



## Wash-up

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This note provides a brief outline of the procedures followed at the end of Parliament to ensure the enactment of some of the legislation that has not completed its passage through Parliament when a general election is called.

The note also gives details of the time available for wash-up following the announcement of general elections since 1983.

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## 1 Dissolution and wash-up

There is generally a few days between the announcement of an election and subsequent dissolution of Parliament. [Library Research Paper 09/44](#), on *Election Timetables*, gives the details of the time period between announcement and dissolution for each election since 1918. Some general guidance on wash-up is given below, taken from the Cabinet Office guide for parliamentary clerks:

### Dissolution procedure

4.12 When the Prime Minister announces the date for the election he must also decide when Parliament will be dissolved. He can, if he so wishes, seek the dissolution immediately in which case any and all outstanding legislation is lost. More likely, there will be an interval between the announcement and the dissolution.

4.13 During this interval, usually referred to as the “wash-up” period, which might only be a few days (but possibly longer) the Government will decide what its priorities are and seek the co-operation the Opposition in getting legislation through. In doing so there will invariably be sacrifices to be made. Some Bills might be lost completely, others might be progressed quickly but in a much-shortened form. A lot will depend on where the Bills are in the legislative process and whether or not they are controversial.

It advises Departments as follows:

### Outstanding business

4.18 Once an announcement is made that a General Election is to take place steps are taken in the Department to clear all outstanding parliamentary business:

**Bills** – Discussions are held with the Business Managers in Parliament about the action required to get outstanding Bills through their remaining stages. The Government usually needs the agreement of the Opposition to get Bills through in a much reduced timescale and concessions are often made (ie a controversial clause in a Bill may be removed). Any Bills that are not concluded are lost.

**Statutory Instruments** – Where affirmative instruments have been laid but not debated, action is taken to seek to get them debated and approved. If they are not debated before the dissolution they can be re-activated in the new parliament. Where negative instruments have been laid and made before the dissolution the coming into force date is not affected.

**Parliamentary Questions** – Steps are taken to get all outstanding PQs answered.<sup>1</sup>

Further information on dissolution can be found in the Library Standard Note on *Dissolution of Parliament* includes some information on wash-up.<sup>2</sup>

## 2 The mechanics of wash-up

Peter Riddell, the *Times*' political commentator, provided the following brief description of wash-up:

When a general election is announced, there are a few days known as the “wash-up” before the dissolution of Parliament. Opposition parties, particularly in the Lords, in effect have a veto. But deals are done between the party whips about which Bills, or

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<sup>1</sup> *Cabinet Office Guide to Parliamentary Work*: Chapter 4 Parliamentary calendar and sitting times <http://www.cabinetoffice.gov.uk/parliamentary-clerk-guide/chapter4.aspx>

<sup>2</sup> House of Commons Library Standard Note, *Dissolution of Parliament*, SN/PC/5085, 3 February 2010,

parts of Bills, will be nodded through, and which dropped. This depends both on progress made on Bills until then and the degree of controversy.<sup>3</sup>

Jason Nisse, before the 2005 General Election, whilst business editor of the *Independent on Sunday*, described the wash-up period slightly more colourfully:

Let's assume there will be an election on 5 May (I know it's a crazy idea, but humour me). This means Tony Blair will go to the Queen early next week - no later than Tuesday 5 April - and Parliament will be dissolved. That week is then used for what is known as a "wash-up", where all outstanding vital legislation is "aggressively timetabled". In other words, no debate - Madame La Guillotine working overtime.<sup>4</sup>

Lord Norton of Louth, Professor of Government, at the University of Hull, writing on *Lords of the Blog*, also explained that it is the Opposition that has a telling effect on the legislation that is passed:

In the wash-up, each opposition party essentially becomes a veto player. There has to be agreement on what Bills, or the particular parts of Bills, are to be rushed through before dissolution. Otherwise, the legislation is dead. On some Bills, I suspect such an outcome would not be unwelcome.<sup>5</sup>

The point was echoed by Sam Coates, chief political correspondent of the *Times*, who also gave examples of the effect of the Opposition negotiations in 2005:

The Conservatives will play a significant role determining how much of the legislation becomes law. Bills that have not yet been reached the statute books by the time an election is called will only pass if there is agreement between the parties, in a process known as "washup".

Before the 2005 election, the washup negotiations resulted in the passing of gambling legislation wanted by Labour, although the price secured by the Conservatives for their support was to reduce the number of supercasinos from 6 to 1.<sup>6</sup>

On his blog, Mark D'Arcy, a BBC parliamentary correspondent, provided a similar description of the wash-up process:

The process normally involves intense negotiations between party business managers in both houses - and then the rapid dispatch of those bills they can agree on - including, crucially, a slimline version of the Finance Bill, to authorise essential taxes. If that fails, HM Revenue and Customs can't take their customary cut of our earnings, and all manner of dire consequences would follow. Or so we're told.

If - as is universally expected - Gordon Brown asks the Queen to dissolve Parliament immediately after Easter, that would allow two or three days of washup time, to clear outstanding bills, before the music stopped and the politicians headed off for a rendezvous with fate, and the electorate.<sup>7</sup>

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<sup>3</sup> Peter Riddell, "Queen's Speech neglects the problems: the deficit and MPs' expenses", *Times*, 19 November 2009

<sup>4</sup> Jason Nisse, "Business View: The guillotine, the wash-up and the double-dip danger", *Independent on Sunday*, 27 March 2005

<sup>5</sup> Lord Norton of Louth, "The wash-up", *Lords of the Blog*, 21 January 2010, <http://lordsoftheblog.net/2010/01/21/the-wash-up/>

<sup>6</sup> Sam Coates, "Queen's Speech: 15 Bills - but only 33 days left to pass them", *Times*, 18 November 2009

<sup>7</sup> Mark D'Arcy, "What could happen at washup?", *Mark D'Arcy's Blog*, 19 March 2010

However, as well as describing the negotiation between the parties, he commented that the lack of a government majority in the House of Lords could affect the dynamics of the negotiating process:

The government majority in the Commons will guarantee it gets its way there - but the most interesting action will be in the Lords. There, no party has a majority, and the rules of the Upper House make it hard for any bill to proceed, other than by consensus. They have to suspend the standing order that prevents more than one stage of a bill being taken in a single day, and then vote through any agreed amendments to bills in very rapid time, before giving them a third reading and dispatching them off for the Royal Assent.

But the whole process breaks down if the rapid fire voting is not unanimous, and there have to be divisions on particular issues. Each division can take 20 minutes or so, and if the House is divided repeatedly on amendments, the time available to get bills through will evaporate very rapidly. So even a small awkward squad of peers can throw the whole washup into chaos if they feel their concerns are not being taken seriously.<sup>8</sup>

Another colourful description of the process was given by John Ozimek on *The Register* (an "online tech publication"):

It is called the "wash-up", although according to parliamentary old hands, "stitch-up" might be more appropriate, as it invokes the time-honoured tradition of the Party Whips going into a huddle and carrying out horse-trading over any legislation that has not yet made it all the way through both Houses of Parliament.<sup>9</sup>

He also reported recollections of wash-up in 2005.

The implication of these quotations is that backbenchers have little input into the negotiations over the passage of bills during the wash-up period. However, as with the passage of all bills, if there are particular issues that backbenchers, collectively, have concerns about then pressure can be put on the Government to accept changes.

### **3 Concerns about parliamentary scrutiny at wash-up**

In its recent report on the *Constitutional Reform and Governance Bill*, the House of Lords Constitution Committee expressed its concern about parliamentary scrutiny being curtailed in the wash-up period. It specifically argued "This is no way to undertake the task of constitutional reform":

43. Given that there is almost certainly no time in the remainder of this Parliament for the Bill to complete its normal passage through the House of Lords, the question of which provisions will find their way onto the statute book and which will be lost will presumably be determined in the "wash-up". Certainly this is the strong indication recently given to this Committee by Mr Straw, when he appeared before us to give evidence. Likewise, the Leader of the House of Commons, Harriet Harman MP, informed that House on 4 March that "If the Constitutional Reform and Governance Bill goes into the wash-up and does not complete its stages in the House of Lords, it will be for the Opposition parties to negotiate with the Government so that we can get through a great deal of what was in the Bill ... If the Bill cannot find its way through the

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<sup>8</sup> *Ibid*

<sup>9</sup> John Ozimek, "MPs get ready to grubby hands in 'wash-up'", *The Register*, 2 March 2010

Lords, we will make sure at the wash-up that the provisions that the public want get through."

44. "Wash-up" refers to the negotiations in the final days of a Parliament among the usual channels (that is to say, principally the business managers of each of the main political parties) in each House that for all practical purposes determine (or appear to determine) which measures before Parliament will become law and which will not.

45. As we understand it, the general position is that only non-contested issues are liable to get through in the wash-up; contested issues generally do not get through. It seems that the non-contested issues as regards this Bill include a number of those which were *not* given sufficient, detailed scrutiny in the Commons (the provisions on the civil service are an example because debate on them was curtailed). Many of the provisions on which the Commons spent much of its time do seem to be contested (such as, perhaps, the provisions on a referendum on the voting system) and are therefore at least liable to be lost. **The House may take the view that the consequence of the Government tabling so many late amendments to the Bill is that the parliamentary consideration given in both Houses to the important aspects of constitutional reform which this Bill is likely to effect has been substantially curtailed.**

46. **In any event, we consider it to be extraordinary that it could be contemplated that matters of such fundamental constitutional importance as, for example, placing the civil service on a statutory footing should be agreed in the "wash-up" and be denied the full parliamentary deliberation which they deserve.**

47. **This is no way to undertake the task of constitutional reform.**<sup>10</sup>

#### **4 Wash-up – time available**

Before the House reassembled on 4 April 2005, after the Easter recess, there were 25 Government bills making progress through Parliament. Some had yet to receive their second reading, while others had more or less completed their passage through both Houses.

On 5 April, following the Prime Minister's announcement that the General Election would take place on 5 May 2005, the Leader of the House of Commons announced changes to the business in the Commons in the "wash-up" period. A similar statement was made in the House of Lords.<sup>11</sup> Both announcements emphasised that the Government and opposition parties were "working together through the usual channels to try to bring about the normal orderly conclusion of business in these circumstances".<sup>12</sup>

One of the 25 bills, the *Finance Bill*, was withdrawn; and the *Finance (No 2) Bill* was introduced, completed all its stages and received Royal Assent during the wash-up period. Of the remaining 24 bills, 12 received Royal Assent; one – the *Crossrail Bill* (a hybrid bill) – was carried over; and 11 bills fell. Only one of the 12 bills that received Royal Assent – the *Mental Capacity Bill* – had completed its passage through both Houses, before the wash-up period began: the Commons considered Lords amendments on 5 April 2005.<sup>13</sup>

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<sup>10</sup> Constitution Committee, *Constitutional Reform and Governance Bill*, 18 March 2010, HL 98 2009-10, paras 43-47

<sup>11</sup> HC Deb 5 April 2005 cc1267-1273; HL Deb 5 April 2005 cc577-581

<sup>12</sup> HC Deb 5 April 2005 c1267

<sup>13</sup> Source 2005/4/20-PCC

The table overleaf provides a summary of the time available for wash-up before each of the last six general elections.

**The End of one Parliament, the Beginning of the Next and Sitting Days in the Wash-up period**

	<b>1983</b>	<b>1987</b>	<b>1992</b>	<b>1997</b>	<b>2001</b>	<b>2005</b>
Election announced	9 May	11 May	11 March	17 March	8 May	5 April
Sitting days	10 May 11 May 12 May 13 May	12 May 13 May 14 May 15 May	12 March* 13 March 16 March	18 March 19 March 20 March 21 March	9 May 10 May 11 May	6 April 7 April
Parliament prorogued			16 March	21 March		7 April
Parliament dissolved	13 May	18 May	16 March	8 April	14 May	11 April
<b>Polling day</b>	<b>9 June</b>	<b>11 June</b>	<b>9 April</b>	<b>1 May</b>	<b>7 June</b>	<b>5 May</b>
Parliament assembled	15 June	17 June	27 April	7 May	13 June	11 May
Queen's speech	22 June	25 June	6 May	14 May	20 June	17 May

**Notes:**

\* continuation of the debate on the Budget, as previously announced.

**Business statements, following the announcement of a General Election and Business Motions to allow expedited consideration of bills**

1983 – HC Deb 9 May c631, c707

1987 – HC Deb 11 May c21, c75

1992 – HC Deb 11 March c851; 12 March c983, c991 [motion]

1997 – HC Deb 17 March c625, c667; 18 March c765; 19 March c887 [motion], c943

2001 – HC Deb 8 May c72; 9 May c118, c129 [motion]

2005 – HC Deb 5 April c1267; 6 April c1423 [motion]