



BRIEFING PAPER

Number 06111, 27 April 2017

Fixed-term Parliaments Act 2011

By Richard Kelly

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Summary

The [Fixed-term Parliaments Act 2011](#) received Royal Assent on 15 September 2011 and came into force on that day. The Act has a major impact on the timing of parliamentary elections in the UK. It removed the prerogative power of the Queen, on the advice of the Prime Minister, to dissolve Parliament and trigger a general election. The Act set the date of the general election on 7 May 2015 and provided that thereafter general elections are scheduled to take place on the first Thursday in May in every fifth year. The next election was scheduled to take place on 7 May 2020.

However, on 19 April 2017, in accordance with the Act, the House of Commons agreed a motion "That there shall be an early parliamentary general election". On 18 April 2017, the Prime Minister announced that she planned to call an early election on 8 June 2017. A proclamation, announcing that the general election would take place on 8 June 2017, was issued on 25 April 2017, so Parliament will dissolve on 3 May 2017.

The Act specifies that early elections can be held only:

- if a motion for an early general election is agreed either by at least two-thirds of the whole House or without division; or
- if a motion of no confidence is passed and no alternative government is confirmed by the Commons within 14 days.

After the election on 8 June, the next general election is scheduled to take place on 5 May 2022.

The Act itself does not affect the operation of parliamentary sessions but from the spring of 2012, sessions have run from spring to spring.

Because elections to the Scottish Parliament and the National Assembly for Wales were scheduled for 7 May 2015, the Act provided for these elections to be held on 5 May 2016, extending the normal four year term to five years. Subsequent elections to the Scottish Parliament will revert to four yearly intervals. But section 1(1) of the *Wales Act 2014* provides that subsequent elections to the NAW will take place in every fifth year. The Act did not specify an election date for the Northern Ireland Assembly, but section 7 of the *Northern Ireland (Miscellaneous Provisions) Act 2014* postponed the elections to 2016 and provided that subsequent elections will take place in every fifth year thereafter.

[Explanatory Notes](#) to the Act are available and are referred to in this Briefing Paper.

1. Background

Until the passage of the *Fixed-term Parliaments Act 2011*, the legislation governing the maximum term of the UK Parliament was the *Septennial Act 1715*, as amended by the *Parliament Act 1911*. This set the maximum length of a Parliament at five years.¹ The *Fixed-term Parliaments Act 2011* sets a maximum time period between elections, rather than the actual length of the Parliament.

Proposals to reduce the likelihood of an early dissolution of Parliament were a key element of the 2010 Coalition Agreement between the Conservatives and the Liberal Democrats.² Initially the Coalition's Programme for Government proposed a procedure for early dissolution on a vote of 55 per cent of the membership of the House of Commons by resolution of the House alone, but in the event the Government decided to move straight to legislation.³

During its passage, the Bill was subject to considerable criticism, particularly in the Lords. Members argued that such important constitutional legislation should have been subject to pre-legislative scrutiny. There was also criticism that the main motivation for the legislation was to sustain the Coalition Government for a full parliamentary term and that the proper length of term should be four years, not five.

¹ Further information is given in House of Commons Library Research Paper, [Election Timetables](#), RP 15/11, 4 March 2015

² House of Commons Library Research Paper, [Fixed Term Parliaments Bill](#), RP 10/54, 26 August 2010 describes the coalition commitment in detail

³ The initial Bill and changes made to it during its passage through Parliament are described in House of Commons Research Paper, [Fixed Term Parliaments Bill: Commons stages](#), RP 11/09 and House of Commons Library Standard Note [Fixed Term Parliaments Bill - Lords Stages](#), SN05932

2. Fixed-term Parliaments

2.1 Five year fixed-term elections

Section 1 of the *Fixed-term Parliaments Act 2011* set the date of the subsequent UK general election as Thursday 7 May 2015. Thereafter, polling days would be on the first Thursday in May in the fifth calendar year. There is provision for the Prime Minister to make an order to extend this date for a maximum of two months to deal with unexpected developments. He/she must set out the reasons for the delay, and such an order must be approved by both Houses of Parliament before it can be made. One precedent is the foot and mouth disease outbreak in 2001 which delayed local elections by one month. (In 2001, the general election was held on the same day as the delayed local elections.)

Where an early election has taken place (see below), the next election will generally take place five years later. The only exception is where an early election is held before the first Thursday in May in an election year, in these circumstances, the next general election will be held on the first Thursday in May in the fourth year from the previous election. This means that Parliaments cannot extend beyond five years and that the normal cycle is restored to five years.

Following approval in the House of Commons for an early election, the next election is scheduled to take place on 8 June 2017; Parliament will be dissolved on 3 May 2017.

2.2 Early elections

Section 2 of the Act provides for early general elections when either of the following conditions is met:

- if a motion for an early general election is agreed either by at least two-thirds of the whole House (including vacant seats), i.e. 434 Members out of 650, or without division; or
- if a motion of no confidence is passed and no alternative government is confirmed by the Commons within 14 days by means of a confidence motion.

There were detailed discussions about the constitutional implications of these triggers during the passage of the Bill. Some commentators and Members of both Houses questioned whether both options were necessary, and argued that the legislation would allow for constructive votes of no confidence (where an incumbent government triggers an early election through tabling a motion of no confidence in itself).⁴

Initially, the Bill provided for no confidence motions to be certified as such by the Speaker, given that there was no set formula for confidence motions. This provision was removed, following concerns that the legislation would make the Speaker's consideration of confidence motions and the practices of the House questions for the courts, which could be drawn into matters of acute political controversy. Instead, the

⁴ These points are explored in the relevant Library briefings: House of Commons Research Paper, [Fixed Term Parliaments Bill: Commons stages](#), RP 11/09 and House of Commons Library Standard Note [Fixed Term Parliaments Bill - Lords Stages](#), SN05932

Act now provides for a set formula to be used. Firstly, the form of the motion would be:

“That this House has no confidence in Her Majesty’s Government”.

If this motion is carried, there is a 14 calendar day period in which to form a new Government, confirmed in office by a resolution as follows:

“That this House has confidence in Her Majesty’s Government”

If a new Government cannot be formed within this time period, then dissolution is triggered. There is no provision for an extension of the 14 day period. Dissolution need not follow immediately on a triggering event, as section 2(7) allows for the Prime Minister to recommend a suitable polling day to the Crown. A proclamation for a new Parliament can then be issued.

The Act also specifies the form of the motion for the purposes bringing about an early general election:

“That there shall be an early parliamentary general election”.

This procedure was used on 19 April 2017, following Prime Minister Theresa May’s announcement, on 18 April 2017, that she planned to call an early election which would be held on 8 June 2017.⁵

A proclamation, announcing that the general election would take place on 8 June 2017, was issued on 25 April 2017,⁶ so Parliament will dissolve on 3 May 2017.

2.3 Dissolution of Parliament

The *Fixed-term Parliaments Act 2011* removed the prerogative power to dissolve Parliament. The Act also prohibits the Crown from dissolving Parliament except in accordance with the legislation. In *Constitutional & Administrative Law* (7th edition), Neil Parpworth noted that “as a consequence of the *Fixed-term Parliaments Act 2011*, the power to dissolve Parliament no longer vests with the monarch”.⁷ Now Parliament is dissolved at the beginning of the 25th working day before polling day.⁸ (Parliament may be prorogued before it is dissolved, see section 3.7.)

Before the passage of the Act, a proclamation announced the dissolution of Parliament and set the date of meeting of the new Parliament.⁹ The Act specifies that once Parliament has been dissolved, “Her Majesty may issue the proclamation summoning the new Parliament”. In 2015, following the dissolution of Parliament on 30

⁵ BBC News, [Theresa May to seek general election on 8 June](#), 18 April 2017

⁶ “Proclamations”, *The Gazette*, 25 April 2017

⁷ Neil Parpworth, *Constitutional & Administrative Law*, 7th edition, 2012, para 4.23

⁸ Section 3 of the Act had provided for a 17 working day election timetable, not including the day of dissolution, but that was extended to 25 working days by section 14 of the *Electoral Registration and Administration Act 2013*. See Library Standard Note 6574, [Timetable for the UK Parliamentary general election](#) for further details

⁹ For example, “[Dissolution Proclamation](#)”, *The London Gazette*, Supplement No 1, 12 April 2010

March (by Act), a Royal Proclamation was issued on 31 March calling a new Parliament to meet on 18 May 2015.¹⁰

The responsibility for sealing and issuing the writs for the election becomes a statutory responsibility of the Lord Chancellor and the Secretary of State for Northern Ireland.¹¹

Previously, following the proclamation dissolving Parliament and summoning a new Parliament, an Order in Council was made requiring the issue of writs for a parliamentary election of a new Parliament.¹² The Parliamentary Election Rules state that “Writs for parliamentary elections shall continue to be sealed and issued in accordance with the existing practice of the office of the Clerk of the Crown”.¹³

2.4 Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly elections

From their establishment in 1999, both the Scottish Parliament and the National Assembly for Wales (NAW) held elections on a four year fixed-term cycle and both were due to hold elections on 7 May 2015. When the *Fixed-term Parliaments Bill* was first introduced, the devolved Governments in Scotland and Wales expressed concerns about these elections being held on the same day as a UK general election. Following discussions, the Government tabled two new clauses, which were added to the Bill, to delay their elections until 2016. The *Fixed-term Parliaments Act 2011* also provided that both institutions would revert to a four year term after 2016.

Although the Scottish Parliament has reverted to four year terms, section 1(1) of the *Wales Act 2014* provides that subsequent elections to the NAW will take place in every fifth year.

No provision was made in the Act for the Northern Ireland Assembly, where elections were also due on 7 May 2015. However, section 7 of the *Northern Ireland (Miscellaneous Provisions) Act 2014* subsequently postponed the Assembly’s elections to 2016 and provided that subsequent elections will take place in every fifth year.¹⁴

¹⁰ [“Proclamation: By the Queen a Proclamation for Declaring the Calling of a New Parliament – Elizabeth R”](#), *The Gazette*, 31 March 2015

¹¹ *Fixed-term Parliaments Act 2011* (chapter 14), section 3(3)

¹² Justice Committee, [Constitutional processes following a general election](#), 29 March 2010, HC 396 2009-10, Ev 24 [para 7 of Chapter 6 of the Proposed Cabinet Manual]

¹³ *Representation of the People Act 1983* (chapter 2), Schedule 1, para 3

¹⁴ For further information, see House of Commons Library Research Paper, [Northern Ireland \(Miscellaneous Provisions\) Bill 2013-14](#), RP 13/38

3. Other areas of policy

3.1 Review of the operation of the Act

Section 7 of the Act requires the Prime Minister to make arrangements between June and November 2020 for a committee to carry out a review of the operation of the Act. If appropriate, the committee is to make recommendations for the repeal or amendment of the Act, and the Prime Minister must make arrangements for the publication of the committee's findings and recommendations. A majority of the members of the committee are to be MPs. This provision was added to the Bill at a late stage when the Lords finally agreed to Commons amendments. At Report Stage, the House of Lords had inserted "sunrise provisions" which would have required both Houses of Parliament to adopt the provisions of the Act after each election. During ping-pong, the House of Lords agreed to remove the sunrise provisions and accepted that the Act be reviewed by a committee.

3.2 Election expenses

The *Political Parties and Elections Act 2009* amended the *Representation of the People Act 1983* and introduced limits on constituency campaign expenditure if "a Parliament is not dissolved until after the period of 55 months beginning with the day on which that Parliament first met".¹⁵

When the legislation was enacted, it was envisaged that these limits would be needed only exceptionally. The introduction of fixed-term Parliaments has made these a normal feature of election expenditure and will regulate the expenditure of candidates in the six months before the election. The 2010 Parliament first met on 18 May 2010, the 56th month of its lifetime began on 19 December 2014. From that point onwards pre-candidacy election expense limits applied. For the general election, scheduled for May 2022, pre-candidacy election expense limits will apply from 14 January 2022, as the current Parliament is to be summoned to meet on 13 June 2017.

3.3 Boundary changes

The *Parliamentary Voting Systems and Constituencies Act 2011* (PVSC Act) provided for a review of constituency boundaries to take place by October 2013, and every five years thereafter. The number of MPs was due to decrease to 600 under this Act but the review was halted in 2013 after the *Electoral Registration and Administration Act 2013* received Royal Assent. That Act states that the review has to be completed by October 2018.¹⁶

One aspect which was the subject of debate during the passage of both Bills was the potential interaction between boundary changes and election dates. The PVSC Act provides for regular five year reviews of

¹⁵ *Political Parties and Elections Act 2009*, section 21

¹⁶ House of Commons Library Standard Note, [Constituency boundary reviews and the number of MPs](#), SN05929, gives more details

constituency boundaries to take place. The Boundary Commissions¹⁷ are required to submit reports before 1 October 2018 and before 1 October of every fifth year after that. After the reports have been laid before Parliament, the Secretary of State¹⁸ is required to lay before Parliament the draft of an Order in Council to give effect to recommendations in the reports. The Order in Council can be made once a draft has been approved by both Houses of Parliament.

The new constituencies would be contested at the general election after the Order in Council came into force. This timetable allows political parties' constituency organisations to be re-organised, and adopt candidates and so on before the scheduled election. There could be some practical issues for parties if there was an early general election and this cycle was disrupted.

3.4 No confidence and confidence motions

The Act sets out the form in which no confidence and confidence motions would be valid for the purposes of an early general election or confirmation by the Commons of the formation of a new government. This would not appear to prevent other types of motions of censure from being debated or passed.

Although the Act requires a new Government to be confirmed by the House of Commons if one is formed after the passing of a motion of no confidence, there is no requirement to confirm a government following a general election. In both Scotland and Wales, following elections to the Parliament and Assembly, they are required to nominate one of their members to be First Ministers of their respective administrations.¹⁹

3.5 Demise of the Crown

The Act creates a new section 20 of the *Representation of the People Act 1985*. This section deals with the position following the demise of the Crown in the days before polling day. Where a demise occurs seven days or fewer prior to dissolution or once Parliament has been dissolved, the election will be delayed by 14 days (or to the next working day thereafter if the 14th day is not a working day).

3.6 Combined elections in May

The *Fixed-term Parliaments Act 2011* sets the first Thursday in May as the date for general elections to Westminster. Local elections take place on that first Thursday, although the local election cycle can vary. The need for combined elections has implications for the workload of electoral administrators. The extension of the parliamentary timetable to

¹⁷ There are separate Boundary Commissions for each of England, Scotland, Wales and Northern Ireland

¹⁸ Under the *Chancellor of the Duchy of Lancaster Order 2015* (SI 2015/1376) various functions of the Secretary of State that were exercisable concurrently with the Lord President of the Council under Acts, or provisions of Acts or instruments, are instead to be exercisable concurrently with the Chancellor of the Duchy of Lancaster. These include functions under the *Parliamentary Constituencies Act 1986*

¹⁹ *Scotland Act 1998* (chapter 46), section 48; *Government of Wales Act 2006* (chapter 32), section 47

25 days may assist, since the local and parliamentary election timetables will now be aligned.

There is normally a period of ‘purdah’ to be observed by central Government before local elections, as well as for general elections. The Cabinet Office guidance advises that particular care should be taken over official support, and the use of public resources, including publicity, for Ministerial announcements which could have a bearing on matters relevant to the devolved or local elections.²⁰

3.7 Prorogation, length of a Parliament and end of a parliamentary term

The prerogative power of prorogation (the ending of a parliamentary session) is not affected by the Act.

The Schedule repeals a number of earlier provisions, such as the *Septennial Act 1715* and the amendment to it in the *Parliament Act 1911*, which limited the maximum duration of a Parliament to five years.

Until the passage of this Act, the actual dissolution date of a Parliament was uncertain, as the calling of a general election and the election date were the decision of the Prime Minister. Therefore at the end of each Parliament there have been a few days between the announcement of the election and actual dissolution. This allowed time, known as wash-up, when the passage of Bills was expedited by agreement of the usual channels.²¹ Some legislation has therefore received Royal Assent only with the agreement of the front benches, but some legislation has had a truncated passage, inhibiting wider scrutiny.²² In a fixed-term Parliament, the end date will be known, and there may be more certainty in the planning of the Government’s legislative programme. There is no requirement to prorogue Parliament before dissolution, although between 1992 and 2010, it was usually the practice,²³ with a ceremony in the House of Lords. In 2015, Parliament was prorogued on 26 March 2015 and dissolved (by Act) on 30 March 2015.

At the end of the 2010 Parliament, the Backbench Business Committee allocated time for a Valedictory Debate: 29 retiring Members, including the Leader of the House, William Hague, spoke in the debate.²⁴

At the end of the 2015, no time was available to arrange a Valedictory Debate. However, the Speaker allowed additional time for Prime Minister’s Questions on 26 April 2017 (the day before Parliament was

²⁰ See House of Commons Library Standard Note, [‘Purdah’ before elections and referendums](#), SN05262 for more details

²¹ For background, see House of Commons Library Research Paper, [Wash-Up 2010](#), RP 11/18, 11 February 2011

²² For example, Public Administration Select Committee, [Government by Inquiry](#), 3 February 2005, HC 51-I 2004-05 considered that the *Inquiries Bill 2004-05* required amendment, but Royal Assent was received before a Government response to their report

²³ House of Commons Library Research Paper, [Election Timetables](#), RP 15/11, 4 March 2015, p12

²⁴ HC Deb 26 March 2015 cc1634-1681

prorogued) and called a number of Members who had announced that they were standing down.²⁵

²⁵ [HC Deb 26 April 2017 c1100-1114](#)

4. Calls to repeal the Fixed-term Parliaments Act 2011

4.1 Backbench Business Debate

The Backbench Business Committee determined that a debate proposed by Richard Drax and Sir Edward Leigh should take place on 23 October 2014, on the motion:

That this House believes that the Government should bring forward proposals to repeal the Fixed-term Parliaments Act 2011.²⁶

In an earlier application for a debate on this subject, in February 2014, Sir Edward Leigh told the Backbench Business Committee that:

I would like to add that I think this is of great constitutional interest and importance. Traditionally, unlike with written constitutions, we have never had fixed-term Parliaments. We have always had Parliaments at the discretion of the Prime Minister. We voted on it in the early flush of this Parliament, in the heady days of the coalition, when there were a very large number of new Members. I think that, over the years, all sorts of worries have arisen about what would happen in terms of certain eventualities. I suspect that the fixed-term Parliament was not thought up as a long-term constitutional debate, but that it was a device to try and maintain the coalition, and stop one part of the coalition ratting on the other. I am not sure that is a good way of writing or making any constitution. We will not always have coalitions. This is a good time, as this Parliament is nearly four years old and we have a lot of people who have acquired experience, to have an informed debate about the future and about whether having fixed-term Parliaments is in our interest.²⁷

In opening the debate, Sir Edward argued that the *Fixed-term Parliaments Act 2011* should be repealed.²⁸

Graham Allen, the Chair of the Political and Constitutional Reform Committee, considered that “it would not be democratic to take the power away from Parliament and restore a power that allows a Prime Minister alone to decide the date of a general election”.²⁹ He also argued that a fixed-term Parliament brought “clarity” and practical benefits. Members, the Government and select committees could “plan our legislative programme, because we know when the beginning, middle and end are”.³⁰

Although Austin Mitchell supported the proposal to repeal the Act, he argued for a shorter fixed-term, preferring a three year term.³¹

Sir William Cash cited Lord Norton of Louth who had argued that fixed-term parliaments limited rather than enhanced voter choice. He also

²⁶ House of Commons, *Future Business*, 15 October 2014 [for 23 October 2014]

²⁷ Backbench Business Committee, *Representations before the backbench Business Committee on Tuesday 25 February 2014*, Q2

²⁸ [HC Deb 23 October 2014 cc1069-1076](#)

²⁹ HC Deb 23 October 2014 c1077

³⁰ HC Deb 23 October 2014 c1083, c1084

³¹ HC Deb 23 October 2014 c1089, c1091

contended that whips rather than voters would resolve decisions about Government formation following a vote of no confidence.³²

Stephen Twigg, speaking for the Labour Party, believed that “the Act enhances the role of the House by removing the ability to dissolve Parliament whenever a Prime Minister saw fit”. He said that the Labour Party had supported fixed-term Parliaments in its 2010 manifesto and continued to do so. He therefore opposed the motion, thinking that the review provided for in the Act should go ahead.³³

For the Government, the Parliamentary Secretary, Cabinet Office, Sam Gyimah said that it would be for the next Government to evaluate how the Act had worked. He considered that the Act removed power from the Prime Minister, and that “giving it to Parliament enhances the transparency of our democratic system and represents a significant surrender of political power”. He also reflected on the practical benefits of the Act.³⁴

At the end of the debate, the motion was defeated by 68 votes to 21.³⁵

4.2 Private Members’ bills

On 12 June 2014, Lord Grocott introduced the *Fixed-term Parliaments Act 2011 (Repeal) Bill 2014-15* [[HL Bill 24 2014-15](#)] into the House of Lords.³⁶ The bill provided for the repeal of the *Fixed-term Parliaments Act 2011*. It did nothing else.

In the 2015 Parliament, a similar bill – the *Fixed-term Parliaments (Repeal) Bill 2016-17* [[HL Bill 59 2016-17](#)] – introduced by Lord Desai, made no further progress.

On 19 January 2015, Sir Alan Duncan introduced the *Fixed-term Parliaments (Repeal) Bill 2014-15* [[Bill 156 of 2014-15](#)].³⁷ Sir Alan’s plans and details of support he had received were reported by the *Daily Telegraph*. Sir Alan told the paper that:

“The current arrangements are for the convenience of the politicians not for the good of the people.

“In order to establish and workable rules for the future we need to repeal this Act. It could lead to constitutional gridlock, unpopularity and the formation of Governments that nobody wants.”

He said the Bill would “record the fact that in this Parliament there is serious pressure to repeal this Act”.³⁸

The Bill was set down for second reading on 6 March 2015. The debate began but stood adjourned as it was still in progress at the moment of interruption. The Bill made no further progress.

³² HC Deb 23 October 2014 cc1094-1095

³³ HC Deb 23 October 2014 c1105, c1108

³⁴ HC Deb 23 October 2014 c1108, c1110

³⁵ HC Deb 23 October 2014 c1112

³⁶ [HL Deb 12 June 2014 c507](#)

³⁷ [HC Deb 19 January 2015 c25](#)

³⁸ Christopher Hope, “[Axe ‘zombie’ Parliaments law, say former Cabinet ministers](#)”, *Telegraph*, 16 January 2015

In opening the debate, Sir Alan explained that his Bill sought “to repeal the *Fixed-term Parliaments Act 2011*, with effect from 8 May [2015]”. He argued that “A short-term fix can do long-term damage. So it is with the decision to introduce fixed-term five-year Parliaments. It might have been good for now, but it will turn out to be bad for the future”.³⁹

He outlined the effects of the *Fixed-term Parliaments Act 2011*, the background to it and suggested that “There have been many occasions in our history when it has been best for the country to have a general election at moments that would have been nigh-on impossible had we this Act”.⁴⁰ He said that:

The Fixed-term Parliaments Act, however, erects new hurdles that make it harder to dissolve Parliament midway through its term, and as a result, it is a recipe for political horse trading and coalition manoeuvrings, which, I maintain, will weaken, not strengthen public confidence in our politics and Parliament.⁴¹

He argued that there would be “public anger if coalitions are formed, broken and reformed within the five-year term of a Parliament without any new election taking place to give them legitimacy and if the Act is used as the excuse for not going back to the people”.⁴²

For the Labour Party, Andy Slaughter noted that section 7 of the *Fixed-term Parliaments Act 2011* provided for a review of the operation of the Act in 2020 and argued that:

I believe that, given what is in the 2011 Act, the best course of action is to wait until 2020 and see what happens, and then take a slightly more considered view than can be taken in the course of one Parliament on whether fixed-term Parliaments are working and five years is the appropriate length of time.⁴³

4.3 Would repeal of the Fixed-term Parliaments Act 2011 restore the status quo ante?

In his opening comments, in the second reading debate on his private Member’s Bill, Sir Alan Duncan said that “The Prime Minister’s power to dissolve Parliament under the historic royal prerogative has—at least for the time being—lapsed”.⁴⁴ In responding to the debate, Joseph Johnson, the Parliamentary Secretary, Cabinet Office, argued that “The *Fixed-term Parliaments Act* was introduced to remove the prerogative power of dissolution through fixing parliamentary terms for the first time in general election history”.⁴⁵

Before the passage of the *Fixed-term Parliaments Act 2011*, Parliament was dissolved by the monarch, using prerogative powers. Under the 2011 Act a statutory mechanism was introduced to dissolve Parliament.

³⁹ [HC Deb 6 March 2015 c1245](#)

⁴⁰ [HC Deb 6 March 2015 c1245](#)

⁴¹ [HC Deb 6 March 2015 c1246](#)

⁴² [HC Deb 6 March 2015 c1246](#)

⁴³ [HC Deb 6 March 2015 c1249](#)

⁴⁴ [HC Deb 6 March 2015 c1245](#)

⁴⁵ [HC Deb 6 March 2015 c1250](#)

Opinions could vary on the consequences of repealing the statutory mechanism to dissolve Parliament. It could be argued that the prerogative power was abolished, which would mean that it could not be restored. However, it could also be argued that the prerogative power had been held in “abeyance” and that it could be capable of being exercised once again.⁴⁶ In evidence to the Public Administration Select Committee’s inquiry on *Taming the Prerogative: Strengthening Ministerial Accountability to Parliament*, the Treasury Solicitor’s Department wrote that:

It is not altogether clear what happens where a prerogative power has been superseded by statute and the statutory provision is later repealed but it is likely to be the case that the prerogative will not revive unless the repealing enactment makes specific provision to that effect.⁴⁷

In an article in the *Daily Telegraph* in January 2015, Lord Morris of Aberavon, who served as Attorney General from 1997 to 1999 called for the *Fixed-term Parliaments Act 2011* to be “rescinded”. He argued that the Act contained “wholly artificial constraints” that could prevent rapid changes in government and prevent Prime Ministers calling elections.

He argued that “The Act suspended the use of the Royal Prerogative” and suggested that if the Act were repealed we would revert to the previous procedure for calling general elections:

If the Act were to be rescinded I believe the presumption would be that the duty to request an election would revert to the prime minister and the Royal Prerogative would once again come into play, having been in abeyance for the life of this Act.⁴⁸

4.4 Other criticisms of the Act

Lord Norton of Louth commented on the *Fixed-term Parliaments Act 2011* in a British Politics Group blog post entitled “The Problem with Fixed Term Parliaments”.⁴⁹

The BBC reported that Kenneth Clarke, in an interview for “What Happens When the People Say Not Sure”, commented that “with the benefit of hindsight” the *Fixed-term Parliaments Act 2011* was “obviously a mistake”. He told the programme that:

⁴⁶ Neil Parpworth, *Constitutional & Administrative Law*, 7th edition, 2012, paras 4.17-4.23; AW Bradley and KD Ewing, *constitutional & Administrative Law*, 15th edition, 2011, p257; Peter Leyland and Gordon Anthony, *Textbook on Administrative Law*, 7th edition, 2013; Liam Laurence Smyth, “Privilege, Exclusive Cognisance and the Law”, in Alexander Horne, Gavin Drewry and Dawn Oliver (eds), *Parliament and the Law*, 2013, p4; Alexander Horne and Richard Kelly, “[Prerogative Powers and the Fixed-term Parliaments Act](#)”, *UK Constitutional Law Blog*, 19 November 2014

⁴⁷ Public Administration Select Committee, *Taming the Prerogative: Strengthening Ministerial Accountability to Parliament*, 16 March 2004, HC 422 2003-04, Memorandum from the Treasury solicitor’s Department, Ev15, para 11

⁴⁸ Lord Morris of Aberavon, “[Parliament has trussed itself up like a chicken](#)”, *Telegraph*, 26 January 2015

⁴⁹ Lord Norton of Louth “[The Problem with Fixed Term Parliaments](#)”, *British Politics Group Blog*, 11 August 2014

If we do have a hung parliament we now have a rather silly, really, complex process that would be necessary to bring it to an end and it would be slightly out of control.⁵⁰

In an April 2015 Institute for Government blog post, Catherine Haddon argued that some of the crucial mechanisms required under the Act were not set out. She identified “a big ambiguity at the heart of the legislation”: who governs in the up to 14 day period between a government losing a confidence vote and a new government being confirmed by the House of Commons? She argued that the wording of the Act “requires a new government to already be in place: the wording specifically says that the motion must be ‘confidence in Her Majesty’s Government’”.

She also argued that “the operation of the Act could affect political dynamics and party bargaining”.⁵¹

Following the decision of the House of Commons to vote for an early general election on 19 April 2017, Robert Hazell, Professor of Government and the Constitution at the Constitution Unit, UCL, considered “Is the Fixed-term Parliaments Act a Dead Letter?”.

The summary of his blog piece provided this overview of his arguments:

The ease with which Theresa May was able to secure an early dissolution last week has led to suggestions that the Fixed-term Parliaments Act 2011 serves no useful purpose and should be scrapped. Drawing on wider evidence of how fixed-term parliaments legislation works in other countries, Robert Hazell argues that there is a danger that it is being judged prematurely, on the basis of a single episode. Future circumstances in which a Prime Minister seeks a dissolution may be different, and in these cases the Fixed-term Parliaments Act may serve as more of a constraint.⁵²

⁵⁰ BBC News, [Fixed-term parliaments were ‘a mistake’, says Ken Clarke](#), 17 March 2015

⁵¹ Catherine Haddon, [“The \(Not So\) Fixed-term Parliaments Act”](#), *Institute for Government Blog*, 14 April 2015

⁵² Robert Hazell, [“Is the Fixed-term Parliaments Act a Dead Letter?”](#) *Constitution Unit Blog*, 25 April 2017

5. Select committee work on fixed-term Parliaments

The following reports have been made by the Political and Constitutional Reform Committee:

- [*Fixed-term Parliaments: the final year of a Parliament*](#), 7 May 2014, HC 976 2013-14
- [*The role and powers of the Prime Minister: The impact of the Fixed-term Parliaments Act 2011 on Government*](#), 25 July 2013, HC 440 2013-14
- [*Fixed-term Parliaments Bill*](#), 10 September 2010, HC 436 2010-12

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