

# United Kingdom: General Election

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## UNITED KINGDOM

### General Election

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#### Introduction

On April 6, 2009, Prime Minister Gordon Brown announced that a General Parliamentary Election<sup>1</sup> (also commonly referred to as a general election or national election) would be held on [May 6, 2010](#). General elections occur after Parliament has been [dissolved](#), either through Royal Proclamation upon the advice of the Prime Minister or because the five-year maximum term of Parliament has expired.<sup>2</sup> The effect of the Proclamation is to vacate all the seats in the House of Commons. A General Election is held for all [650 seats](#) in Parliament and the political party that wins the most seats then goes on to form the government. There are no set timetables for when an election should be held, other than the requirement that it occur within the five-year maximum life of Parliament. As a result, the Prime Minister has a political and tactical advantage to a certain degree due to the discretion that he has when calling an election.

In addition to the requirement that general elections occur at least every five years, there are certain protocols in place regarding the timetable of parliamentary elections. The actual date of the parliamentary election is set by the date that the Proclamation is issued and must occur within seventeen days.<sup>3</sup> Within these seventeen days a number of other deadlines occur, as set out below:

- A writ must be issued as soon as practicable after the Proclamation is made;
- Day three: A notice of the election must be published;
- Day six: papers nominating and withdrawing candidates must be delivered and any objections to these nominations must be made;
- Day six: last day to register to vote, for a postal vote, or to alter an existing proxy vote;
- Day eleven: last day to register for a proxy vote;
- Day fifteen: last day to appoint polling and counting agents;
- Day seventeen: polling (voting) day.<sup>4</sup>

While the General Election applies to the whole of the United Kingdom, the laws referred to in this report apply to England and Wales.

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<sup>1</sup> The Interpretation Act 1978, c. 30, § 5, sched. 1, defines Parliamentary Election as “the election of a Member to serve in Parliament for a constituency.”

<sup>2</sup> Septennial Act 1715, *as amended by* Parliament Act 1911 § 3. The average length of Parliament since 1945 has been three years and seven months. ROBERT ROGERS AND RHODRI WALTERS, *HOW PARLIAMENT WORKS* 22 (5th ed. 2004).

<sup>3</sup> Representation of the People Act 1983, c. 2, sched. 1. See further House of Commons Library Research Paper, *Election Timetables*, 07/31. March 2007, <http://www.parliament.uk/commons/lib/research/rp2007/rp07-031.pdf>.

<sup>4</sup> Representation of the People Act 1983, c. 2, sched. 1 and House of Commons Standard Note, *General Election Timetables*, SN/PC/4454, March 2010, <http://www.parliament.uk/commons/lib/research/briefings/snpc-04454.pdf>.

## Electoral Districts

Electoral Districts in the United Kingdom are known as parliamentary constituencies, with each of these constituencies electing one Member of Parliament. There are currently 650 constituencies in the United Kingdom. The distribution of these seats is under continuous review by four non-departmental government bodies known as the [Boundary Commissions](#) that cover England, Wales, Scotland, and Northern Ireland respectively. The Boundary Commissions recommend changes to the boundaries of the constituencies they are responsible for reviewing to ensure that each Member of Parliament represents a proportionate number of constituents.<sup>5</sup>

## Electoral System

The electoral system used in the UK is that of a simple majority (plurality) for each constituency, more commonly known as the first past the post system, with the candidate that achieves the largest number of votes for their constituency being elected to Parliament. The first past the post electoral system has been in place in the United Kingdom for decades, and has been the subject of a number of reports from government commissions that have recommended changes to the voting system.<sup>6</sup> In 2010 the Labour government announced that it was including provisions in Part 3 of the [Constitutional Reform and Renewal Bill 2009-10](#)<sup>7</sup> that would allow for a referendum on changing to the [Alternative Vote](#) for the general elections; however, these clauses did not make it into the [final Act](#).<sup>8</sup>

## Eligibility to Vote

Eligibility to vote in general elections in the United Kingdom is subject to a number of criteria.<sup>9</sup> Primarily, the individual wishing to vote must be registered in the register of parliamentary electors for their relevant constituency.<sup>10</sup> To be able to register a name on the register of parliamentary electors, the individual must be a British subject, which includes [Commonwealth citizens](#)<sup>11</sup> and citizens of the

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<sup>5</sup> Parliamentary Constituencies Act 1986, c. 56, sched. 2, *as amended*.

<sup>6</sup> *See, e.g.*, SPEAKER'S CONFERENCE ON ELECTORAL REFORM, Cd. 8463 (1917), and more recently INDEPENDENT COMMISSION ON THE VOTING SYSTEM, REPORT OF THE INDEPENDENT COMMISSION ON THE VOTING SYSTEM, 1998, Cm. 4090.

<sup>7</sup> Constitutional Reform Bill 2009-2010, H.L. Bill [40], pt. 3.

<sup>8</sup> House of Commons Standard Note, *AV and Electoral Reform*, SN/PC/05317, Feb. 2010, <http://www.parliament.uk/commons/lib/research/briefings/snpc-05317.pdf>.

<sup>9</sup> Representation of the People Act 1983, c. 2, § 1.

<sup>10</sup> ERSKINE MAY'S TREATISE ON THE LAW, PRIVILEGES, PROCEEDINGS AND USAGE OF PARLIAMENT (Sir William McKay et. al. eds., 23rd ed. 2004).

<sup>11</sup> Representation of the People Act 1983 c. 2, § 4(6). Commonwealth citizens are individuals that do not require leave to enter or remain in the United Kingdom. *Id.*; *see also* British Nationality Act 1981, c. 61, §§ 37, 51(2).

Republic of Ireland resident in Britain,<sup>12</sup> and must be aged eighteen years or older.<sup>13</sup> A British citizen resident overseas can vote for up to fifteen years after they leave the country.<sup>14</sup>

Individuals that are disqualified from voting are Members of the House of Lords; aliens, encompassing either legal or illegal immigrants; offenders that have been lawfully detained in a mental hospital; individuals guilty of corrupt or illegal practices at elections; and prisoners that are detained while serving their sentence.<sup>15</sup> Prior to 2006 the common law prohibited certain mentally ill people (referred to in the case law as idiots or lunatics) from voting; however, this was abolished by the [Electoral Administration Act 2006](#).<sup>16</sup>

For the 2010 election, there are over 46 million people entitled to vote and 547,350 that were going to reach the age of majority (eighteen years of age) to vote within the next year.<sup>17</sup>

### **Registering to Vote**

Provisions for the registration of voters in the UK are made through regulations under the Representation of the People Act 1983.<sup>18</sup> In the United Kingdom, local councils maintain voter registration lists (commonly known as the “electoral roll” or “electoral register”). The information held on the electoral roll is used for general elections, European Parliament elections, local government elections, and, depending upon the persons’ place of residence, elections to the National Assembly for Wales or the Scottish Parliament.<sup>19</sup>

Voter registration is not automatic and requires positive action (registration) on behalf of the individual wishing to vote. The Electoral Roll is compiled from two main sources:

- An annual canvass conducted by the Local Council between August and November. Voter registration forms are delivered to homes in the Local Councils area. Households are required by law to complete and return the form listing all people resident there who are eligible to vote on October 15<sup>th</sup> of that year.<sup>20</sup>

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<sup>12</sup> Ireland Act 1949, 12, 13 & 14 Geo. 6, c. 41.

<sup>13</sup> Representation of the People Act 1983 c. 2, § 1.

<sup>14</sup> *Id.* § 4(1)

<sup>15</sup> *Id.* §§ 3-3A’ *see also* Electoral Commission, *Factsheet: Who Can Vote?*, <http://www.electoralcommission.org.uk/faq/voting-and-registration/who-is-eligible-to-vote-at-a-general-election> (last visited Apr. 26, 2010).

<sup>16</sup> Electoral Administration Act 2006, c. 22, § 73.

<sup>17</sup> Office for National Statistics, UK Electoral Statistics 2009, <http://www.statistics.gov.uk/StatBase/Product.asp?vlnk=319>.

<sup>18</sup> Representation of the People Act 1983, c. 2.

<sup>19</sup> Direct.gov, *Registering to Vote*, [http://www.direct.gov.uk/en/Governmentcitizensandrights/UKgovernment/Politicalpartiesandelections/DG\\_073239](http://www.direct.gov.uk/en/Governmentcitizensandrights/UKgovernment/Politicalpartiesandelections/DG_073239) (last visited Apr. 26, 2009).

<sup>20</sup> Representation of the People Act 1983, c. 2, § 10.

- If the information on the form received by the household is accurate, it can be renewed by phone or the Internet.
- Rolling registration by individual voters, who can register at any time by completing a registration form and sending it to the local electoral registration office.<sup>21</sup>

The penalty for failing to complete the voter registration form or for providing false information is a fine of up to £1,000 (approximately US\$1,500).<sup>22</sup> Additionally, failure to register results in the individual not being able to vote in any election, as well as having a negative impact on the ability of the person to obtain credit, as credit reporting agencies use the Electoral Roll to verify names and addresses of credit applicants.<sup>23</sup>

The electoral register can be updated on a rolling basis with additions, deletions, or amendments. If an individual moves out of the voting district, they can submit a new voter registration form to be on the electoral register in their new district. The applicant must state their old address and the Electoral Registration Officer of the new district notifies the old district of the move.<sup>24</sup>

### **Privacy Concerns and the Electoral Register**

The electoral register is the most complete and comprehensive source of personal data in the UK, containing the names and addresses of over 95% of the population.<sup>25</sup> Since 1832, the full version of the electoral register has been available for sale to any interested person.<sup>26</sup> When first elected, the Labour government considered the sale of the electoral register,<sup>27</sup> but before any legislation could be passed a court judgment<sup>28</sup> ruled that the sale of the register was contrary to the UK's Data Protection Act 1998<sup>29</sup> and the European Convention on Human Rights, which is incorporated into the national legislation of the UK through the Human Rights Act 1998.<sup>30</sup> As a result of the consultation and judgment, the government introduced legislation requiring two forms of the electoral register be available—an edited version, which people can opt out of and, as noted above, can be sold to any person or organization, and a “full” version. The edited version is currently available for sale in data format at £20 (approximately US\$30) plus £1.50

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<sup>21</sup> House of Commons Library, Standard Note: *Electoral Register*, 2005, <http://www.parliament.uk/commons/lib/research/briefings/snpc-03031.pdf>.

<sup>22</sup> Representation of the People (England and Wales) Regulations, 2001, SI 2001/341, ¶ 23.

<sup>23</sup> Representation of the People (England and Wales) (Amendment) Regulations 2002, SI 2002/1871, ¶ 114.

<sup>24</sup> House of Commons Library, *supra* note 19.

<sup>25</sup> House of Commons Library, *supra* note 19.

<sup>26</sup> Representation of the People (England and Wales) (Amendment) Regulations 2002, SI 2002/1871, ¶ 110; House of Commons Library, Standard Note: *Supply and sale of the electoral register*, 2008, <http://www.parliament.uk/commons/lib/research/briefings/snpc-01020.pdf>.

<sup>27</sup> Home Office, *Final Report of the Working Party on Electoral Procedures* [Howarth Report], 1999.

<sup>28</sup> R (on the application of Robertson) v. City of Wakefield Metropolitan Council, [2001] EWHC Admin. 915, [2001].

<sup>29</sup> Data Protection Act 1998, c. 28.

<sup>30</sup> Human Rights Act 1998, c. 42.

(approximately US\$2) for each 1,000 entries, and in printed form for £10 (approximately US\$16) plus £5 (approximately US\$7) for each 1,000 entries.<sup>31</sup>

The full version of the electoral register is a public document and may be viewed by any member of the public at the local offices where it is held. However, there are various restrictions as to its viewing, such as electronic copies or images cannot be made, handwritten notes can only be made if they are not used for marketing purposes, and any viewing must be supervised.<sup>32</sup> The full version of the electoral register may be sold to government departments and credit reference agencies for use in certain [specified circumstances](#).<sup>33</sup>

- Government departments—for the purposes of the “prevention and detection of crime; the enforcement of the criminal law (whether in England and Wales or elsewhere); [and] the vetting of employees and applicants for employment, where such vetting is required pursuant to any enactment.”<sup>34</sup>
- Credit reference agencies registered under the Consumer Credit Act 1974,<sup>35</sup> that is, conducting the business of providing credit reference services—for the purposes of “vetting applications for credit or applications that can result in the giving of credit or the giving of any guarantee, indemnity or assurance in relation to the giving of credit; meeting any obligations contained in the Money Laundering Regulations 1993, the Money Laundering Regulations 2001 or any rules made pursuant to section 146 of the Financial Services and Markets Act 2000; and statistical analysis of credit risk assessment in a case where no person whose details are included in the full register is referred to by name or necessary implication.”<sup>36</sup>

If anyone sells, or misuses the register under these regulations, they face a fine of up to £5,000 (approximately US\$7,000).<sup>37</sup>

While only two bodies are specifically permitted to purchase the full version of the electoral register, a [number of bodies](#), such as the British Library, the courts, and the Office of National Statistics, *must* receive a copy free of charge.<sup>38</sup>

Local authorities responsible for conducting electoral registration activities are provided funding in the local authority formula grant they receive that is issued by the central government. However, there is no requirement that specific amounts of funds must be used on electoral registration, and once allocated, “decisions on how they are utilized are a matter for the local authorities concerned.”<sup>39</sup>

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<sup>31</sup> Representation of the People (England and Wales) (Amendment) Regulations 2002, SI 2002/1871, ¶ 110.

<sup>32</sup> Representation of the People (England and Wales) Regulations 2001, SI 2001/341.

<sup>33</sup> Representation of the People (England and Wales) (Amendment) Regulations 2002, SI 2002/1871, ¶ 111.

<sup>34</sup> *Id.* ¶ 113.

<sup>35</sup> Consumer Credit Act 1974, c. 39.

<sup>36</sup> Representation of the People (England and Wales) (Amendment) Regulations 2002, SI 2002/1871, ¶ 114.

<sup>37</sup> *Id.* ¶ 115.

<sup>38</sup> House of Commons Library, *supra* note 24.

<sup>39</sup> 4 Mar. 2009, PARL. DEB. (6<sup>th</sup> ser.) H.C. (2009) 1708W.

## How Votes are Received

There are a number of ways to [vote in the general elections](#) in the UK. The most used and traditional way is to vote in person at a [polling \(voting\) station](#) on the day of the election. These polling stations are typically schools or town halls, and the address is included on the polling card the voter receives prior to the election day.

If individuals are incapable or unable to attend their local polling station they may nominate someone to vote for them by proxy. This person takes a special proxy polling card to the polling station and is informed by the person whose vote they are casting of the candidate or party they wish their vote to be cast for. Unlike postal votes, there must be a specific reason why the person needs a proxy vote, for example due to a medical reason, or being outside of the area on the election day due to vacation or work reasons. Individuals that are suddenly medically incapacitated on election day may elect a proxy up until 5:00 p.m. on that day. All other applications for proxy votes must be submitted at least eleven working days prior to the election.<sup>40</sup>

Postal voting “on demand” is a relatively recent development in England and Wales, having been introduced in 2001.<sup>41</sup> Prior to this date, electors that wished to vote by post had to have a reason for doing so—such as illness, disability, etc. These criteria were “not particularly onerous nor were they adhered to with maximum vigor but nevertheless some cause had to be shown why the elector could not attend his local polling station on election day.”<sup>42</sup> The introduction of postal votes on demand allows any voter to apply for a postal vote without having to provide a reason.

The original requirements to obtain a postal vote were that: the voter must provide their full name; their address as it appears on the electoral register; the address where the ballot paper is to be sent; a statement as to whether the application is made for an indefinite period or for a specific election; and the signature of the voter.<sup>43</sup> The system was criticized as being open to fraud—notably that the address that the ballot package can be sent to does not need to be the same as the elector’s home address. This was included to take into account circumstances in which electors may have been absent from their districts during the voting period, rather than designed specifically for postal voting on demand.<sup>44</sup> The requirement for signature was described as a “completely useless precaution,” as there is no specimen signature for comparison, although there was a requirement that the signature be witnessed; however, there were no rules regarding the identity of the witness, other than an address and signature.<sup>45</sup> There are also no regulations as to how the application form is sent to the Elections Office to register a postal voter.

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<sup>40</sup> Representation of the People Act 2000, c. 2, sched. 4. For further information about voting by proxy see: About my Vote, *Voting by Proxy*, [http://www.aboutmyvote.co.uk/faq/voting\\_by\\_proxy.aspx](http://www.aboutmyvote.co.uk/faq/voting_by_proxy.aspx) (last visited Apr. 28, 2010).

<sup>41</sup> The introduction was in part a result of the work of the Howarth Working Party, which reviewed the 1997 General Elections and made a number of recommendations, some of which were incorporated into the Representation of the People Act 2000, c. 2, § 12, sched. 4. This Act modified the original Representation of the People Act 1983, c. 2 to include the right to postal votes on demand, which was then provided for in the Representation of the People (England and Wales) Regulations 2001, SI 2001/341.

<sup>42</sup> *Akhtar and others v. Jahan and others Iqbal and others v Islam and others*, [2005] All ER (D) ¶ 23.

<sup>43</sup> Representation of the People (England and Wales) Regulations 2001, SI 2001/341, ¶ 51.

<sup>44</sup> *Akhtar and others v. Jahan and others Iqbal and others v Islam and others*, [2005] All ER (D) ¶ 39.

<sup>45</sup> *Id.* ¶¶ 41, 48.

The one safeguard in the regulations was for an acknowledgement that the elector has signed up for a postal vote to be sent to their address on the electoral register. The reality of this, as occurred in several instances of postal vote frauds, was that voters receiving this acknowledgement considered it to be junk mail and disposed of it accordingly.<sup>46</sup>

There were also no requirements regarding how the completed postal vote arrived at the Elections Office.<sup>47</sup> Provided the appropriate envelope remained sealed and unopened and the contents not tampered with, there was nothing even “inherently unlawful in some person other than the voter being in possession of a completed ballot package.”<sup>48</sup> An elections judge noted that it was “immediately apparent that cheating the system would scarcely require the talents of Professor Moriarty ... the leader of the Liberal Democrats on Birmingham Council [stated]: ‘the system invites fraud’.”<sup>49</sup>

There have been numerous allegations of fraud through the postal vote system in England and Wales. In May 2008, the Joseph Rowntree Foundation reported that there had been forty-two convictions for electoral fraud since 2001.<sup>50</sup> In one of the first actions for wide-scale postal vote fraud an election judge noted the difficulties in bringing these actions, stating:

[E]stablishing electoral fraud is difficult. It requires long, expensive and careful investigation .... This kind of enquiry would normally require resources which a police force would only feel it appropriate to deploy in the case of serious financial fraud.<sup>51</sup>

In June 2004, in the first judgment of its kind addressing fraud through postal voting on demand, an election judge quashed the results of two local council elections held in Birmingham. A judgment was issued in which the judge noted that there was potential for fourteen types of fraud connected with postal voting and that these were utilized in the Birmingham Council elections where there was systematic large-scale rigging of postal votes to which the police had only marginally responded, despite being forewarned by some of the candidates that the election was going to be subject to fraudulent practices.<sup>52</sup> Despite overwhelming evidence indicating the ease with which this wide-scale postal fraud was achieved, the judge noted that the government had published a statement in which it claimed that “the systems already in place to deal with the allegations of electoral fraud are clearly working.”<sup>53</sup> The judge noted that he had listened to:

... evidence of electoral fraud that would disgrace a banana republic .... To assert [what the government has asserted] indicates a state not simply of complacency but of denial. The systems to deal with fraud are not working well. They are not working badly. The fact is

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<sup>46</sup> *Id.* ¶ 42.

<sup>47</sup> *Id.* ¶ 47.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.* ¶ 49.

<sup>50</sup> *Local Elections: The Democratic Deficit*, TIMES (London), Apr. 28 2008, [http://www.timesonline.co.uk/tol/comment/leading\\_article/article3827795.ece](http://www.timesonline.co.uk/tol/comment/leading_article/article3827795.ece).

<sup>51</sup> *Akhtar and others v. Jahan and others Iqbal and others v Islam and others*, [2005] All ER (D) ¶ 158.

<sup>52</sup> *Id.* ¶¶ 159-162.

<sup>53</sup> *Id.* ¶ 715.

that there are no systems to deal realistically with fraud and there never have been. Until there are, fraud will continue unabated.<sup>[54]</sup>

Certain amendments were made to the law in 2006, including the addition of the offense of false registration and requirements that postal vote applicants include personal identifiers such as their signature and date of birth on applications.<sup>55</sup>

### **Multilingual Ballots**

The form of ballots for elections in the United Kingdom is prescribed for in the Representation of the People Act 1983.<sup>56</sup> The two languages currently used are English and Welsh; however, as a result of concern that undue influence may be exerted on people who do not speak or read English or Welsh<sup>57</sup> an amendment was made to the Representation of the People Act that requires notices and information to be provided at places where votes are received, where appropriate, in Braille and other languages.<sup>58</sup> This translation requirement does not extend to the nomination or ballot paper.<sup>59</sup>

### **Oversight of Elections**

The Political Parties, Elections and Referendums Act 2000<sup>60</sup> established the Electoral Commission, an independent statutory body that is directly accountable, and must report, to Parliament. The remit of the Electoral Commission is much broader than first proposed, which was to “supervise the restrictions on spending by and donations to political parties.”<sup>61</sup> Instead, its authority ranges from enforcing the Political Parties, Elections and Referendums Act 2000, the provisions of which include the administration of elections, to reviewing electoral law and practice and promoting elections among the public.<sup>62</sup> In addition, one of the Electoral Commissions’ statutory duties is to publish reports on the administration of each General Election.<sup>63</sup>

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<sup>54</sup> *Id.* ¶¶ 715-717.

<sup>55</sup> Electoral Administration Act 2006, c. 22, §§ 14-15.

<sup>56</sup> Representation of the People Act 1983, c. 2, sched. 1, App.

<sup>57</sup> The Electoral Commission, *Equal Access to Democracy: Report and Recommendations*, 2003, ¶ 3.6.

<sup>58</sup> Representation of the People Act 1983, c. 2, § 199B.

<sup>59</sup> *Id.*

<sup>60</sup> Political Parties, Elections and Referendums Act 2000, c. 41. This Act was based on recommendations from the STANDARDS IN PUBLIC LIFE, THE FUNDING OF POLITICAL PARTIES IN THE UNITED KINGDOM, 1998, Cm. 4057 I report. *See also* SECRETARY OF STATE FOR THE HOME DEPARTMENT, THE FUNDING OF POLITICAL PARTIES IN THE UNITED KINGDOM, THE GOVERNMENT’S PROPOSALS FOR LEGISLATION IN RESPONSE TO THE FIFTH REPORT OF THE COMMITTEE ON STANDARDS IN PUBLIC LIFE, 1999, Cm. 4413 at <http://www.archive.official-documents.co.uk/document/cm44/4413/4413.htm>.

<sup>61</sup> Political Parties, Elections and Referendums Act 2000, c. 41 EN, ¶ 23, available at [http://www.opsi.gov.uk/acts/acts2000/en/ukpgaen\\_20000041\\_en\\_1](http://www.opsi.gov.uk/acts/acts2000/en/ukpgaen_20000041_en_1).

<sup>62</sup> The Commission is also responsible for certain ethical issues and monitoring campaign financing.

<sup>63</sup> Political Parties, Elections and Referendums Act 2000, c. 41, § 5.

The Electoral Commission acts primarily in an advisory capacity to encourage best practices during the administration of elections and report back to Parliament with any recommendations.<sup>64</sup> It:

- Is required to prepare and publish reports on the administration of Parliamentary general elections;
- Shall review and report to the government on matters relating to elections either on its own initiative or in response to a request from the Secretary of State;
- Is required to be consulted before regulations are made that require positive resolution under the Representation of the People Act 1983;
- May be involved in pilot schemes to test new electoral procedures;
- May provide advice and (non-financial) assistance to relevant bodies upon their request;
- Should express views with regard to party political broadcasts;
- Shall develop, and once approved by the Secretary of State, administer and provide policy development grants to registered political parties;
- Is required to promote public awareness of the current electoral systems, including the purpose and importance of voting;
- Is required to establish four Boundary Committees to keep under review the representation in the House of Commons the areas they are responsible for and review Parliamentary constituency boundaries;
- Is required to regulate political parties.<sup>[65]</sup>

Among the most relevant functions of the Electoral Commission with respect to the administration of elections are the limitations on the making of regulations under the Representation of the People Act 1983 and 1985, which were introduced by the Political Parties, Elections and Referendums Act 2000. The Secretary of State, who is responsible for making regulations relating to the administration of elections under the Act, must consult with the Electoral Commission before such regulations can be made. In addition, powers relating to directing the discharge of registration duties that are exercisable by the Secretary of State can now only be used on and with the recommendations of the Electoral Commission.<sup>66</sup>

## **Campaign Financing**

The Law Library of Congress has produced a more detailed report on campaign financing that can be accessed by following [this link](#). The discussion which follows provides a very basic overview of the

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<sup>64</sup> The Electoral Commission's general functions are set out in §§ 5-13 of the Political Parties, Elections and Referendums Act 2000, c. 41.

<sup>65</sup> Political Parties, Elections and Referendums Act 2000, c. 41.

<sup>66</sup> *Id.* § 5-13.

most pertinent parts of campaign financing in the UK, notably, the limits on spending and donation requirements.

The current law regarding campaign financing in the United Kingdom is contained in the Representation of the People Act 1983, the Political Parties Elections and Referendums Act 2000 (PPERA), and the Political Parties and Elections Act 2009. The UK's system of regulating campaign financing focuses on limiting the expenditure of political parties and individual candidates, rather than on limiting the donations that can be received by these parties and individuals, and there are separate rules for both. Thus, there are no limits on the amount of donations that political parties may receive; however, there are laws that govern who may be a donor. The aim of the law is to regulate donations to political parties through transparency, as political parties must make their finances public.<sup>67</sup>

The PERA substantially overhauled the regulation of campaign financing with regard to political parties. Prior to this act, the role of political parties in fundraising for elections was unregulated.<sup>68</sup> The PERA introduced a regime aimed at increasing transparency in donations to political parties.

The PERA subjects political parties to campaign spending limits (known as “campaign expenditure”) a year prior to a general election. As the date of a general election is typically not known until a few weeks prior, to comply with the law, political parties must almost continually maintain records of their expenditure and received donations. Spending by individual candidates on their election expenses is generally excluded from this definition of campaign expenditure and is regulated through the RPA, as amended by the PERA.<sup>69</sup>

The definition of [campaign expenditure](#) for political parties extends to “party political broadcasts, advertising, unsolicited material to electors, manifesto or other policy documents, market research and canvassing, media/publicity, transport, rallies or other events.”<sup>70</sup> The law also requires that any notional expenditure (incurred when another person pays the cost that the political party would have otherwise had to pay) be counted as campaign expenditure incurred by the party.<sup>71</sup>

The campaign spending limits of political parties is considerably higher than that of individual candidates. In the 2005 general election the national campaign expenditure limits were £25,000 (approximately US\$35,000) per constituency contested, plus 7p for every entry on the electoral register.<sup>72</sup> For all three major parties contesting seats nationwide, this amounts to around £19.5 million (approximately US\$26 million).<sup>73</sup>

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<sup>67</sup> PERA, §§ 80-84. See also *The Review of the Funding of Political Parties* at 16 (Dec. 2007), available at [http://www.partyfundingreview.gov.uk/files/Part\\_1.pdf](http://www.partyfundingreview.gov.uk/files/Part_1.pdf).

<sup>68</sup> LAW LIBRARY OF CONGRESS, CAMPAIGN FINANCING: UK (2000), (Rpt. No. 2000-09042).

<sup>69</sup> PERA § 72, sched. 9.

<sup>70</sup> *Id.* sched. 8.

<sup>71</sup> *Id.* § 73.

<sup>72</sup> Representation of the People Act 1983, c. 2, § 76ZA.

<sup>73</sup> *Strengthening Democracy: Fair and Sustainable Funding of Political Parties*, 2007 at 9, [http://www.partyfundingreview.gov.uk/files/strengthening\\_democracy.pdf](http://www.partyfundingreview.gov.uk/files/strengthening_democracy.pdf).

In the 2005 general election the campaign expenditure was £17.85 million (approximately US\$25 million) for the Conservative Party, £17.94 million (approximately US\$25 million) for the Labour Party, and £4.32 million (approximately US\$6 million) for the Liberal Democrats.<sup>74</sup> Additionally, the two main political parties' combined expenditure in the twelve months prior to the election was approximately £90 million (approximately US\$126 million).<sup>75</sup> The higher figure takes into account the annual expenditure of these parties.

## **Hung Parliament**

There has been much talk in the current election period about the possibility of a [hung Parliament](#). A principle of the British system is that the government of the day must have the confidence of the House of Commons. As noted above, the government is formed by the party that wins the majority of seats during the general election. If there is no party that wins the majority of the votes during the election, then this causes a hung Parliament. A standard note from the House of Commons states that: “there are four likely outcomes ... (a) a minority government; (b) a coalition; (c) a failure to produce a government at all; or (d) two or more of these things during the lifetime of a parliament.”<sup>76</sup>

The government has produced a [draft document](#) that details the steps to be taken in the case of a hung Parliament, which is loosely based on a similar document issued by the New Zealand government.<sup>77</sup> This document provides that in the case of a hung Parliament the incumbent government may wait and see if it can command the confidence of the House of Commons. If it cannot do this, or if a motion of no confidence is successful, the Prime Minister must immediately tender the government's resignation. The Prime Minister may discuss the possibility of forming a coalition with the opposition or other minority parties and may also request that the Queen dissolve Parliament and hold an additional election. The Queen may opt to not take this course, and instead “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.”<sup>78</sup> If the Prime Minister and government resign at any point, then the Queen “invite[s] 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.”<sup>79</sup>

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<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> House of Commons Standard Note, *Hung Parliaments*, 2010, SN/PC/04951, <http://www.parliament.uk/commons/lib/research/briefings/snpc-04951.pdf>.

<sup>77</sup> Cabinet Office, *Cabinet Office Manual*, ch. 6, DRAFT, 2010, <http://www.cabinetoffice.gov.uk/media/343763/election-rules-chapter6-draft.pdf>.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.* ¶ 14.