

FIRST PRINT

**CONSTITUTION (FIXED TERM PARLIAMENTS)  
AMENDMENT BILL 1992**

NEW SOUTH WALES



**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Constitution Act 1902:

- (a) to provide for fixed term Parliaments, with general elections held (except in special circumstances) on the fourth Saturday in March every 4 years; and
- (b) to require a referendum for any future legislation that would change the date for the holding of general elections as provided for under this Bill.

This Bill will not apply to the holding of the next general election. However, under the Constitution (Fixed Term Parliaments) Special Provisions Act 1991, the next general election is to be held on 25 March 1995, unless the Assembly is sooner dissolved in similar special circumstances to those applying under this Bill.

Because of section 7B of the Constitution Act 1902, this Bill is required to be submitted to a referendum and will not become law unless it is approved by a majority of the electors. The Constitution (Fixed Term Parliaments) Special Provisions Act 1991 ensures that the referendum will be held at or before the next general election.

Under this Bill (if it is approved at a referendum):

- (a) General elections after the next general election will be held every 4 years on the fourth Saturday in March, unless the Assembly is sooner dissolved in the special circumstances mentioned below.
- (b) If the Assembly is so dissolved, the general election is to be held (as at present) within 40 days after the issue of the writs for the election. The following general election will revert to the fourth Saturday in March. Accordingly, the Assembly chosen after the dissolution will have a term generally between 3 years and 2 months and 4 years and 2 months depending on the date of the dissolution.

*Constitution (Fixed Term Parliaments) Amendment 1992*

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- (c) The existing discretion of the Governor to dissolve the Assembly at any time and issue writs for an election is to be replaced by a power to dissolve only in the following special circumstances:
- If a motion of no confidence in the Government is passed and no Government which has the confidence of the Assembly is formed within 8 clear days of the motion of no confidence. 3 clear days' notice is required to be given of the motion of no confidence.
  - If the Assembly has rejected or failed to pass a supply Bill.
  - If the next scheduled election date of the fourth Saturday in March is an unsuitable date for the general election (e.g. it occurs during a holiday period or a period during which a Commonwealth election is being held). In that case, the duration of the Assembly may be reduced by no more than 2 months.
- (d) Any existing established constitutional convention under which the Governor may, despite the advice of the existing Government, dissolve the Legislative Assembly is preserved.
- (e) When deciding whether to dissolve the Legislative Assembly, the Governor will be required to consider whether a viable alternative Government can be formed without a dissolution.
- (f) A referendum will be required for any future legislation that would authorise any reduction in the term of the Legislative Assembly or would alter the date on which a general election is required to be held.
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NEW SOUTH WALES

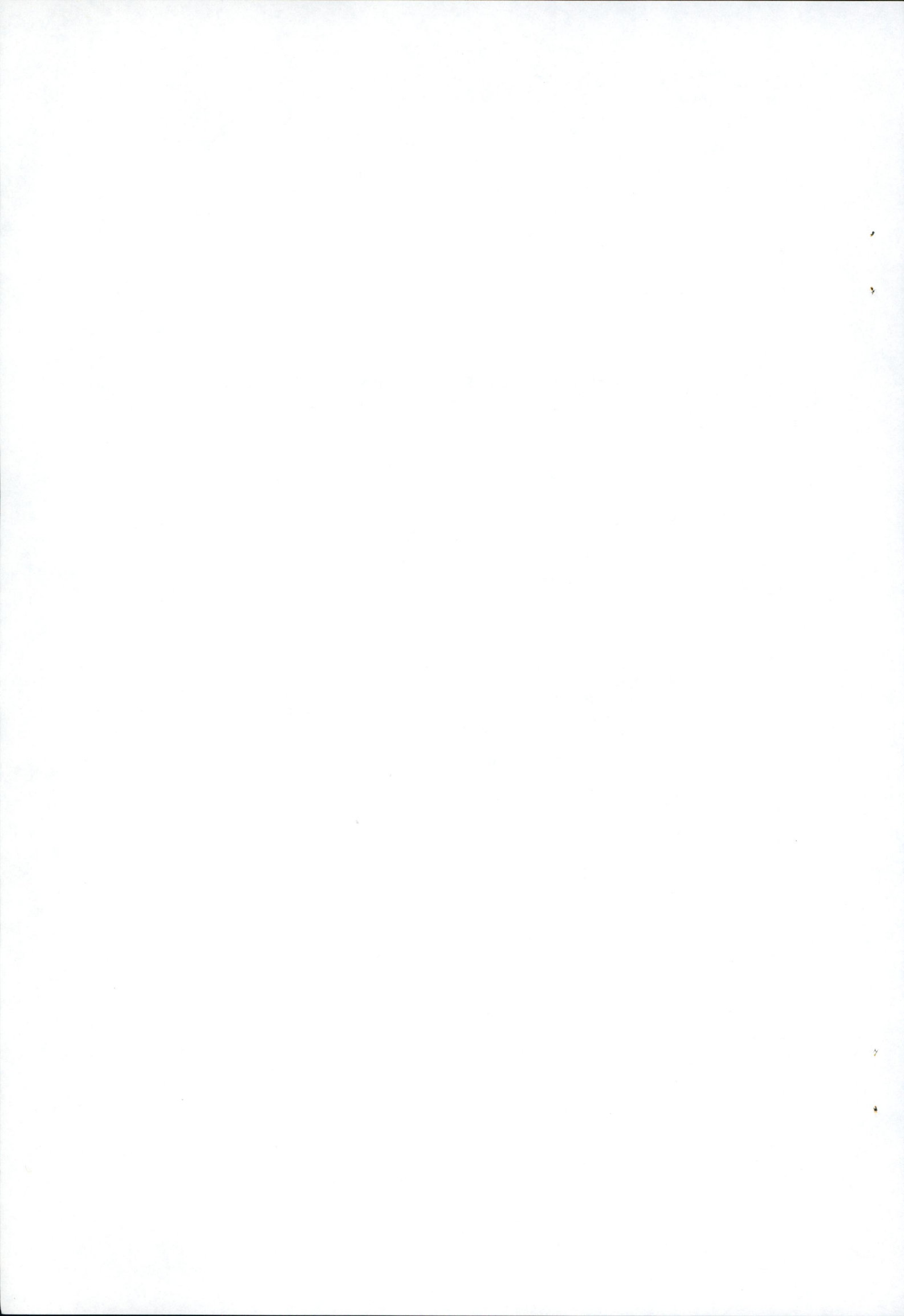


**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Constitution Act 1902 No. 32
4. Consequential amendment of Parliamentary Electorates and Elections Act 1912 No. 41, s. 73 (Polling day at Assembly general elections)
5. Amendments not to apply to current Assembly

SCHEDULE 1—AMENDMENTS

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**CONSTITUTION (FIXED TERM PARLIAMENTS)  
AMENDMENT BILL 1992**

NEW SOUTH WALES



No. , 1992

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**A BILL FOR**

An Act to require the Parliament of New South Wales to serve full 4-year terms and to prevent politicians calling early general elections or changing these new constitutional rules without a further referendum.

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*Constitution (Fixed Term Parliaments) Amendment 1992*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, with the approval of the electors as required by the Constitution Act 1902, and by the authority of the same, as follows:

**Short title**

1. This Act may be cited as the Constitution (Fixed Term Parliaments) Amendment Act 1992.

**Commencement**

2. This Act commences on the date of assent.

**Amendment of Constitution Act 1902 No. 32**

3. The Constitution Act 1902 is amended as set out in Schedule 1.

**Consequential amendment of Parliamentary Electorates and Elections Act 1912 No. 41, s. 73 (Polling day at Assembly general elections)**

4. The Parliamentary Electorates and Elections Act 1912 is amended by omitting section 73.

**Amendments not to apply to current Assembly**

5. The amendments made by this Act do not apply to the current Assembly within the meaning of the Constitution (Fixed Term Parliaments) Special Provisions Act 1991, but apply to any Legislative Assembly thereafter.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

(1) Section 7B (Referendum for Bills with respect to Legislative Assembly and certain other matters):

Omit section 7B (1) (b), insert instead:

*Constitution (Fixed Term Parliaments) Amendment 1992*

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) contains any provision to reduce or extend, or to authorise the reduction or extension of, the duration of any Legislative Assembly or to alter the date required to be named for the taking of the poll in the writs for a general election,
- (2) Section 10 (**Time and place for holding sessions, and prorogation, of Parliament**):  
Omit the words “, and dissolve the said Assembly”.
- (3) Section 24:  
Omit the section, insert instead:  
**Duration of Assembly**  
24. (1) A Legislative Assembly shall, unless sooner dissolved under section 24B, expire on the Friday before the first Saturday in March in the fourth calendar year after the calendar year in which the return of the writs for choosing that Assembly occurred.  
(2) 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.
- (4) Sections 24A, 24B:  
After section 24, insert:  
**Date of general election for Legislative Assembly**  
24A. The writs for a general election of Members of the Legislative Assembly must name as the day for the taking of the poll at that general election:  
(a) if the previous Legislative Assembly expired—the fourth Saturday in March next following the expiry; or  
(b) if the previous Legislative Assembly was dissolved—a day that is not later than the fortieth day from the date of the issue of the writs.  
**Dissolution of Legislative Assembly during 4 year term**  
24B. (1) The Legislative Assembly may be dissolved by the Governor by proclamation, but only in the circumstances authorised by this section.

*Constitution (Fixed Term Parliaments) Amendment 1992*

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SCHEDULE 1—AMENDMENTS—*continued*

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

After the motion of no confidence is passed, the Legislative 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 Legislative 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 Legislative Assembly may be dissolved within 2 months before the Assembly is due to expire if the 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.
- (5) This section does not prevent the Governor from dissolving the Legislative Assembly in circumstances other than those specified in subsections (2)–(4), despite any advice of the Premier or Executive Council, if the Governor could do so in accordance with established constitutional conventions.

(6) When deciding whether the Legislative Assembly should be dissolved in accordance with this section, 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 Legislative Assembly expressing confidence in an alternative Government in which a named person would be Premier.

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SECOND PRINT

**CONSTITUTION (FIXED TERM PARLIAMENTS)  
AMENDMENT BILL 1992**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

1. Short title
2. Commencement
3. Amendment of Constitution Act 1902 No. 32
4. Consequential amendment of Parliamentary Electorates and Elections Act 1912 No. 41, s. 73 (Polling day at Assembly general elections)
5. Amendments not to apply to current Assembly

**SCHEDULE 1—AMENDMENTS**

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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly*

*Clerk of the Legislative Assembly.*

NEW SOUTH WALES



Act No.           , 1992

An Act to require the Parliament of New South Wales to serve full 4-year terms and to prevent politicians calling early general elections or changing these new constitutional rules without a further referendum.

*Constitution (Fixed Term Parliaments) Amendment 1992*

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, with the approval of the electors as required by the Constitution Act 1902, and by the authority of  
5 the same, as follows:

**Short title**

1. This Act may be cited as the Constitution (Fixed Term Parliaments) Amendment Act 1992.

**Commencement**

10 2. This Act commences on the date of assent.

**Amendment of Constitution Act 1902 No. 32**

3. The Constitution Act 1902 is amended as set out in Schedule 1.

15 **Consequential amendment of Parliamentary Electorates and Elections Act 1912 No. 41, s. 73 (Polling day at Assembly general elections)**

4. The Parliamentary Electorates and Elections Act 1912 is amended by omitting section 73.

**Amendments not to apply to current Assembly**

20 5. The amendments made by this Act do not apply to the current Assembly within the meaning of the Constitution (Fixed Term Parliaments) Special Provisions Act 1991, but apply to any Legislative Assembly thereafter.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

25 (1) Section 7B (Referendum for Bills with respect to Legislative Assembly and certain other matters):

Omit section 7B (1) (b), insert instead:

(b) contains any provision to reduce or extend, or to authorise the reduction or extension of, the duration of

*Constitution (Fixed Term Parliaments) Amendment 1992*

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SCHEDULE 1—AMENDMENTS—*continued*

- any Legislative Assembly or to alter the date required to be named for the taking of the poll in the writs for a general election,
- (2) Section 10 (**Time and place for holding sessions, and prorogation, of Parliament**): 5  
 Omit the words “, and dissolve the said Assembly”.
- (3) Section 24:  
 Omit the section, insert instead: 10  
**Duration of Assembly**  
 24. (1) A Legislative Assembly shall, unless sooner dissolved under section 24B, expire on the Friday before the first Saturday in March in the fourth calendar year after the calendar year in which the return of the writs for choosing that Assembly occurred. 15  
 (2) 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.
- (4) Sections 24A, 24B: 20  
 After section 24, insert:  
**Date of general election for Legislative Assembly**  
 24A. The writs for a general election of Members of the Legislative Assembly must name as the day for the taking of the poll at that general election: 25  
 (a) if the previous Legislative Assembly expired—the fourth Saturday in March next following the expiry; or  
 (b) if the previous Legislative Assembly was dissolved—a day that is not later than the fortieth day from the date of the issue of the writs. 30  
**Dissolution of Legislative Assembly during 4 year term**  
 24B. (1) The Legislative Assembly may be dissolved by the Governor by proclamation, but only in the circumstances authorised by this section.  
 (2) The Legislative Assembly may be dissolved if: 35  
 (a) a motion of no confidence in the Government is passed by the Legislative Assembly (being a motion of which

*Constitution (Fixed Term Parliaments) Amendment 1992*

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SCHEDULE 1—AMENDMENTS—*continued*

not less than 3 clear days' notice has been given in the Legislative Assembly); and

- 5 (b) during the period commencing on the passage of the motion of no confidence and ending 8 clear days thereafter, the Legislative Assembly has not passed a motion of confidence in the then Government.

10 After the motion of no confidence is passed, the Legislative 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 Legislative Assembly may be dissolved if it:

- 15 (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.

This subsection does not apply to a Bill which appropriates revenue or moneys for the Legislature only.

20 (4) The Legislative Assembly may be dissolved within 2 months before the Assembly is due to expire if the 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.

25 (5) This section does not prevent the Governor from dissolving the Legislative Assembly in circumstances other than those specified in subsections (2)–(4), despite any advice of the Premier or Executive Council, if the Governor could do so in accordance with established constitutional conventions.

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35 (6) When deciding whether the Legislative Assembly should be dissolved in accordance with this section, 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 Legislative Assembly expressing confidence in an alternative Government in which a named person would be Premier.

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