

# Electoral and Constitution Amendment Bill 2011

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Western Australia

LEGISLATIVE COUNCIL

*(As amended in Committee)*

**Electoral and Constitution Amendment  
Bill 2011**

**A Bill for**

**An Act to amend —**

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

The Parliament of Western Australia enacts as follows:

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**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.

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**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);

1 **5. Section 64 replaced**

2 Delete section 64 and insert:

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4 **64. Issue of writs for general election**

5 (1) If an Assembly is dissolved before 1 November last  
6 preceding its expiry year, the Governor shall cause a  
7 writ for elections in all the districts to be issued not  
8 later than 10 days after the dissolution.

9 (2) If an Assembly is not dissolved before 1 November last  
10 preceding its expiry year, the Governor shall cause a  
11 writ for elections in all the districts to be issued on the  
12 first Wednesday of February in the expiry year.

13 (3) In order to fill seats in the Council that are to be  
14 vacated by effluxion of time at the end of 21 May in a  
15 year, the Governor shall cause a writ for elections in all  
16 the regions to be issued on the first Wednesday of  
17 February last preceding that 21 May.

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19 **6. Section 70 replaced**

20 Delete section 70 and insert:

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22 **70. Date of nomination**

23 (1) Subject to subsection (2), the date fixed as the last day  
24 for the nomination of candidates shall be not less than  
25 7 nor more than 45 days after the date of the writ.

26 (2) In the case of a periodic election the date fixed as the  
27 last day for the nomination of candidates shall be the  
28 second Friday next following the date of the writ.

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1   **7.       Section 71 replaced**

2           Delete section 71 and insert:

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4           **71.       Date of polling**

5           (1) In this section —

6               *available day* means any day that is not an excluded  
7               day;

8               *excluded day* means —

9                   (a) a day appointed as polling day for an election  
10                   of the Senate or a general election of the House  
11                   of Representatives or as the voting day for a  
12                   referendum as defined in the *Referendum*  
13                   *(Machinery Provisions) Act 1984*  
14                   (Commonwealth); or

15                   (b) Easter Saturday or the Saturday immediately  
16                   preceding or succeeding Easter Saturday.

17           (2) Subsection (3) applies to any election other than an  
18           election held as part of a periodic election.

19           (3) The date fixed for the polling in an election to which  
20           this subsection applies shall be a Saturday that —

21                   (a) is not less than 21 nor more than 45 days after  
22                   the date of nomination; and

23                   (b) is an available day.

24           (4) The same date shall be fixed under subsection (3) for  
25           the polling in each election in a district held as part of a  
26           general election for the Assembly for which the writ is  
27           issued under section 64(1).

28           (5) In the case of a periodic election, the date fixed for the  
29           polling in each election in a region or election in a  
30           district, as the case requires, shall be —

31                   (a) the second Saturday of March in the election  
32                   year; or

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- 1                   (b) if the second Saturday of March in the election  
2                                   year is an excluded day, the first succeeding  
3                                   Saturday that is an available day.
- 4                   (6) If in the case of a periodic election the Premier, with  
5                                   the agreement of the Leader of the Opposition in the  
6                                   Legislative Assembly, recommends to the Governor  
7                                   that the date to be fixed for the polling be postponed  
8                                   because of exceptional circumstances, the date fixed  
9                                   for the polling shall be the first Saturday after the  
10                                  second Saturday of March that is an available day on  
11                                  which polling is practicable.
- 12                  (7) In the case of a general election for the Council, the  
13                                  date fixed for the polling shall not be postponed to such  
14                                  an extent as would prevent the return of the writ on or  
15                                  before 21 May in the year in which seats in the Council  
16                                  are to be vacated by effluxion of time.  
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18   **8. Section 72 amended**

19                   After section 72(1) insert:

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- 21                  (2) In the case of a general election for the Council, the  
22                                  date fixed as the last day for the return of a writ in the  
23                                  election shall be not later than 21 May in the year in  
24                                  which seats in the Council are to be vacated by  
25                                  effluxion of time.  
26

27   **9. Section 76 amended**

28                   Delete section 76(3) and insert:

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



1 extended to such an extent as would prevent the  
2 return of the writ on or before 21 May; and  
3 (b) the time appointed for the return of the writ  
4 shall not be extended beyond 21 May,  
5 in the year in which seats in the Council are to be  
6 vacated by effluxion of time.  
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8 **10. Section 156E amended**

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

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

