

## General Election 2010

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### Constitution Unit guide: the right of recall

The right of recall is the right of citizens to remove a representative from office through a direct vote, initiated when the representative is found to have breached certain rules or when sufficient voters sign a petition.

#### The right of recall in the US

- 18 states permit recall elections to remove state officials. Most are initiated by a recall petition. Only two governors have ever successfully been removed: Lynn Frazier in North Dakota in 1921, and Gray Davis in California in 2003. Some states require specific grounds for recall, and the most common threshold in terms of signatures required is 25% of the total number of votes in the last general election.

#### The right of recall in British Columbia (B.C.), Canada

- This example is particularly relevant, as it is the only parliamentary system similar to the UK's which has the right of recall. Registered voters in provincial electoral districts can petition to have a sitting Member of the Legislative Assembly ('MLAs') removed from office, even a Premier leading a government. If the petition is successful, the MLA is automatically recalled and a by-election is held.
- The recall process is triggered by the application of a registered voter for a petition. There is no requirement of misconduct on the part of the MLA, the applicant (known as the 'proponent') must simply give a statement of 200 words or less on why, in his/her opinion, the MLA should be recalled.
- If the requirements are met and a petition is issued, the proponent has 60 days to collect signatures. The petition must be signed by more than 40% of the voters who were, on the date of the last election of the MLA, registered voters for the MLA's electoral district and who are registered voters in any electoral district of B.C. at the time of the petition, in which case the MLA is automatically recalled and by-election must be called. The recalled MLA is still eligible to run in the by-election.
- In practice, the right of recall has not proven very effective. Since its first use in December 1997, 22 recall efforts have been launched of which only two were submitted with enough signatures to proceed to the verification stage. One lacked sufficient eligible signatures; the other achieved its purpose when the MLA in question, Paul Reitsma, resigned when it looked as if the recall attempt would be successful.
- The petition process has been problematic. The 40% threshold has proved very difficult to meet, particularly as there is often a low turnout for provincial elections. A significant proportion of the signatures collected are disqualified, mainly due to illegibility. There have also been reports of irregularities, blamed on a lack of clarity as well as on the novel and untested nature of the recall process.
- The right to recall has been subject to abuse. Some applications have been frivolous, seen as attempts to mock the legislation, while others have been linked to personal issues. Campaigns have been launched to harass or unseat opposition MLAs, forced to spend time and effort defending themselves.
- However, recall petitions have caught the government's attention and influenced some decisions, leading to recall-driven announcements and measures, so the government has had to pay far more attention to the local effects of provincial policies. On the other hand, recall petitions may be seen as causing distortions of decision- and policy-making. Due to the decision-making structure and party discipline, MLAs may be being punished for policies which in reality they do not have much control over.
- There have been no recall attempts since 2003. However, tactical recall campaigns are likely to be launched when the recall window opens in later 2010, due to anger about the Harmonized Sales Tax.

### The proposed right of recall in the UK

- The Labour Manifesto states that “MPs who are found responsible for financial misconduct will be subject to a right of recall if Parliament itself has failed to act against them.” Electors would be able to petition for their MP to be recalled and a by-election held.
- The Conservatives Manifesto commits them to introducing “a power of ‘recall’ to allow electors to kick out MPs, a power that will be triggered by proven serious wrongdoing.” It seems most likely that the trigger would be a recommendation from the Committee on Standards and Privileges, strengthened through the appointment of three external, non-MPs. Signatures from 10% of the local electorate would be required for the MP to be forced to fight a by-election.
- The Liberal Democrats Manifesto says that they “would introduce a recall system so that constituents could force a by-election for any MP found responsible for serious wrongdoing.” In May 2009, they stated that it would be triggered if an MP was recommended for suspension by the Parliamentary Commissioner for Standards and 5% of constituents signed a petition to recall that MP, prompting a by-election. All of those against whom serious allegations have been made should be investigated.

Two crucial elements of the recall process are its trigger and its threshold. The right of recall as proposed by the UK’s major parties would be less purely political than that in B.C., as all the proposals require a finding of wrongdoing on the part of the MP as an initial trigger. However, once this hurdle is overcome, the threshold for signatures proposed is much lower and petitioners face a real chance of success. While these are important differences, the lessons which may be learnt from the right to recall in B.C. must be borne in mind. Costs may be high and an electoral register of signatures must be maintained. It may also be necessary to limit the recall process in terms of timing and frequency.