

## **Chapter 6: Elections and Government formation (DRAFT)**

*This Chapter covers the dissolution and summoning of Parliament, Parliamentary general elections, Government formation, hung parliaments, restrictions on Government and other activity during the electoral period.*

### *Principles of Dissolution and summoning of Parliament*

1. Parliaments are dissolved when they expire after a period of five years under the Septennial Act 1715 (as amended by the Parliament Act 1911). This five year period is counted from the date of the first meeting of Parliament after a Parliamentary general election. No proclamation or other formality is required for a dissolution under the Act, but a proclamation will then be needed to summon a new Parliament.
2. The Monarch may also dissolve Parliament by proclamation at any time before it has expired and the same proclamation will also summon a new Parliament and name the date on which it is to meet. Proclamations are issued by Her Majesty in Council. In practice in modern times, Parliaments have been dissolved in this way following a request from the Prime Minister.

### *Finalisation of Parliamentary business*

3. The Prime Minister may request dissolution from the Monarch whether or not Parliament is currently sitting.
4. Parliament often sits for a few days, known as the 'wash up' period, after the announcement of the election (after the Monarch has granted the Prime Minister's request for a dissolution). In this period Parliament will be able to finish any outstanding business. Some business has to be completed before the dissolution, depending on the time of year. In particular any money voted to the Government but not appropriated has to be appropriated by the date of the dissolution, and it may be necessary to do other business to keep Government working while Parliament is unavailable because of the dissolution. Other business will be the subject of negotiations between the parties in Parliament and is likely to be completed in the limited time available only if it is agreed.

5. At the end of the wash up, Parliament may either be prorogued and then dissolved, or just dissolved. Prorogation brings a Parliamentary session to an end. It is the Monarch who prorogues Parliament on the advice of Her Ministers. The normal procedure is for commissioners appointed by the Monarch to prorogue Parliament in accordance with a royal proclamation. The commissioners announce the prorogation to both Houses in the House of Lords and give Royal Assent to any Act.

6. It is not necessary for Parliament to have been prorogued in order for it to be dissolved. In 1992, 1997, and 2005 Parliament was dissolved following prorogation, but in 2001 and from 1974 until 1992, Parliament was dissolved while adjourned but without a prorogation.

#### *General elections- House of Commons*

7. At the same time as the proclamation which summons a new Parliament, an Order in Council is made requiring the issue of writs for the election of a new Parliament (a writ is a formal written order). Writs are issued under Representation of the People Act 1983 by the Clerk of the Crown in Chancery to Returning Officers, and require them to cause elections to be held and to return the writ with the election result for their constituency. The election is held 17 working days after the proclamation and issuing of writs. Traditionally, Parliamentary general elections have taken place on Thursdays.

8. Annex A to this document sets out the process and a more detailed election timetable (which derives from the 1983 Act). Periods of time in the timetable are reckoned in working days and exclude Saturdays, Sundays, Christmas Eve, Christmas Day, Good Friday, Bank Holidays in any part of the United Kingdom and any day appointed for public thanksgiving or mourning. Candidates must submit nomination papers not later than the sixth working day after the date of the proclamation. Polling day is the eleventh working day after the last day for delivery of nomination papers.

### *Meeting of the new Parliament*

9. Recent practice has been for Parliament to meet on the Wednesday following the election. Previously, there was a longer interval of about twelve days between polling day and first meeting<sup>1</sup>.

10. The first business of the House of Commons when it meets is to elect or re-elect a Speaker and then for members to take the oath. Normally the Queen's Speech outlining the Government's legislative programme, will be in the week after Parliament meets and that is when the business of the new Parliament properly begins.

### *Government activity between the announcement of an election and polling day*

11. Once the Monarch has agreed to a dissolution and the Prime Minister has announced an election there are constraints on the way Government should conduct business. The Government retains its responsibility to govern and Ministers remain in charge of their Departments, although when Parliament is dissolved they are no longer Members of Parliament. Essential business is carried on. However, it is customary for Ministers to observe discretion in initiating any action of a continuing or long-term character once the election has been announced. Decisions on which a new Government might be expected to want the opportunity to take a different view from the incumbent Government should be postponed until after the Election, provided that such postponement would not be detrimental to the national interest or wasteful of public money.

12. Other options include making a decision time-limited or subject to a temporary arrangement, or consulting with the opposition parties. The observance of discretion does not involve hard and fast rules: much depends on the circumstances. As soon as a General Election is announced, the Cabinet Office issues guidance to Departments on their activities during the election period.

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<sup>1</sup> House of commons select committee on the modernisation of the House of Commons *Revitalising the chamber: the role of the back bench member* (HC 337, 2006-7) have recommended reverting to the practice of there being around 12 days between polling day and first meeting.  
<http://www.publications.parliament.uk/pa/cm200607/cmselect/cmmodern/337/337.pdf>

13. Between the announcement of the date for a general election and polling day, there are also restrictions on the degree to which some forms of activity may be carried out by civil servants and Government departments. The guidance to Government departments issued in 2005 is available at:  
[http://www.cabinetoffice.gov.uk/media/cabinetoffice/propriety\\_and\\_ethics/assets/electguide.pdf](http://www.cabinetoffice.gov.uk/media/cabinetoffice/propriety_and_ethics/assets/electguide.pdf)

#### *The principles of Government formation*

14. Governments hold office by virtue of their ability to command the confidence of the House and hold office until they resign. A Government or Prime Minister who cannot command the confidence of the House of Commons is required by constitutional convention to resign or, where it is appropriate to do so instead, may seek a dissolution of Parliament. When a Government or Prime Minister resigns it is for the Monarch to invite the person whom it appears is most likely to be able to command the confidence of the House of Commons to serve as Prime Minister and to form a government. However it is the responsibility of those involved in the political process – and in particular the parties represented in Parliament – to seek to determine and communicate clearly who that person should be. These are the principles that underpin the appointment of a Prime Minister and formation of a government in all circumstances.

15. If an incumbent Government retains a majority in the new Parliament after an election, it will continue in office and resume normal business. If the election results in a clear majority for a different party, the incumbent Prime Minister and government will immediately resign and the Monarch will invite the leader of the party that has won the election to form a government. Details on the appointment of Ministers can be found in Chapter 2.

#### *“Hung” Parliaments*

16. Where an election does not result in a clear majority for a single party, the incumbent Government remains in office unless and until the Prime Minister tenders his and the Government’s resignation to the Monarch. An incumbent Government is entitled to await the meeting of the new Parliament to see if it can command the confidence of the House of Commons or to resign if it becomes clear that it is unlikely to command that confidence. If a Government is defeated on a motion of confidence

in the House of Commons, a Prime Minister is expected to tender the Government's resignation immediately. A motion of confidence may be tabled by the Opposition, or may be a measure which the Government has previously said will be a test of the House's confidence in it. Votes on the Queen's Speech have traditionally been regarded as motions of confidence.

17. If the Prime Minister and Government resign at any stage, the principles in paragraph 14 apply – in particular that the person who appears to be most likely to command the confidence of the House of Commons will be asked by the Monarch to form a government. Where a range of different administrations could potentially be formed, the expectation is that discussions will take place between political parties on who should form the next Government. The Monarch would not expect to become involved in such discussions, although the political parties and the Cabinet Secretary would have a role in ensuring that the Palace is informed of progress.

18. A Prime Minister may request that the Monarch dissolves Parliament and hold a further election. The Monarch is not bound to accept such a request, especially when such a request is made soon after a previous dissolution. In those circumstances, the Monarch would normally wish the parties to ascertain that there was no potential government that could command the confidence of the House of Commons before granting a dissolution.

19. It is open to the Prime Minister to ask the Cabinet Secretary to support the Government's discussions with Opposition or minority parties on the formation of a government. If Opposition parties request similar support for their discussions with each other or with the Government, this can be provided by the Cabinet Office with the authorisation of the Prime Minister.

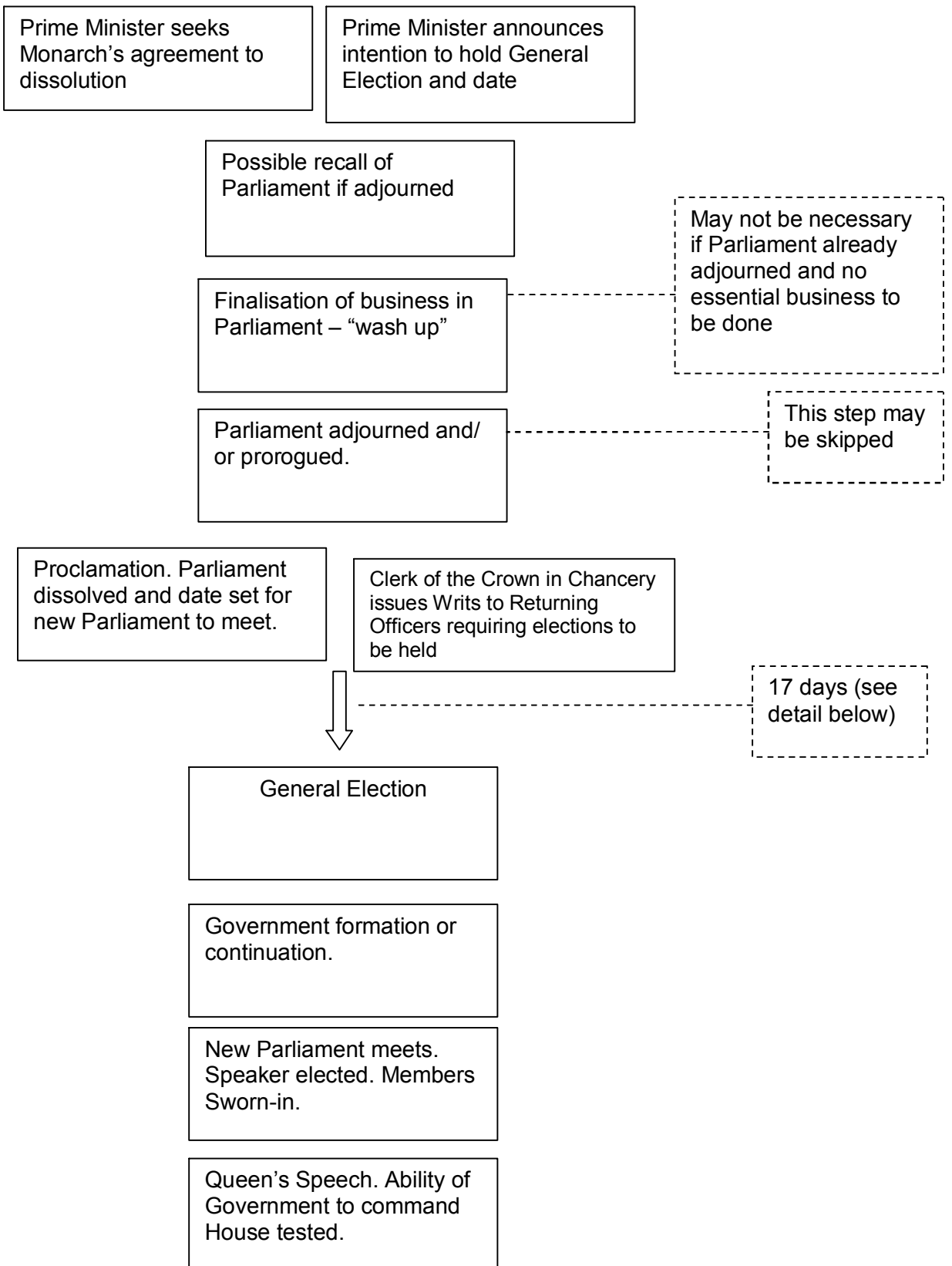
20. As long as there is significant doubt whether the Government has the confidence of the House of Commons, it would be prudent for it to observe discretion about taking significant decisions, as per the pre-election period. The normal and essential business of government at all levels, however, will need to be carried out.

#### *Change of Prime Minister or Government during the life of a Parliament*

21. A change of Prime Minister may occur as a result of retirement, incapacity, death, or resignation. A change in the party or parties which form the basis of support for

the government in the House of Commons may also occur during the life of a Parliament. In appointing a new Prime Minister, as at other points, the Monarch invites the person whom it appears is most likely to command the confidence of the House of Commons to serve as Prime Minister and form - or continue- a government. It is for those involved in the political process – and in particular the parties represented in Parliament – to seek to determine and communicate clearly who that person should be, and to find a way to ensure there are arrangements to ensure continuity while that process finds a successor for the Prime Minister. There is no requirement for a dissolution and election to occur.

**Election and Government formation**



**Election Timetable - example**

<b>Milestone</b>	<b>Days</b>
Proclamation summoning new Parliament/dissolution of old Parliament/issue of writ	Day 0
Receipt of writ	Day 1
Last day for publication of notice of election (4pm)	Day 3
Last day for delivery of nomination papers/withdrawals of candidature/appointment of election agents (4pm)	Day 6
Statement of persons nominated published at close of time for making objections to nomination papers (5pm on Day 6) or as soon afterwards as any objections are disposed of	
Last Day for requests for a new postal vote or to change or cancel an existing postal vote or proxy appointment (5pm)	
Last day to apply to register vote	
Last day for appointment of polling and counting agents	Day 11
Polling day (7am to 10pm)	Day 15
Last day to apply for a replacement for spoilt or lost postal ballot papers (5pm)	Day 17

**Source:** House of Commons Library briefing.

<http://www.parliament.uk/commons/lib/research/briefings/snpc-04454.pdf>



## Glossary

To include:

<b>Term</b>	<b>Definition</b>
Adjournment	The process which brings an end to a sitting in either House (eg at the end of a day or before a recess – see below). The Houses usually adjourn only in accordance with a resolution to do so. In some cases the Standing Orders allow for other methods of adjourning. The Standing Orders may fix the time for the next sitting, or that may be varied by the motion. The expression is also used to describe the period while a House is adjourned.
Dissolution	The process which terminates a Parliament and, by convention requires the summoning of a new Parliament, so triggering a general election for membership of the House of Commons.
Prorogation	The process which brings an end to a session of Parliament. Parliament is suspended for a period by a Monarch. Typically Parliament is prorogued annually and then reassembles for a new Session a few days later. It has often been the practice to prorogue Parliament before dissolving it.
Recess	A period while the House is adjourned between sittings for longer than provided for by the Standing Orders (eg over a holiday period – the Easter recess, the Christmas recess).
Wash up	The period between when the Prime Minister is granted dissolution by the Monarch and the subsequent prorogation or dissolution of Parliament.
Writ	A formal written order.