

# Constitution (Fixed Term Parliament) Amendment Bill 2015

## Explanatory Notes

### **Short title**

The short title of the Bill is the *Constitution (Fixed Term Parliament) Amendment Act 2015*.

### **Policy objectives and the reasons for them**

*The objectives of the Bill are to:*

1. Provide that a general election must be held on the second Saturday in March in the fourth calendar year after the calendar year in which the last election was held.
2. Provide that the Legislative Assembly expires on the day that is 4 years from the day the writ for the general election was returned for the assembly, thus ensuring a fixed, four year term.
3. Provide for exceptional circumstances in which the Governor must dissolve the Legislative Assembly and issue a writ for a general election, specifically if –
  - a) each of the following happens –
    - i) a motion of no confidence in the government has been passed, or a motion of confidence in the government has been defeated in the Legislative Assembly;
    - ii) the Governor considers that no government can be formed that will command the confidence of the majority of the Legislative Assembly;
    - iii) at least 8 days have passed after the passage or defeat of the motion; or
  - b) the Legislative Assembly rejects a Bill for an ordinary annual appropriation Act; or
  - c) the Legislative Assembly fails to pass a Bill for an ordinary annual appropriation Act before the day the Governor considers the appropriation is required.
4. Provide that the Governor may, despite the advice of the Premier or the day or the Executive Council, dissolve the Legislative Assembly and issue a writ for a general election, in accordance with established constitutional conventions.
5. Provide that this Bill is not presented to the Governor for assent, unless it has been passed by the Legislative Assembly, and has been approved by a majority of electors at a referendum, held on a Saturday at least 2 months after the Bill has been passed by the Legislative Assembly.

### **Achievement of policy objectives**

To achieve these objectives, the Bill will amend the *Constitution of Queensland 2001* to provide for fixed terms for the Legislative Assembly. It will also amend the *Constitution Act Amendment Act 1934* and the *Electoral Act 1992* as well as repealing the *Constitution Act Amendment Act 1890*.

The Constitution Act Amendment Act 1890 references –

*“Every legislative assembly hereafter to be summoned and chosen shall continue for 3 years from the day appointed for the return of the writs for choosing the same, and no longer; subject nevertheless to be sooner dissolved by the Governor.”*

Currently, the Premier of Queensland can call a general election at his or her whim, subject to the agreement of the Governor.

The last 5 state elections have been held on –

- 31 January 2015
- 24 March 2012
- 21 March 2009
- 9 September 2006
- 7 February 2004

Since 2004, the average term of parliament has been just 2 years and 9 months.

There are a number of significant advantages in having fixed, four year terms of government, namely:

- 1) it provides for better government and better public policy making because decisions can be made in the interest of outcomes and better services for Queenslanders, rather than short term political gain or what may be the news of the day;
- 2) it removes the constant speculation from the political process and provides fairness to all political parties rather than what is in the interest of the government of the day; and
- 3) it provides confidence in government and certainty in government, from the public and also from the business community, which drives investment, economic confidence and job creation.

### ***Alternative ways of achieving policy objectives***

There are no known alternate ways of achieving the same policy objectives.

### ***Estimated cost for government implementation***

The estimated cost for a referendum would depend on whether or not it was held in conjunction with a local government election or state election, or as a standalone vote.

### ***Consistency with fundamental legislative principles***

The Bill is consistent with fundamental legislative principles.

### ***Consultation***

The LNP Opposition has publicly referred to this issue and its support for fixed four year terms on several occasions this year and has also been consulting with Queenslanders through a feedback survey. We have also begun the process of discussing the issue with academics, the Queensland Law Society and Bar Association of Queensland.

### **Consistency with legislation of other jurisdictions**

New South Wales was the first Australian jurisdiction to adopt a four year fixed parliamentary term in 1995 (having initially moved to a 4 year term). Since that time, most Australian parliaments – apart from the Commonwealth and Queensland lower houses – have followed suit, often also raising the parliamentary term from 3 years to 4 years if this had not already been the case.

## **Notes on provisions**

Clause 1 refers to the short title of the Bill.

Clause 2 refers to Part 2 of the Bill amending the *Constitution of Queensland 2001*.

Clause 3 amends the section 15 of the *Constitution of Queensland 2001* to outline when the Governor may dissolve the Legislative Assembly.

Clause 4 omits section 16 of the Constitution of Queensland 2001 dealing with the duration of the Legislative Assembly.

Clause 5 is a consequential amendment of clause 3.

Clause 6 inserts a new Part 2A providing for fixed terms for the Legislative Assembly, including the duration of the Legislative Assembly, normal term of the Legislative Assembly, postponed dissolution and the early dissolution of the Legislative Assembly.

It provides that a general election must be held on the second Saturday in march in the fourth calendar year after the calendar in which the last general election was held, referred to as the 'normal polling day' and also provides postponed dissolution, by proclamation and no more than 35 days after the normal polling day if there are exceptional circumstances. Two examples are provided of exceptional circumstances, including an election of the Commonwealth Parliament or natural disaster.

Clause 7 inserts a transitional provision in a new Chapter 9 Part 3 which ensures that, subject to the agreement of the Legislative Assembly and a referendum, the changes being imposed by this Act would not take effect until the day on which the writ for the next general election is returned.

Clause 8 omits Attachment 2 dealing with the *Constitution Act Amendment Act 1890*, section 2 regarding the duration of the Legislative Assembly.

Clause 9 refers to Part 3 of the Bill amending the *Constitution Act Amendment Act 1934*.

Clause 10 omits section 4 of the *Constitution Act Amendment Act 1934* dealing with the duration of the Legislative Assembly.

Clause 11 refers to Part 4 of the Bill amending the *Electoral Act 1992*.

Clause 12 is a consequential amendment of clause 6 and deals with the process whereby writs are issued by the Governor.

Clause 13 amends section 83 of the *Electoral Act 1992* regarding writs issued by the Speaker and the election of a vacancy in the membership of the Legislative Assembly.

Clause 14 is a consequential amendment of clause 6 dealing with the form and content of writs.

Clause 15 amends section 86 regarding changing the time limits for issuing of a writ for a general election, ensuring that terms of the Legislative Assembly are fixed in duration.

Clause 16 inserts a transitional provision to ensure that these amendments do not take place until the day on which the writ for the next general election is returned, similar to clause 7.

Clause 17 repeals the *Constitution Act Amendment Act 1890* regarding the duration of the Legislative Assembly to be 3 years only.