



Queensland

# Constitution (Fixed-term Parliament) Amendment Bill 2009





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**2009**

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## **A Bill**

for

**An Act to amend the *Constitution of Queensland 2001* to provide fixed terms for the Legislative Assembly and to make minor and consequential amendments to the *Constitution Act Amendment Act 1890* and the *Electoral Act 1992***

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[s 1]

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**The Parliament of Queensland enacts—** 1

**Part 1 Preliminary** 2

**Clause 1 Short title** 3

This Act may be cited as the *Constitution (Fixed-term Parliament) Amendment Act 2009*. 4  
5

**Part 2 Amendment of Constitution of Queensland 2001** 6  
7

**Clause 2 Act amended** 8

This part amends the *Constitution of Queensland 2001*. 9

**Clause 3 Amendment of s 15 (Summoning, proroguing and dissolving the Legislative Assembly)** 10  
11

(1) Section 15(2), ‘or dissolve’— 12  
*omit.* 13

(2) Section 15— 14  
*insert—* 15

‘(3) The Governor may dissolve the Legislative Assembly by 16  
proclamation or otherwise but only under section 16A or 17  
16B.’ 18

**Clause 4 Insertion of new ss 16A and 16B** 19

After section 16— 20

*insert—* 21

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<b>‘16A Normal term of Legislative Assembly</b>	1
‘(1) A general election of members of the Legislative Assembly must be held on the second Saturday in March in the third calendar year after the calendar year in which the last general election was held (the <i>normal polling day</i> ).	2 3 4 5
‘(2) However, in exceptional circumstances, the Governor may at any time, on the recommendation of the Premier and with the agreement of the Leader of the Opposition, by proclamation, order the polling day to be postponed to a Saturday not more than 35 days after the normal polling day (the <i>postponed polling day</i> ).	6 7 8 9 10 11
<i>Examples of exceptional circumstances—</i>	12
1 An election for members of the House of Representatives or the Senate of the Commonwealth Parliament is to be held on the normal polling day.	13 14 15
2 A natural disaster has affected such a wide area of the State that the conduct of an election on the normal polling day would be impracticable.	16 17 18
‘(3) Subject to subsections (4) and (5), the Governor must dissolve the Legislative Assembly and issue the writ for a general election on the day (the <i>normal dissolution day</i> ) that is 26 days before the normal polling day.	19 20 21 22
‘(4) If the Legislative Assembly expires under the <i>Constitution Act Amendment Act 1890</i> , section 2 before the normal dissolution day, the Governor must immediately issue the writ for a general election.	23 24 25 26
<i>Note—</i>	27
The <i>Constitution Act Amendment Act 1890</i> , section 2 provides that the Legislative Assembly continues for 3 years after the day appointed for returning the writ for choosing that Assembly.	28 29 30
It is possible for the Legislative Assembly to expire under this provision before the normal dissolution day if the previous Assembly had been dissolved under section 16B late in a year with the general election held early in the following January and the writ returnable early in the following February.	31 32 33 34 35
‘(5) If—	36

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[s 4]

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- (a) on or before the normal dissolution day, the Governor has ordered the postponement of the polling day under subsection (2); and
- (b) the Legislative Assembly has not then expired under the *Constitution Act Amendment Act 1890*, section 2;
- the Governor, on the recommendation of the Premier and with the agreement of the Leader of the Opposition, may, by proclamation, postpone the dissolution of the Legislative Assembly and the issue of the writ for a general election.
- ‘(6) However, the Governor may not postpone the dissolution of the Legislative Assembly and the issue of the writ for a general election to a day later than the day on which the Legislative Assembly would expire under the *Constitution Act Amendment Act 1890*, section 2 or the day that is 26 days before the postponed polling day, whichever day occurs first.
- ‘(7) Nothing in this section affects the operation of the *Electoral Act 1992*, section 95.
- Note—*
- The *Electoral Act 1992*, section 95 provides for the circumstances in which a poll may be adjourned.

## ‘16B Early dissolution of Legislative Assembly

- ‘(1) The Governor may, on a day before the normal dissolution day within the meaning of section 16A, dissolve the Legislative Assembly and issue the writ for a general election if and only if—
- (a) 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; and
- (b) it is at least 8 days since the passage or defeat of the motion; and
- (c) the Governor considers no government can be formed that will command the confidence of the majority of the Legislative Assembly.



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- ‘(2) A writ issued under this section must specify the polling day for the general election, which must be a Saturday not less than 26 days and not more than 56 days after the day of the issue of the writ.’.

**Part 3** **Amendment of Constitution Act Amendment Act 1890**

- Clause 5** **Act amended**  
This part amends the *Constitution Act Amendment Act 1890*.

- Clause 6** **Amendment of s 2 (Duration of Legislative Assembly to be 3 years only)**
- (1) Section 2, ‘writs’—  
*omit, insert—*  
‘writ’.
- (2) Section 2, after ‘Governor’—  
*insert—*  
‘under the *Constitution of Queensland 2001*, section 16A or 16B.’.

**Part 4** **Amendment of Electoral Act 1992**

- Clause 7** **Act amended**  
This part amends the *Electoral Act 1992*.

[s 8]

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<b>Clause 8</b>	<b>Amendment of s 78 (Writs by Governor)</b>	1
	Section 78(2)—	2
	<i>omit.</i>	3
<b>Clause 9</b>	<b>Amendment of s 80 (Form and content of writs)</b>	4
(1)	Section 80(1)(d), after ‘which’—	5
	<i>insert—</i>	6
	‘, subject to the <i>Constitution of Queensland 2001</i> , section 16A.’.	7
		8
(2)	Section 80(2) and (3)—	9
	<i>omit.</i>	10
<b>Clause 10</b>	<b>Amendment of s 82 (Change of time limits in writ)</b>	11
	Section 82—	12
	<i>insert—</i>	13
‘(5)	This section does not apply to the postponement of a polling day for a general election under the <i>Constitution of Queensland 2001</i> , section 16A(2).’.	14
		15
		16