



Northern Ireland  
Assembly

## Research and Information Service Briefing Note

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# Length of Assembly Mandate

## 1 Background

This briefing paper looks at issues surrounding the length of the mandate of the Northern Ireland Assembly in respect of the Fixed Term Parliaments Act 2011.

## 2 The Fixed-term Parliaments Act 2011

The Fixed-term Parliaments Act 2011 fixes the date of the next UK Parliamentary general election at 7 May 2015, and provides for five-year fixed terms. There are, however, two ways in which an election could be triggered before the end of the five-year term:

- if a motion of no confidence is passed and no alternative government is found
- or if a motion for an early general election is agreed either by at least two-thirds of the House or without division

### **Why is there a Fixed-term Parliaments Act?**

The proposal for legislation to fix the length of the Parliamentary mandate emerged from the Conservative-Liberal Democrat agreement following the May 2010 UK Parliamentary election. The Liberal Democrats had for some time called for the term of a Parliament to be fixed and the Conservatives had pledged to give Parliament

more control over the Royal Prerogative<sup>1</sup>. Until the passage of the Act, the Prime minister retained the right to ask the Queen for a dissolution of Parliament.

## 2 Impact on the devolved legislatures

The Scottish Parliament and National Assembly for Wales raised concerns that the May 2015 date clashed with elections to their respective institutions. In response, the UK Government moved to bring those elections into line with Westminster. During Second Reading in the House of Lords, Lord Wallace of Tankerness commented on the position of the devolved legislatures:

The Government are committed, as I have indicated, to working co-operatively with all three of the devolved Administrations. We have been consulting the respective party leaders and the Presiding Officers in the Scottish Parliament and the Welsh Assembly. I can confirm that my colleague and honourable friend Mr Mark Harper wrote to the Presiding Officers of the Scottish Parliament and the Welsh Assembly on 17 February proposing that if the Scottish Parliament or Welsh Assembly passed a resolution, with the support of at least two-thirds of all Members, agreeing that the 2015 Scottish Parliament or Welsh Assembly general elections should be moved to another date no earlier than the first Thursday in May 2014 and no later than the first Thursday in May 2016, the Government would then be willing to table an amendment to this Bill that would, if accepted, make this change.

A resolution with the support of at least two-thirds of all MSPs or Assembly Members would be a clear indication of cross-party support for such a move and would be consistent with the existing requirement in the Scotland Act and the Government of Wales Act for a two-thirds majority in a vote for early Dissolution. In any event, we will carry out - I think this also addresses the point made by the noble Lord, Lord Wigley - a detailed assessment of the implications of the two sets of elections coinciding at a later date. In the light of that, we would consider whether to conduct a public consultation in Scotland and Wales on whether the devolved institutions there should be permanently extended to five years.

The situation in Northern Ireland is different. Northern Ireland Office Ministers are conducting separate discussions with the parties in Northern Ireland on this issue and have concluded that it would be better to await the outcome of the combined polls scheduled for May this year before deciding whether special provision would be needed for Northern Ireland.

Subsequently, the Scottish Parliament (on 3 March 2011) and National Assembly for Wales (16 March 2011) passed resolutions calling for the rescheduling of the elections to 5 May 2016. These are reproduced at Appendix 1.

It is important to note Lord Wallace's comments about the possibility of conducting "a public consultation in Scotland and Wales on whether the devolved institutions there should be permanently extended to five years". The letter from the Minister for Political and Constitutional Reform to the Presiding Officers of the Scottish Parliament and National Assembly for Wales made clear that the statutory framework for these institutions had been preceded by lengthy public debate and permanently extending their terms would be a major change to the devolution settlement and could not be done without wider public consultation<sup>2</sup>.

<sup>1</sup> Fixed-term Parliaments Bill, House of Commons Research Paper, August 2010

<sup>2</sup> Correspondence from the Minister for Political and Constitutional Reform to the Presiding Officers of the Scottish Parliament and National Assembly for Wales dated 17 February 2011: <http://www.parliament.uk/deposits/depositedpapers/2011/DEP2011-0339.pdf>

Furthermore, the power to alter the date of elections to the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly is ultimately a matter for the UK Government. The Scottish Parliament and National Assembly for Wales were invited by the UK Government to make these resolutions to make clear the wishes of those legislatures.

### **What does the Act say about Scotland and Wales?**

Sections 4 and 5 of the Act address the rescheduling of elections to the Scottish Parliament and National Assembly for Wales. It makes clear that the extension of the current mandate is a 'one-off' and is not permanent.

#### **Provision with regard to Scottish Parliamentary elections**

##### **Section 4 General election for Scottish Parliament not to fall on same date as parliamentary general election under section 1(2)**

33. Section 4 provides that the general elections for the Scottish Parliament which were scheduled to take place on 7 May 2015 will instead be scheduled to take place on 5 May 2016. Subsequent ordinary general elections will be scheduled to be held on the first Thursday in May in the fourth calendar year after the May 2016 general elections.

34. The provisions under the Scotland Act 1998 which relate to setting and varying the date of ordinary and extraordinary general elections still apply.

#### **Provision with regard to elections to the National Assembly for Wales**

##### **Section 5: General election for National Assembly for Wales not to fall on same date as parliamentary general election under section 1(2)**

35. Section 5 provides that the general elections for the National Assembly for Wales which are scheduled to take place on 7 May 2015 will instead take place on 5 May 2016. Subsequent ordinary general elections will be scheduled to be held on the first Thursday in May in the fourth calendar year after the May 2016 general elections.

36. The provisions under the Government of Wales Act 2006 which relate to setting and varying the date of ordinary and extraordinary general elections still apply.

### **Northern Ireland**

#### **The Northern Ireland Act 1998**

Section 31 (Dates of elections and dissolutions) of the Northern Ireland Act 1998 states:

Subject to subsection (2), the date of the poll for the election of each Assembly shall be the first Thursday in May in the fourth calendar year following that in which its predecessor was elected; and the predecessor shall be dissolved at the beginning of the minimum period which ends with that date.

Subsection 2, which was inserted by the St. Andrew's Agreement Act 2006, made provision for the date of the poll following the 26 November election to be on 7 March 2007.

## What could happen next?

Without knowing the outcome of the consultation with the political parties, it is difficult to speculate as to the options available to the Assembly. If it was felt that there was broad support for an extension to 2016, then one possibility would be to pass a resolution asking the UK Government to make the necessary legislative change (as happened in Scotland and Wales).

## Issues to consider:

- Both the Scottish Parliament and National Assembly for Wales made a decision on this matter during the previous mandate. Therefore, it was clear before the May 2011 elections that the upcoming mandate would be one year longer than usual. The First Minister of Wales stated:

It is important that we should say to the people of Wales before the election on 5 May the length of the term for which they will be electing their Assembly Members. I do not believe that it would be right for the length of the Assembly term to be altered after an election has taken place. I do not believe that that would demonstrate honesty to the people of Wales, and I think that it is right to debate the matter now<sup>3</sup>.

There could potentially be criticism if the Assembly came out in favour of an extension to 2016 after voters elected a four year mandate

- If the current Assembly mandate is not extended to 2016, then it will not be in line with elections to the other devolved legislatures
- There is precedent for postponing elections in Northern Ireland. The November 2003 Assembly election was postponed twice due to political instability<sup>4</sup> and the local government elections due to be held in 2009 were postponed until 2011 at the request of the Northern Ireland Environment Minister to allow for the restructuring of local government<sup>5</sup>

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<sup>3</sup> NAW Deb 16 March 2011

<sup>4</sup> The Electoral Commission *The Northern Ireland Assembly elections 2003: official report* April 2004

<sup>5</sup> The Electoral Commission *The Northern Ireland Assembly election 2011* October 2011

## Appendix 1

### Resolutions passed by the Scottish Parliament and National Assembly for Wales

#### Scottish Parliament

That the Parliament notes the potential clash of UK and Scottish general election dates in 2015; invites the UK Government to set the next Scottish general election after 5 May 2011 for Thursday 5 May 2016, and looks forward to UK Government consultation on a legislative provision that would set apart UK and Scottish general election dates on a permanent basis<sup>6</sup>.

#### National Assembly for Wales

To propose that the National Assembly for Wales:

1. Notes the potential clash of UK and National Assembly for Wales general election dates in 2015
2. Invites the UK Government to set the next Assembly general election after 5 May 2011 for Thursday 5 May 2016;
3. Looks forward to UK Government consultation on a legislative provision that would set apart UK and Welsh general election dates on a permanent basis<sup>7</sup>.

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<sup>6</sup> <http://www.scottish.parliament.uk/parliamentarybusiness/28862.aspx?r=6228>

<sup>7</sup> <http://www.assemblywales.org/bus-home/bus-third-assembly/bus-chamber/bus-chamber-third-assembly-rop.htm?act=dis&id=212922&ds=3%2F2011#cyn3>