

Prime Minister (Office, Role and Functions) Bill

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Schedule – Royal Prerogative powers exercisable on the authority of the Prime Minister in pursuance of section 6(2) of this Act

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TO

Define the office, role and functions of the Prime Minister and First Lord of the Treasury; to make arrangements for his appointment; and for connected purposes.

Whereas those functions and responsibilities and powers of the office of Prime Minister have never been defined in statute;

And whereas those functions and responsibilities and powers have vastly expanded since the office was first established;

And whereas in the absence of such definition the democratic accountability of the Prime Minister to the House of Commons, and to the people of the United Kingdom, requires clarification;

And whereas it is expedient to distinguish in statute the executive functions of government from the legislative functions of Parliament;

And whereas the use of Royal Prerogative powers is based on convention and has no basis in statute law;

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:—

1 Appointment of the Prime Minister and First Lord of the Treasury

- (1) The Prime Minister and First Lord of the Treasury shall be appointed by Her Majesty, provided that such appointment must be proposed by resolution of the House of Commons within 7 days of a general election, or of the death or resignation of a serving Prime Minister.
- (2) Except in the case of a vacancy caused by the death or resignation of a serving Prime Minister, Her Majesty shall appoint as Prime Minister only a person who has been declared to be a candidate for that office at the General Election immediately preceding the appointment.

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2 Term of office of the Prime Minister

- (1) The Prime Minister shall hold office until the first meeting of the Parliament after that in which the House of Commons has consented to his appointment.
- (2) The Prime Minister shall resign his office if the House of Commons resolves that he no longer enjoys its confidence.

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3 Functions of the Prime Minister

Except in respect of matters which are the exclusive responsibility of the European Union or any devolved Parliament or Executive within the United Kingdom the Prime Minister shall be accountable to Parliament for the following functions:

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- (a) to determine the policies of the United Kingdom government;
- (b) to communicate the policies of the United Kingdom government;
- (c) to execute the policies of the United Kingdom government;
- (d) to decide which measures represent the legislative programme of the United Kingdom government;
- (e) to decide on the level and application of taxation within the United Kingdom and the objects of public spending;
- (f) to recommend appointments to honours, other than those in the gift of Her Majesty or life peerages given to persons other than members of the Prime Minister's political party;
- (g) to appoint the ministers of the United Kingdom government and determine their responsibilities, provided that for each Department of State he shall appoint as a minister at least one member of each House of Parliament;
- (h) to decide whether to declare war or commit United Kingdom armed forces to armed conflict and, if they are so committed, to determine their strategy and objectives;
- (i) to decide whether to declare a state of emergency;
- (j) to appoint the permanent heads of government departments, the members of the Defence Staff, and the heads of the security services.

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4 Power to delegate

The Prime Minister may delegate any of the functions referred to in section 3 (a) to (f) above, provided that any such delegation is communicated to the House of Commons at the time it is made; and any action performed or statement made by any person under powers delegated under this section shall be treated as if it were performed or made by the Prime Minister or by ministers acting under his authority.

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5 Power of appointment

To assist him in the performance of any of the functions referred to in section 3 above the Prime Minister may—

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- (a) *appoint a Prime Minister's Department without limit as to its size or membership, which shall be paid for out of money provided by Parliament;*
- (b) *appoint any non-departmental public body without limit as to its size or membership, which shall be paid for out of money paid for by Parliament;*

- (c) *appoint any person whomsoever to the public service, who shall be paid for out of money provided by Parliament.*

6 Use of Crown prerogative powers

- (1) In the discharge any of the functions referred to in section 3 of this Act the Prime Minister may advise Her Majesty to use any power or issue any command within the prerogative of the Crown other than that of dissolving or proroguing Parliament. 5
- (2) Without prejudice to the generality of subsection (1), the Prime Minister in the discharge of any of the functions referred to in section 3 above, shall with the consent of Her Majesty have responsibility for any execution of the powers under the Royal Prerogative which are listed in Schedule 1. 10
- (3) No immunity attached to the Crown shall attach to the Prime Minister in the use of any power under this section.
- (4) Any use of any power under this section shall be reported to the House of Commons within seven days, subject to any restrictions which the Speaker may agree as necessary to protect national security, or in the administration of justice or the prevention and detection of serious crime. 15

7 Powers of Secretaries of State

For the avoidance of doubt, any power under statute which may be exercised by a Secretary of State may be exercised by the Prime Minister. 20

8 Duty to behave lawfully

Nothing in this Act shall empower the Prime Minister, or any person acting under his authority, to disregard any provision of the Human Rights Act 1998, or any obligation under international law or treaty, under common law or equity or any other obligation to behave justly, fairly, reasonably and lawfully, or any published rules for the time being in force for ministers and civil servants in the conduct of public life, or to act in contempt of any resolution of the House of Commons. 25

9 Duty to account to Parliament

The Prime Minister, ministers of the Crown and other persons acting under his authority, shall be under a duty to account to each House of Parliament in such ways as each House may prescribe. 30

10 Public policy

For the avoidance of doubt, in any matter which is not the exclusive responsibility of the European Union or a devolved Parliament or Executive within the United Kingdom a statement by or on behalf of the Prime Minister shall be regarded as a definitive statement of the public policy of the United Kingdom. 35

11 Expenses

There shall be paid out of money provided by Parliament any expenses of the Prime Minister under this Act.

12 Short title

This Act may be cited as the Prime Minister (Office, Role and Functions) Act 2001.

SCHEDULE

Section 6

ROYAL PREROGATIVE POWERS EXERCISABLE ON THE AUTHORITY OF THE PRIME MINISTER IN PURSUANCE OF SECTION 6(2) OF THIS ACT

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| 1 | To make Orders In Council. | |
| 2 | To declare war or commit United Kingdom forces to armed conflict. | 5 |
| 3 | To issue lawful commands to the armed forces. | |
| 4 | To require persons to perform military service or to other service to the state in times of armed conflict or emergency. | |
| 5 | To sign or ratify treaties. | |
| 6 | To recognise foreign governments. | 10 |
| 7 | To appoint ambassadors, permanent secretaries of departments, the heads of the security services, members of the Defence Staff, Royal Commissions and members of public bodies. | |
| 8 | To declare a state of emergency. | |
| 9 | To order the confiscation, forfeiture or seizure of property and assets. | 15 |
| 10 | To issue pardons and detain felons or the insane during pleasure. | |
| 11 | To institute or quash legal proceedings. | |
| 12 | To assert Crown immunity in any legal proceedings and to grant public interest immunity certificates. | |
| 13 | Powers in relation to intestacy, the failure of charitable trusts, treasure trove, mineral rights, wreck, sturgeon, swans, whales, territorial waters and the ownership of the foreshore of the United Kingdom. | 20 |