁹ The relevant constitutional provisions are as follows:

- | | |
|------------|---|
| Article 67 | <p>(1) The Bundestag can express its lack of confidence in the Federal Chancellor only by electing a successor with the majority of its members and by requesting the Federal President to dismiss the Federal Chancellor. The Federal President must comply with the request and appoint the person elected.</p> <p>(2) Forty-eight hours must elapse between the motion and the election.</p> |
| Article 68 | <p>(1) If a motion of a Federal Chancellor for a vote of confidence is not assented to by the majority of the members of the Bundestag, the Federal President may, upon the proposal of the Federal Chancellor, dissolve the Bundestag within twenty-one days. The right to dissolve shall lapse as soon as the Bundestag with the majority of its members elects another Federal Chancellor.</p> <p>(2) Forty-eight hours must elapse between the motion and the vote thereon.</p> |

The failure of a Motion of Confidence does not automatically force either the resignation of the government or a new election. The government may continue as a minority government if the opposition is unable to agree to a successor via a constructive vote of no confidence. The legislature may not dissolve itself. In the event of the failure of such a motion of confidence, the Chancellor can ask the Federal President to dissolve the Bundestag or to call the Legislative State of Emergency (*Gesetzgebungsnotstand*).

In 2005 there was an unexpected election in Germany, as an election was not due until late 2006.¹⁰ The then Chancellor Schröder contrived to lose a vote of confidence on 1 July, with

⁷ Article 49, paragraph 1 of the Constitution

⁸ Article 49, paragraph 2 of the Constitution

⁹ German Bundestag [Motions](#)

¹⁰ *Representation* Volume 42, Number 1, April 2006

most of his ministers abstaining. He asked the President to grant a dissolution of parliament under Article 68 This was granted, but a number of smaller political parties protested and took a case to the Federal Constitutional Court which did not make a decision until 18 August, in favour of dissolution.

The Upper House (*Bundesrat*) cannot be dissolved.

2.2 Italy

Both the Chamber of Deputies and the Senate nominally have a five-year term. However, the President has the power to dissolve one or both chambers early, after having consulted their speakers (1948 Constitution, Article 88). The Prime Minister has no formal role in this dissolution. Elections are called by the President and must take place within seventy days of the dissolution, and the first session of parliament (which is also called by the President) has to take place within 20 days of the elections. The previous chambers retain their powers until the new chambers meet (1948 Constitution, Article 61).

The Italian parliament has been dissolved early seven times in the last 40 years. Most recently, in 2008 the then Prime Minister Romano Prodi lost a vote of confidence in the Senate on 24 January. On 30 January, President Giorgio Napolitano asked Senate President Franco Marini to form an interim government; but former Prime Minister Berlusconi and some other parliamentarians insisted that the country should have snap elections instead. Following unsuccessful talks to form an interim government, President Napolitano dissolved the parliament on 6 February 2008 and elections followed on 13 and 14 April 2008 – three years earlier than they were constitutionally due.

The President is elected for seven years by the parliament sitting jointly with a small number of regional delegates. In the case of permanent inability, death, or resignation of the president, the speaker of the Chamber of Deputies calls presidential elections within fifteen days unless more time is needed because the chambers are dissolved or their term is expiring within three months.

The Prime Minister (literally ‘President of the Council of Ministers’) is appointed by the President. The Prime Minister then nominates the other members of the Council of Ministers for appointment by the President. According to the 1948 constitution, the Government has to enjoy the confidence of both chambers, which is granted or withdrawn by each chamber on a reasoned motion by vote using a roll-call (Article 94). The instability of Italy’s governing coalitions leads to frequent changes of government, only some of which follow fresh elections: from 1945 to 1988 there was a new government every eleven months, on average.¹¹

2.3 Sweden

Early dissolution is possible. According to information from the Swedish Parliament, if the Riksdag no longer has confidence in a minister or in the prime minister it can decide to make a declaration of no confidence.

The Instrument of Government, which forms part of the Swedish constitution, [chapter 12, art. 4](#) states the following:

¹¹ Paul Furlong, “Government stability and electoral systems: the Italian example”, *Parliamentary Affairs*, 1991

The Riksdag may declare that a minister no longer enjoys the confidence of the Riksdag. Such a declaration of no confidence requires the concurrence of more than half the total membership of the Riksdag.

A motion calling for a declaration of no confidence shall be taken up for consideration only if raised by at least one tenth of the members of the Riksdag. It is not taken up for consideration during the period between the holding of an ordinary election, or the announcement of a decision to call an extraordinary election, and the date on which the Riksdag elected in such an election convenes. A motion relating to a minister who has remained at his post, under Chapter 6, Article 8, after having been formally discharged, may not in any circumstances be taken up for consideration.

A motion calling for a declaration of no confidence shall not be prepared in committee.

Consequently at least 175 members – just over half the members [the Riksdag has 349 members¹²] – must vote in favour of a declaration of no confidence if the Riksdag is to declare that the Government or a minister no longer has its confidence.

If the members of the Riksdag vote in favour of a declaration of no confidence in the Prime Minister, the entire Government has to resign unless it opts for an extraordinary general election instead. If the members of the Riksdag vote in favour of a declaration of no confidence in a minister the minister must resign.

In addition, it appears that the Government can order an extraordinary election by decree. The Instrument of Government, [chapter 3, art. 4](#) states the following:

The Government may order an extraordinary election for the Riksdag to be held between ordinary elections. An extraordinary election is held within three months from the issue of such an order.

After an election for the Riksdag has been held, the Government is debarred from calling an extraordinary election until three months from the date on which the newly-elected Riksdag first convened. Neither may the Government call an extraordinary election while ministers remain at their posts, after all have been formally discharged, pending assumption of office by a new Government.

2.4 Spain

The Spanish Parliament, the *Cortes Generales*, is made up of a lower house, the Congress of Deputies, and an upper chamber, the Senate.

The constitutional provisions for the Spanish parliamentary terms are set out in the 1978 Constitution as follows:

Section 68

(4) The Congress is elected for four years. The term of office of Members thereof ends four years after their election or on the day on which the Congress is dissolved.

(6) Elections shall take place between thirty and sixty days after the end of the previous term of office. The Congress so elected must be convened within twenty-five days following the holding of elections.

¹² Riksdag, [Riksdag basics](#)

Section 69

(6) The Senate is elected for four years. The Senators' term of office shall end four years after their election or on the day on which the House is dissolved.

It is incumbent on the monarch to summon and dissolve the *Cortes* under Section 62 of the Constitution.

Section 99 of the Constitution provides for the *Cortes* to be dissolved in the event of no majority being obtained for the prime ministerial candidate following elections. Part (5) states that "If within two months of the first vote for investiture no candidate has obtained the confidence of the Congress, the King shall dissolve both Houses and call for new elections, with the countersignature of the Speaker of the Congress".

The Government and the *Cortes* sit for a term no longer than four years, at the end of which the Prime Minister (*presidente*, thus often referred to as the president rather than prime minister) tenders his resignation to the King and advises the King to dissolve the *Cortes*, prompting a general election. It is within the King's prerogative to dissolve the *Cortes* if after four years the prime minister has not asked for its dissolution. The prime minister may call for earlier "snap" elections, but not earlier than a year after the previous general election.

A prime minister may request a vote of confidence from the Congress of Deputies at any time. If s/he fails to achieve this, both Houses of parliament are dissolved and new elections are called. Dissolution follows a discussion in the Council of Ministers and needs the prime minister's signature (section 56 of Constitution). The constitutional provisions for a vote of confidence and subsequent dissolution are as follows:

Section 112

The President of the Government, after deliberation by the Council of Ministers, may ask the Congress for a vote of confidence in favour of his or her programme or of a general policy statement. Confidence shall be deemed to have been obtained when a single majority of the Members of Congress vote in favour.

Section 113

1. The Congress may require political responsibility from the Government by adopting a motion of censure by overall majority of its Members.
2. The motion of censure must be proposed by at least one tenth of the Members of Congress and shall include a candidate for the office of the Presidency of the Government.
3. The motion of censure may not be voted until five days after it has been submitted. During the first two days of this period, alternative motions may be submitted.
4. If the motion of censure is not adopted by the Congress, its signatories may not submit another during the same period of sessions.

Section 114

1. If the Congress withholds its confidence from the Government, the latter shall submit its resignation to the King, whereafter the President of the

Government shall be nominated in accordance with the provisions of section 99.

2. If the Congress adopts a motion of censure, the Government shall submit its resignation to the King, and the candidate proposed in the motion of censure shall be deemed to have the confidence of the House for the purposes provided in section 99. The King shall appoint him or her President of the Government.

Section 115

1. The President of the Government, after deliberation by the Council of Ministers, and under his or her sole responsibility, may propose the dissolution of the Congress, the Senate or the Cortes Generales, which shall be proclaimed by the King. The decree of dissolution shall set a date for the elections.

2. The proposal for dissolution may not be submitted while a motion of censure is pending.

3. There shall be no further dissolution until a year has elapsed since the previous one, except as provided for in section 99, subsection 5.

Under Section 116 the Parliament cannot be dissolved in the case of a state of alarm, emergency or siege (martial law), and under Section 168, it must be dissolved if a total revision of the Constitution is proposed and approved by a two-thirds majority of the members of each House.

3 United States and Japan

3.1 United States

The US Constitution does not allow for the dissolution of Congress at all, since there is a separate executive in the form of the President.¹³ Richard M. Pious describes how the President may be removed in "The Powers of the Presidency":

Impeachment and removal

The most important checks on the president involve the "auxiliary precautions" of impeachment and removal for "high crimes and misdemeanors." This is a term of art taken from British practice, based on the Commentaries on the Law of England of Lord Blackstone. According to Blackstone, a "high crime" meant a crime against the state, such as treason, while a "high misdemeanor" referred to significant corruption and maladministration. The American constitutional system does not contemplate removal for losing the confidence of the legislature (such as is implied in losing a vote of confidence in a parliamentary system).

A president is impeached (equivalent to being indicted) by a majority vote of the House of Representatives. Thereafter he is tried in the Senate, with the Chief Justice of the United States presiding. Punishment extends only to removal from office, though a president may be indicted and tried in a court of law whether or not he is convicted or acquitted in his impeachment.

The framers assumed that by making impeachment difficult it would rarely be utilized, and they were right. There have only been three presidents in American history who

¹³ Robert Blackburn *The Electoral System in Britain* p64

faced impeachment: Andrew Johnson was acquitted by one vote in 1868 for violating the Tenure of Office Act (which purported to prevent the president from firing a cabinet secretary until the Senate consented to a successor); Richard Nixon resigned in 1974 after the House Judiciary Committee recommended his impeachment for covering up crimes connected to the Watergate burglaries; Bill Clinton was acquitted by the Senate in 1999 after being impeached by the House of Representatives for perjury and obstruction of justice in his testimony in a civil court suit.¹⁴

3.2 Japan

The lower House of Representatives is in practice dissolved by the Prime Minister, with the approval of the Cabinet, although formally, the Emperor dissolves the House of Representatives on receipt of advice to do so. The Emperor has no discretion to refuse that advice. Unlike other constitutional monarchies, including the UK, the Emperor retains no reserve powers (or prerogatives), including with regard to refusing to dissolve parliament. The 1947 Constitution clearly states that sovereignty resides entirely in the people of Japan. On the dissolution of the House of Representatives, the upper house of councillors normally then closes, although it can be convoked after dissolution in a time of national emergency.

The Prime Minister must dissolve the House of Representatives at the end of the four-year fixed term but may also do so earlier; in practice, it has been the rule for dissolutions to occur before the four years are out. With regard to the latter circumstance, if the Cabinet has lost a vote of no confidence in the House of Representatives, the Cabinet as a whole must resign or the House must be dissolved and a new election called. But the Cabinet does have considerable discretion in the matter. For example, in July 2009, Prime Minister Taro Aso dissolved Parliament despite having recently defeated an opposition vote of no confidence resolution in the lower house. Dissolution can also be a way of pre-empting such an opposition vote. The less powerful house of councillors has no powers to hold a vote of no confidence.

4 Westminster Parliaments

4.1 Australia

Australia has a parliamentary system, with limited reserved powers granted to the Governor-General. A three year term operates for the House of Representatives, but early dissolution is possible. The Senate has a 6 year term and just over half of its members are elected at the time of each general election for the House of Representatives. The Australian Constitution (the *Commonwealth of Australia Constitution Act*) provides that the Governor-General can dissolve Parliament at any time:

The Governor-General may appoint such times for holding the sessions of the Parliament as he thinks fit, and may also from time to time, by Proclamation or otherwise, prorogue the Parliament, and may in like manner dissolve the House of Representatives.¹⁵

As in the UK, the Governor-General (the Queen's representative) would only dissolve the House of Representatives on the advice of the Prime Minister:

... while it is the prerogative of the Crown to dissolve the House of Representatives, the exercise of the power is subject to the constitutional convention that it does so only on the advice and approval of a Minister of State, in practice the Prime Minister, directly

¹⁴ [Democracy Papers](#), US Department of State

¹⁵ [Commonwealth of Australia Constitution Act](#) chapter 1,

responsible to the House of Representatives. The granting of dissolution is an executive act, the ministerial responsibility for which can be easily established.¹⁶

Given the relatively short three year term, early dissolutions are rare. The actions of the then Governor General, Sir John Kerr, in dismissing the Prime Minister in 1975 and precipitating a general election, remain controversial. Australia has a bicameral Parliament and there are special procedures for when both Houses cannot agree on the passage of a bill. This is known as double dissolution. The Governor-General may dissolve the Senate and the House of Representatives simultaneously on the advice of the Prime Minister, as long as there is more than six months before the date at which the House of Representatives would be expected to dissolve through efflux of time.¹⁷

4.2 New Zealand

New Zealand has a unicameral Parliament. A proportional representation system of election (Mixed Member Proportional) was introduced in 1996, resulting in a series of coalition or minority Governments. Government formation does not require a formal vote in Parliament, unlike the position in the Scottish Parliament, where the First Minister needs to obtain the votes of the majority of MSPs to be appointed. There is a three year term under the *Constitution Act 1986*:

Term of Parliament

17 (1) The term of Parliament shall, unless Parliament is sooner dissolved, be 3 years from the day fixed for the return of the writs issued for the last preceding general election of members of the House of Representatives, and no longer.¹⁸

Early dissolution is possible. Article 18(2) of the *Constitution Act 1986* provides that “The Governor-General may by Proclamation prorogue or dissolve Parliament”.¹⁹ In practice, as this Factsheet from the New Zealand Parliament notes, this is at the instance of the Prime Minister:

The Governor-General normally brings a parliamentary term to an end. In accordance with convention, this action is taken on the formal advice of the Prime Minister, resulting in a proclamation dissolving Parliament – referred to as a ‘dissolution’. By convention, the Governor-General then proclaims a date on which the new Parliament will be summoned to meet. This proclamation is likely to be superseded on advice by the new Government (see ‘Parliament summoned’ below). However, it is an important constitutional safeguard and signifies the intention to maintain democratic institutions.²⁰

In theory, the Governor General would have the option to canvass support for an alternative Government before granting an early dissolution to a Prime Minister whose coalition had disintegrated. There is no requirement for a special majority in Parliament before a dissolution is granted. Elections have been held at 3 year intervals although the then Prime Minister retains power on the timing of the dissolution, Helen Clark for example called an election a few months early in June 2002. The Labour Party was returned with an increased majority. There has not been an election since 1996 which has had to be held following a vote of no confidence.

¹⁶ House of Representatives, *House of Representatives Practice*, 5th Edition, p7

¹⁷ See Australian Parliamentary Library Research Note no 45 2002-3 *The Double Dissolution Process: questions and references* <http://www.aph.gov.au/library/pubs/RN/2002-03/03rn45.htm>

¹⁸ Ibid,

¹⁹ New Zealand Legislation: *Constitution Act 1986* Article 18(2)

²⁰ *Parliament Brief: Parliament and the general election New Zealand Parliament* 14 October 2008

4.3 Canada

Canada was one of the few advanced democracies without a fixed term parliament until 2007. Until then, a sitting government could choose any date for an election as long as it was less than five years after the writs were returned for the previous election; unless it was defeated by a no-confidence motion. The Prime Minister requested a dissolution from the Governor General. By convention, elections were held every four years, and called at the instance of the governing party, as in the UK.

Bill C-16, *An Act to Amend the [Canada Elections Act](#)* was passed by both Houses in May 2007. It required that each general election should take place on the third Monday in October, in the fourth calendar year after the previous poll, starting with October 19, 2009.²¹

The Constitution Unit summarised the drivers behind the changes as follows:

The aim was to stabilise government during a period of frequent minority governments, and to remove the government's unfair advantage in choosing the timing of the election. The law did not alter the Governor General's reserve power to dissolve parliament, which would have required a constitutional amendment. A year later the Prime Minister sought a dissolution one year before the end of the fixed term, when his party's poll ratings had temporarily increased. The Governor General, relying on her reserve powers, granted [Prime Minister] Harper's request.²²

In practice, as the Unit notes, it seems that the Canadian law only fixes the maximum term, leaving the Prime Minister free to call an election at other times.

²¹ See a briefing from the Canadian Parliamentary Library for full details May 2007 LS 53 OE http://www2.parl.gc.ca/Sites/LOP/LegislativeSummaries/Bills_ls.asp?lang=E&ls=c16&source=library_prb&Parl=39&Ses=1

²² *General Election 2010: Constitution Unit Guide Fixed Term Parliaments* April 2010