

1988

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

CONSTITUTION ALTERATION (PARLIAMENTARY
TERMS) BILL 1988

EXPLANATORY MEMORANDUM

(Circulated by authority of the Attorney-General,
the Hon Lionel Bowen MP)

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GENERAL OUTLINE

This Bill amends the Constitution to provide for 4-year maximum terms for members of both Houses of the Commonwealth Parliament.

2. The Bill provides for -

- . an increase in the maximum term for the House of Representatives to four years
- . senators to be chosen for a term equivalent to one House of Representatives term
- . elections for the House of Representatives and the Senate to be held on the same day.

3. The transitional provisions of the Bill provide that the change is not to affect the maximum term of the present members of the House of Representatives, which is to remain 3 years. However, the terms of all current senators will end with the expiry or dissolution of the current House of Representatives.

NOTES ON INDIVIDUAL CLAUSESClause 1: Short titleClause 2: The Senate

4. The provision in section 7 of the Constitution that senators' terms shall be 6 years is deleted. Clause 5 of the Bill inserts a new section 13 which provides that the term of a senator will be the same as one House of Representatives term.

Clause 3: Times and places

5. Section 9 of the Constitution empowers State Parliaments to make laws for the times and places of Senate elections. That provision is not appropriate where all Senate elections are to be held at the same time as elections for the House of Representatives and is repealed by clause 3. The times and places of Senate elections are to be set by the Constitution itself and by laws of the Commonwealth Parliament.

6. New section 12 (see clause 4) provides that elections for senators are to be held on the same day as a general election for the House of Representatives.

Clause 4: Issue of writs

7. Section 12 of the Constitution empowers State Governors to issue writs for Senate elections. It does not specify when writs are to be issued for ordinary elections of senators, but does provide that where there is a dissolution of the Senate, i.e. where there is a double dissolution under section 57, the writs shall be issued within 10 days after the proclamation of the dissolution. That provision is omitted from section 12 and replaced by a provision which requires State Governors to issue writs for a Senate election within 10 days of the expiry or

dissolution of a House of Representatives and for the polling day for the Senate election to be the same as for the House of Representatives. This change is necessary to ensure simultaneous elections.

Clause 5: Terms of service of senators

8. Since the Bill provides for all senators to be elected at each election, there is no need for provision for the rotation of senators. Clause 5 therefore repeals existing sections 13 and 14 of the Constitution which provide for rotation of senators following an election after a dissolution of the Senate or following an increase or decrease in the number of senators.

9. New subsection 13(1) provides that the term of a senator is the same as the term of a member of the House of Representatives (i.e. a maximum of 4 years).

10. The effect of subsection 13(2) is that the term of senators holding office at the date of commencement of the new section 13 will cease when the current House of Representatives comes to an end, either by dissolution or expiry. Any senator filling a casual vacancy existing at that commencement date will likewise cease to hold office when the current House of Representatives comes to an end. Subsection 13(2) does not, however, operate to extend the term of a senator appointed by the Governor of a State to a casual vacancy when a State Parliament is not in session.

Clause 6: Duration of House of Representatives

11. The maximum term of the House of Representatives is extended from 3 to 4 years. However, the term of the present House of Representatives is not affected.