

RECALL OF MPS ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS (AND SCHEDULES)

Section 1: How an MP becomes subject to a recall petition process

11. **Section 1** introduces the conditions for how an MP becomes subject to a recall petition process and defines a “recall petition”.
12. **Subsection (3)** sets out the first recall condition. This is that (a) the MP has, after becoming an MP, been convicted in the United Kingdom of an offence and has been sentenced or ordered to be imprisoned or detained, and (b) the appeal period has expired without the conviction, sentence or order having been overturned on appeal. Custodial sentences imposed by courts overseas would not trigger a recall petition.
13. **Subsection (4)** sets out the second recall condition. The second condition is that, following on from a report from the Committee on Standards in relation to an MP, the House of Commons orders the suspension of the MP from the service of the House for a period of at least 10 sitting days or, if the period is not expressed as a number of sitting days, for a period of at least 14 days (which is a broadly equivalent period of time to the shortest usual period in which 10 sitting days would fall). It does not matter when that suspension starts or what provision is made by the House regarding what does or does not count as a sitting day for the purpose of calculating that period (**subsection (6)**).
14. The effect of **subsection (7)** is to future-proof the second recall condition by ensuring that the reference to the Committee on Standards (in **subsection (4)**) captures any other House of Commons committee concerned with the standard of conduct of an MP, regardless of what it is called.
15. **Subsection (9)** sets out the third recall condition. This is that (a) the MP has, after becoming an MP, been convicted of the offence of providing false or misleading information for allowances claims in relation to MPs’ allowances under section 10 of the Parliamentary Standards Act 2009, and (b) the appeal period has expired without the conviction having been overturned on appeal.
16. **Subsection (10)** states that the Act does not affect other ways in which an MP’s seat may be vacated. These include disqualification (for example, under section 1 of the Representation of the People Act 1981, which provides that if an MP is convicted of an offence (whether in the UK or elsewhere), and sentenced or ordered to be imprisoned or detained indefinitely or for more than one year, the MP is disqualified from membership of the House while detained in the British Islands or the Republic of Ireland (or while unlawfully at large)) and the MP’s death.
17. **Subsection (11)** makes clear that, if an MP loses his or her seat as a result of a recall petition, that does not prevent him or her standing in the resulting by-election.