A provision in the Bill of Rights 1688 declares that “for redress of all grievances, and for the amending, strengthening, and preserving of the laws, Parliaments ought to be held frequently.”¹ While the parliamentary context—and the frequency of sittings—has since changed greatly, there remain both constitutional and pragmatic considerations that ensure that Parliament meets each year. The most important is the principle that Parliament does not grant supply to the Government for more than one year at a time. In this regard, Parliament must meet by 30 June each year, for this is the last day of the financial year and the annual appropriations made by Parliament in the Appropriation Acts for that year will consequently lapse. Parliament must at least give the Government interim spending authority (imprest supply). In reality, the process for Parliament to examine and approve the Government’s spending plans begins well before the end of June. Income tax rates are fixed on an annual basis. If this is not done before the end of the tax year (31 March) there can be no assessment to tax, and much of the Government’s revenue will consequently dry up. By granting only temporary authorities to the Government in financial matters, Parliament ensures that it must be called to meet at least annually to renew them.

Political considerations also ensure that Parliament meets and that the House sits regularly. The House is the political forum of the nation. Although it is not the only place in which opposing political points of view can be expressed and Government actions tested and criticised, it is the highest institution in the land devoted to just such pursuits, and it is generally expected to meet fairly often and become a focus of political debate. Members of Parliament have important roles to perform in their own right in the business of legislating, which can only be carried out in Parliament, and in the ancillary business transacted by the House.

For these reasons, Parliament is summoned to meet regularly and the Crown promise to call a meeting of the newly elected Parliament is given in a proclamation issued in association with the one that dissolves the old Parliament.² This expectation is enshrined in New Zealand law in the requirement for the Parliament to meet soon after the declaration of the official result of each general election.³

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¹ Bill of Rights 1688 (Eng), art 13.
² See, for example: (15 August 2014) 92 New Zealand Gazette 2621 at 2623.
³ Constitution Act 1986, s 19.
PROCLAMATIONS

A proclamation is a formal document made and signed by the Governor-General and impressed with the Seal of New Zealand, and published in the New Zealand Gazette. In signing a proclamation and affixing the Seal of New Zealand, the Governor-General acts on the advice of a Minister of the Crown. The right to make proclamations is a remnant of the previously substantial legislative prerogative of the Crown, and it is recognised in statute as a mechanism for the Governor-General to attend to various aspects of the ordering and administration of the country.

The Governor-General, on behalf of the Sovereign, makes proclamations to superintend New Zealand’s democratic institutions. The Constitution Act 1986 provides for proclamations to summon and dissolve Parliament in each electoral cycle, and proclamations can also be made to prorogue Parliament, or to alter its place of meeting in an emergency. A proclamation under the Constitution Act 1986 is made effective by publication in the New Zealand Gazette or by being publicly read, by a person authorised to do so by the Governor-General, in the presence of the Clerk of the House and two other persons. Under the latter practice, which normally is employed only for the dissolution of Parliament, the proclamation must also be published subsequently in the New Zealand Gazette. While the issue by the Governor-General of a writ for an election is not itself effected through a proclamation, it is customary for a proclamation to be issued notifying that this action has been taken.

SUMMONING OF PARLIAMENT FOLLOWING A GENERAL ELECTION

Parliament meets when it is summoned to do so by the making of a proclamation by the Governor-General. The proclamation specifies the time and place at which Parliament is to meet. The summoning of Parliament effectively breathes life into the House of Representatives, which, although it still exists between Parliaments, can meet and transact business only while Parliament is in session. Because the House of Representatives is the working element of Parliament, the summoning of Parliament is really the calling of the House of Representatives into working mode.

By convention, after the Governor-General has issued a proclamation dissolving (that is, bringing an end to) the current Parliament, and issued a writ to the Electoral Commission to put in train preparation for the next general election, a proclamation is made summoning Parliament to meet for the first time after the election. The summoning of the new Parliament in association with the dissolution of the old is a token of the Crown’s intention to preserve the continuity of the operation of parliamentary institutions in New Zealand. In respect of only one dissolution since 1860 has the date and time for the first meeting of the next Parliament not been appointed by a proclamation issued within a few days of the dissolution of the old Parliament. No such proclamation was issued in

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5 Seal of New Zealand Act 1977, s 3.
6 Philip A Joseph Constitutional and Administrative Law in New Zealand (4th ed, Brookers Ltd, Wellington, 2014) at [15.3.1].
7 For example, the taking of land for public works (Public Works Act 1981, s 26); the continuation of military service during a war or emergency (Defence Act 1990, ss 38–40); or the appointment of the date for a census (Statistics Act 1975, s 23).
8 Constitution Act 1986, s 18.
9 No proclamation summoning Parliament has yet been made by being read publicly.
10 Constitution Act 1986, ss 18(3)–(4).
11 Electoral Act 1993, s 125.
12 See, for example: (22 August 2014) 97 New Zealand Gazette 2749 at 2750.
13 Constitution Act 1986, s 18(1).
association with the dissolution of the 40th Parliament in June 1984. This and other procedures surrounding the “snap” election of 1984 were the subject of subsequent inquiry.14

**Appointment of place of meeting**

The place of meeting appointed for the 51st Parliament was “in the parliamentary precincts in the City of Wellington”.15 This wording allows the House to meet either in its usual Chamber or in a standby meeting space adjacent to Bowen House. However, a proclamation may appoint a different place of meeting (see pp 147–148).

**Date of first meeting**

Until the 41st Parliament, there was no express statutory obligation on the Governor-General to summon a new Parliament to meet by a particular time, or indeed at all, except in the case of a proclamation of emergency. The usual practice was to allow several months to elapse before Parliament met.16 However, since 1 January 1987 there has been an explicit statutory requirement for Parliament to meet not later than six weeks after the day fixed for the return of the writ for a general election.17 The latest day for the return of the writ for an election is the 50th day after it is issued,18 so the precise period after polling day within which Parliament must meet varies for each election, depending upon how long before the election the writ was issued. As the writ is usually to be returned some two to three weeks after the election is held, Parliament must effectively be summoned to meet within about two months of each general election. In practice, the date appointed for the opening of Parliament may be very soon after the writ is returned,19 although this may depend upon the decisiveness of the general election result and the possible need for post-election negotiations to form a Government.

Parliament cannot be opened until the term of office of the members of Parliament returned at the general election has commenced. The law provides that members come into office on the day after the date of the writ or return that declares them elected.20

**Postponement of first meeting**

The date appointed in the Governor-General’s first proclamation for the new Parliament to meet following the general election is not necessarily the day on which the new Parliament will actually meet. Between the making of that proclamation and the first projected meeting of Parliament, the Government may change as a result of the general election, and the incoming Government will have its own preferences for the timing of the first meeting of Parliament. Even if the same Government is returned at the polls it may alter the date initially appointed for the first meeting of Parliament. The Government does so by recommending that a further proclamation be made, superseding the first and appointing a different date for the opening of Parliament.21

Such alterations to the date first nominated for Parliament to convene are the rule rather than the exception, as the first proclamation summoning Parliament

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14 See Department of Justice Constitutional Reform: first and second reports released by the Minister of Justice, the Hon. Geoffrey Palmer (Department of Justice, Wellington, 1986).
15 (16 October 2014) 127 New Zealand Gazette 3475 at 3553.
16 For example, the 38th Parliament (1975–1978) did not meet until almost seven months after the election, and delays of four to five months were the norm. A statutory requirement did apply in respect of the first Parliament, as the Governor was required to appoint a time for the first meeting of the House as soon as convenient after the first writs were returned following the elections in 1853 (New Zealand Constitution Act 1852 (UK), s 44).
17 Constitution Act 1986, s 19.
18 Electoral Act 1993, s 139(4).
19 In 2011, the date fixed for the return of the writ was 15 December (although the writ was delayed by a judicial recount), and the opening of Parliament took place on 20 December.
20 Electoral Act 1993, s 54.
21 See, for example: (16 October 2014) 127 New Zealand Gazette 3475 at 3553.
to meet plays a symbolic rather than definitive role in determining when the new Parliament will actually meet. Nevertheless, whatever date is eventually chosen for the first meeting of Parliament, it must be within six weeks of the day fixed for the return of the writ for the election.22

**Time of day for first meeting**

The time of day appointed in the proclamation summoning Parliament varies depending upon the advice of the Government, following consultation with the Clerk of the House about arrangements for the opening. There is no presumption that the first meeting will be at 2 pm (the normal meeting time of the House); it has begun more often at 11 am in recent years.23

**Proclamations appointing sittings in emergency**

There is an express statutory requirement for the Governor-General to summon Parliament to meet if a state of national emergency is declared while Parliament is dissolved or has expired. In this case, if Parliament is not already due to meet again within seven days from the date of the declaration, it must be summoned to meet within seven days of the last day appointed for the return of the writ for the general election.24 A similar provision requires the making of a proclamation appointing a day for Parliament to meet if an epidemic notice is given after Parliament has been subject to prorogation, dissolution or expiration.25

The Constitution Act 1986 also permits the Governor-General to make a proclamation changing the meeting place of Parliament, during a parliamentary session, if the current place of meeting is unsafe or uninhabitable.26 (See Chapter 43.)

**PROROGATION**

At any time the Governor-General may make a proclamation bringing the sittings of the House to a temporary conclusion. This procedure, known as prorogation, is rarely used now. The last time the Parliament of New Zealand was prorogued was in 1991 at the onset of the Gulf War, to allow an early sitting during an adjournment.27 The Speaker now has authority to recall the House during an adjournment,28 so prorogation is no longer necessary for this purpose (see Chapter 13).

The Governor-General exercises this power by issuing a proclamation announcing the prorogation of Parliament.29 The House and its committees cannot meet following prorogation until Parliament is again specifically summoned to meet by the Governor-General. A proclamation proroguing Parliament does so only for a specified time, but this time may be extended by a further proclamation or proclamations.

Parliament as such is not brought to an end by prorogation. In this respect prorogation differs from dissolution, which not only halts the sittings of the House but also brings Parliament to an end and precipitates a general election. Parliament may be prorogued immediately before being dissolved, although the modern practice is to dissolve Parliament without first proroguing it.

22 Constitution Act 1986, s 19.
24 Civil Defence Emergency Management Act 2002, s 67(1) and (3).
26 Constitution Act 1986, s 18(1A).
27 (18 January 1991) 6 New Zealand Gazette 137.
28 SO 55(1) – (2).
29 Constitution Act 1986, s 18(2). In the 19th century, the Governor (until 1875) or commissioners appointed by the Governor (until 1887) attended Parliament in the Legislative Council Chamber to assent to bills and then prorogue Parliament in person.
SESSIONS AND RECESSES

The period of parliamentary activity between an opening of Parliament and its prorogation, dissolution or expiration is formally known as a session. In the case of prorogation, a second session may be brought about in the same term of Parliament through a further State Opening (there is no need for another Commission Opening, as members are already sworn in). When there is more than one session in a Parliament, during the period between sessions the Parliament goes into “recess” rather than the House merely standing adjourned (although the terms are often used interchangeably).

Until 1984 one session of Parliament was usually held in each calendar year during each Parliament, though occasionally a special session was held in addition, as in 1977 on the occasion of the visit of Her Majesty the Queen. It was exceptional for a session (like the ones of 1921–1922 and 1941–1942, for example) to extend over more than one calendar year. Since the 1984 session was brought to an end for a snap election, sessions have been more variable and lengthier. There were, for example, only two sessions in each of the three Parliaments after that. From 1984 there was no longer a presumption that a session would correspond with a calendar year.

Since the 44th Parliament (1993–1996) a single session lasting the entire life of the Parliament has become the norm. The terms “session” and “recess” therefore are no longer commonly used in their formal sense.

A recess must be brought to an end for Parliament to meet in the event of a declaration of national emergency. If Parliament stands prorogued when such a proclamation is made and is not due to meet within seven days, it must be summoned by the Governor-General to meet within seven days of the making of the declaration.\(^3\)

DISSOLUTION

The Governor-General brings the life of Parliament to an end by issuing a proclamation dissolving it, initiating a course of events that leads to a general election. To attend Parliament when it next meets, a member must be returned to Parliament anew by the process of election.

The dissolution of Parliament is a legal power possessed by the Governor-General,\(^3\) although constitutionally the Governor-General exercises it, like the other legal powers of the office, on the advice of the Prime Minister. A dissolution would not necessarily result from a loss of confidence in the Government by the House, as the Governor-General would first ascertain whether a new Government could be formed (see Chapter 8).

Since the 43rd Parliament was dissolved in 1993, all Parliaments have been dissolved by a proclamation read on behalf of the Governor-General from the Parliament House steps or at some other prominent place within the precincts.\(^3\) While this procedure is not celebrated with the rich tradition and pageantry of the opening of Parliament (see Chapter 12), it has come to be marked with some ceremony as a significant point in the democratic cycle.

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30  Civil Defence Emergency Management Act 2002, s 67(1) and (3).
31  Constitution Act 1986, s 18(2).
33  See, for example: (15 August 2014) 92 New Zealand Gazette 2621 at 2622. Following the establishment of the procedure under the Constitution Act 1986 (s 18(3)(b)), the first Parliament to be dissolved by a proclamation read in this way was the 41st Parliament in 1987.
**TERM OF PARLIAMENT**

The term of a Parliament can last for no more than three years from the day appointed for the return of the writ for the general election.34 This has been the case since 1879, with the exception of the 1935 election (when members were elected for four years). Unless Parliament is dissolved sooner, it expires at the end of its three-year term.

The three-year limit for a term of Parliament is specified in a “reserved provision”, which means that it is entrenched so that its adjustment would require a referendum or a 75 per cent majority of all members of Parliament35 (see pp 445–446). Two proposals for extending the term of Parliament from three to four years have been put to electors at referendums. In 1967 the proposal was rejected by some 700,000 to 300,000 votes, and in 1990 the majority against the proposal was one and a quarter million to 550,000.36

In the United Kingdom, the death of a Sovereign formerly caused an automatic dissolution of the existing Parliament. While it is questionable whether this rule ever applied in New Zealand, to remove any doubts on this score it was expressly provided in 1888 that the death of the Sovereign does not of itself dissolve Parliament.37 This remains the law.38

The maximum term of the first Parliaments was five years. This was reduced to three years in 1879.39 Since then the lives of Parliaments have been extended on four occasions, three of the extensions being confined to the Parliament then in existence, and the other, which was intended to apply to all Parliaments, being repealed before it could affect any subsequent Parliament. The life of the 19th Parliament, elected in 1914, was twice extended for one year. It was finally dissolved in 1919. In 1934 an Act was passed extending the life of Parliament (including the Parliament then in being) from three to four years. The election of 1935 was fought while this provision was in force, so the members chosen at that election were elected for a term of four years. However, in 1937 the parliamentary term, including that of the existing Parliament, was reduced to three years. The life of the 26th Parliament, elected in 1938, was extended for one year in 1941, and in 1942 it was extended until one year after the end of the war, provided that the House, by resolution each year, approved Parliament’s continuance. No such resolution was passed and Parliament was dissolved in 1943.

The 29th Parliament, elected in 1949, was dissolved in 1951 as a result of the waterfront dispute (the shortest of all New Zealand’s Parliaments, preceding the first snap election since 1881) and an election was held in September. This threatened to upset the normal calendar of November elections, and in 1954 the life of the 30th Parliament was extended by four weeks to put the election timetable back on course.40 The 40th Parliament was dissolved in June 1984, four months before it would otherwise have been expected, and the 46th Parliament was dissolved in June 2002, three months earlier than might have been expected.

**EXPIRATION**

Expiration is the bringing of the life of the Parliament to an end by automatic operation of law rather than by the deliberate action of the Governor-General. Parliament expires three years from the day fixed for the return of the writ at the

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34 Constitution Act 1986, s 17(1).
35 Constitution Act 1986, s 17(2); Electoral Act 1993, s 268(1)(a).
37 Demise of the Crown Act 1888, s 2.
38 Constitution Act 1986, s 5(1).
39 The Triennial Parliaments Act 1879.
40 Electoral Amendment Act 1953, s 6.
preceding general election unless it is dissolved sooner. The only Parliament to run its full legal course and then expire was the 27th Parliament of 1943–1946. The election of 1943 was held two months earlier in the year than usual (September rather than November), causing the fact of Parliament’s expiration in October 1946 to be overlooked. The validity of Acts assented to after the House had expired was upheld by the Court of Appeal in 1954. The 42nd Parliament virtually ran its full course, since it was dissolved on 10 September 1990, the day on which it was due to expire in any case.

If a Parliament expires, the procedures for the holding of a general election operate as if Parliament had been dissolved on the date of expiration.

EFFECT OF PROROGATION, DISSOLUTION AND EXPIRATION ON BUSINESS BEFORE THE HOUSE

Prorogation, dissolution or expiration bring the sittings of the House and the meetings of committees to an end, and disable the House from further activity. Historically, they also caused all business then before the House to lapse, so that when Parliament resumed for its next session the slate had been wiped clean. This absolute effect has been thought not to be conducive to efficient parliamentary practice, and as long ago as 1886 a committee of the House recommended finding a way to avoid its effects in the case of prorogation. A statutory means of avoiding the need for all unfinished business at the end of a session to be reintroduced and commence its passage through the House entirely anew in the succeeding session was first introduced in 1977.

Prorogation now has no effect on any business before the House or its committees. Such business does not lapse and may be resumed in the following session of the same Parliament. (However, a sessional order of the House ceases to have effect on prorogation.)

On the dissolution or expiration of Parliament all business then before the House or its committees lapses. Following the dissolution or expiration of Parliament there is no business before the House. However, the House has the power to reinstate by resolution any business that has lapsed when it sits in the new Parliament. This power to reinstate, if it is to be exercised, must be utilised in the first session of the new Parliament, but reinstatement does not have to be effected at or by any particular time in that session, nor does it have to be accomplished on only one occasion. The House can deal with reinstatement at any time in the session and on as many occasions as it finds necessary. (See pp 200–201 for reinstatement of business.)

The period between the end of a Parliament and the opening of the new Parliament is commonly described as an “interregnum”, although this is not a legal or official parliamentary term.

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41 Constitution Act 1986, s 17(1).
43 Legislative Expenditure Committee, report (3 August 1886) [1886] AJHR I.10 at [12].
46 Constitution Act 1986, s 20(1)(b) and (2).