

Recall of Elected Representatives Bill

CONTENTS

PART 1

RECALL PROCESS

- 1 How an MP becomes the subject of a recall process
- 2 Returning officers

PART 2

INTENT TO RECALL PROCESS

- 3 Determination of the effective number
- 4 Form etc. of notice of intent to recall
- 5 Wording of notice of intent to recall
- 6 Persons entitled to sign a notice of intent to recall
- 7 Deposit of notice of intent to recall by promoter
- 8 Determination of whether a notice of intent to recall is effective

PART 3

RECALL PETITION PROCESS

- 9 Returning officer's recall petition notice
- 10 Member's statement in reply
- 11 Returning officer to make recall petition available for signature
- 12 Wording of recall petition
- 13 Early termination of recall petition process by returning officer
- 14 Persons entitled to sign recall petition
- 15 Determination of whether recall petition successful

PART 4

RECALL REFERENDUM PROCESS

- 16 Returning officer's notice of recall referendum
- 17 Early termination of recall referendum process by returning officer
- 18 Voting in and conduct of referendum
- 19 Wording of recall referendum question

- 20 The result of the recall referendum

PART 5

MISCELLANEOUS

- 21 How entitlement to sign a recall petition and to vote in a recall referendum is to be exercised
- 22 Offences
- 23 Regulations as to intent to recall process and recall petition process
- 24 Regulations as to recall referendum
- 25 Regulations as to register of electors
- 26 Regulations as to expenses and donations
- 27 Regulations as to extension of recall to local government etc.
- 28 Recall from Scottish Parliament, Welsh and Northern Irish Assemblies to be a devolved matter
- 29 Role of Electoral Commission
- 30 Regulations and orders: general and procedure
- 31 Interpretation
- 32 Extent, commencement and short title

Schedule 1 – Returning officers

Schedule 2 – The Role of the Electoral Commission

A
B I L L

TO

Make provision about the recall of members of the House of Commons; to allow for the extension of such provision to other offices; to provide that the recall of elected representatives in Scotland, Northern Ireland and Wales be a devolved matter; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

RECALL PROCESS

1 How an MP becomes the subject of a recall process

- (1) A member of the House of Commons (“the member”) becomes the subject of a recall referendum where— 5
- (a) a notice of intent to recall, signed by a number of persons not less than the effective number (5% of persons in the member’s parliamentary constituency entitled to vote), in accordance with Part 2 of this Act, has been deposited with a returning officer, and
 - (b) 20% of persons entitled to vote have then validly signed a recall petition in accordance with Part 3 of this Act. 10
- (2) The member’s seat becomes vacant, in accordance with Part 4 of this Act, where the majority of people who have voted in a recall referendum vote in favour of the member being recalled from Parliament.
- (3) Provision made by or under this Act does not affect other ways in which a member’s seat may be vacated. 15

2 Returning officers

- (1) For the purposes of this Act, the returning officer for a parliamentary constituency in England or Wales is to be the person who is the returning

- officer in relation to the constituency by virtue of section 24 of the Representation of the People Act 1983.
- (2) For a constituency in Scotland, the returning officer is to be the person who is the returning officer in relation to the constituency by virtue of section 25 of that Act (returning officers: Scotland). 5
- (3) For a constituency in Northern Ireland, the returning officer is to be the Chief Electoral Officer for Northern Ireland.
- (4) References in this Act to a returning officer are to a returning officer under this section.
- (5) Schedule 1 (which contains further provision about returning officers) has effect. 10

PART 2

INTENT TO RECALL PROCESS

3 Determination of the effective number

- (1) In each year, the returning officer of each constituency in England and Wales, Scotland and Northern Ireland shall on the relevant day, determine the number that is equal to 5% of the number of persons entitled to sign a notice of intent to recall in that constituency on that day (“the effective number”). 15
- (2) For the purposes of this section a person is entitled to sign a notice of intent to recall if on the relevant day that person would be entitled to vote as an elector at a parliamentary election in the constituency. 20
- (3) The returning officer shall, as soon as practicable after making a determination under subsection (1), publish—
- (a) the effective number;
 - (b) a postal and electronic address for the purpose of receiving notices of intent to recall (“the returning officer’s address“). 25
- (4) For the purposes of this section “the relevant day” shall be the day on which the registration officer publishes a revised version of the electoral register under section 13 of the Representation of the People Act 1983.

4 Form etc. of notice of intent to recall 30

- (1) The Secretary of State shall make regulations with regard to notices of intent.
- (2) Regulations under subsection (1) shall, in particular, include provision as to—
- (a) a duty upon the electoral registration officer to—
 - (i) provide a person on request with the number shown (if any) against that person’s name on the electoral register (“electoral number”); 35
 - (ii) make arrangements whereby the notice of intent may be signed electronically; and
 - (iii) make arrangements to combat error and fraud in this regard.
 - (b) the form, including paper and electronic, in which a notice of intent to recall may be deposited with the returning officer; 40

-
- (c) the information which must accompany signatures, including full name, address and, in the case of a notice being signed electronically, the electoral number of the signatory; and
- (d) the application of offences created in the Representation of the People Act 1983 to activity in relation to signing a notice of intent as if that were voting in an election. 5
- 5 Wording of notice of intent to recall**
- (1) A notice of intent to recall shall read as follows –
- “If you agree that [*name*], the member of the House of Commons for [*constituency*] should be subject to a recall petition for the following reason, please sign below 10
- Statement of Reasons (maximum 200 words)”
- (2) A notice of intent shall include a statement of no more than 200 words explaining the reason for calling for a recall petition (“statement of reasons”).
- 6 Persons entitled to sign a notice of intent to recall** 15
- A person is entitled to sign a notice of intent to recall in respect of a member for a constituency on the day the notice is signed by that person if that person would be entitled to vote on that day as an elector at a parliamentary election in the constituency.
- 7 Deposit of notice of intent to recall by promoter** 20
- (1) A notice of intent to recall may be deposited with a returning officer by a promoter of the notice.
- (2) A notice of intent to recall may be deposited by delivering it in person or sending it by post or electronically to the returning officer’s address published under section 3(3)(b). 25
- (3) The notice of intent deposited under subsection (1) must be accompanied by a declaration made by the promoter, verifying that to the best of that person’s knowledge the notice complies with the requirements of this Act.
- (4) The date of deposit of a notice of intent to recall is the date it is received by the returning officer. 30
- (5) “Promoter” means, for the purposes of this section, a person who supports the recall from Parliament of the member to which the notice of intent to recall relates.
- 8 Determination of whether a notice of intent to recall is effective**
- (1) As soon as reasonably practicable after a notice of intent to recall has been deposited under section 7 – 35
- (a) the returning officer shall send a copy of the notice to the member;
- (b) the returning officer shall, in accordance with subsection (2), determine whether the notice of intent to recall is effective, and
- (c) if so, the officer must issue a notice under section 9. 40

- (2) A notice of intent to recall is effective for the purposes of this section if the returning officer is satisfied that—
- (a) the statement of reasons is not the same or similar to that included within a notice of intent to recall deposited at any time since the beginning of the current parliamentary term; 5
 - (b) the number of persons who have validly signed the notice of intent to recall is not less than the effective number; and
 - (c) it satisfies the requirements imposed under section 4.
- (3) For the purposes of this section a person (“P”) validly signs a notice of intent to recall if— 10
- (a) P signs the notice within the period commencing 28 days prior to the date upon which the notice is deposited with the returning officer and ending on that day;
 - (b) P signs the notice on a day on which P is entitled to do so under section 6; 15
 - (c) the returning officer has not received a written request from P that the signature be removed from the notice; and
 - (d) any condition imposed by regulations of the kind mentioned in section 23(3)(b) (conditions for the exercise of entitlement to sign) is met.
- (4) Where a person signs a notice of intent to recall but the information required under section 4(2)(c) is not provided, or is not provided in a legible form, that person’s signature shall be disregarded in determining whether the notice is effective. 20
- (5) If a person signs a notice of intent to recall notice more than once, only the most recent signature shall be taken into account in determining whether the notice is effective. 25

PART 3

RECALL PETITION PROCESS

9 Returning officer’s recall petition notice

- (1) As soon as reasonably practicable after determining that a notice of intent to recall is effective under section 8, the returning officer shall— 30
- (a) notify the member of the right to provide a statement in reply in accordance with section 10; and
 - (b) at the same time, issue and publicise a recall petition notice.
- (2) Subsection (1) does not apply if it would otherwise require the returning officer to give notice at a time— 35
- (a) within the period of eight months ending with the polling day for the next parliamentary general election;
 - (b) during a recall petition process in respect of the member that has already begun; 40
 - (c) when the member has been charged with an indictable offence and the member has not yet been discharged or convicted;
 - (d) when the member has been authorised to be detained under a mental health enactment; or
 - (e) when the seat of the member has already been vacated (whether by the member’s death or disqualification, or otherwise). 45

-
- (3) For the purposes of paragraph (a) of subsection (2), the possibility that, after the time mentioned in that subsection, the polling day for a parliamentary general election will be altered by virtue of section 1(5) or 2(7) of the Fixed-term Parliaments Act 2011 is to be ignored.
- (4) The following are “mental health enactments” for the purposes of this section – 5
- (a) the Mental Health Act 1983,
 - (b) Part 6, and section 200(2)(b), of the Criminal Procedure (Scotland) Act 1995, and
 - (c) the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)). 10
- (5) A notice under this section must specify the day on which it is given.
- (6) The Secretary of State shall by regulations specify –
- (a) the form and content of the returning officer’s recall petition notice (which shall include the statement of reasons and name and address of the promoter of the relevant notice of intent to recall); and 15
 - (b) how it is to be publicised.
- 10 Member’s statement in reply**
- (1) A member in relation to whom a recall petition notice has been issued may respond to the statement of reasons given in the notice of intent to recall in a written statement in reply (“statement in reply”). 20
- (2) The statement in reply must –
- (a) not exceed 200 words; and
 - (b) be provided to the returning officer within 10 working days of the member having been notified under section 9. 25
- 11 Returning officer to make recall petition available for signature**
- (1) Where the returning officer has issued a recall petition notice, the officer must, as soon as reasonably practicable, designate –
- (a) at least four places within the relevant constituency at which a recall petition is to be made available for signature; and 30
 - (b) a day from which the petition is to be made available for signature (“the designated day”).
- (2) The designated day shall be –
- (a) three weeks after that on which the returning officer’s recall petition notice is issued; or 35
 - (b) if that day is not a relevant day, the first subsequent relevant day.
- (3) But if it is not reasonably practicable to designate the day determined under subsection (2), the returning officer must designate the first subsequent relevant day that it is reasonably practicable to designate.
- (4) The returning officer must ensure that – 40
- (a) the recall petition is made available for signature; and
 - (b) any statement in reply by the member is available to be read, at the designated places throughout the signing period.

- (5) Subsection (4) is subject to any provision of regulations under section 23 –
- (a) permitting or requiring the returning officer not to make the recall petition available for signature for periods of a day or on particular days; or
 - (b) about signing by post or proxy. 5
- (6) In this section “relevant day” means a day that is not –
- (a) a Saturday or Sunday;
 - (b) Christmas Eve, Christmas Day or Good Friday; or
 - (c) a bank holiday or a day appointed for public thanksgiving or mourning, 10
- and for this purpose “bank holiday” means a day that is a bank holiday in the part of the United Kingdom in which the constituency is situated.
- (7) In this Act “the signing period” means the period –
- (a) beginning with the designated day; and
 - (b) ending with the day eight weeks later or, if the returning officer has, on an earlier day, given notice under section 13 (early termination of recall petition process), that earlier day. 15
- (8) In relation to a constituency in Northern Ireland, this section has effect as if –
- (a) subsection (1)(a) were omitted, and
 - (b) in subsection (4), the words “at the designated places” were omitted. 20

12 Wording of recall petition

A recall petition issued under section 9(1)(b) shall include –

- (a) the statement of reasons in the relevant notice of intent to recall; and
- (b) the following words –

“If you think that [*name*], the member of the House of Commons for [*constituency*] should be subject to a recall referendum, please sign below.” 25

13 Early termination of recall petition process by returning officer

- (1) This section applies where, at any time after a returning officer’s recall petition notice has been issued, but before the returning officer has issued a recall referendum notice under section 16, either of the following two conditions is met. 30
- (2) The first condition is that –
- (a) the polling day for the next parliamentary general election is brought forward by virtue of section 2(7) of the Fixed-term Parliaments Act 2011; and
 - (b) the new day is within the period of six months beginning with the day on which the returning officer’s notice was issued. 35
- (3) The second condition is that the seat of the member is vacated (whether by the member’s death or disqualification, or otherwise). 40
- (4) Where this section applies no further action, except that specified in subsection (5), is to be taken under or by virtue of this Act in relation to the recall petition.

- (5) As soon as reasonably practicable after becoming aware that this section applies, the returning officer must –
 - (a) take such steps as the officer considers necessary to terminate the recall petition process; and
 - (b) notify the member accordingly.

5

14 Persons entitled to sign recall petition

A person is entitled to sign a recall petition in respect of a member of Parliament for a constituency if that person would be entitled to vote on the designated day as an elector at a parliamentary election in the constituency.

15 Determination of whether recall petition successful

10

- (1) As soon as reasonably practicable after the end of the signing period, the returning officer must determine whether the recall petition has been successful.
- (2) A recall petition is successful for the purposes of this section, if the number of persons who validly sign the petition is at least 20% of the number of persons to whom subsection (3) applies.
- (3) This subsection applies to a person (“P”) if –
 - (a) P is, on the designated day, registered in the register of parliamentary electors for the constituency, and
 - (b) P has attained the age of 18 before the end of the signing period (or would have done so had he or she not died).
- (4) For the purposes of this Act a person (“P”) validly signs a recall petition if –
 - (a) P signed during the signing period;
 - (b) P’s full name and address have been provided;
 - (c) P is entitled to do so under section 14;
 - (d) the returning officer has not, after signature and in the signing period, received a written request from P that the signature be removed from the petition; and
 - (e) any condition imposed by regulations of the kind mentioned in section 23(4)(b) (conditions for the exercise of entitlement to sign) is met.
- (5) Where a person signs a recall petition but the information required under regulations made under section 23 is not provided, or is not provided in a legible form, that person’s signature shall be disregarded in determining whether the petition is successful.
- (6) If a person signs a recall petition more than once, only the most recent signature shall be taken into account in determining whether the petition is successful.
- (7) This section is subject to any provision made in regulations under section 23 about the questioning of the outcome of the recall petition.

15

20

25

30

35

PART 4

RECALL REFERENDUM PROCESS

16 Returning officer’s notice of recall referendum

- (1) As soon as reasonably practicable after determining that a recall petition is successful, the returning officer shall issue a notice of recall referendum. 5
- (2) Where a notice of recall referendum has been issued, the returning officer shall hold a referendum on the question set out in section 19, within a period that is no less than 21 days and no more than 27 days after the date of the notice.
- (3) For the purposes of computing the period mentioned in subsection (2) – 10
- (a) a Saturday or Sunday;
- (b) Christmas Eve, Christmas Day or Good Friday; or
- (c) a bank holiday or a day appointed for public thanksgiving or mourning,
- shall be disregarded, and for this purpose “bank holiday” means a day that is a bank holiday in the part of the United Kingdom in which the constituency is situated. 15
- (4) Subsection (1) does not apply if it would otherwise require the returning officer to give notice at a time – 20
- (a) within the period of six months ending with the polling day for the next parliamentary general election; or
- (b) when the seat of the member has already been vacated (whether by the member’s death or disqualification, or otherwise).
- (5) For the purposes of paragraph (a) of subsection (4), the possibility that, after the time mentioned in that subsection, the polling day for a parliamentary general election will be altered by virtue of section 1(5) or 2(7) of the Fixed-term Parliaments Act 2011 is to be ignored. 25
- (6) A notice under this section must specify the day on which it is given.
- (7) This section does not apply where, before the notice is issued, the member’s seat is already vacated (whether by the member’s death or disqualification, or otherwise). 30

17 Early termination of recall referendum process by returning officer

- (1) This section applies where, at any time after a returning officer’s recall referendum notice has been issued, but before the day on which the referendum is held, either of the following two conditions is met.
- (2) The first condition is that – 35
- (a) the polling day for the next parliamentary general election is brought forward by virtue of section 2(7) of the Fixed-term Parliaments Act 2011; and
- (b) the new day is within the period of six months beginning with the day on which the returning officer’s recall referendum notice was issued. 40
- (3) The second condition is that the seat of the member is vacated (whether by the member’s death or disqualification, or otherwise).

-
- (4) Where this section applies no further action, except that specified in subsection (5), is to be taken under or by virtue of this Act in relation to the recall referendum.
- (5) As soon as reasonably practicable after becoming aware that this section applies, the returning officer must— 5
- (a) take such steps as the officer considers necessary to terminate the recall referendum process; and
- (b) notify the member accordingly.
- 18 Voting in and conduct of referendum**
- A person is entitled to vote in a recall referendum under this Act if that person would be entitled to vote on that day as an elector at a parliamentary election in the constituency. 10
- 19 Wording of recall referendum question**
- The question that is to appear on the ballot papers in a recall referendum is—
“Should [*name of Member of Parliament*] be recalled from the House of Commons?”. 15
- 20 The result of the recall referendum**
- (1) The returning officer is to determine the result of a recall referendum held pursuant to section 16(2) and in accordance with this section, as soon as reasonably practicable after the date on which the referendum took place. 20
- (2) This subsection applies where more votes are cast in a recall referendum in relation to a member of Parliament in favour of the question asked in section 19 than against.
- (3) Where subsection (2) applies, the result of the referendum is that the member’s seat becomes vacant. 25
- (4) The returning officer must—
- (a) immediately notify the member and the Speaker of the House of Commons of the result of the referendum; and
- (b) as soon as reasonably practicable, publish the result of the referendum.
- PART 5** 30
- MISCELLANEOUS
- 21 How entitlement to sign a recall petition and to vote in a recall referendum is to be exercised**
- (1) A person who is entitled to sign a recall petition or vote in a recall referendum in respect of a member for a constituency in Great Britain may sign it in person, by post or by proxy. 35
- (2) A person who is entitled to sign a recall petition or vote in a recall referendum in respect of a member for a constituency in Northern Ireland may sign it by post or by proxy.

- (3) References in this section to a person who is entitled to sign a recall petition or vote in a recall referendum do not include a person acting as proxy for another person.

22 Offences

- (1) A person who signs the same notice of intent to recall or recall petition, or votes in a recall referendum more than once, commits an offence. 5
- (2) The reference in subsection (1) to signing a recall petition or recall referendum—
- (a) includes signing by post or by proxy, but
 - (b) does not include signing as proxy for another person. 10
- (3) A person who signs the same recall petition or recall referendum as proxy for the same person more than once commits an offence.
- (4) A person who makes a declaration under section 7(2) where that person knows that the declaration is false, or is reckless as to that fact, commits an offence.
- (5) The Secretary of State may by regulations extend the provisions of section 60 of the Representation of the People Act 1983 to include a person who signs a notice of intent to recall or recall petition or votes in a recall referendum where that person knows or is reckless as to the fact that they are not entitled to do so. 15
- (6) An offence under this section or by virtue of regulations made under this section is to be treated— 20
- (a) for the purposes of section 169 of the Representation of the People Act 1983 (mode of prosecution of penalty for illegal practices) as an illegal practice,
 - (b) for the purposes of section 173 of that Act (incapacities on conviction of corrupt or illegal practice) as an illegal practice under section 61 of that Act (other voting offences), 25
 - (c) for the purposes of section 178 of that Act (prosecution of offences committed outside the United Kingdom), as an offence under that Act, and
 - (d) for the purposes of section 112 of the Electoral Law Act (Northern Ireland) 1962 (c. 14 (N.I.)) (incapacities on conviction of corrupt or illegal practice) as an illegal practice under paragraph 12A of Schedule 9 to that Act (other voting offences). 30
- (7) The court before which a person is convicted of an offence under or by virtue of this section may, if it thinks it just in the specific circumstances of the case, mitigate or entirely remit any incapacity imposed by virtue of section 173 of the Representation of the People Act 1983 or section 112 of the Electoral Law Act (Northern Ireland) 1962. 35

23 Regulations as to intent to recall process and recall petition process

- (1) The Secretary of State shall by regulations— 40
- (a) make provision (in addition to that made by or under any other provision of this Act) about actions that may or must be taken in relation to a notice of intent to recall or a recall petition; and
 - (b) make provision about the questioning of the outcome of a notice of intent to recall or recall petition and the consequences of irregularities. 45

-
- (2) The provision that may be made under this section includes –
- (a) provision about signing a notice of intent to recall in person or electronically and a recall petition in person, by post or by proxy;
 - (b) provision permitting or requiring a returning officer, when performing the duty under sections 8(1)(b) and 15(1), to treat a person who signed the petition as having been entitled to do so; 5
 - (c) provision creating a criminal offence or about a criminal offence under this Act.
- (3) The provision that may be made by virtue of subsection (2)(a) includes –
- (a) provision about what a person must do in order to be regarded as having signed a notice of intent to recall or a recall petition for the purposes of this Act; 10
 - (b) provision under which an entitlement to sign a notice of intent to recall or a recall petition may be exercised only where conditions specified in the regulations are met; 15
 - (c) provision about when a person who signs a recall petition by post is to be treated as signing it for the purposes of this Act.
- (4) The outcome of a notice of intent to recall or a recall petition may be questioned only in accordance with provision made under subsection (1)(b).
- 24 Regulations as to recall referendum 20**
- (1) The Secretary of State shall by regulations make provision for or in connection with a recall referendum held pursuant to section 16(2).
- (2) Regulations under subsection (1) may, in particular, include provision –
- (a) as to the publicity to be given in connection with a recall referendum (including the publicity to be given with respect to the consequences of the referendum); 25
 - (b) as to the conduct of the recall referendum;
 - (c) as to when, where and how voting in a recall referendum is to take place;
 - (d) as to how the votes cast in a recall referendum are to be counted; 30
 - (e) for disregarding alterations in a register of electors; and
 - (f) creating a criminal offence or about a criminal offence under this Act.
- 25 Regulations as to register of electors**
- (1) The Secretary of State shall by regulations make provision for or in connection with the maintenance and alteration of the register of electors. 35
- (2) Regulations under subsection (1) may, in particular, include provision –
- (a) as to how applications for registration in the register of electors should be treated during the period commencing on the date on which a notice of intent to recall has been deposited under section 7 and ending on the date of the determination of a recall referendum held under section 16(2); 40
 - (b) make provision for the registration officer appointed under section 8 of the Representation of People Act 1983 to determine applications to be entered on and amend the register at specified intervals; and
 - (c) as to the alteration of the register when the annual canvass period falls within that period. 45

26 Regulations as to expenses and donations

- (1) The Secretary of State shall by regulations and for the purpose of ensuring an equality of expenditure by different persons who are for and against the recall of a member from Parliament, make provision about limiting and the reporting of the expenditure and donations and other matters towards and in connection with the recall process. 5
- (2) Regulations made under subsection (1) may make provision creating a criminal offence and about a criminal offence.

27 Regulations as to extension of recall to local government etc.

- (1) The Secretary of State may by regulations apply or incorporate, with or without modifications or exceptions, any provision of or made under this Act or any other enactment for the purposes of extending a system of recall to the offices to which this section applies. 10
- (2) This section applies to the following offices –
- (a) an elected member of – 15
 - (i) a local authority within the meaning of section 270(1) of the Local Government Act 1972,
 - (ii) the Greater London Authority, in accordance with the Greater London Authority Act 1999 (that is, the Mayor of London and a member of the Assembly for London); and 20
 - (b) an elected mayor, which for these purposes –
 - (i) in relation to England, has the same meaning as in Part 1A of the Local Government Act 2000, and
 - (ii) in relation to Wales, has the same meaning as in Part II of the Local Government Act 2000, and 25
 - (iii) a body established under section 1 of the Police Reform and Social Responsibility Act 2011 (police and crime commissioner).

28 Recall from Scottish Parliament, Welsh and Northern Irish Assemblies to be a devolved matter

- (1) Paragraph B3 of Part II of Schedule 5 to the Scotland Act 1998 (reserved matters) shall be amended to add the words “(other than in relation to the recall of members from the Parliament)” after the second reference to “Parliament”. 30
- (2) At the end of paragraph 13, Part 1 of Schedule 7 (devolved matters) to the Government of Wales Act 2006 add –
- “Recall of members from the Assembly”. 35
- (3) At the end of paragraph 8 of Schedule 3 to the Northern Ireland Act 1998 (reserved matters) add –
- “Recall of members from the Assembly”.

29 Role of Electoral Commission

Schedule 2 (which contains amendments of Part 1 of the Political Parties, Elections and Referendums Act 2000 relating to the role of the Electoral Commission in connection with the recall process) has effect. 40

30 Regulations and orders: general and procedure

- (1) Regulations or orders under this Act may –
 - (a) make consequential, supplementary, incidental, transitional or saving provision; 5
 - (b) make different provision for different cases, purposes or areas. 5
- (2) Regulations or orders under this Act may –
 - (a) apply or incorporate, with or without modifications or exceptions, any provision of or made under the Representation of the People Acts or any other enactment relating to elections or referendums; 10
 - (b) amend any form contained in regulations made under the Representation of the People Acts, or any other enactment relating to elections, for use in relation to the recall process. 10
- (3) Regulations and orders under this Act, except for regulations under paragraph 3(10) of Schedule 1, are to be made by statutory instrument.
- (4) A statutory instrument containing regulations made under this Act may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 15
- (5) Section 26 of the Welsh Language Act 1993 (power to prescribe Welsh version) applies in relation to regulations and orders under this Act as it applies in relation to Acts of Parliament. 20
- (6) This section does not apply to an order under section 32 (commencement).

31 Interpretation

- (1) In this Act –
 - “action” includes omission;
 - “designated day” has the meaning given in section 11(1)(b); 25
 - “effective number” has the meaning given to it in section 3(1);
 - “electoral register” means the register of parliamentary electors maintained under section 9(1) of the Representation of the People Act 1983;
 - “enactment” includes – 30
 - (a) an enactment contained in subordinate legislation (within the meaning of the Interpretation Act 1978),
 - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish parliament,
 - (c) an enactment contained in, or in an instrument made under, Northern Ireland legislation, and 35
 - (d) an enactment contained in, or in an instrument made under a Measure or Act of the National Assembly for Wales;
 - “electoral number” has the meaning given in section 4(2)(a)(i);
 - “intent to recall process” means the actions taken under or by virtue of this Act in relation to a notice of intent to recall during the period – 40
 - (a) after the deposit of the notice with the returning office under section 7, and
 - (b) before the issuing of the notice of recall petition;
 - “member” means a member of the House of Commons; 45

-
- “notice of intent to recall” means a notice calling, in terms determined under section 5, for a recall petition to be issued;
- “promoter” has the meaning given to it in section 7(5);
- “recall petition” means a petition calling, in terms determined under “promoter” has the meaning given to it in section 7(5); 5
- “recall petition process” means the actions taken under or by virtue of this Act in relation to a recall petition during the period –
- (a) after the issuing of the notice of recall petition, and
 - (b) before the issuing of a notice of recall referendum;
- “recall process” means a process which consists of the intent to recall process, the recall petition process and the recall referendum process; 10
- “recall referendum” means a referendum asking, in terms determined under section 19, whether the seat of a member should be vacated in accordance with this Act;
- “recall referendum process” means the actions taken under or by virtue of this Act in relation to a recall referendum during the period – 15
- (a) after the issuing of the notice of referendum, and
 - (b) ending with the date the member’s seat becomes vacant under section 20;
- “returning officer” has the meaning given by section 2; 20
- “signing period” has the meaning given by section 11(7);
- “statement in reply” has the meaning given in section 10(1); and
- “statement of reasons” has the meaning given in section 5.
- (2) For the purposes of this Act the time at which a member of the House of Commons becomes a member of that House is the beginning of the day after the polling day for the parliamentary election at which the member is elected. 25
 - (3) A duty under this Act to notify (however expressed) is a duty to give notice in writing.
- 32 Extent, commencement and short title**
- (1) Subject to subsection (2), this Act extends to the whole of the United Kingdom. 30
 - (2) An amendment or repeal by this Act has the same extent as the enactment (or part of the enactment) amended or repealed.
 - (3) This section comes into force on the day on which this Act is passed.
 - (4) Otherwise, this Act comes into force on such day as the Secretary of State may appoint by order made by statutory instrument. 35
 - (5) An order under subsection (4) –
 - (a) may appoint different days for different purposes, and
 - (b) may make transitional, transitory or saving provision.
 - (6) This Act may be cited as the Recall of Elected Representatives Act 2014.

SCHEDULES

SCHEDULE 1

Section 2

RETURNING OFFICERS

Returning officer’s general duty

- | | | |
|---|---|---|
| 1 | It is the returning officer’s general duty to do all such acts and things as may be necessary for effectively dealing with the recall process in accordance with this Act and regulations and orders made under it. | 5 |
|---|---|---|

Performance of returning officer’s functions: delegation, assistance etc

- | | | |
|---|--|----|
| 2 | (1) Sub-paragraphs (2) and (3) apply in relation to a returning officer for a constituency in England, Wales or Scotland. | 10 |
| | (2) The returning officer may appoint one or more deputies to discharge any or all of the returning officer’s functions conferred under or by virtue of this Act. | |
| | (3) Each local authority whose area falls wholly or partly within the constituency must place the services of its officers at the disposal of the returning officer for the purpose of assisting the returning officer in the exercise of his or her functions. | 15 |
| | (4) In sub-paragraph (3) “local authority” means – | |
| | (a) a district council, | |
| | (b) a county council in England for a county in which there are no district councils, | 20 |
| | (c) a unitary council, | |
| | (d) a London borough council, | |
| | (e) the Common Council of the City of London, | |
| | (f) the Council of the Isles of Scilly, | 25 |
| | (g) a county council or county borough council in Wales, or | |
| | (h) a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39). | |
| | (5) Sections 14(5) and 14A(2) and (3) of the Electoral Law Act (Northern Ireland) 1962 (appointment of temporary deputy, delegation to assistants and involvement of officers of local authorities) have effect in relation to the Chief Electoral Officer for Northern Ireland in his or her capacity as a returning officer in relation to a notice of intent to recall, a recall petition or a recall referendum. | 30 |

Expenditure

- 3 (1) A returning officer may recover charges in respect of services rendered, or expenses incurred, by the officer for or in connection with any recall process if –
- (a) the services were necessarily rendered, or the expenses were necessarily incurred, for the efficient and effective conduct of the process, and 5
 - (b) the total of the officer’s charges does not exceed the amount (“the overall maximum recoverable amount”) specified in, or determined in accordance with, an order made by the Secretary of State, with the consent of the Treasury, for the purposes of this sub-paragraph. 10
- (2) An order under sub-paragraph (1) may specify, or make provision for determining in accordance with the order, a maximum recoverable amount for services or expenses or any specified description.
- (3) Subject to sub-paragraph (4), the returning officer may not recover more than the specified maximum recoverable amount in respect of any specified services or expenses. 15
- (4) In a particular case, the Secretary of State may, if satisfied that the conditions in sub-paragraph (5) are met, and with the consent of the Treasury, authorise the payment of – 20
- (a) more than the overall maximum recoverable amount, or
 - (b) more than the specified maximum recoverable amount for any specified services or expenses.
- (5) Those conditions are –
- (a) that it was reasonable for the returning officer to render the services or incur the expenses, and 25
 - (b) that the charges in question are reasonable.
- (6) The amount of any charges recoverable in accordance with this paragraph is to be paid by the Secretary of State on an account being submitted to the Secretary of State. 30
- (7) But the Secretary of State may, before payment, apply for the account to be taxed under paragraph 4.
- (8) Where the superannuation contributions required to be paid by a local authority in respect of any person are increased by any fee paid under this paragraph as part of a returning officer’s charges, then on an account being submitted to the Secretary of State a sum equal to the increase must be paid to the authority by the Secretary of State. 35
- (9) On the request of a returning officer for an advance on account of the officer’s charges, the Secretary of State may make such an advance on such terms as the Secretary of State thinks fit. 40
- (10) The Secretary of State may by regulations make provision as to –
- (a) the time when; and
 - (b) the manner and form in which, accounts are to be rendered to the Secretary of State for the purposes of the payment of a returning officer’s charges. 45

- (11) *Any sums required by the Secretary of State for making payments under this paragraph are to be charged on, and paid out of, the Consolidated Fund.*
- (12) In this paragraph –
“local authority” has the same meaning as in paragraph 2(3);
“specified” means specified in, or determined in accordance with, an order under sub-paragraph (1). 5

Taxation of returning officer’s account

- 4 (1) An application under paragraph 3(7) for a returning officer’s account to be taxed is to be made –
(a) in the case of a returning officer for a constituency in Scotland, to the Auditor of the Court of Session, and 10
(b) otherwise, to a county court.
- (2) On such an application the court has jurisdiction –
(a) to tax the account in such manner, and at such time and place, as it thinks fit, and 15
(b) finally to determine the amount payable to the returning officer.
- (3) On any such application the returning officer may apply to the court to examine any claim made by any person (“the claimant”) against the officer in respect of matters charged in the account.
- (4) Where an application is made in respect of a claim under sub-paragraph (3) – 20
(a) notice of the application must be given to the claimant;
(b) the court must give the claimant an opportunity to be heard and to tender any evidence;
(c) the court may allow, disallow or reduce the claim, with or without costs; and 25
(d) the determination of the court is final for all purposes and as against all persons.
- (5) A reference in this paragraph to “the court” includes a reference to the Auditor of the Court of Session. 30
- (6) An application under sub-paragraph (1) for taxation of the account of the Chief Electoral Officer for Northern Ireland must be made to the county court that has jurisdiction at the place where the officer’s headquarters are situated.

SCHEDULE 2

THE ROLE OF THE ELECTORAL COMMISSION

- 1 Part 1 of the Political Parties, Elections and Referendums Act 2000 (the Electoral Commission) is amended as follows.
- 2 (1) Section 5 (reports on elections and referendums) is amended as follows.
(2) In the heading, for “and referendums” substitute”, referendums etc”. 40

-
- (3) After subsection (3), insert –
- “(4) After the conclusion of an intent to recall process, a recall petition process or a recall referendum process the Commission may prepare and publish (in such manner as the Commission may determine) a report on the administration of the process.” 5
- 3 (1) Section 6 (reviews of electoral and political matters) is amended as follows.
- (2) In subsection (1), after paragraph (b) insert –
- “(ba) such matters relating to recall processes as the Commission may so determine,”.
- (3) In subsection (3) – 10
- (a) after paragraph (b) insert –
- “(ba) how a member of the House of Commons becomes the subject of a recall process under the Recall of Elected Representatives Act 2014;”, and
- (b) in paragraph (c), for “and (b)” substitute “to (ba)”. 15
- 4 In section 6A(1) (attendance of representatives of Commission at elections etc), after paragraph (b) insert –
- “(c) any part of a recall petition process or recall referendum process which is the responsibility of the returning officer in relation to the petition or referendum, as the case may be.” 20
- 5 In section 6F (code of practice on attendance of observers at elections etc), after subsection (1) insert –
- “(1A) The code must also cover the attendance of representatives of the Commission during the recall petition process and recall referendum process under the Recall of Elected Representatives Act 2014”. 25
- 6 In section 7(2) (Commission to be consulted on changes to electoral law), after paragraph (j) insert –
- “(k) regulations under sections 23 to 27 of the Recall of Elected Representatives Act 2014.”
- 7 In section 10(3)(a) (giving of advice and assistance), after sub-paragraph (ii) insert – 30
- “(iia) returning officers in relation to any recall process”.
- 8 In section 21 (interpretation of Part 1), make the existing provision subsection (1) and after that subsection insert –
- “(2) In this Part “intent to recall process”, “recall petition process”, “recall process” and “recall referendum process” have the same meaning as in the Recall of Elected Representatives Act 2014.” 35

Recall of Elected Representatives Bill

A

B I L L

To make provision about the recall of members of the House of Commons; to allow for the extension of such provision to other offices; to provide that the recall of elected representatives in Scotland, Northern Ireland and Wales be a devolved matter; and for connected purposes.

*Presented by Zac Goldsmith,
supported by
Mr David Davis, Anne Marie Morris,
Mr Andrew Mitchell, Jacob Rees-Mogg,
Nick de Bois, Mr Frank Field,
Kate Hoey, Caroline Lucas,
Roger Williams, Jonathan Edwards
and Mark Durkan.*

*Ordered, by The House of Commons,
to be Printed, 9 September 2014.*

© Parliamentary copyright House of Commons 2014

*This publication may be reproduced under the terms of the Open Parliament Licence, which is published at
www.parliament.uk/site-information/copyright.*

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx

Bill 88

(xxxxxx)

55/4

xxxbarxxx