

**CONSTITUTION (FIXED TERM PARLIAMENTS) SPECIAL
PROVISIONS ACT 1991 No. 70**

NEW SOUTH WALES



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**CONSTITUTION (FIXED TERM PARLIAMENTS) SPECIAL
PROVISIONS ACT 1991 No. 70**

NEW SOUTH WALES



Act No. 70, 1991

An Act to fix (except in certain circumstances) 25 March 1995 as the date of the next general election of Members of the Legislative Assembly; to require a referendum on any future legislation that would repeal or amend the provisions of this Act; and to make provision with respect to the date of the referendum on the Constitution (Fixed Term Parliaments) Amendment Bill 1991. [Assented to 17 December 1991]

Constitution (Fixed Term Parliaments) Special Provisions 1991

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Constitution (Fixed Term Parliaments) Special Provisions Act 1991..

Commencement

2. This Act commences on the date of assent.

Interpretation

3. (1) In this Act:

“**current Assembly**” means the Legislative Assembly existing on the commencement of this Act (being the Legislative Assembly which first met for the dispatch of business on 2 July 1991);

“**next general election**” means the next general election of Members of the Legislative Assembly held after the commencement of this Act.

(2) This Act is to be construed as if it formed part of the Constitution Act 1902.

Date of next general election

4. (1) The writs for the next general election must name 25 March 1995 as the day for the taking of the poll at that general election, unless the current Assembly is dissolved in accordance with this Act.

(2) If the current Assembly is dissolved in accordance with this Act, the writs for the next general election must name as the day for the taking of the poll at that general election a day that is not later than the fortieth day from the date of the issue of the writs.

(3) If the current Assembly is not dissolved in accordance with this Act, the current Assembly expires on 3 March 1995.

(4) In this section, a reference to a writ does not include a reference to a writ issued because of the failure of an election, including a failure of an election because of its being declared void in accordance with law.

Dissolution of current Assembly before expiry in 1995

5. (1) The current Assembly may be dissolved by the Governor under section 10 of the Constitution Act 1902, but only in the circumstances authorised by this section or section 6.

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- (2) The current Assembly may be dissolved if:
- (a) a motion of no confidence in the Government is passed by the current Assembly (being a motion of which not less than 3 clear days' notice has been given in the current Assembly); and
 - (b) during the period commencing on the passage of the motion of no confidence and ending 8 clear days thereafter, the current Assembly has not passed a motion of confidence in the then Government.

After the motion of no confidence is passed, the current Assembly may not be prorogued before the end of that 8-day period and may not be adjourned for a period extending beyond that 8-day period, unless the motion of confidence has been passed.

- (3) The current Assembly may be dissolved if it:
- (a) rejects a Bill which appropriates revenue or moneys for the ordinary annual services of the Government; or
 - (b) fails to pass such a Bill before the time that the Governor considers that the appropriation is required.

(4) The current Assembly may be dissolved within 2 months before the current Assembly is due to expire on 3 March 1995 if the next general election would otherwise be required to be held during the same period as a Commonwealth election, during a holiday period or at any other inconvenient time.

Preservation of Governor's power to dissolve current Assembly in accordance with established constitutional conventions

6. This Act does not prevent the Governor from dissolving the current Assembly in circumstances other than those specified in section 5, despite any advice of the Premier or Executive Council, if the Governor could do so in accordance with established constitutional conventions.

Governor to consider whether viable alternative Government can be formed

7. When deciding whether the current Assembly should be dissolved in accordance with this Act, the Governor is to consider whether a viable alternative Government can be formed without a dissolution and, in so doing, is to have regard to any motion passed by the current Assembly expressing confidence in an alternative Government in which a named person would be Premier.

This Act to prevail

8. This Act has effect despite anything to the contrary in the Constitution Act 1902 or any other Act.

Referendum required to alter this Act

9. (1) A Bill that expressly or impliedly repeals or amends this Act shall not be presented to the Governor for Her Majesty's assent until the Bill has been approved by the electors in accordance with this section.

(2) On a day not sooner than 2 months after the passage of the Bill through both Houses of the Legislature the Bill shall be submitted to the electors entitled to vote at a general election of Members of the Legislative Assembly.

(3) The day referred to in subsection (2) shall be appointed by the Governor under and in accordance with the Constitution Further Amendment (Referendum) Act 1930 and any Act amending or replacing that Act.

(4) When the Bill is submitted to the electors the vote shall be taken under and in accordance with the Constitution Further Amendment (Referendum) Act 1930 and any Act amending or replacing that Act.

(5) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for Her Majesty's assent.

(6) Nothing contained in this section affects the operation of section 5B of the Constitution Act 1902 and a Bill to which this section would otherwise apply which has been submitted to the electors under and in accordance with section 5B and has been approved by a majority of the electors voting may be presented to the Governor for Her Majesty's assent as if this section had not been enacted.

(7) The provisions of this section do not apply to a provision of a Bill, being a provision which would, upon its coming into operation, be a law referred to in section 29 (2) of the Constitution Act 1902.

Amendment of Constitution Further Amendment (Referendum) Act 1930 No. 2

10. The Constitution Further Amendment (Referendum) Act 1930 is amended by inserting after section 7 (2) the following subsection:

(3) The day appointed for the taking of the votes of the electors on the Constitution (Fixed Term Parliaments) Amendment Bill 1991 (or, if that Bill is re-introduced into the Legislative Assembly

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in 1992 with or without amendment, that Bill) shall be no later than the day named for the taking of the poll in the next general election (within the meaning of the Constitution (Fixed Term Parliaments) Special Provisions Act 1991).

*[Minister's second reading speech made in—
Legislative Assembly on 31 October 1991
Legislative Council on 11 December 1991]*