

RESEARCH NOTE

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Timetable for the Next Commonwealth Election

The last general election was held on 10 November 2001. The House of Representatives was dissolved on 8 October, the writs were issued on the same day, the rolls closed on 15 October and nominations closed on 18 October. The whole election period lasted 33 days. The 40th Parliament first met on Tuesday 12 February 2002.

This election was held three years and one month after the election of 3 October 1998, and just two months before the last possible date on which a conjoint election for the House of Representatives and half the Senate could have been held.

While the calling of an election is partly a matter of political judgment 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 status of each House. The *Commonwealth Electoral Act 1918* provides the detail.

The Next House Election

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

House of Representatives composition after the 2001 election	
Liberal Party of Australia	68
National Party of Australia	13
Country Liberal Party	1
Australian Labor Party	65
Independents	3
Total	150

by the Governor-General.

Section 32 of the Constitution requires the writs for an election to be issued within ten days of the expiry or dissolution of the House of Representatives. The timetabling provisions are found in the Commonwealth Electoral Act 1918:

- writs to be issued within 10 days from the expiry of or proclamation of the dissolution of the House of Representatives (s.151)
- electoral rolls close seven days after the issue of the writs (s.155)
- 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.

To calculate the last possible date of the next election, the maximum number of days specified must be

applied. The next election must be held within 68 days of the expiry of the House. As it opened

on Tuesday 12 February 2002, it is therefore due to expire on Friday 11 February 2005.

The election for the House of Representatives must be held by 16 April 2005, the last Saturday within this period.

However an election may be held at any time before that date, and generally elections are called well before there is a constitutional or legal necessity. In recent times Prime Minister William McMahon has gone closest, dissolving the House after two years, 11 months and 8 days. There has been only one instance of an election being held after a parliament expired through effluxion of time. This occurred in 1910.

The Next Half-Senate Election

Unlike the House of Representatives, the Senate is a continuing body. Half the Senate retires on 30 June every three years, except in the case of a simultaneous dissolution of both houses. (The terms of Senators for the Territories, however, coincide with those of the House of Representatives.)

Section 13 of the Constitution requires that an election be held within one year before the places become vacant.

Senate Composition from 1 July 2002

Liberal Party of Australia	31
National Party of Australia	3
Country Liberal Party	1
Australian Labor Party	28
Australian Democrats	8
Australian Greens	2
Independent	2
One Nation	1
Total	76

There is no constitutional requirement that elections for the House of Representatives and the Senate be held simultaneously, but they are generally held together, primarily to avoid the duplication of costs in holding separate elections and to avoid political consequences. 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 latest possible date for the next House of Representatives election (16 April 2005) occurs in the period during which a half-Senate election must be held.

The terms of Senators elected in 1998 expire on 30 June 2005. **Therefore, in theory, the next half-Senate election must be held between 1 July 2004 and 30 June 2005.** However, there are two qualifications to this. Firstly, in practical terms, a half-Senate election cannot be held during July.¹ Secondly, to allow for sufficient time for the Senate writs to be returned by 30 June 2005, so that the Senators may take their seats on 1 July, polling day realistically can be no later than Saturday 29 May

2005.² These qualifications mean that **the latest possible date for a simultaneous election is the same date as is required for the House of Representatives, 16 April 2005. A Double Dissolution**

Usually an election for the Commonwealth Parliament is for the House of Representatives and half the Senate. However, s.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.³ Since a dissolution cannot occur within six months of the expiry date for the House of Representatives, this means that **the last possible date for the dissolution of both Houses is Wednesday 11 August 2004.** (This is calculated by counting back six months from the date of the expiry of the House of Representatives,

which will occur on 11 February 2005.)

If there is a double dissolution, the usual timetabling requirements apply. The writs must be issued within ten days of the dissolution, i.e. by Saturday 21 August 2004. The writs may be issued on the same day as the dissolution occurs, but as s.12 of the Constitution requires the writs for Senate elections to be issued by the State Governors, these writs might not be issued on the same day as the dissolution. Should the writs be issued on the same day, and the shortest times apply, nominations would close on Saturday 21 August 2004, and polling would be Saturday 18 September 2004. Should the maximum times apply, the writs would have to be issued by Saturday 21 August 2004, and nominations would have to close by Friday 17 September 2004.

The latest possible polling date for a double dissolution election is Saturday 16 October 2004.

Commonwealth Parliament: latest possible election dates

Simultaneous House of Representatives and half-Senate	16 April 2005
House of Representatives	16 April 2005
Half-Senate	29 May 2005
Double Dissolution	16 October 2004

1. See Scott Bennett, 'Restrictions on the Timing of Half Senate Elections' *Research Note*, no. 38, Department of the Parliamentary Library, Canberra, 2002, for a full explanation.
2. The Australian Electoral Commission advises that since the last two elections have been held with data punching of the 'below-the-line' Senate ballot papers, polling day could be as late as 29 May 2005 and still allow sufficient time for the Senate writs to be returned by 30 June 2005.
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'.)

Rob Lundie
Politics and Public Administration Group
Information and Research Services

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