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The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

**Constitution Alteration (Electors'
Initiative, Fixed Term Parliaments and
Qualifications of Members) 2000**

No. , 2000

(Senator Murray)

**A Bill for an Act to alter the Constitution to
provide a method of altering the Constitution on
the initiative of the electors, to change the terms of
service of senators and the duration of the House of
Representatives and to change the provisions
relating to the qualifications of members of
Parliament**

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1 **A Bill for an Act to alter the Constitution to**
2 **provide a method of altering the Constitution on**
3 **the initiative of the electors, to change the terms of**
4 **service of senators and the duration of the House of**
5 **Representatives and to change the provisions**
6 **relating to the qualifications of members of**
7 **Parliament**

8 The Parliament of Australia, with the approval of the
9 electors, as required by the Constitution, enacts:

10 **1 Short title**

11 This Act may be cited as the *Constitution Alteration (Electors'*
12 *Initiative, Fixed Term Parliaments and Qualifications of Members)*
13 *2000*.

1 **2 Schedules**

3 The Constitution is altered as set out in the Schedules.

1
2 **Schedule 1— Amendments of the Constitution**
3 **relating to alterations of the**
4 **Constitution by electors' initiative**
5

6 **1 Section 128**

7 Omit “except in the following manner:”, substitute “except as provided
8 by this Chapter.”.

9 **2 After section 128**

10 Insert, in Chapter VIII:

11 **129 Alteration of Constitution on electors' initiative**

12 A person who is, or a group of persons each of whom is, qualified
13 to vote for the election of members of the House of
14 Representatives for a State or Territory may be registered by the
15 Australian Electoral Commission as the proponent, or the
16 proponents, of a proposal to amend the Constitution.

17 The proponent or proponents so registered may present to the
18 Australian Electoral Commission a petition, addressed to the
19 Governor-General to cause to be put to the people by way of
20 referendum the proposed law to amend the Constitution endorsed
21 on, or attached to, the petition.

22 A proposed law to alter the Constitution shall contain an alteration,
23 or alterations, necessary to achieve a single purpose only.

24 The Australian Electoral Commission shall cause to be printed
25 copies of the petition and forms for signature by electors who wish
26 to sign the petition and shall furnish the copies and forms to the
27 proponent, or proponents, concerned.

28 During the period of 6 months commencing on a date determined
29 by the Australian Electoral Commission, being a date not less than
30 7 days after the copies and forms are so forwarded, the petition
31 may be signed by any elector in a State or Territory who was
32 qualified to vote for the election of a member of the House of
33 Representatives at the general election that last preceded the date
34 so fixed.

Schedule 1 Amendments of the Constitution relating to alterations of the Constitution by electors' initiative

1 Where, at the expiration of that period of 6 months, the petition has
2 been duly signed by electors to a number not less than 5 per
3 centum of the number of electors who voted at that general
4 election, the proponent or proponents may present the petition and
5 signatures to the Australian Electoral Commission.

6 If the Australian Electoral Commission is, after random sampling
7 of the signatures to the petition, satisfied that it was signed as so
8 required during that period, it shall present the petition to the
9 Governor-General.

10 The Governor-General shall, subject to this section, at the next
11 general election of the House of Representatives, submit the
12 proposed law endorsed on or attached to the petition to the electors
13 in each State and Territory qualified to vote for the election of the
14 House of Representatives.

15 Paragraphs 3, 4, 5 and 6 of section 128 apply to the proposed law
16 as if the proposed law had been agreed to by both Houses of the
17 Parliament.

18 The Australian Electoral Commission may arrange for argument in
19 favour of, or against, the proposed law, prepared by a person, or
20 body of persons, to be furnished, at the expense of that person or
21 body, to electors.

22 At any time during the period of 6 months previously referred to,
23 the Attorney-General or any other person qualified to vote for the
24 election of the House of Representatives may make application to
25 the Federal Court of Australia for a declaration that the proposed
26 law is not in the appropriate form or does not seek to change the
27 Constitution in a manner that is practicable or legally effective and,
28 if the Court makes the declaration, the petition shall be treated as
29 having no force or effect.

30 The Parliament may make laws with respect to matters incidental
31 to the alteration of the Constitution as provided in this section.

32 In this section, a reference to the Australian Electoral Commission
33 includes a reference to any person or body that, for the time being,
34 has responsibility for the administration of electoral laws in
35 substitution for that Commission.

1
2 **Schedule 2—Amendment of the Constitution**
3 **relating to the duration of the House of**
4 **Representatives, the terms of service**
5 **of senators, the holding of elections**
6 **for the Senate and House of**
7 **Representatives and the office of**
8 **Prime Minister**
9

10 **1 First paragraph of section 5**

11 Omit “, and may in like manner dissolve the House of Representatives”.

12 **2 After section 5**

13 Insert:

14 **5A Dissolution of House of Representatives**

- 15 (1) If the House of Representatives, in pursuance of a motion of which
16 not less than twenty-four hours’ notice has been given in
17 accordance with the rules and orders of the House made in
18 pursuance of section 50 of this Constitution, passes a resolution (in
19 this section referred to as a “resolution of no confidence”)
20 expressing a lack of confidence in the Prime Minister and the other
21 Ministers of State for the Commonwealth, the Governor-General
22 shall, subject to subsections (2) and (3), by Proclamation or
23 otherwise, dissolve the House on the eighth day after the day on
24 which the resolution of no confidence is passed unless the House
25 has sooner expired.
- 26 (2) The Governor-General shall not dissolve the House of
27 Representatives in pursuance of subsection (1) if, after the passing
28 of the resolution of no confidence and before the eighth day after
29 the day on which that resolution is passed, the House passes a
30 further resolution declaring that, if a person named in the
31 resolution were to be appointed by the Governor-General as Prime
32 Minister, that person and the other Ministers of State for the
33 Commonwealth who might be appointed on the advice of that

Schedule 2 Amendment of the Constitution relating to the duration of the House of Representatives, the terms of service of senators, the holding of elections for the Senate and House of Representatives and the office of Prime Minister

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- 1 person would have the confidence of the House, and that person
2 agrees to be appointed as Prime Minister.
- 3 (3) The Governor-General shall not dissolve the House of
4 Representatives in pursuance of subsection (1) if:
- 5 (a) after the passing of the resolution of no confidence and
6 before the passing of such a further resolution as is
7 mentioned in subsection (2), the Prime Minister resigns and a
8 person is appointed as Prime Minister by the Governor-
9 General; and
- 10 (b) after the appointment of the Prime Minister and before the
11 eighth day after the day on which the resolution of no
12 confidence is passed the House passes a further resolution
13 declaring that the Prime Minister and the Ministers of State
14 for the Commonwealth appointed on the advice of the Prime
15 Minister have the confidence of the House.
- 16 (4) The Governor-General is not empowered to dissolve the House of
17 Representatives except in accordance with this section or section
18 57 of this Constitution.

19 *Calling together of House of Representatives*

- 20 (5) Where a meeting of the House of Representatives is not fixed to
21 take place within 7 days after the day on which a resolution of no
22 confidence is passed, the House shall be called together to meet
23 within 7 days after that day.

24 **3 First and second paragraphs of section 7**

25 Repeal the paragraphs, substitute:

26 The Senate shall be composed of senators for each State, directly
27 chosen by the people of the State, voting as one electorate.

28 **4 Fourth paragraph of section 7**

29 Omit “senators shall be chosen for a term of six years, and the”.

30 **5 At the end of the first sentence in section 9**

31 Add “and shall provide for proportional representation”.

1 **6 Second paragraph of section 9**

2 Omit “The Parliament”, substitute “Subject to this Constitution, the
3 Parliament”.

4 **7 Sections 12 and 13**

5 Repeal the sections, substitute:

6 **12 Issue of writs**

7 Subject to sections 13, 15 and 57 of this Constitution, the Governor
8 of a State shall cause writs to be issued for elections of senators for
9 the State not earlier than 30 days before the day on which the
10 places to be filled are expected to become vacant or, if the places to
11 be filled have become vacant, not later than 10 days after the day
12 on which the places to be filled become vacant.

13 **13 Terms of service of senators**

14 (1) Subject to this Constitution, the term of service of a senator for a
15 State who has been chosen otherwise than at the election next
16 following a dissolution of the Senate and the House of
17 Representatives begins on the day of his or her election or the day
18 on which the place that he or she was chosen to hold becomes
19 vacant, whichever is the later, and expires:

20 (a) at the expiration of the last Thursday in the October fourth
21 occurring after the day on which that term of service began;
22 or

23 (b) if there is an earlier dissolution of the Senate, upon that
24 dissolution.

25 (2) The term of service of a senator for a State who has been chosen at
26 the election next following a dissolution of the Senate and the
27 House of Representatives begins on the day of his or her election
28 and expires:

29 (a) at the time at which the House of Representatives would have
30 expired if it had not been dissolved; or

31 (b) if there is an earlier dissolution of the Senate, upon that
32 dissolution.

Schedule 2 Amendment of the Constitution relating to the duration of the House of Representatives, the terms of service of senators, the holding of elections for the Senate and House of Representatives and the office of Prime Minister

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- 1 (3) Where a House of Representatives expires, an election of senators
2 shall be held on the same day as the general election of members of
3 the next House of Representatives.
- 4 (4) Where a House of Representatives is dissolved in pursuance of
5 section 5A of this Constitution not more than 3 months before the
6 day on which that House would have expired if it had not been
7 dissolved, an election of senators to fill the places of senators
8 whose terms expire on that day shall be held on the same day as the
9 general election of members of the House of Representatives next
10 following the dissolution.
- 11 (5) The term of service of a senator for a State (other than a senator
12 appointed by the Governor of the State) who is holding office at
13 the commencement of Schedule 2 of the *Constitution Alteration*
14 *(Electors' Initiative, Fixed Term Parliaments and Qualifications of*
15 *Members) 2000* shall expire at the time at which the House of
16 Representatives that is in existence at that commencement would,
17 if not sooner dissolved, expire or, if there is an earlier dissolution
18 of the Senate, upon that dissolution.
- 19 (6) If:
- 20 (a) a senator for a State holding office at the commencement of
21 Schedule 2 of the *Constitution Alteration (Electors'*
22 *Initiative, Fixed Term Parliaments and Qualifications of*
23 *Members) 2000* was appointed by the Governor of a State in
24 consequence of the place of a senator chosen by the people of
25 a State having become vacant; or
- 26 (b) the place of a senator chosen by the people of a State was
27 vacant at that commencement and had become so vacant in
28 circumstances in which section 15 of this Constitution
29 applies;
- 30 the term of service of the senator whose place so became vacant
31 shall, for the purposes of section 15 of this Constitution, be deemed
32 to be, and to have been, the period for which that senator would
33 have held his place, in accordance with subsection (5) of this
34 section, if his place had not become vacant.

35 **8 Section 28**

36 Repeal the section, substitute:

1 **28 Duration of House of Representatives**

- 2 (1) A House of Representatives shall, unless sooner dissolved,
3 continue from the first meeting of that House until the expiration
4 of:
5 (a) if the last preceding House expired, the last Thursday in the
6 October fourth occurring after the day of the expiry of that
7 last preceding House;
8 (b) if the last preceding House was dissolved more than 3
9 months before the day on which it would have expired if it
10 had not been dissolved, the day on which that last preceding
11 House would have expired if it had not been dissolved; or
12 (c) if the last preceding House was dissolved not more than 3
13 months before the day on which it would have expired if it
14 had not been dissolved, the last Thursday in the October
15 fourth occurring after the day on which that last preceding
16 House would have expired if it had not been dissolved.
- 17 (2) After the expiry of a House of Representatives, a general election
18 of members of the House shall be held on the third Saturday in the
19 November immediately following the October in which the expiry
20 occurred.
- 21 (3) Subsection (1) of this section does not apply in relation to the
22 House of Representatives that is in existence at the commencement
23 of the Schedule 2 of the *Constitution Alteration (Electors’*
24 *Initiative, Fixed Term Parliaments and Qualifications of Members)*
25 *2000* but that House shall continue until the expiration of the last
26 Thursday in the October fourth occurring after the day of the first
27 meeting of that House or, if there is an earlier dissolution of that
28 House, until that dissolution.

29 **9 Section 32**

30 Repeal the section, substitute:

31 **32 Issue of writs for general elections**

32 The Governor-General in Council shall cause writs to be issued for
33 general elections of members of the House of Representatives not
34 earlier than 30 days before the expected expiry of a House of

Schedule 2 Amendment of the Constitution relating to the duration of the House of Representatives, the terms of service of senators, the holding of elections for the Senate and House of Representatives and the office of Prime Minister

1 Representatives or, if a House of Representatives has expired or
2 been dissolved, not later than 10 days after the expiry or
3 dissolution.

4 **10 At the end of section 57**

5 Add “Where the Senate and the House of Representatives are dissolved
6 simultaneously in pursuance of this section, an election of senators shall
7 be held on the same day as the general election of members of the
8 House of Representatives next following the dissolution.”.

9 **11 After the second paragraph of section 64**

10 Insert:

11 The Governor-General shall appoint one of the Ministers of State
12 to be the Prime Minister. If:

13 (a) the House of Representatives, in accordance with section 5A
14 of this Constitution, passes a resolution expressing a lack of
15 confidence in the Prime Minister and the other Ministers of
16 State for the Commonwealth and also passes a further
17 resolution declaring that, if a person named in the further
18 resolution were to be appointed by the Governor-General as
19 Prime Minister, that person and any Ministers of State for the
20 Commonwealth who might be appointed on the advice of
21 that person would have the confidence of the House, and that
22 person agrees to be appointed as Prime Minister; and

23 (b) the Prime Minister has not resigned from office before the
24 passing of that further resolution;

25 the Governor-General shall dismiss the Prime Minister from office.

1
2 **Schedule 3—Amendment of the Constitution**
3 **relating to qualification and**
4 **disqualification of members of**
5 **Parliament**

6 **1 At the end of section 16**

7 Add “and the powers of the Parliament in relation to determining the
8 qualifications of a senator are the same as the powers of the Parliament
9 in relation to determining the qualifications of a member of the House
10 of Representatives”.

11 **2 Section 34**

12 Repeal the section, substitute:

13 **34 Qualifications of members**

14 (1) A person who:

- 15 (a) is an Australian citizen; and
16 (b) is of the age of eighteen years or such lower age as is
17 prescribed by the Parliament; and
18 (c) is not of unsound mind; and
19 (d) is not disqualified by or is not in contravention of any laws
20 made by the Parliament under this section;

21 is qualified to be a member of the House of Representatives.

22 (2) Subject to this Constitution the Parliament may for the purpose of
23 determining the qualifications of a person to be a member of the
24 House of Representatives make laws with respect to:

- 25 (a) the procedures for determining whether a person is of
26 unsound mind; and
27 (b) requiring a person to comply with reasonable conditions as to
28 residence in Australia; and
29 (c) disqualifying a person whilst he or she is undergoing
30 imprisonment for an offence against a law of the
31 Commonwealth or a State or Territory of the
32 Commonwealth; and

- 1 (d) disqualifying a person who has been convicted under a law of
2 the Commonwealth of treason and has not been subsequently
3 pardoned.

4 **3 Sections 44 and 45**

5 Repeal the sections, substitute:

6 **44 Termination of certain employment and vacation of certain**
7 **offices**

8 Any person who:

- 9 (a) holds a judicial office under the Crown in right of the
10 Commonwealth or a State or Territory of the
11 Commonwealth; or
12 (b) is employed in the public service or the parliamentary service
13 of the Commonwealth or is a full-time officer or member of
14 the Defence Force of the Commonwealth; or
15 (c) is a public authority or is a member of a public authority; or
16 (d) is a member of the Parliament of a State or of the legislature
17 of a Territory of the Commonwealth; or
18 (e) is an officer of or is employed in the public service of a State
19 or Territory of the Commonwealth; or
20 (f) is an officer of or is employed by a public authority which
21 has been declared by the Parliament to be a prescribed
22 authority for the purposes of this paragraph;
23 ceases to be so employed or to hold that office on the day
24 immediately preceding the day before he or she becomes entitled to
25 an allowance as a senator or member of the House of
26 Representatives.

27 **45 Disqualification of senators and members**

- 28 (1) If a senator or member of the House of Representatives becomes:
29 (a) subject to any disability mentioned in section 44; or
30 (b) the holder of a judicial office under the Crown in right of the
31 Commonwealth or a State or Territory of the
32 Commonwealth; or

- 1 (c) an officer of or employed in the public service of the
2 Commonwealth or a full-time officer or member of the
3 Defence Force of the Commonwealth; or
4 (d) a public authority or a member of a public authority; or
5 (e) a member of the Parliament of a State or of the legislature of
6 a Territory of the Commonwealth; or
7 (f) an officer of or employed in the public service of a State or
8 Territory of the Commonwealth; or
9 (g) an officer of or employed by a public authority which has
10 been declared by the Parliament to be a prescribed authority
11 for the purpose of this paragraph;
12 he or she shall be incapable of sitting as a senator or member of the
13 House of Representatives and his or her seat shall thereupon
14 become vacant.
- 15 (2) Nothing in this section or section 44 applies to a person who holds
16 an office which is a public authority or who is a member of or who
17 is employed by a public authority:
18 (a) to which he or she has been appointed by or with the consent
19 or approval of the Parliament and in respect of which he or
20 she receives no remuneration (other than the reimbursement
21 of reasonable expenses); or
22 (b) that the Parliament has declared is not a public authority to
23 which this section or section 44 applies.
- 24 (3) In this section and section 44:
25 **public authority** means:
26 (a) any authority, body or office, other than a judicial office,
27 constituted for public purposes by:
28 (i) legislation of the Commonwealth, a State or a Territory;
29 or
30 (ii) an act of the executive government of the
31 Commonwealth, a State or a Territory; or
32 (b) any corporation in which the Commonwealth, a State or a
33 Territory has a controlling interest.
- 34 (4) Paragraphs (1)(b) and (c) do not apply to any person by reason
35 only of that person holding office as a Queen's Minister of State
-

1 for the Commonwealth or as a Parliamentary Secretary to a
2 Minister of State.

3 **45A Legislative powers relating to qualification and disqualification**

- 4 (1) Subject to this Constitution, the Parliament may make laws with
5 respect to:
- 6 (a) the interests, direct and indirect, pecuniary or otherwise, the
7 holding of which by a person shall render him or her
8 incapable of being chosen or of sitting as a senator or a
9 member of the House of Representatives;
- 10 (b) corrupt practices or improper influence by or in relation to a
11 senator or member of the House of Representatives,
12 including rendering a person convicted of an offence relating
13 to corrupt practices or improper influence incapable of being
14 chosen or sitting as a senator or a member of the House of
15 Representatives.
- 16 (2) A law under subsection (1) may extend only to interests which
17 might constitute a material risk of conflict between the public duty
18 and the private interests of a person.
- 19 (3) Subject to any law made under subsection (1), any person who has
20 any direct or indirect pecuniary interest in any agreement with the
21 public service of the Commonwealth otherwise than as a member
22 and in common with the other members of an incorporated
23 company consisting of more than twenty-five persons shall be
24 incapable of being chosen or of sitting as a senator or a member of
25 the House of Representatives.