

Washing up before the election

Blog post by Practice Lead Tom Smith, 19 April 2017

With the UK Parliament likely to dissolve on the 2-3 May, ahead of the 8 June election, there will now be a frantic scramble for the UK government to complete the passage of legislation currently in train. This process, known as the wash-up, was thought to be relatively obsolete with the introduction of fixed-term parliaments. Revived now it will be controversial, as the normal process of parliamentary scrutiny is substantially truncated.

For Prime Minister Theresa May the main question is which parts of her domestic policy agenda she is willing to jettison, and which she will fight to keep in the days ahead. Ministers will have to make concessions on the content of legislation to ensure it is passed. The alternative is that bills will fall, implying months of delay in implementation if indeed the Conservatives are re-elected. So what should we expect?

Past experience may not be much of a guide. The last extensive wash-up was in 2010, when the outgoing Labour administration passed 16 pieces of legislation in record time. With the election called on April 6th and parliament proroguing two days later, cooperation through the whips offices of all parties and both houses of parliament, was key to this.

The current UK government faces a similar challenge, but different circumstances. It has 15 bills at various stages of development in parliament, most importantly the Finance Bill, which enacts many of the policy announcements made in last month's budget. This in itself is well over 700 pages long so could face practical as well as political cuts to proposals such as the soft drinks industry levy, tax changes for the self-employed and measures to tackle disguised remuneration. Those that are dropped from the bill to ease its passage will have to wait until the next Finance Bill, likely to come before parliament in December 2017.

More controversial pieces of legislation, such as the Higher Education and Reform Bill, could face delay in response to opposition or high demands from the House of Lords. Others, such as the Vehicle Technology and Aviation Bill, which puts in place a regulatory framework for the insurance of autonomous vehicles, could be dropped altogether as they have only recently been brought before lawmakers.

The government faces two challenges to enjoying as smooth a process as the last Labour administration did seven years ago. Firstly, the official opposition is not in good shape and may struggle to come to its own position on which concessions to look for during the wash-up, making this an unpredictable process. Secondly, the Lords, where Theresa May does not enjoy a majority, have the power to stymie progress on the 15 bills, and given her indictment of them as part of a coalition of 'Brexit blockers,' may now have the inclination to drive a hard bargain. May can expect a less successful wash up than Labour in 2010, but can console herself that a likely larger majority in June will help her pass these and many other pieces of legislation later on.

A summary of key bills

<i>Bill</i>	<i>Key provisions</i>	<i>Likely outcome</i>
Finance Bill	Annual setting of tax rates, Corporation tax reform, changes to ‘intermediaries’ legislation for workers, soft drinks levy	The government needs to pass this bill to ensure a coherent tax system. The soft drinks levy has cross-party support, but other measures are expected to be postponed to ensure a smooth passage.
Health Service Medical Supplies Bill	Introduces broader price controls for drugs and other supplies used in the NHS	The House of Lords wants concessions on protecting the life sciences sector, which they are now likely to achieve.
Digital Economy Bill	An omnibus bill covering a range of topics from extending Ofcom’s role in regulating the BBC, regulating direct marketing and ticket re-selling and reforming data sharing rules.	The Bill recently completed its passage in the Lords. A number of amendments have been made but caps on mobile phone bills and an upgraded high speed broadband service obligation are prominent. Ministers may have to concede on one or both of these to pass the Bill.
Higher Education and Research Bill	Overhauls the regulatory regime for UK higher education institutions, liberalising the market for private providers.	The Bill has proved controversial in the Lords, with a range of amendments made. The government could choose to reintroduce this after the general election in return for easing the passage of other bills.
Prisons and Courts Bill	Streamlines the UK courts process, including providing more online and digital services. The Bill overhauls the governance and regulation of prisons, reforming the career progression structure of prison officers.	Although reform in the sector has been delayed and is becoming more urgent, the Bill is at an early stage and could be dropped and then reintroduced in the Autumn.
Technical and Further Education Bill	Overhauls the regulatory regime for further education and lays the groundwork for the implementation of last year’s	Lords want to improve financial support for apprentices and boost careers advice provision, so far opposed by the government.

	Skills Plan, a key plank of the UK industrial strategy.	Concession on one or both of these issues is likely.
Vehicle Technology and Aviation Bill	Introduces a regulatory regime for the insurance of autonomous vehicles and overhauls the regulation of civil aviation.	The Bill is at an early stage and could be dropped for reintroduction later this year. Its provisions are relatively uncontroversial, so it equally could see an accelerated passage through parliament.
Local Government Finance Bill	Makes further changes to the business rates regime, devolving the matter further to local authorities.	The Bill has not yet faced scrutiny in the Lords and the government could delay its process to gain concessions elsewhere.
Bus Services Bill	Overhauls the regulatory regime for local bus services, primarily through local partnership or franchising arrangements.	Known not to be heavily favoured by current Transport Secretary Chris Grayling, the Bill could be dropped, but is more likely to proceed, potentially with a concession that local authorities can set up their own bus service companies.