

12. Parliamentary Terms

Members of the Legislative Council are elected on the same day as Legislative Assembly Members, but only half the Council is elected at this time. The result is that all Councillors sit for two terms of the Legislative Assembly. As Legislative Assembly terms are between three and a maximum of four years, a Councillor has a term of between six and eight years.

Those who favour the retention of the longer terms argue that they provide continuity of knowledge and experience of the operation of Parliament and community issues and thereby give stability to the Parliamentary process. On the other hand, it is argued that more frequent accountability is important, and the Parliament should reflect contemporary views in this increasingly changing society.

It is clear to the Commission that the Upper House should not be a direct copy of the Lower House, but should length of term be the only point of difference between the Houses as it essentially is in Victoria? In its early history, the Legislative Council enjoyed a ten-year term. Peers in the House of Lords are appointed or inherit their positions for a life term, hardly through a democratic process.

The Australian Senate terms run for six years, except where there is a double dissolution. Members of the New South Wales Legislative Council are elected on a “whole of State” electorate basis for an eight-year period. In South Australia the Legislative Council Members are also elected for a maximum of eight years, with half retiring at each Lower House election. All of these Houses of Parliament are elected on a system of proportional representation.

Tasmania’s Upper House resembles its Victorian counterpart in that it is elected on the basis of preferential voting, while the Tasmanian House of Assembly is elected on a proportional system. However, in Tasmania, Upper House Members are elected from fifteen single-member electorates for a term of six years. Two or three electorates go to the polls every year on a fixed date, the first Sunday in May.

In Western Australia, the Council is made up of 34 members, elected from six multi-member electorates, for a fixed four-year term. The term of members of the Western Australian Upper House is the same as the maximum Lower House term. The value of votes is variable across the Upper House electorates, and there is no “one vote one value” as required by law in Victoria.

There was a strong trend in both submissions made to the Commission and returns on the public feedback form included with the Consultation Paper in favour of coincident terms of up to four years for both the Legislative Council and the Legislative Assembly. The latter measure had support for coincident terms at 4 to 1 in favour.

The Commission believes that the Victorian Upper House should be elected for the same

Sir Rupert Hamer, Melbourne,
Councillors should be elected by proportional representation. This would allow a voice to any substantial minority political views. Four year terms are long enough to enable individual Councillors to answer to their electors for their role as a parliamentary representative in a democracy.

Peter Hanks QC, Melbourne,
8 years is ridiculous... political climate is far more dynamic

term as the Lower House. Differentiation of the two Houses should be based on the respective roles of the chambers and on the way that their Members are elected, with preferential voting for the Lower House and proportional voting for the Upper House. The Commission has earlier recommended that Victoria be divided into a number of multi-member regions for the purpose of electing Members of the Upper House. This recommendation reinforces Commission's belief that the two Houses of the Victorian Parliament should be elected at the same time for the same four-year term. It would not be possible to elect only some of a multi-member electorate's Members. They should be elected at the same time if real proportionality is to be achieved.

Readers of the Consultation Paper were also asked to consider the use of a fixed date for elections, as is the case in some other democracies such as the United States. Again, there was a strong result in favour of the proposition of fixed dates at 2 to 1. This response was not as pronounced as the support for shorter terms in the Legislative Council. A fixed date for elections would give certainty to the electoral process and blunt the advantages the government of the day reaps from choosing election timing beneficial to its own chances of re-election.

**M. Fitzherbert,
Sandringham,**
This is fairer and
means that neither
party has an
advantage - it is
more democratic

Some mechanism could be inserted to allow flexibility to accommodate natural disasters or other extraordinary events that would make the fixed date inappropriate. For example, the Governor, on the advice of the Premier, may be given the power to postpone the election for up to 30 days.

The Commission sees merit in Victoria adopting the New South Wales fixed term and fixed election model, as set out in the Constitution Act 1902 NSW. Section 24 of that Act provides that the Legislative Assembly expires 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 electing that Assembly occurred.

If the Assembly is dissolved earlier than the full four year term, then the elections must occur within forty days of the day on which the writs for that election were issued. The term of the new Assembly becomes again four years, with the next election date calculated in accordance with section 24.

Adoption of fixed terms and a fixed election date for the Upper House necessarily leads to fixed terms and fixed election dates for the Lower House as well, if electors are not to be forced to the polls unnecessarily.