

Western Australia

Electoral and Constitution Amendment Act 2011

(No. 49 of 2011)

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Western Australia

Electoral and Constitution Amendment Act 2011

No. 49 of 2011

An Act to amend —

- **the *Electoral Act 1907*; and**
 - **the *Constitution Acts Amendment Act 1899*,**
- in relation to the dates for general elections.**

[Assented to 11 November 2011]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Electoral and Constitution Amendment Act 2011*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation.

Part 2 — *Electoral Act 1907* amended

3. Act amended

This Part amends the *Electoral Act 1907*.

4. Section 4 amended

- (1) In section 4(1) insert in alphabetical order:

election year, in relation to a periodic election, means the year in which the writ for the periodic election is issued;

expiry year means a year in which an Assembly, if it is not previously dissolved, will expire by effluxion of time;

periodic election means —

- (a) a general election for the Assembly the writ for which is issued under section 64(2); or
- (b) any general election for the Council;

- (2) In section 4(1) in the definition of ***general election***:

- (a) in paragraph (a) delete “section 64(1);” and insert:

section 64(1) or (2);

- (b) in paragraph (b) delete “section 64(2);” and insert:

section 64(3);

5. Section 64 replaced

Delete section 64 and insert:

64. Issue of writs for general election

- (1) If an Assembly is dissolved before 1 November last preceding its expiry year, the Governor shall cause a writ for elections in all the districts to be issued not later than 10 days after the dissolution.
- (2) If an Assembly is not dissolved before 1 November last preceding its expiry year, the Governor shall cause a writ for elections in all the districts to be issued on the first Wednesday of February in the expiry year.
- (3) In order to fill seats in the Council that are to be vacated by effluxion of time at the end of 21 May in a year, the Governor shall cause a writ for elections in all the regions to be issued on the first Wednesday of February last preceding that 21 May.

6. Section 70 replaced

Delete section 70 and insert:

70. Date of nomination

- (1) Subject to subsection (2), the date fixed as the last day for the nomination of candidates shall be not less than 7 nor more than 45 days after the date of the writ.
- (2) In the case of a periodic election the date fixed as the last day for the nomination of candidates shall be the second Friday next following the date of the writ.

7. Section 71 replaced

Delete section 71 and insert:

71. Date of polling

(1) In this section —

available day means any day that is not an excluded day;

excluded day means —

- (a) a day appointed as polling day for an election of the Senate or a general election of the House of Representatives or as the voting day for a referendum as defined in the *Referendum (Machinery Provisions) Act 1984* (Commonwealth); or
 - (b) Easter Saturday or the Saturday immediately preceding or succeeding Easter Saturday.
- (2) Subsection (3) applies to any election other than an election held as part of a periodic election.
- (3) The date fixed for the polling in an election to which this subsection applies shall be a Saturday that —
- (a) is not less than 21 nor more than 45 days after the date of nomination; and
 - (b) is an available day.
- (4) The same date shall be fixed under subsection (3) for the polling in each election in a district held as part of a general election for the Assembly for which the writ is issued under section 64(1).
- (5) In the case of a periodic election, the date fixed for the polling in each election in a region or election in a district, as the case requires, shall be —
- (a) the second Saturday of March in the election year; or

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- (b) if the second Saturday of March in the election year is an excluded day, the first succeeding Saturday that is an available day.
- (6) If in the case of a periodic election the Premier, with the agreement of the Leader of the Opposition in the Legislative Assembly, recommends to the Governor that the date to be fixed for the polling be postponed because of exceptional circumstances, the date fixed for the polling shall be the first Saturday after the second Saturday of March that is an available day on which polling is practicable.
- (7) In the case of a general election for the Council, the date fixed for the polling shall not be postponed to such an extent as would prevent the return of the writ on or before 21 May in the year in which seats in the Council are to be vacated by effluxion of time.

8. Section 72 amended

After section 72(1) insert:

- (2) In the case of a general election for the Council, the date fixed as the last day for the return of a writ in the election shall be not later than 21 May in the year in which seats in the Council are to be vacated by effluxion of time.

9. Section 76 amended

Delete section 76(3) and insert:

- (3) In the case of a general election for the Council —
 - (a) the time appointed for the nomination of candidates or the taking of the poll shall not be

extended to such an extent as would prevent the return of the writ on or before 21 May; and

- (b) the time appointed for the return of the writ shall not be extended beyond 21 May,

in the year in which seats in the Council are to be vacated by effluxion of time.

10. Section 156E amended

In section 156E(2) delete “sections 8(6) and 10 of the *Constitution Acts Amendment Act 1899*” and insert:

section 64(3) and the *Constitution Acts Amendment Act 1899* section 10

**Part 3 — *Constitution Acts Amendment
Act 1899* amended**

11. Act amended

This Part amends the *Constitution Acts Amendment Act 1899*.

12. Section 8 amended

Delete section 8(6).

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