



## Timetable for the next Australian elections as at 8 December 2006

### The Commonwealth

#### The rules

While the calling of an election is partly a matter of political judgement and timing, a constitutional and legislative framework governs the electoral timetables and processes. The Constitution requires periodic elections for both Houses of Parliament, with separate provisions reflecting the different constitutional role of each House. The maximum term of the House of Representatives is set by s.28 of the Constitution, which states that:

every House of Representatives shall continue for three years from the first meeting of the House, and no longer, but may be sooner dissolved by the Governor-General

The *Commonwealth Electoral Act 1918* provides the following timetabling provisions for elections:

- writs to be issued within 10 days from the expiry of, or proclamation of the dissolution of, the House of Representatives (Constitution s.12, 32) (s.151 of the Act)
- electoral rolls close three working days after the issue of the writs for electors updating their enrolment details and also for new enrolments for both 17 year olds turning 18 before polling day, and people becoming citizens before polling day (s.155, s.102). For all other new enrolments and re-enrolments the rolls are frozen at the issue of the writs (s.102)
- nominations of candidates close not less than 10 days or more than 27 days after the date of the writs (s.156)
- the polling day shall not be less than 23 days nor more than 31 days after the date of nomination (s.157)
- the election must be held on a Saturday (s.158), and
- the writ must be returned no more than 100 days after the issue of the writ (s.159).

The time allowed from the expiry or dissolution of the House to polling day is therefore not less than 33 days and not more than 68 days.

#### The next House of Representatives election

A House of Representatives election can be requested at any time, but if the Government has control of the House, the Governor-General is highly unlikely to accede to such a request within the first year of a new parliament.

To calculate the latest possible date of the next election, the maximum number of days specified must be applied. The last possible date for the next election is within 68 days from the expiry of the House. As the 41<sup>st</sup> Parliament first met on Tuesday, 16 November 2004, it is therefore due to expire on Thursday, 15 November 2007.

The election for the House of Representatives must therefore be held by 19 January 2008, the last Saturday within this period.

However, an election may be held at any time before that date.

Generally, elections are called well before there is a constitutional or legal necessity. There has been only one instance of an election being held after a parliament expired through effluxion of time. This occurred in 1910. In recent times, Prime Minister William McMahon has gone closest to a full-term parliament, dissolving the House in 1972 after two years, 11 months and 8 days.

It is highly unlikely that the next election will be held in January because campaigning would occur during the Christmas/New Year holiday period. No election has been held in January; the latest an election has ever been held in a calendar year was on 19 December 1931. Therefore, the latest practical date for the next election would be Saturday, 15 December 2007.

#### The next half-Senate election

Unlike the House of Representatives, the Senate is a continuing body. Half the State senators retire on 30 June every three years, except in the case of a simultaneous dissolution of both Houses. Section 13 of the Constitution requires that an election be held within one year before the places become vacant. The terms of senators for the territories coincide with those of the House of Representatives.

There is no constitutional requirement that elections for the House of Representatives and the Senate be held simultaneously. They are generally held together, primarily to avoid the duplication of costs in holding separate elections and because it is felt that voters would not look kindly upon a government that called separate elections. If the elections for the House of Representatives and half the Senate are to be held simultaneously, the date must conform with the constitutional provisions relating to the terms of senators and the period during which the election must be held.

The terms of senators elected in 2001 expire on 30 June 2008. Therefore, in theory, the next half-Senate election must be held between 1 July 2007 and 30 June 2008. However, because a half-Senate election effectively cannot be held in July, the earliest possible date for such an election is Saturday 4 August 2007.<sup>1</sup>

The latest realistic date for a half-Senate election is Saturday 24 May 2008. This is to allow sufficient time for the Senate writs to be returned by 30 June 2008, so that the senators may take their seats on 1 July.<sup>2</sup>

#### The next simultaneous election

As House of Representatives and half-Senate elections are usually held together, the earliest date for a simultaneous election would be Saturday, 4 August 2007.

Although the latest possible date for a half-Senate election is 31 May 2008, the latest possible date for a simultaneous (half-Senate and House of Representatives) election is the same date as is required for the House of Representatives, 19 January 2008.

#### Commonwealth: next election dates

|                                                       | Last election  | Earliest date | Latest date     |
|-------------------------------------------------------|----------------|---------------|-----------------|
| Simultaneous half Senate and House of Representatives | 9 October 2004 | 4 August 2007 | 19 January 2008 |
| House of Representatives                              |                |               | 19 January 2008 |
| Half-Senate                                           |                | 4 August 2007 | 24 May 2008     |
| Double dissolution                                    |                |               | 21 July 2007    |

Source: Australian Electoral Commission

## The next double dissolution election

Section 57 of the Constitution provides that both Houses may be simultaneously dissolved should there be a legislative deadlock between them. A deadlock occurs only when a three month period has elapsed between when the Senate rejects a Bill and the House passes it a second time.<sup>3</sup> Once these conditions have been met, a double dissolution election can be called at any time, except that a dissolution cannot occur within six months of the expiry date for the House of Representatives (15 November 2007). This means that the last possible date for the dissolution of both Houses is Tuesday, 15 May 2007.

As the usual timetabling requirements apply, the latest possible polling date for a double dissolution election is Saturday, 21 July 2007.

It should be noted that because the Government has control of the Senate from 1 July 2005, a disagreement between the Houses creating conditions for a double dissolution election is highly unlikely to occur.

## The states and territories

Each state and territory has its own provisions as to when elections are held. The table below sets out (where applicable) the earliest and latest dates on which the next elections can be held.

There are usually exceptional circumstances in which early elections can be called and they vary slightly from parliament to parliament. They include such things as the government losing the confidence of parliament, parliament failing to pass a money bill for the ordinary services of government, parliament failing to pass a 'Bill of special importance' on two occasions, the date of the election clashing with the date for the Commonwealth election, or if there is a natural disaster.

**New South Wales:** The NSW Legislative Assembly has a fixed term. The *Constitution Act 1902* (s.24A) provides for elections to be held on the fourth Saturday in March every four years.

**Australian Capital Territory:** The ACT Legislative Assembly has a fixed term. The *Electoral Act 1992* (s.100) decrees that elections are held on the third Saturday in October every four years. If the date clashes with the Commonwealth election, then it must be deferred until the first Saturday in December.

**Western Australia:** The *Constitution Acts Amendment Act 1899* (s.21) determines that the WA Legislative Assembly has a four-year term but the election date is not fixed. The *Electoral Act 1907* (s.71) outlines the process for determining the election date.

**Northern Territory:** The *Northern Territory (Self-Government) Act 1978* (s.17) determines that the NT Legislative Assembly has a four-year term. The election date is not fixed but an election must not be held within three years after the first meeting of the Assembly. The election process is governed by the *Electoral Act 2004*.

**Queensland:** The Queensland Legislative Assembly has a three-year term, but the election date is not fixed. This is determined according to a process outlined in the *Electoral Act 1992* s.80.

**South Australia:** The South Australian House of Assembly has a fixed term. According to the *Constitution Act 1934* (s.28) elections are held on the third Saturday in March every four years.

**Tasmania:** The *Constitution Act 1934* (s.23) stipulates that the Tasmanian House of Assembly has a maximum four-year term from the day of the return of the writs. The election date is not fixed and can be called at any time with the Governor's agreement. The *Electoral Act 2004* governs the process of elections.

**Victoria:** The Legislative Assembly has a fixed four-year term. Barring exceptional circumstances, elections are held on the last Saturday in November every four years (see *Constitution Act 1975* s.38 and s.38A).

States and territories: next election dates

|     | Most recent      | Earliest date | Actual/Fixed     | Latest date                |
|-----|------------------|---------------|------------------|----------------------------|
| NSW | 22 March 2003    |               | 24 March 2007    |                            |
| ACT | 16 October 2004  |               | 18 October 2008  |                            |
| WA  | 26 February 2005 | 21 June 2008  |                  | 28 March 2009 <sup>4</sup> |
| NT  | 18 June 2005     | 5 July 2008   |                  | 27 June 2009               |
| QLD | 9 September 2006 |               |                  | 5 December 2009            |
| SA  | 18 March 2006    |               | 20 March 2010    |                            |
| TAS | 18 March 2006    |               |                  | 22 May 2010                |
| VIC | 25 November 2006 |               | 27 November 2010 |                            |

Source: State and territory electoral offices/commissions

1. S. Bennett, 'Restrictions on the Timing of Half Senate Elections', *Research Note*, no. 38, Department of the Parliamentary Library, Canberra, 2002.
2. The Australian Electoral Commission advises that since the last three elections have been held with data punching of the 'below-the-line' Senate ballot papers, polling day could be as late as 24 May 2008 and still allow sufficient time for the Senate writs to be returned by 30 June 2008.
3. A critical consideration affecting the timing of any double dissolution is the date from whence is calculated the three-month interval. Although some aspects of s. 57 remain unclear, a majority of the High Court held in *Victoria v The Commonwealth and Connor* (1975) 134 CLR 81 that the three-month interval commences on the date on which the Senate rejects or fails to pass the Bill. (The High Court has not expressed a definitive view as to the commencement of the three-month period in which the Senate passes a Bill with amendments 'to which the House will not agree'.)
4. Whilst in theory the latest date would be 16 May 2009, the most likely latest date would be 28 March 2009 so as to avoid the Easter holiday period, local government elections and a lengthy election campaign.

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