

South Australia

# Constitution Act 1934

An Act to provide for the Constitution of the State; and for other purposes.

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## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Recognition of Aboriginal peoples

### Part 2—The legislature

#### Division 1—General provisions

- 4 Constitution of the Parliament
- 5 Powers of the Parliament
- 6 Place and time for holding Sessions of Parliament
- 7 Sessions of Parliament
- 8 Power of Parliament to alter this Act
- 9 Privileges of Parliament
- 10 Relative powers of Houses of Parliament
- 10A Special provisions as to referendum

#### Division 2—Legislative Council

- 11 Number of members of Legislative Council
- 13 Casual vacancies
- 14 Term of service of Legislative Councillors
- 15 Order of retirement
- 16 Resignation of Legislative councillors
- 17 Vacation of seat in Council
- 19 Legislative Council district
- 23 Election of President of Legislative Council
- 24 Absence of President
- 25 Continuance of President in office after dissolution or retirement
- 26 Quorum of Council

#### Division 3—House of Assembly

- 27 Number of members of House of Assembly
- 28 Term of House of Assembly
- 28A Early dissolution of House of Assembly
- 30 Resignation of seats in the Assembly
- 31 Vacation of seat in Assembly
- 32 Assembly districts
- 34 Election of the Speaker

- 35 Absence of Speaker
- 36 Continuance in office of Speaker and Chairman of Committees after dissolution
- 37 Quorum etc

#### Division 4—Both Houses of Parliament

- 38 Privileges, powers etc of Council and Assembly
- 39 Privilege against legal proceedings abolished
- 40 Evidence of privileges
- 41 Settlement of deadlocks
- 42 Oath of allegiance
- 43 Determination of questions of vacancy
- 43A Disqualification of members occupying seats in both Houses
- 44 Disqualification of Judges
- 45 Disqualification of members holding offices of profit
- 46 Effect of election of disqualified person
- 46A Crown pensioners qualified for election
- 47 Prevention of membership of both Commonwealth and State Parliaments
- 48 Franchise for women
- 48A Non-disqualification of women as members
- 54A Provisions as to members of Parliamentary committees and royal commissions
- 55 Standing rules and orders
- 56 Governor's Message
- 57 Restoration of lapsed Bills
- 58 Provision as to President, Speaker, and officers
- 59 Governor's recommendation for money votes

#### Division 5—Money Bills

- 60 Interpretation of sections 60–63
- 61 Origin of money Bills and money clauses
- 62 Power of Council as to money clauses
- 63 Restriction on contents of ordinary appropriation Bill
- 64 Validity of Acts assented to

#### Part 2A—Local government

- 64A Constitutional guarantee of continuance of local government in this State

#### Part 3—The executive

- 65 Number of Ministers of the Crown
- 66 Ministerial offices
- 67 Appointment of acting Ministers
- 67A Parliamentary Secretaries
- 68 Appointment of officers
- 69 Powers of Governor's Deputy
- 70 Power of deputy of Lieutenant-Governor or Administrator
- 71 Signature and counter-signature of certain orders, warrants etc
- 71A Validation of certain warrants etc
- 73 Governor's salary
- 73A Costs associated with Governor's official duties
- 73B Appropriation

#### Part 4—The judiciary

- 74 Tenure of office of Judges

- 75 Removal from office of Judges
- 75A Operation of Part

## Part 5—Electoral redistribution

### Division 1—Preliminary

- 76 Definitions
- 77 Basis of redistribution

### Division 2—Electoral Districts Boundaries Commission

- 78 The Commission
- 79 Incorporation of the Commission
- 80 Procedure etc at meetings
- 81 Staff
- 82 Electoral redistributions
- 83 Criteria
- 83A Review
- 84 Application of Royal Commissions Act
- 85 Representations to the Commission
- 86 Order of the Commission
- 87 Moneys required for the purposes of the Commission

### Division 3—Entrenchment of this Part

- 88 Special provisions as to referendum

## Part 6—Miscellaneous

- 89 Demise of the Crown

## Legislative history

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## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Constitution Act 1934*.

#### 2—Recognition of Aboriginal peoples

- (1) The Parliament on behalf of the people of South Australia acknowledges that—
  - (a) the Parliament of the United Kingdom in 1834 passed a Bill called *An Act to empower His Majesty to erect South Australia into a British Province or Provinces and to provide for the Colonisation and Government thereof* and that by Letters Patent dated 19 February 1836 His Majesty established the Province of South Australia; and

- (b) the making of the above instruments and subsequent constitutional instruments providing for the governance of South Australia and for the making of laws for peace, order and good government occurred without proper and effective recognition, consultation or authorisation of Aboriginal peoples of South Australia.
- (2) Following the Apology given on 28 May 1997, the Parliament, on behalf of the people of South Australia—
  - (a) acknowledges and respects Aboriginal peoples as the State's first peoples and nations; and
  - (b) recognises Aboriginal peoples as traditional owners and occupants of land and waters in South Australia and that—
    - (i) their spiritual, social, cultural and economic practices come from their traditional lands and waters; and
    - (ii) they maintain their cultural and heritage beliefs, languages and laws which are of ongoing importance; and
    - (iii) they have made and continue to make a unique and irreplaceable contribution to the State; and
  - (c) acknowledges that the Aboriginal peoples have endured past injustice and dispossession of their traditional lands and waters.
- (3) The Parliament does not intend this section to have any legal force or effect.

## **Part 2—The legislature**

### **Division 1—General provisions**

#### **4—Constitution of the Parliament**

There shall be a Legislative Council and a House of Assembly which shall be called the Parliament of South Australia, and shall be constituted in the manner provided by this Act.

#### **5—Powers of the Parliament**

The Legislative Council and House of Assembly shall have and exercise all the powers and functions formerly exercised by the Legislative Council constituted pursuant to section 7 of the Act of the Imperial Parliament, 13 and 14 Victoria, Chapter 59, entitled "An Act for the better Government of Her Majesty's Australian Colonies".

#### **6—Place and time for holding Sessions of Parliament**

- (1) The Governor may—
  - (a) fix such places and times for holding every session of the Parliament as the Governor thinks fit;
  - (b) from time to time change any such place or time as the Governor judges advisable and most consistent with general convenience and the public welfare;

- (c) prorogue the Parliament from time to time.

Provided that this section shall not authorise the Governor to dissolve the Legislative Council.

- (2) The Governor shall give sufficient notice of the time and place fixed for holding every session of Parliament, and of any change thereof.

## **7—Sessions of Parliament**

There shall be a session of the Parliament once at least in every year; so that a period of twelve calendar months shall not intervene between the last sitting of the Parliament in one session and the first sitting of the Parliament in the next session.

## **8—Power of Parliament to alter this Act**

The Parliament may, from time to time, by any Act, repeal, alter, or vary all or any of the provisions of this Act, and substitute others in lieu thereof: Provided that—

- (a) it shall not be lawful to present to the Governor, for His Majesty's assent, any Bill by which an alteration in the constitution of the Legislative Council or House of Assembly is made, unless the second and third readings of that Bill have been passed with the concurrence of an absolute majority of the whole number of the members of the Legislative Council and of the House of Assembly respectively;
- (b) every such Bill which has been so passed shall be reserved for the signification of His Majesty's pleasure thereon.

## **9—Privileges of Parliament**

The Parliament may, by any Act, define the privileges, immunities, and powers to be held, enjoyed, and exercised by the Legislative Council and House of Assembly, and by the members thereof respectively: Provided that no such privileges, immunities, or powers shall exceed those held, enjoyed, and exercised on the twenty-fourth day of October, 1856, by the House of Commons, or the members thereof.

## **10—Relative powers of Houses of Parliament**

Except as provided in the sections of this Act relating to money Bills, the Legislative Council shall have equal power with the House of Assembly in respect of all Bills.

## **10A—Special provisions as to referendum**

- (1) Except as provided in this section—
- (a) the House of Assembly shall not be abolished; and
- (b) the Legislative Council shall not be abolished; and
- (c) the powers of the Legislative Council shall not be altered; and
- (d) sections 8 and 41 of this Act shall not be repealed or amended; and
- (e) any provision of this section shall not be repealed or amended.
- (2) A Bill providing for or effecting—
- (a) the abolition of the House of Assembly; or
- (b) the abolition of the Legislative Council; or

- (c) any alteration of the powers of the Legislative Council; or
- (d) the repeal or amendment of section 8 or section 41 of this Act; or
- (e) the repeal or amendment of any provision of this section,

shall be reserved for the signification of Her Majesty's pleasure thereon, and shall not be presented to the Governor for Her Majesty's assent until the Bill has been approved by the electors in accordance with this section.

- (3) On a day which shall be appointed by proclamation, being a day not sooner than two months after the Bill has passed through both the Houses of Parliament, the Bill shall, as provided by and in accordance with an Act which must be passed by Parliament and in force prior to that day, be submitted to the persons whose names appear as electors on the electoral rolls kept under the *Electoral Act 1929*, as amended, for the election of members of the House of Assembly.
- (4) When the Bill is so submitted as provided by and in accordance with the Act referred to in subsection (3) of this section, a vote shall be taken in such manner as is prescribed by that Act.
- (5) If the majority of the persons voting approve of the Bill, it shall be presented to the Governor for Her Majesty's assent.
- (6) Without restricting or enlarging the application of this section, this section shall not apply to any Bill providing for or effecting—
  - (a) the repeal; or
  - (b) the amendment from time to time; or
  - (c) the re-enactment from time to time with or without modification,of section 11, 12, 16, 17, 18, 19, 20, 20A, 21, 22, 44, 45, 46, 46A, 48, 48A, 49, 50, 51, 52, 53, 54, 54A, 55, 56, 57, 58, 59, 60, 61, 63, 64 or 65 of this Act as in force immediately after the commencement of the *Constitution Act Amendment Act 1969*, or of any enactment for the time being in force so far as it relates to the subject matter dealt with in any of those sections.
- (7) Any person entitled to vote at an election for a member or members of the House of Assembly or the Legislative Council shall have the right to bring an action in the Supreme Court for a declaration, injunction or other legal remedy to enforce any of the provisions of this section either before or after any Bill referred to in this section is presented to the Governor for Her Majesty's assent.

## **Division 2—Legislative Council**

### **11—Number of members of Legislative Council**

The Legislative Council shall consist of twenty-two members elected by the inhabitants of the State legally qualified to vote.

### **13—Casual vacancies**

- (1) Subject to this section, where a casual vacancy occurs by death, resignation or otherwise in the seat of a member of the Legislative Council, a person shall be chosen to occupy the vacant seat by an assembly of the members of both Houses of Parliament.

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- (2) An assembly need not be held under subsection (1) to supply a casual vacancy if the vacancy occurs 3 months or less before a day on which the former member would, if circumstances giving rise to a casual vacancy had not occurred, have been required to retire in any event.
- (3) Where—
- (a) a casual vacancy occurs in the seat of a member of the Legislative Council; and
  - (b) the House of Assembly is dissolved by the Governor (otherwise than in pursuance of section 41) or expires by effluxion of time; and
  - (c) as at the date of the dissolution or expiry, no assembly of the members of both Houses of Parliament had been held to choose a person to occupy the vacant seat; and
  - (d) the member formerly occupying the seat would, if the casual vacancy had not occurred, have been one of those required to retire under section 14(2),
- the vacancy shall be supplied at the ensuing election.
- (4) The following provisions apply in relation to the constitution and proceedings of an assembly that is, in pursuance of subsection (1), to choose a person to occupy a vacancy in the membership of the Legislative Council:
- (a) the assembly shall meet at a time and place appointed by proclamation; and
  - (b) a member of the House of Assembly or the Legislative Council appointed by proclamation shall preside over the assembly; and
  - (c) a suitable person shall be appointed by proclamation to be the clerk of the assembly; and
  - (d) the procedural rules (if any) prescribed by proclamation shall be observed at the assembly and, in the absence of a rule governing a particular question of procedure that arises before the assembly, that question shall be decided by the person presiding or, if the assembly is dissatisfied with that person's decision, by the assembly itself; and
  - (e) the members of the assembly shall, in relation to proceedings before the assembly, have the same privileges and immunities as the members of the House of Assembly in relation to proceedings before that House; and
  - (f) the person presiding over the assembly and the assembly itself have respectively the same powers to maintain order as the Speaker and the House of Assembly; and
  - (fa) there is no requirement for all members of both Houses of Parliament to be present at a meeting of the assembly; and
  - (g) a question before the assembly shall be decided by a majority of the votes cast by the members present at a meeting of the assembly; and
  - (h) each member present at a meeting of the assembly, except the person presiding, shall be entitled to one vote on a question arising before the assembly and, in the event of an equality of votes, the person presiding shall have a casting vote.

- (5) Where a casual vacancy in the membership of the Legislative Council is to be occupied by a person chosen by an assembly of the members of both Houses of Parliament, and the member, whose seat has become vacant, was at the time of his or her election publicly recognised by a particular political party as being an endorsed candidate of that party and publicly represented himself or herself to be such a candidate, the person chosen by the assembly to occupy that vacancy shall, unless there is no member of that party available to be chosen, be a member of that party nominated by that party to occupy the vacancy.

#### **14—Term of service of Legislative Councillors**

- (1) Subject to this Act, a member of the Legislative Council shall occupy the member's seat until required to retire in accordance with this section.
- (2) Subject to subsection (3), whenever the House of Assembly is dissolved by the Governor (otherwise than in pursuance of section 41) or expires by effluxion of time, 11 members of the Legislative Council shall retire and an election to supply the resulting vacancies shall take place at the time of the general election of members of the House of Assembly.
- (3) A member of the Legislative Council is not required to retire under subsection (2) unless—
- (a) in the case of a member elected at an election held upon dissolution of the Legislative Council under section 41—3 years have elapsed from the first day of March in the year in which that election was held;
  - (b) in any other case—6 years have elapsed from the first day of March in the year in which the member was last elected.
- (4) The seat of a member of the Legislative Council who is required to retire under subsection (2) is automatically vacated on the dissolution or expiry of the House of Assembly without the necessity of any action on the part of the retiring member.

#### **15—Order of retirement**

- (1) Subject to this section, the order of retirement as between members of the Legislative Council shall be determined by reference to the period they have occupied their seats since the date of their last election, so that a member who has occupied his or her seat for a longer period retires before a member who has occupied his or her seat for a shorter period.
- (2) For the purposes of subsection (1), where a casual vacancy occurs in the seat of a member of the Legislative Council and a person is chosen to occupy the vacant seat by an assembly of the members of both Houses of Parliament, the person so chosen shall be deemed to have occupied the seat since the date on which a person was last elected to occupy it.
- (3) Where a casual vacancy occurs in the seat of a member of the Legislative Council, and the vacancy is to be supplied at an election in pursuance of section 13(3), the member formerly occupying the vacant seat shall be counted as one of the 11 retiring under section 14(2).



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- (4) Where an election is held upon dissolution of the Legislative Council under section 41—
- (a) the Electoral Commissioner shall, as soon as practicable after the election, publish by notice in the Gazette the names of those members of the Legislative Council who would have been elected on the votes cast at the election if—
    - (i) the election had been one to supply 11 vacancies in the membership of the Legislative Council; and
    - (ii) the only names of candidates appearing on the ballot-papers at that election were the names of the members elected at the election and the numbers indicating preferences had been altered accordingly; and
  - (b) the 11 members whose names are not so published (including any member who was chosen by an assembly of the members of both Houses of Parliament to occupy a casual vacancy occurring in the seat of any such member) shall be the first to retire under section 14(2).

## **16—Resignation of Legislative councillors**

- (1) Any member of the Legislative Council may resign his or her seat in the Council by writing under his or her hand, addressed to the President of the Council, and delivered to the President forthwith after the signing thereof, and upon the receipt of such resignation by the President the seat of the member shall become vacant.
- (2) If there is a vacancy in the office of the President of the Legislative Council, or if the President is absent from the State or incapacitated from performing the duties of office the resignation may be delivered to the Governor, and when so delivered, shall have the same effect as if delivered to the President.

## **17—Vacation of seat in Council**

- (1) If any member of the Legislative Council—
  - (a) without permission of the Council fails for twelve sitting days consecutively of any session of the Council to attend therein; or
  - (ab) is not or ceases to be an Australian citizen; or
  - (b) takes any oath or makes any declaration or act of acknowledgment or allegiance to any foreign prince or power; or
  - (c) does, concurs in, or adopts any act whereby the member may become a subject or citizen of any foreign state or power; or
  - (d) becomes bankrupt; or
  - (e) takes the benefit of any law relating to insolvent debtors; or
  - (f) becomes a public defaulter; or
  - (g) is attainted of treason; or
  - (h) is convicted of an indictable offence; or
  - (i) becomes of insane mind,the member's seat in the Council shall thereby become vacant.

- (2) The seat of a member of the Legislative Council is not vacated because the member acquires or uses a foreign passport or travel document.

### **19—Legislative Council district**

The whole of the State constitutes a single Legislative Council electoral district.

### **23—Election of President of Legislative Council**

- (1) The Legislative Council shall, at its first meeting, and before proceeding to the dispatch of any other business, elect some member of the Council to be the President thereof, and as often as the place of the President becomes vacant by death, resignation, vacation of seat, or removal by a vote of the Council, the Council shall again elect some other member to be the President thereof.
- (2) The President so elected shall preside at all meetings of the Council.
- (3) The election of the President of the Council shall be notified to the Governor by a deputation of the Council.

### **24—Absence of President**

If the President of the Legislative Council is absent in consequence of leave of absence granted by the Council, or of illness, or other unavoidable cause, the Council may choose some other member of the Council to fill temporarily the office and perform the duties of the President during his or her absence.

### **25—Continuance of President in office after dissolution or retirement**

- (1) If the President of the Legislative Council vacates his or her seat by periodical retirement, or by reason of the dissolution of the Council, he or she shall nevertheless be and be deemed to be, the President of the Council until the next meeting of Parliament, unless he or she is not re-elected a member of the Council.
- (2) This section shall not enable any person continued in the office of President by this section to preside at any meeting of the Legislative Council.

### **26—Quorum of Council**

- (1) The Legislative Council shall not be competent to proceed with the dispatch of business unless there are present, including the President, or the person chosen to preside in the President's absence, at least ten members of the Council.
- (2) All questions which arise shall be decided by a majority of the votes of those members of the Council who are present exclusive of the President, or the person chosen as aforesaid, who shall be allowed a casting vote.
- (3) Where a question arises with respect to the passing of the second or third reading of any Bill, and in relation to that question the President, or person chosen as aforesaid, has not exercised a casting vote, the President, or person chosen as aforesaid, may indicate concurrence or nonconcurrence in the passing of the second or third reading of that Bill.

## Division 3—House of Assembly

### 27—Number of members of House of Assembly

The House of Assembly shall consist of forty-seven members elected by the inhabitants of the State legally qualified to vote.

### 28—Term of House of Assembly

- (1) Subject to this section, a general election of members of the House of Assembly must be held on the third Saturday in March in the fourth calendar year after the calendar year in which the last general election was held.
- (2) The Governor must, where a general election is to be held on a day fixed under this section, dissolve the House of Assembly and issue a writ or writs for the election at a time prior to the election that is in accordance with the requirements of the *Electoral Act 1985* for the issue of writs.
- (3) Before the issue of a writ or writs for a general election under this section, the Governor may, where—
  - (a) the day fixed under this section for the election is the Saturday immediately following Good Friday; or
  - (b) a general election of members of the Commonwealth House of Representatives is to be held in the same month as the election; or
  - (c) it is reasonably necessary in order to meet a difficulty in the conduct of the election arising from a State disaster that has occurred, is occurring or is about to occur,

defer the day of the election, by notice published in a newspaper circulating generally throughout the State, to a Saturday not more than 21 days after the day otherwise fixed under this section.

- (4) A day to which a general election is deferred in accordance with subsection (3) will be taken to be a day fixed under this section for the general election.
- (5) After the issue of a writ or writs for a general election under this section, the day of the election may be deferred in accordance with the provisions of the *Electoral Act 1985*.
- (6) In this section—

***State disaster*** means any occurrence (including fire, flood, storm, tempest, earthquake, eruption, epidemic of human, animal or plant disease, hostilities directed by an enemy against Australia and accident) that—

- (a) causes or threatens to cause, within the State, loss of life or injury to persons or animals or damage to property; and
- (b) is of such a nature or magnitude that extraordinary measures are required in order to protect human or animal life or property.

### 28A—Early dissolution of House of Assembly

- (1) The Governor may dissolve the House of Assembly and issue a writ or writs for a general election on a date other than that contemplated by section 28 if and only if—
  - (a) a motion of no confidence in the government is passed in the House of Assembly; or
  - (b) a motion of confidence in the government is defeated in the House of Assembly; or
  - (c) a Bill of special importance passed by the House of Assembly is rejected by the Legislative Council; or
  - (d) the Governor is acting in pursuance of section 41.
- (2) The Governor shall not dissolve the House of Assembly under subsection (1)(c) on the ground of the rejection by the Legislative Council of a Bill of special importance passed by the House of Assembly if more than 1 month has elapsed since the rejection of the Bill by the Legislative Council.
- (3) Where a Bill of special importance is passed by the House of Assembly, the Speaker shall certify in the message transmitting the Bill to the Legislative Council that the Bill is such a Bill and that certification shall be conclusive for all purposes and may not be questioned.
- (4) For the purposes of this section, a Bill of special importance shall be deemed to have been rejected by the Legislative Council if—
  - (a) the Bill is defeated on a vote taken in the Legislative Council;
  - (b) the Bill has not been passed by the Legislative Council at the expiration of 2 months from the date of the transmission of the Bill to the Legislative Council;
  - (c) the Bill is passed by the Legislative Council with an amendment or suggested amendment to which the House of Assembly disagrees and the differences between the Houses are not resolved within 1 month after the passing of the Bill by the Legislative Council.
- (5) In this section—

***Bill of special importance*** means a Bill declared by resolution of the House of Assembly, passed before, or immediately after, the third reading of the Bill in the House of Assembly, to be a Bill of special importance.

### 30—Resignation of seats in the Assembly

- (1) Any member of the House of Assembly may resign his or her seat in the House by writing under his or her hand, addressed to the Speaker of the House, and delivered to the Speaker forthwith after the signing thereof, and upon the receipt of such resignation by the Speaker, the seat of the member shall become vacant.
- (2) If there is a vacancy in the office of Speaker or if the Speaker is absent from the State or incapacitated from performing the duties of office, the resignation may be delivered to the Governor and when so delivered shall have the same effect as if delivered to the Speaker.

### 31—Vacation of seat in Assembly

- (1) If any member of the House of Assembly—
  - (a) for twelve sitting days consecutively of any session of the House of Assembly without the permission of the House entered upon its journals fails to attend in the House; or
  - (ab) is not or ceases to be an Australian citizen; or
  - (b) takes any oath or makes any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign prince or power; or
  - (c) does, concurs in, or adopts any act whereby the member may become a subject or citizen of any foreign state or power; or
  - (e) becomes bankrupt or an insolvent debtor within the meaning of the laws in force in the State relating to bankrupts or insolvent debtors; or
  - (f) becomes a public defaulter; or
  - (g) is attainted of treason; or
  - (h) is convicted of an indictable offence; or
  - (i) becomes of unsound mind,the member's seat in the House of Assembly shall thereby become vacant.
- (2) The seat of a member of the House of Assembly is not vacated because the member acquires or uses a foreign passport or travel document.

### 32—Assembly districts

- (1) The State shall be divided into House of Assembly electoral districts in accordance with the last effective electoral redistribution.
- (2) Where the Commission has published an order dividing the State into House of Assembly electoral districts, and—
  - (a) the order has become operative; and
  - (b) the order has not been superseded by a subsequent operative order of the Commission,

the State shall, as from the day on which a general election of members of the House of Assembly is next held be divided into the appropriate number of House of Assembly electoral districts described in the order.

- (3) An order of the Commission becomes operative for the purposes of this section upon the expiration of the prescribed period from the date of publication of the order.
- (4) Each electoral district shall return one member of the House of Assembly.
- (5) In this section—

*the appropriate number* means a number equal to the number of members of the House of Assembly from time to time prescribed by section 27 of this Act;

*the Commission* means the Electoral Districts Boundaries Commission established under Part 5 of this Act;

*the last effective electoral redistribution* means the division of the State into House of Assembly electoral districts that last took effect under subsection (2);

*the prescribed period*, in relation to an order of the Commission, means—

- (a) where no appeal has been made against the order—the period of three months from the date of publication of the order; or
- (b) where an appeal has been made against the order—the period extending from the date of publication of the order to the date falling three months after the day on which all appeals have been finally determined.

### **34—Election of the Speaker**

- (1) The members of the House of Assembly shall, upon the first assembling after every general election, proceed forthwith to elect one of their number to be Speaker, and in case of that member's death, resignation, or removal by a vote of the House, the said members shall forthwith proceed to elect another of their number to be Speaker.
- (2) The Speaker so elected shall preside at all meetings of the House of Assembly.
- (3) The election of the Speaker shall be forthwith notified to the Governor by a deputation of the House.

### **35—Absence of Speaker**

If the Speaker of the House of Assembly is absent in consequence of leave of absence granted by the House, or of illness or other unavoidable cause, the House may choose some other member of the House to fill temporarily the office and perform the duties of the Speaker during his or her absence.

### **36—Continuance in office of Speaker and Chairman of Committees after dissolution**

- (1) In case of any dissolution of Parliament the Speaker of the House of Assembly at the time of the dissolution shall be, and shall be deemed to be, the Speaker of the House until the first meeting of the new Parliament, unless he or she is not re-elected a member of the House; and the Chairman of Committees at the time of the dissolution shall be, and shall be deemed to be, the Chairman of Committees until the first meeting of the new Parliament, unless he or she is not re-elected a member of the House.
- (2) This section shall not enable any person continued in the office of Speaker by this section to preside at any meeting of the House of Assembly.

### **37—Quorum etc**

- (1) The House of Assembly shall not be competent to proceed with the dispatch of business unless there are present, including the Speaker or a person chosen to preside in the Speaker's absence, at least seventeen members of the House.
- (2) All questions which arise in the House of Assembly shall be decided by the majority of votes of the members present, other than the Speaker or person aforesaid.
- (3) When the votes are equal the Speaker or person aforesaid shall have the casting vote.

- (4) Where a question arises in the House of Assembly with respect to the passing of the second or third reading of any Bill and in relation to that question the Speaker, or person aforesaid has not exercised a casting vote, the Speaker or person aforesaid may indicate concurrence or nonconcurrence in the passing of the second or third reading of that Bill.

## **Division 4—Both Houses of Parliament**

### **38—Privileges, powers etc of Council and Assembly**

The privileges, immunities, and powers of the Legislative Council and House of Assembly respectively, and of the committees and members thereof respectively, shall be the same as but no greater than those which on the twenty-fourth day of October, 1856, were held, enjoyed, and exercised by the House of Commons and by the committees and members thereof, whether such privileges, immunities, or powers were so held, possessed, or enjoyed by custom, statute, or otherwise.

### **39—Privilege against legal proceedings abolished**

No member of the Parliament shall be entitled to set up or claim any of the privileges, immunities, or powers to which the member may be entitled by virtue of the last preceding section, as against any summons, subpoena, writ, order, process, or proceeding whatsoever issued by any court of law within the said province: Provided that—

- (a) no writ of *capias ad satisfaciendum* shall be executed or put into effect against any such member during any session of Parliament, or within ten days prior to the meeting thereof; and
- (b) no member shall be liable to any penalty or process for non-attendance as a witness in any court when such non-attendance is occasioned by the member's attendance in the member's place in Parliament.

### **40—Evidence of privileges**

Any copy of the journals of the House of Commons printed, or purporting to be printed, by the order or printer of the House of Commons shall be received as *prima facie* evidence, without proof of its being such copy, upon any inquiry touching the privileges, immunities, and powers of the Legislative Council or House of Assembly, or of any committee or member thereof, respectively.

### **41—Settlement of deadlocks**

- (1) Whenever—
- (a) any Bill has been passed by the House of Assembly during any session of Parliament; and
  - (b) the same Bill or a similar Bill with substantially the same objects and having the same title has been passed by the House of Assembly during the next ensuing Parliament; and
  - (c) a general election of the House of Assembly has taken place between the two Parliaments; and

- (d) the second and third readings of the Bill were passed in the second instance by an absolute majority of the whole number of members of the House of Assembly; and
- (e) both such Bills have been rejected by the Legislative Council or failed to become law in consequence of any amendments made therein by the Legislative Council,

it shall be lawful for but not obligatory upon the Governor within six months after the last rejection or failure—

- (f) to dissolve the Legislative Council and House of Assembly by proclamation to be published in the Gazette; or
  - (g) to issue writs for the election of two additional members for each Council district.
- (2) If the Legislative Council and House of Assembly are so dissolved—
- (a) all the members of both Houses of Parliament shall thereupon vacate their seats and members shall be elected to supply the vacancies so created; and
  - (b) the order of retirement as between members of the Legislative Council elected after such dissolution shall be as provided in section 15 of this Act and one-half of such members shall retire after three years' service calculated from the first day of March of the year of their election or after such further period as is provided for in section 14.
- (3) If writs for the election of additional members of the Council are issued, after the issue of such writs no vacancy whether arising before or after the issue thereof shall be filled except as may be necessary to bring the representation of the district in which the vacancy occurs to its proper number as set forth in Schedule 2 of this Act. Whenever there are more seats vacated by members returned for the same district than there are seats to be filled and such members' seats were of unequal tenure the seats of those members the unexpired portions of whose terms are the shorter shall be first filled.

## **42—Oath of allegiance**

- (1) No member of Parliament, elected a member of Parliament on or after the commencement of the *Constitution Act Amendment Act 1972*, shall be permitted to sit or vote therein until the member has taken and subscribed the following oath before the Governor, or before some person or persons authorised by the Governor to administer such oath:
- "I, \_\_\_\_\_, do swear that I will be faithful and bear true allegiance to [*insert title of the Sovereign, His/Her*] Heirs and Successors, according to law. SO HELP ME GOD!".
- (2) It shall not be necessary for any member of Parliament who has taken the oath prescribed herein to take the said oath again in the event of the demise of the Crown; such oath shall be deemed to relate to the Sovereign and the Sovereign's heirs and successors according to law.
- (3) Nothing in this section shall be deemed to affect the operation of the *Oaths Act 1936*, as amended, which entitles any person to make an affirmation in lieu of taking any oath required by this Act.



- (4) In the case of a member of Parliament elected before the commencement of the *Constitution Act Amendment Act 1972*, section 42 of the *Constitution Act 1934*, as in force immediately before that commencement, shall, during so much of the term of office for which that member was elected as occurs after that commencement, apply in respect of that member as if the *Constitution Act Amendment Act 1972* had not been enacted.

#### **43—Determination of questions of vacancy**

Whenever any question arises respecting any vacancy in either House of Parliament it shall be heard and determined by the House in which the vacancy occurred.

#### **43A—Disqualification of members occupying seats in both Houses**

- (1) No member of the Legislative Council shall be capable of being nominated as a candidate for election as a member of the House of Assembly.
- (2) No member of the House of Assembly shall be capable of being chosen by an assembly of the members of both Houses of Parliament to supply a casual vacancy in the membership of the Legislative Council.

#### **44—Disqualification of Judges**

No Judge of any court of the State shall be capable of being elected a member of the Parliament.

#### **45—Disqualification of members holding offices of profit**

- (1) If any member of the Parliament accepts any office of profit or pension from the Crown, during pleasure, excepting those offices which are required by or under this Act or any other Act to be held by members of Parliament, the member's seat shall be thereupon and is hereby declared to be vacant.
- (1a) Subsection (1) does not prevent a member of Parliament from accepting office as a Minister of the Crown or as a Parliamentary Secretary to a Minister, or a Minister of the Crown from accepting an appointment to act in the office of another Minister.
- (2) If a candidate for election as a member of Parliament holds an office of profit from the Crown the candidate shall, unless he or she resigns that office before the date of the declaration of poll, be incapable of being elected.

#### **46—Effect of election of disqualified person**

- (1) If any person by this Act disabled from or declared to be incapable of voting or sitting in Parliament is, nevertheless, elected and returned as a member to serve in Parliament for any electoral district, the person's election and return shall be void to all intents and purposes whatsoever.
- (2) If any person so elected and returned, contrary to the provisions of this Act, sits or votes as an elected member of Parliament the person shall forfeit the sum of one thousand dollars to be recovered by any person who sues for it in the Supreme Court or in any other court of record in the State having competent jurisdiction.

#### **46A—Crown pensioners qualified for election**

Notwithstanding any other provision of this Act a person who has been in the employment of the Crown and has retired from that employment, and has by virtue of that employment become entitled to a pension wholly or partly paid by the Crown, shall not, by reason only of the receipt of that pension—

- (a) be disabled from or incapable of being elected as a member of the Parliament or of sitting and voting therein; or
- (b) be liable to any forfeiture, fine, or other disability for so sitting and voting.

#### **47—Prevention of membership of both Commonwealth and State Parliaments**

- (1) No member of either House of the Parliament of the Commonwealth shall be a member of either House of the Parliament of the State.
- (2) If any member of either House of the Parliament of the State is elected a member of either House of the Parliament of the Commonwealth the member shall vacate his or her seat in the Parliament of the State on taking his or her seat in the Parliament of the Commonwealth.

#### **48—Franchise for women**

Women shall possess and may exercise the right to vote at parliamentary elections subject to the same qualifications and in the same manner as men.

#### **48A—Non-disqualification of women as members**

A woman shall not be disqualified by sex or marriage for being elected to, or sitting or voting as a member of, either House of the Parliament.

#### **54A—Provisions as to members of Parliamentary committees and royal commissions**

- (1) Notwithstanding any other provision of this Act, the seat of a member of Parliament shall not be or become vacant and a member of Parliament shall not be liable to any forfeiture, fine, or other disability by reason only of the fact that—
  - (a) the member accepts or holds office as the chairman or a member of any committee appointed by either House of Parliament or by both Houses of Parliament, or of any royal commission;
  - (b) as such chairman or member, the member receives or is entitled to receive any salary, fees, allowances or other emoluments.
- (2) The election of any person as a member of Parliament shall not be affected by reason only of the fact that the person holds any such office or receives or is entitled to receive any such salary, fees or other emoluments.

#### **55—Standing rules and orders**

- (1) The Legislative Council and House of Assembly from time to time as there shall be occasion, shall prepare and adopt such Standing Rules and Orders as appear to the Council and Assembly respectively best adapted for—
  - (a) the orderly conduct of the Council and Assembly respectively;
  - (b) the regulation of the proceedings thereof and the dispatch of business therein;

- (c) the manner in which the Council and Assembly shall be presided over in case of the absence of the President or Speaker;
  - (d) the mode in which the Council and Assembly shall confer, correspond, and communicate with each other relative to votes or Bills passed by or pending in the Council and Assembly respectively;
  - (e) the proper passing, intituling, and numbering of the Bills to be introduced into and passed by the Council and Assembly;
  - (f) the proper presentation of the same to the Governor for the time being, for assent.
- (2) All such rules and orders shall, by the Council and Assembly respectively, be laid before the Governor, and, being approved by the Governor, shall become binding and of force.

### **56—Governor's Message**

It shall be lawful for the Governor to transmit, by message, to the Council or Assembly, for their consideration, any amendment which the Governor desires to be made in any Bill presented to the Governor for assent, and all such amendments shall be taken into consideration, in such convenient manner, as is provided in that behalf by the standing rules and orders.

### **57—Restoration of lapsed Bills**

- (1) When any Bill has passed its second reading in either House of Parliament, but has not been finally disposed of at the close of the session, the Bill shall not necessarily lapse by prorogation, but may, in the next session of the same Parliament, be restored to the stage reached in the previous session, and thereafter proceeded with as if no prorogation had intervened.
- (2) The restoration provided for in this section shall be effected by carrying a motion that the Bill be restored to the notice paper; and every such motion shall be put to the vote without debate, unless otherwise provided by the standing orders of the House in which the motion is made.

### **58—Provision as to President, Speaker, and officers**

- (1) The salary of the President of the Legislative Council shall be at least equal to the salary of the Speaker of the House of Assembly; and the salaries and allowances of the officers of the Legislative Council shall be the same as those of the corresponding officers of the House of Assembly.
- (2) The Chief Clerk for the time being of the Legislative Council, and of the House of Assembly shall respectively be removable from office only in accordance with a vote of the House of which he or she is an officer.

### **59—Governor's recommendation for money votes**

It shall not be lawful for either House of the Parliament to pass any vote, resolution, or Bill for the appropriation of any part of the Revenue, or of any tax, rate, duty, or impost, for any purpose which has not been first recommended by the Governor to the House of Assembly during the session in which such vote, resolution, or Bill is passed.

## Division 5—Money Bills

### 60—Interpretation of sections 60–63

- (1) In this Division, the expressions "revenue", "public money", "taxation", and "loan" respectively do not include any revenue, money, taxation, or loan raised by local authorities or bodies for local purposes.
- (2) For the purposes of this Division a Bill, or a clause of a Bill, shall not be taken to appropriate revenue or public money, or to deal with taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences or fees for services under the proposed Act.
- (3) For the purposes of this Division, a Bill, or a clause of a Bill, shall be taken to deal with taxation if it provides for the imposition, repeal, remission, alteration, or regulation of taxation.

- (4) In this Division—

*appropriation Bill* means a Bill for appropriating revenue or other public money;

*money Bill* means a Bill for appropriating revenue or other public money, or for dealing with taxation, or for raising or guaranteeing any loan, or for providing for the repayment of any loan;

*money clause* means a clause of a Bill, which clause appropriates revenue or other public money, or deals with taxation, or provides for raising or guaranteeing any loan or for the repayment of any loan;

*previously authorised purpose* means—

- (a) a purpose which has been previously authorised by Act of Parliament or by resolution passed by both Houses of Parliament; or
- (b) a purpose for which any provision has been made in the votes of the Committee of Supply whereon an appropriation Bill previously passed was founded.

### 61—Origin of money Bills and money clauses

A money Bill, or a money clause, shall originate only in the House of Assembly.

### 62—Power of Council as to money clauses

- (1) The Legislative Council may not amend any money clause.
- (2) Subject to subsection (3) of this section, the Council may return to the House of Assembly any Bill containing a money clause with a suggestion to omit or amend such clause or to insert additional money clauses, or may send to the Assembly a Bill containing suggested money clauses requesting, by message, that effect be given to the suggestion; and the Assembly may, if it thinks fit, make any omission or amendment, or insertion so suggested, with or without modifications.

- (3) Subsection (2) of this section applies to a money clause contained in an appropriation Bill only when such clause contains some provision appropriating revenue or other public money for some purpose other than a previously authorised purpose or dealing with some matter other than the appropriation of revenue or other public money.
- (4) When, under subsection (2) of this section, the Council sends to the Assembly a Bill containing suggested money clauses, such clauses shall be printed in erased type, and shall not be deemed to form part of the Bill.

### **63—Restriction on contents of ordinary appropriation Bill**

A Bill for appropriating revenue or other public money for any previously authorised purpose shall not contain any provision appropriating revenue or other public money for any purpose other than a previously authorised purpose.

### **64—Validity of Acts assented to**

No infringement or non-observance of any provision of this Division shall be held to affect the validity of any Act assented to by the Governor.

## **Part 2A—Local government**

### **64A—Constitutional guarantee of continuance of local government in this State**

- (1) There shall continue to be a system of local government in this State under which elected local governing bodies are constituted with such powers as the Parliament considers necessary for the better government of those areas of the State that are from time to time subject to that system of local government.
- (2) The manner in which local governing bodies are constituted, and the nature and extent of their powers, functions, duties and responsibilities shall be determined by or under Acts of the Parliament from time to time in force.
- (3) No Bill by virtue of which this State would cease to have a system of local government that conforms with subsection (1) of this section shall be presented to the Governor for assent unless the Bill has been passed by an absolute majority of the members of each House of Parliament.

## **Part 3—The executive**

### **65—Number of Ministers of the Crown**

- (1) The number of Ministers of the Crown shall not exceed fifteen.
- (2) The Ministers of the Crown shall respectively bear such titles and fill such ministerial offices as the Governor from time to time appoints.

### **66—Ministerial offices**

- (1) No person shall hold office as a Minister of the Crown for more than three calendar months unless the person is a member of Parliament.
- (2) Every Minister of the Crown is, *ex officio*, a member of the Executive Council.

## **67—Appointment of acting Ministers**

- (1) The Governor may appoint a Minister to act in the office of another Minister.
- (2) An appointment under subsection (1) may authorise the appointee to act for—
  - (a) a specified period; or
  - (b) a period terminating on the occurrence of a specified event,(being a period for which the holder of the office is expected to be unavailable to carry out official duties).
- (3) A Minister has, while acting in the office of another Minister in pursuance of an appointment under this section, all the powers, functions and duties of that other Minister.
- (4) Notice of an appointment under this section shall be published in the Gazette.
- (5) If, in any legal proceedings, it appears that a Minister has acted in the office of another Minister, the Minister shall be deemed, in the absence of proof to the contrary, to have acted in pursuance of an appointment under this section.

## **67A—Parliamentary Secretaries**

- (1) The Governor may appoint—
  - (a) a member of Parliament as Parliamentary Secretary to the Premier;
  - (b) a member of Parliament as Parliamentary Secretary to a Minister (including the Premier in his or her capacity as another Minister).
- (2) The number of Parliamentary Secretaries must not exceed two.

## **68—Appointment of officers**

The appointment to all public offices under the Government of the State, whether such offices be salaried or not, shall be vested in the Governor, with the advice and consent of the Executive Council, except the appointment of the officers required by this Act to be members of Parliament, the appointment and dismissal of which officers shall be vested in the Governor alone: Provided that this section shall not extend to minor appointments, which by statute or by order of the Governor in Council are vested in Heads of Departments, or other officers or persons within the State.

## **69—Powers of Governor's Deputy**

- (1) During the temporary absence of the Governor from the seat of Government or from the State or during the illness of the Governor all the powers and authorities conferred upon or vested in the Governor by any statutory or other law or usage of the State, as well as the powers and authorities conferred upon or vested in the Governor by the Letters Patent, shall and may be exercised, performed, and executed by the person appointed by the Governor to be the Governor's Deputy during such absence or illness, subject, nevertheless, to anything expressed in the instrument appointing such Deputy.

- (2) In this and the next succeeding section—

*the Letters Patent* means the Letters Patent passed under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date the twenty-ninth day of October, 1900, whereby permanent provision was made for the office of Governor in and for the State of South Australia and its dependencies in the Commonwealth of Australia.

#### **70—Power of deputy of Lieutenant-Governor or Administrator**

During such time as the powers and authorities granted to the Governor by the Letters Patent are vested in the Lieutenant-Governor, or any other person who is appointed to administer the Government of the State, the provisions of the preceding section shall apply to the person appointed to be the Deputy of the Lieutenant-Governor, or of the person appointed to administer the Government as aforesaid, during his or her temporary absence from the seat of Government or from the State or during his or her illness, subject nevertheless to anything expressed in the instrument appointing such Deputy.

#### **71—Signature and counter-signature of certain orders, warrants etc**

No officer of the Government shall be bound to obey any order of the Governor involving any expenditure of public money, nor shall any appointment to or dismissal from office be valid, except as provided in this Act, unless the order, appointment, or dismissal is signed by the Governor, and countersigned by a Minister of the Crown.

#### **71A—Validation of certain warrants etc**

- (1) Where, by virtue of the applicable provision, any warrant for the payment of public money or any appointment to or dismissal from office would, but for this section, have been invalid then that warrant, appointment or dismissal, as the case may be, shall be and shall be deemed always to have been valid.

- (2) In this section—

*the applicable provision*—

- (a) in relation to a warrant, appointment or dismissal, as the case may be, issued or made on or after the twenty-fourth day of October, 1856, and before the commencement of this Act, means section 33 of Act No. 2 of 1855–6 intituled An Act to establish a Constitution for South Australia, and to grant a Civil List to Her Majesty; and
- (b) in relation to a warrant, appointment or dismissal, as the case may be, issued or made on or after the commencement of this Act and before the commencement of the *Constitution Act Amendment Act 1978*, means section 71 of this Act as in force before the commencement of that Act;

*Warrant, appointment or dismissal* includes a purported warrant, appointment or dismissal.

#### **73—Governor's salary**

- (1) The Governor is entitled to a salary at a rate determined by the Remuneration Tribunal in relation to the office of Governor.

- (2) Remuneration is not payable under this section to the Governor for any period for which he or she is entitled to remuneration from the Commonwealth in respect of his or her administration of the Government of the Commonwealth.
- (3) A rate of salary determined under this section cannot be reduced by subsequent determination of the Remuneration Tribunal.

### **73A—Costs associated with Governor's official duties**

The Treasurer is to pay the costs reasonably incurred by the Governor (or anyone acting in the office of the Governor) in carrying out, or for the purpose of carrying out, official duties.

### **73B—Appropriation**

This Act is (without further appropriation) sufficient authority for the payment, out of the Consolidated Account, of the Governor's salary referred to in section 73 and the costs referred to in section 73A.

## **Part 4—The judiciary**

### **74—Tenure of office of Judges**

The Commissions of all Judges of the Supreme Court shall be and remain in full force until their retirement according to law or their removal under section 75.

### **75—Removal from office of Judges**

It shall be lawful for the Governor to remove any Judge of the Supreme Court upon the address of both Houses of the Parliament.

### **75A—Operation of Part**

Nothing in this Part affects the operation of the *Judicial Conduct Commissioner Act 2015*.

## **Part 5—Electoral redistribution**

### **Division 1—Preliminary**

#### **76—Definitions**

- (1) In this Part, unless the contrary intention appears—
  - the Chief Justice* means the Chief Justice of the Supreme Court and includes a puisne judge who is acting in the office of Chief Justice;
  - the Commission* means the Electoral Districts Boundaries Commission established under this Part;
  - elector* means a person whose name appears as an elector on the electoral roll for an electoral district;
  - the Electoral Commissioner* means the person holding, or acting in, the office of the Electoral Commissioner under the *Electoral Act 1929*, as amended;
  - electoral district* means an electoral district of the House of Assembly;



*electoral redistribution* means a division of the State into electoral districts;

*order* means an order of the Commission made under this Part;

*polling day* means a day on which a general election of members of the House of Assembly is held;

*the Surveyor-General* means the person holding, or acting in, the office of the Surveyor-General.

## 77—Basis of redistribution

- (1) Whenever an electoral redistribution is made, the redistribution shall be made upon the principle that the number of electors comprised in each electoral district must not (as at the relevant date) vary from the electoral quota by more than the permissible tolerance.

- (2) In this section—

*electoral quota* means the nearest integral number obtained by dividing the total number of electors for the House of Assembly (as at the relevant date) by the number of electoral districts into which the State is to be divided as at the first polling day for which the order is to be effective;

*permissible tolerance* means a tolerance of ten per centum;

*the relevant date* means a date specified in an order as the relevant date, being a date falling not earlier than six months before the date of the order.

## Division 2—Electoral Districts Boundaries Commission

### 78—The Commission

- (1) There shall be a Commission by the name of the *Electoral Districts Boundaries Commission* constituted of the following members:
  - (a) the Chairman of the Commission who shall be a Judge of the Supreme Court appointed by the Chief Justice to be Chairman of the Commission; and
  - (b) the Electoral Commissioner or a person appointed pursuant to subsection (3) of this section; and
  - (c) the Surveyor-General or a person appointed pursuant to subsection (4) of this section.
- (2) The Judge appointed by the Chief Justice under subsection (1) of this section should be the most senior puisne Judge who is available to undertake the duties of Chairman of the Commission.
- (3) If there is no Electoral Commissioner, or the Electoral Commissioner is for any reason unable to act as a member of the Commission, then, subject to subsection (5) of this section, the Chief Justice shall appoint as a member of the Commission, for such term as the Chief Justice considers expedient, a person who, in the opinion of the Chief Justice, has wide knowledge of, and experience in, electoral matters.

- (4) If there is no Surveyor-General, or the Surveyor-General is for any reason unable to act as a member of the Commission, then, subject to subsection (5) of this section, the Chief Justice shall appoint as a member of the Commission, for such term as the Chief Justice considers expedient a person who, in the opinion of the Chief Justice, has wide knowledge of, and experience in, surveying.
- (5) Where the Chairman is for the time being acting in the office of the Chief Justice any appointment to the Commission under subsection (3) or subsection (4) of this section shall be made by the puisne judge next in order of seniority after the Chairman.
- (6) A member appointed under subsection (3) or subsection (4) of this section, may by instrument in writing addressed to the Governor resign the member's office.
- (7) The members of the Commission (other than the Chairman) are entitled to remuneration determined by the Remuneration Tribunal.

### **79—Incorporation of the Commission**

- (1) The Commission—
  - (a) shall be a body corporate with perpetual succession and a common seal; and
  - (b) shall be capable, in its corporate name of acquiring, holding and disposing of real and personal property; and
  - (c) shall be capable of acquiring or incurring any other legal rights or liabilities, and of suing and being sued; and
  - (d) shall hold its property on behalf of the Crown.
- (2) Where an apparently genuine document purports to bear the common seal of the Commission, it shall be presumed, in the absence of proof to the contrary, that the common seal of the Commission was duly affixed to that document.

### **80—Procedure etc at meetings**

- (1) At every meeting of the Commission the Chairman of the Commission shall preside.
- (2) The Chairman of the Commission and one other member shall constitute a quorum of the Commission for the transaction of business.
- (3) At a meeting of the Commission a decision concurred in by the Chairman of the Commission and by at least one other member shall be a decision of the Commission.
- (4) No proceedings of the Commission are invalid by reason only of the fact that, at the time of the proceedings, there was a vacancy in the membership of the Commission.
- (5) No proceedings of the Commission are invalid by reason only of the fact that, during the course of the proceedings, there was a change in the membership of the Commission.

### **81—Staff**

- (1) The Commission may appoint a person to be secretary to the Commission.
- (2) The Commission may appoint other persons to the staff of the Commission.
- (3) An office within the staff of the Commission may be held in conjunction with an office in the public service of the State.

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- (4) A member of the staff of the Commission may receive such remuneration, if any, as may be determined by the Commission.

## 82—Electoral redistributions

- (1) The Commission shall, whenever required to do so under subsection (2) of this section, make an electoral redistribution.
- (2) The Commission is required to commence proceedings for the purpose of making an electoral redistribution—
- (a) within three months after the commencement of the *Constitution (Electoral Redistribution) Amendment Act 1991*;
  - (b) as soon as practicable after the enactment of an Act that alters presently or prospectively the number of members of the House of Assembly;
  - (c) within 24 months after each polling day.
- (3) After commencing proceedings for the purpose of making an electoral redistribution, the Commission shall proceed with all due diligence to complete those proceedings.
- (4) An electoral redistribution under this section shall be effected by order of the Commission.
- (5) Except where discontinuous or separate boundaries are necessary for the purpose of including an island within an electoral district, the boundaries of an electoral district shall, in any electoral redistribution made by the Commission, form an unbroken line.

## 83—Criteria

- (2) In making an electoral redistribution, the Commission must have regard, as far as practicable, to—
- (a) the desirability of making the electoral redistribution so as to reflect communities of interest of an economic, social, regional or other kind;
  - (b) the population of each proposed electoral district;
  - (c) the topography of areas within which new electoral boundaries will be drawn;
  - (d) the feasibility of communication between electors affected by the redistribution and their parliamentary representative in the House of Assembly;
  - (e) the nature of substantial demographic changes that the Commission considers likely to take place in proposed electoral districts between the conclusion of its present proceedings and the date of the expiry of the present term of the House of Assembly,

and may have regard to any other matters it thinks relevant.

## 83A—Review

- (1) The Premier must undertake a review of the operation of section 83.
- (2) The review required under this section must commence not later than 12 months after the general election of members of the House of Assembly next occurring after the commencement of this section.

- (3) The Premier must prepare a report based on the review and must, within 12 sitting days after the report is prepared, cause copies of the report to be laid before each House of Parliament.

#### **84—Application of Royal Commissions Act**

The *Royal Commissions Act 1917* shall, so far as its provisions are applicable, apply to and in relation to the Commission, the secretary to the Commission, the members of the Commission and the proceedings of or conducted before the Commission as if—

- (a) the Commission were a commission to whom a commission of inquiry had been issued by the Governor under his or her hand and the public seal of the State; and
- (b) the Chairman of the Commission and each other member were the chairman and a member respectively of such a commission; and
- (c) the secretary to the Commission were the secretary to such a commission.

#### **85—Representations to the Commission**

- (1) Before commencing proceedings for the purpose of making an electoral redistribution the Commission shall, by means of an advertisement published in a newspaper circulating generally throughout the State, invite representations from any person in relation to the proposed electoral redistribution and in any such advertisement a date must be specified as the date before which such representations must be made.
- (2) A person who desires to make representations to the Commission in relation to the proposed electoral redistribution may do so by instrument in writing served personally or by post upon the secretary of the Commission before the date specified in the advertisement.
- (3) The Commission shall consider all representations made in accordance with subsection (2), and may, at its discretion, hear and consider any evidence or argument submitted to it in support of those representations by or on behalf of any person.
- (4) After the completion of its consideration of the matters relevant to making the electoral redistribution, the Commission must—
  - (a) prepare a draft order for the electoral redistribution; and
  - (b) send a copy of that draft to each person who made a representation to the Commission under this section; and
  - (c) give notice, by means of an advertisement published in a newspaper circulating generally throughout the State, of a place or places at which copies of the draft are to be available for inspection, and if copies are to be available for purchase, of places at which copies may be purchased.
- (5) A draft will be taken to have been sent to a person under subsection (4)(b) if it is posted to the person at his or her last address known to the Commission.
- (6) The Commission must, at the time when a draft is sent under subsection (4)(b), or a notice is given under subsection (4)(c), invite the person to whom the draft is sent, or any interested member of the public (as the case may be), to make any final submission in writing that he or she thinks fit within a period specified by the Commission (being not less than one month from the date that the draft is sent or the notice is given).

- (7) The Commission must consider all submissions made in accordance with subsection (6), and may, at its discretion, hear and consider any evidence or argument relating to a submission that is submitted by or on behalf of any person who made a submission under that subsection.
- (8) The Commission may then proceed to finalise its order.

### **86—Order of the Commission**

- (1) The Commission shall cause an order making an electoral redistribution to be published in the Gazette.
- (1a) The order published in the Gazette under subsection (1) must include a statement of the right of any elector or registered political party to appeal against the order within 1 month of its publication.
- (2) Within one month of the publication of an order, any elector or a registered officer on behalf of a registered political party may, in the manner prescribed by Rules of Court, appeal to the Full Court of the Supreme Court against that order, on the ground that the order has not been duly made in accordance with this Act.
- (3) The Commission shall be the respondent to any appeal under this section.
- (4) Where an appeal has been instituted under this section, the order shall not take effect until the appeal has been disposed of.
- (5) Where more than one appeal is instituted against the same order, every such appeal may be dealt with in the same proceedings.
- (5a) If an appeal is instituted under this section, the notice of appeal must be—
  - (a) notified in the Gazette by the Commission; and
  - (b) published on a website determined by the Commission; and
  - (c) sent by the Commission to each person who made a representation to the Commission under section 85.
- (5b) The notification under subsection (5a)(a) must include a statement setting out the rights of any person having an interest in the proceedings to apply to be joined as a party to the proceedings.
- (6) In any appeal under this section, any person having an interest in the proceedings may, upon application to the Court, be joined as a party to the proceedings.
- (7) On the hearing of an appeal under this section the Full Court may—
  - (a) quash the order and direct the Commission to make a fresh electoral redistribution; or
  - (b) vary the order; or
  - (c) dismiss the appeal,and may make any ancillary order as to costs or any other matter that it thinks expedient.
- (8) The validity of an order of the Commission shall not be called in question except in an appeal under this section.

- (9) An appeal against an order of the Commission shall be set down for hearing by the Full Court as soon as practicable after the expiration of one month from the date of the order, and the appeal shall be heard and determined by the Full Court as a matter of urgency.
- (10) In this section—  
*registered officer* and *registered political party* have the same respective meanings as in the *Electoral Act 1985*.

### **87—Moneys required for the purposes of the Commission**

The moneys reasonably required for the purposes of the Commission shall be payable, on the certificate of the Auditor-General, out of the General Revenue of the State, which is hereby to the necessary extent appropriated accordingly.

## **Division 3—Entrenchment of this Part**

### **88—Special provisions as to referendum**

- (1) Except as provided in this section, no provision of section 32 of this Act or of this Part shall be repealed, suspended or amended.
- (2) A Bill providing for or effecting the repeal, suspension, or amendment of any provision of section 32 of this Act or of this Part shall not be presented to the Governor for assent unless—
- (a) the Bill does not provide for, or effect, the repeal, suspension or amendment of a provision of this section and the Bill does not:
    - (i) offend against the principle that the State is to be divided into electoral districts each returning the same number (whether that number be one or more than one) of members to the House of Assembly; or
    - (ii) offend against the principle expressed in section 77 of this Act by which the number of electors to be comprised in each electoral district upon an electoral redistribution is to be ascertained; or
    - (iii) affect the frequency with which electoral redistributions are to be made; or
    - (iv) offend against the principle that an electoral redistribution is to be made by a Commission that is independent of political influence or control; or
  - (b) the Bill has been approved by the electors in accordance with this section.
- (3) Where it is necessary for a Bill to be approved by the electors in accordance with this section, the Bill shall, on a day appointed by proclamation (being a day that falls not earlier than two months after the day on which the Bill is passed by Parliament) be submitted to a referendum of the electors for the House of Assembly.
- (4) If the majority of the persons voting at the referendum approve of the Bill it shall be presented to the Governor for assent.

- (5) Any person entitled to vote at a general election of members of the House of Assembly shall have the right to bring an action in the Supreme Court for a declaration, injunction or other legal remedy to enforce any of the provisions of this section.

## **Part 6—Miscellaneous**

### **89—Demise of the Crown**

The demise of the Sovereign—

- (a) has the effect of transferring all the functions, duties, powers, authorities, rights, privileges and dignities belonging to the Crown to the Sovereign's successor; but
- (b) has no other effect in law for any purpose.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Legislation repealed by principal Act

The *Constitution Act 1934* repealed the following:

*The Constitution Act (No. 2 of 1855)*

*An Act to prevent public contractors being returned to or sitting or voting in Parliament (No. 19 of 1869)*

*An Act to repeal The Parliamentary Privilege Act and to make other provisions in lieu thereof (No. 14 of 1872)*

*The Constitution Amendment Act 1873*

*An Act to enable His Excellency the Governor to appoint Acting Ministers of the Crown in certain cases (No. 16 of 1873)*

*An Act to increase the salaries of the Judges of the Supreme Court and of certain officers of the civil service, of the province of South Australia (No. 28 of 1873)*

*An Act to amend an Act No. 14 of 1872, intituled "An Act to repeal the Parliamentary Privilege Act, and to make other provisions in lieu thereof" (No. 430 of 1888)*

*An Act to amend the Civil List (No. 453 of 1889)*

*An Act to alter the boundaries of certain Electoral Districts and Divisions, and for other purposes (No. 462 of 1889)*

*The Officers of Parliament Act (No. 496 of 1890)*

*The Lapsed Bills Continuance Act (No. 579 of 1893)*

*An Act to alter the boundaries of the Electoral Districts and Divisions of Albert and Onkaparinga (No. 581 of 1893)*

*The Constitution Amendment Act 1894*

*An Act to alter the boundaries of the Electoral Districts and Divisions of Burra and Stanley (No. 636 of 1895)*

*An Act to alter the boundaries of the Electoral Districts and Divisions of Gumeracha and Albert (No. 637 of 1895)*

*The Constitution Amendment Act 1899*

*An Act to amend "The Constitution Amendment Act 1899" (No. 790 of 1902)*



*The Constitution Amendment Act 1908*  
*The Constitution Amendment Act 1910*  
*The Governor's Appropriation Act 1911*  
*The Deputy Governor's Powers Act 1910*  
*The Governor's Appropriation Act Amendment Act 1912*  
*The Constitution Further Amendment Act 1913*  
*The Governor's Appropriation Act Further Amendment Act 1914*  
*Governor's Appropriation Act Further Amendment Act 1915*  
*Constitution Amendment (War Service Franchise) Act 1918*  
*Constitution Amendment (Ministers Salaries) Act 1921*  
*Governor's Salary Act 1922*  
*Constitution (Quinquennial Parliament) Act 1933*

### Legislation amended by principal Act

The *Constitution Act 1934* amended the following:

*The Electoral Laws Amendment Act 1904*  
*Electoral Code Further Amendment Act 1920*  
*Electoral Act 1929*

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1934	2151	<i>Constitution Act 1934</i>	18.10.1934	1.1.1935 ( <i>Gazette 20.12.1934 p1217</i> )
1935	2246	<i>Statute Law Revision Act 1935</i>	19.12.1935	19.12.1935
1936	2336	<i>Constitution Act Amendment Act 1936</i>	25.3.1937	25.3.1937
1937	2381	<i>Constitution Act Amendment Act 1937</i>	30.3.1938	30.3.1938
1939	48	<i>Constitution Act Amendment Act 1939</i>	28.3.1940	28.3.1940
1939	49	<i>Constitution Act Amendment Act (No. 2) 1939</i>	28.3.1940	28.3.1940
1940	31	<i>Constitution Act Amendment Act 1940</i>	21.11.1940	21.11.1940
1942	8	<i>Constitution Act Amendment Act 1942</i>	22.10.1942	22.10.1942
1943	41	<i>Constitution Act Amendment Act 1943</i>	27.3.1944	27.3.1944
1947	19	<i>Constitution Act Amendment Act 1947</i>	6.11.1947	6.11.1947
1949	48	<i>Public Finance Act 1949</i>	1.12.1949	1.12.1949
1950	38	<i>Constitution Act Amendment Act 1950</i>	30.11.1950	30.11.1950
1951	4	<i>Constitution Act Amendment Act 1951</i>	6.9.1951	1.7.1951: s 4
1951	52	<i>Constitution Act Amendment Act (No. 2) 1951</i>	6.3.1952	6.3.1952
1953	28	<i>Constitution Act Amendment Act 1953</i>	3.12.1953	3.12.1953

**Constitution Act 1934—12.12.2017**

## Legislative history

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1953	56	<i>Constitution Act Amendment Act (No. 2) 1953</i>	24.6.1954	24.6.1954
1955	3	<i>Statutes Amendment (Public Salaries) Act 1955</i>	23.6.1955	1.6.1955: s 16(2)
1955	59	<i>Constitution Act Amendment Act 1955</i>	8.12.1955	8.12.1955
1959	39	<i>Constitution Act Amendment Act 1959</i>	17.12.1959	1.1.1959: s 4
1960	8	<i>Statutes Amendment (Public Salaries) Act 1960</i>	19.5.1960	19.5.1960
1961	24	<i>Constitution Act Amendment Act 1961</i>	22.2.1962	22.2.1962
1963	52	<i>Statutes Amendment (Public Salaries) Act (No. 2) 1963</i>	28.11.1963	28.11.1963
1963	67	<i>Constitution Act Amendment Act 1963</i>	6.2.1964	6.2.1964
1965	17	<i>Constitution Act Amendment Act 1965</i>	10.11.1965	10.11.1965
1965	26	<i>Constitution Act Amendment Act (No. 2) 1965</i>	25.11.1965	25.11.1965
1965	55	<i>Parliamentary Salaries and Allowances Act 1965</i>	23.12.1965	23.12.1965
1969	110	<i>Constitution Act Amendment Act 1969</i>	12.3.1970	12.3.1970
1970	33	<i>Constitution Act Amendment Act (No. 3) 1970</i>	19.11.1970	19.11.1970
1971	17	<i>Constitution Act Amendment Act (No. 2) 1970-1971</i>	8.4.1971	30.6.1972: s 2
1971	95	<i>Constitution Act Amendment Act (No. 2) 1971</i>	3.12.1971	3.12.1971
1972	62	<i>Constitution Act Amendment Act 1972</i>	24.8.1972	28.9.1972 ( <i>Gazette</i> 28.9.1972 p1665)
1973	31	<i>Constitution Act Amendment Act (No. 2) 1973</i>	20.9.1973	20.9.1973
1973	51	<i>Constitution Act Amendment Act 1973</i>	22.11.1973	22.11.1973 ( <i>Gazette</i> 22.11.1973 p2970)
1973	52	<i>Constitution and Electoral Acts Amendment Act 1973</i>	22.11.1973	22.11.1973 ( <i>Gazette</i> 22.11.1973 p2970)
1973	77	<i>Statute Law Revision Act 1973</i>	6.12.1973	6.12.1973
1974	45	<i>Constitution Act Amendment Act 1974</i>	4.7.1974	4.7.1974: s 2
1974	80	<i>Statutes Amendment (Committee Salaries) Act 1974</i>	31.10.1974	1.7.1974: s 2
1975	59	<i>Constitution Act Amendment Act 1975</i>	26.6.1975	1.7.1974: s 2
1975	67	<i>Constitution Act Amendment Act (No. 2) 1975</i>	2.10.1975	2.10.1975
1975	68	<i>Constitution Act Amendment Act (No. 3) 1975</i>	2.10.1975	2.10.1975
1975	122	<i>Constitution Act Amendment Act (No. 5) 1975</i>	22.1.1976	22.1.1976 ( <i>Gazette</i> 22.1.1976 p258)
1976	68	<i>Constitution Act Amendment Act 1976</i>	25.11.1976	25.11.1976
1978	5	<i>Statutes Amendment (Remuneration of Parliamentary Committees) Act 1978 repealed by 101/1978</i>	2.3.1978	repealed by 101/1978 without coming into operation
1978	8	<i>Constitution Act Amendment Act 1978</i>	14.3.1978	14.3.1978

1978	64	<i>Constitution Act Amendment Act (No. 2) 1978</i>	28.9.1978	28.9.1978
1978	101	<i>Statutes Amendment (Remuneration of Parliamentary Committees) Act (No. 2) 1978</i>	7.12.1978	7.12.1978
1980	45	<i>Constitution Act Amendment Act 1980</i>	3.7.1980	10.7.1980 ( <i>Gazette 10.7.1980 p118</i> )
1981	63	<i>Constitution Act Amendment Act 1981</i>	8.10.1981	1.7.1981: s 2
1982	32	<i>Constitution Act Amendment Act (No. 2) 1981</i>	8.4.1982	8.4.1982
1982	57	<i>Constitution Act Amendment Act 1982</i>	1.7.1982	1.7.1982
1982	77	<i>Constitution Act Amendment Act (No. 2) 1982</i>	2.9.1982	26.1.1984 ( <i>Gazette 3.11.1983 p1276</i> )
1985	84	<i>Constitution Act Amendment Act 1985</i>	12.9.1985	12.9.1985 except s 4—10.11.1985: s 2(3)
1986	120	<i>Constitution Act Amendment Act (No. 2) 1986</i>	18.12.1986	18.12.1986
1987	13	<i>Statutes Amendment (Finance and Audit) Act 1987</i>	9.4.1987	1.10.1987 ( <i>Gazette 17.9.1987 p886</i> )
1987	63	<i>Constitution Act Amendment Act 1987</i>	22.10.1987	22.10.1987
1988	1	<i>Constitution Act Amendment Act 1988</i>	3.3.1988	5.5.1988 ( <i>Gazette 5.5.1988 p1115</i> )
1990	18	<i>Statutes Repeal and Amendment (Remuneration) Act 1990</i>	19.4.1990	19.4.1990 ( <i>Gazette 19.4.1990 p1136</i> )
1991	1	<i>Constitution (Electoral Redistribution) Amendment Act 1991</i>	7.3.1991	7.3.1991
1991	50	<i>Parliamentary Committees Act 1991</i>	21.11.1991	11.2.1992 ( <i>Gazette 5.12.1991 p1668</i> )
1994	36	<i>Constitution (Electoral Districts Boundaries Commission) Amendment Act 1994</i>	2.6.1994	2.6.1994
1994	40	<i>Statutes Amendment (Constitution and Members Register of Interests) Act 1994</i>	2.6.1994	1.9.1994 ( <i>Gazette 1.9.1994 p614</i> )
1994	59	<i>Criminal Law Consolidation (Felonies and Misdemeanours) Amendment Act 1994</i>	27.10.1994	1.1.1995 ( <i>Gazette 8.12.1994 p1942</i> )
1995	68	<i>Constitution (Salary of the Governor and Electoral Redistribution) Amendment Act 1995</i>	2.11.1995	2.11.1995
1997	69	<i>Statutes Amendment (Ministers of the Crown) Act 1997</i>	11.12.1997	Pt 2 (ss 4—7)—17.12.1997 ( <i>Gazette 17.12.1997 p1639</i> )
2001	50	<i>Constitution (Parliamentary Terms) Amendment Act 2001</i>	11.10.2001	5.3.2002: s 5(1)
2001	51	<i>Statutes Amendment (Governor's Remuneration) Act 2001</i>	11.10.2001	Pt 2 (ss 4 & 5)—5.11.2001 ( <i>Gazette 25.10.2001 p4687</i> )
2002	29	<i>Constitution (Parliamentary Secretaries) Amendment Act 2002</i>	7.11.2002	7.11.2002
2002	40	<i>Constitution (Ministerial Offices) Amendment Act 2002</i>	29.11.2002	29.11.2002
2003	6	<i>Constitution (Casual Vacancies and Gender Neutral Language) Amendment Act 2003</i>	5.6.2003	5.6.2003

**Constitution Act 1934—12.12.2017**

## Legislative history

2003	44	<i>Statute Law Revision Act 2003</i>	23.10.2003	Sch 1—24.11.2003 ( <i>Gazette 13.11.2003 p4048</i> )
2009	48	<i>Electoral (Miscellaneous) Amendment Act 2009</i>	22.10.2009	Sch 1 (cll 1 & 2)—6.1.2010 ( <i>Gazette 17.12.2009 p6350</i> )
2013	8	<i>Constitution (Recognition of Aboriginal Peoples) Amendment Act 2013</i>	28.3.2013	28.3.2013
2015	29	<i>Constitution (Governor's Salary) Amendment Act 2015</i>	22.10.2015	11.2.2016 ( <i>Gazette 11.2.2016 p450</i> )
2015	34	<i>Judicial Conduct Commissioner Act 2015</i>	5.11.2015	Sch 1 (cll 1 & 2)—5.12.2016 ( <i>Gazette 29.11.2016 p4525</i> )
2016	53	<i>Constitution (Demise of the Crown) Amendment Act 2016</i>	10.11.2016	10.11.2016
<b>2017</b>	<b>65</b>	<b><i>Constitution (One Vote One Value) Amendment Act 2017</i></b>	<b>12.12.2017</b>	<b>12.12.2017</b>
<b>2017</b>	<b>66</b>	<b><i>Constitution (Electoral Redistribution) (Appeals) Amendment Act 2017</i></b>	<b>12.12.2017</b>	<b>12.12.2017</b>

**Provisions amended since 3 February 1976**

- Legislative history prior to 3 February 1976 appears in marginal notes and footnotes included in the consolidation of this Act contained in Volume 2 of The Public General Acts of South Australia 1837-1975 at page 751.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	substituted by 44/2003 s 3(1) (Sch 1)	24.11.2003
Pt 1		
s 1	amended by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 2	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	<i>24.11.2003</i>
s 2	inserted by 8/2013 s 3	28.3.2013
s 3	<i>amended by 45/1980 s 3</i>	<i>10.7.1980</i>
	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>5.6.2003</i>
Pt 2		
Pt 2 Div 1	heading preceding s 4 deleted and Pt 2 Div 1 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 6		
s 6(1)	(d) deleted by 50/2001 s 2	5.3.2002
	amended by 6/2003 s 2	5.6.2003
Pt 2 Div 2	heading preceding s 11 deleted and Pt 2 Div 2 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 11	substituted by 77/1982 s 3	26.1.1984
s 12	<i>amended by 77/1982 s 4</i>	<i>26.1.1984</i>
	<i>deleted by 1/1988 s 3</i>	<i>5.5.1988</i>

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s 13	substituted by 84/1985 s 3	12.9.1985
s 13(4) and (5)	amended by 6/2003 s 2	5.6.2003
s 14	amended by 77/1982 s 5	26.1.1984
	substituted by 84/1985 s 3	12.9.1985
s 14(1)	amended by 6/2003 s 2	5.6.2003
s 15	substituted by 84/1985 s 3	12.9.1985
s 15(1)	amended by 6/2003 s 2	5.6.2003
s 16		
s 16(1) and (2)	amended by 6/2003 s 2	5.6.2003
s 17		
s 17(1)	s 17 amended and redesignated as s 17(1) by 40/1994 s 4	1.9.1994
	amended by 59/1994 Sch 2	1.1.1995
	amended by 6/2003 s 2	5.6.2003
s 17(2)	inserted by 40/1994 s 4(b)	1.9.1994
s 19	substituted by 77/1982 s 6	26.1.1984
s 20	<i>deleted by 1/1988 s 4</i>	5.5.1988
s 24	amended by 6/2003 s 2	5.6.2003
s 25		
s 25(1)	amended by 6/2003 s 2	5.6.2003
s 26		
s 26(1) and (3)	amended by 6/2003 s 2	5.6.2003
Pt 2 Div 3	heading preceding s 27 deleted and Pt 2 Div 3 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 28	substituted by 84/1985 s 4	10.11.1985
	substituted by 50/2001 s 3	5.3.2002
s 28A	inserted by 84/1985 s 4	10.11.1985
s 28A(1)	amended by 50/2001 s 4	5.3.2002
s 29	<i>deleted by 1/1988 s 5</i>	5.5.1988
s 30		
s 30(1) and (2)	amended by 6/2003 s 2	5.6.2003
s 31		
s 31(1)	s 31 amended and redesignated as s 31(1) by 40/1994 s 5	1.9.1994
	(d) deleted by 40/1994 s 5(b)	1.9.1994
	amended by 59/1994 Sch 2	1.1.1995
	amended by 6/2003 s 2	5.6.2003
s 31(2)	inserted by 40/1994 s 5(c)	1.9.1994
s 32		
s 32(1)	substituted by 77/1982 s 7(a)	26.1.1984
s 32(5)		
the last effective electoral redistribution	inserted by 77/1982 s 7(b)	26.1.1984

**Constitution Act 1934—12.12.2017**Legislative history

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s 33	<i>amended by 68/1976 s 2</i>	25.11.1976
	<i>amended by 77/1982 s 8</i>	26.1.1984
	<i>deleted by 1/1988 s 6</i>	5.5.1988
s 33A	<i>amended by 68/1976 s 3</i>	25.11.1976
	<i>deleted by 77/1982 s 9</i>	26.1.1984
s 34		
s 34(1)	amended by 6/2003 s 2	5.6.2003
s 35	amended by 6/2003 s 2	5.6.2003
s 36		
s 36(1)	amended by 6/2003 s 2	5.6.2003
s 37		
s 37(1) and (4)	amended by 6/2003 s 2	5.6.2003
Pt 2 Div 4	heading preceding s 38 deleted and Pt 2 Div 4 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 39	amended by 6/2003 s 2	5.6.2003
s 41		
s 41(1)	(i) and (ii) redesignated as (f) and (g) by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 42		
s 42(1) and (2)	amended by 6/2003 s 2	5.6.2003
s 43A	inserted by 84/1985 s 5	12.9.1985
s 45		
s 45(1)	s 45 amended by 101/1978 s 8	7.12.1978
	s 45 redesignated as s 45(1) by 57/1982 s 2	1.7.1982
	amended by 6/2003 s 2	5.6.2003
s 45(1a)	inserted by 120/1986 s 2	18.12.1986
	amended by 69/1997 s 4	17.12.1997
	amended by 29/2002 s 2	7.11.2002
s 45(2)	inserted by 57/1982 s 2	1.7.1982
	amended by 6/2003 s 2	5.6.2003
s 46		
s 46(1) and (2)	amended by 6/2003 s 2	5.6.2003
s 47		
s 47(2)	amended by 6/2003 s 2	5.6.2003
s 49	<i>amended by 57/1982 s 3</i>	1.7.1982
	<i>deleted by 40/1994 s 6</i>	1.9.1994
ss 50—54	<i>deleted by 40/1994 s 6</i>	1.9.1994
s 54A		
s 54A(1) and (2)	amended by 6/2003 s 2	5.6.2003
s 55		
s 55(1)	(g) deleted by 50/1991 Sch Pt 2	11.2.1992
	amended by 6/2003 s 2	5.6.2003
s 55(2)	amended by 6/2003 s 2	5.6.2003

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s 55(3)	<i>substituted by 101/1978 s 9</i>	7.12.1978
	<i>substituted by 18/1990 s 6</i>	19.4.1990
	<i>deleted by 50/1991 Sch Pt 2</i>	11.2.1992
s 55(3a) and (3b)	<i>inserted by 101/1978 s 9</i>	7.12.1978
	<i>deleted by 18/1990 s 6</i>	19.4.1990
s 55(4)	<i>deleted by 18/1990 s 6</i>	19.4.1990
s 55(5)	<i>deleted by 50/1991 Sch Pt 2</i>	11.2.1992
s 56	amended by 6/2003 s 2	5.6.2003
s 58		
s 58(2)	amended by 6/2003 s 2	5.6.2003
Pt 2 Div 5	heading preceding s 60 deleted and Pt 2 Div 5 heading inserted by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 60		
s 60(1)—(4)	amended by 44/2003 s 3(1) (Sch 1)	24.11.2003
s 64	amended by 44/2003 s 3(1) (Sch 1)	24.11.2003
Pt 2A	inserted by 45/1980 s 4	10.7.1980
s 64A		
s 64A(3)	amended by 6/2003 s 2	5.6.2003
Pt 3		
s 65		
s 65(1)	amended by 64/1978 s 2	28.9.1978
	amended by 69/1997 s 5	17.12.1997
s 65(2)	amended by 63/1987 s 2	22.10.1987
s 66		
s 66(1)	amended by 6/2003 s 2	5.6.2003
s 66(2)	substituted by 69/1997 s 6	17.12.1997
	amended by 40/2002 s 2	29.11.2002
s 67	substituted by 120/1986 s 3	18.12.1986
s 67A	inserted by 69/1997 s 7	17.12.1997
	substituted by 29/2002 s 3	7.11.2002
s 69		
s 69(1)	amended by 6/2003 s 2	5.6.2003
s 70	amended by 6/2003 s 2	5.6.2003
s 71	amended by 8/1978 s 2	14.3.1978
	amended by 13/1987 s 4	1.10.1987
s 71A	inserted by 8/1978 s 3	14.3.1978
s 73 before substitution by 29/2015	<i>substituted by 63/1981 s 3</i>	1.7.1981
s 73(1)	<i>amended by 68/1995 s 2(a)</i>	2.11.1995
	<i>substituted by 51/2001 s 4(a)</i>	5.11.2001
s 73(1a) and (1b)	<i>inserted by 68/1995 s 2(b)</i>	2.11.1995
	<i>deleted by 51/2001 s 4(a)</i>	5.11.2001
s 73(3)	<i>substituted by 32/1982 s 2</i>	8.4.1982

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**Constitution Act 1934—12.12.2017**

## Legislative history

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	<i>amended by 6/2003 s 2</i>	5.6.2003
s 73(4)	<i>inserted by 32/1982 s 2</i>	8.4.1982
	<i>amended by 6/2003 s 2</i>	5.6.2003
s 73(5)	<i>inserted by 32/1982 s 2</i>	8.4.1982
consumer price index	<i>deleted by 51/2001 s 4(b)</i>	5.11.2001
s 73	substituted by 29/2015 s 4	11.2.2016
s 73A	substituted by 51/2001 s 5	5.11.2001
s 73B	substituted by 51/2001 s 5	5.11.2001
	amended by 29/2015 s 5	11.2.2016
Pt 4		
s 74	amended by 6/2003 s 2	5.6.2003
	amended by 34/2015 Sch 1 cl 1(1), (2)	5.12.2016
s 75	amended by 6/2003 s 2	5.6.2003
s 75A	inserted by 34/2015 Sch 1 cl 2	5.12.2016
Pt 5		
s 77		
s 77(2)	amended by 68/1995 s 3	2.11.1995
s 78		
s 78(6)	amended by 6/2003 s 2	5.6.2003
s 78(7)	inserted by 68/1995 s 4	2.11.1995
s 81		
s 81(2) and (3)	substituted by 48/2009 Sch 1 cl 1	6.1.2010
s 81(4)	inserted by 48/2009 Sch 1 cl 1	6.1.2010
s 82		
s 82(2)	amended by 1/1991 s 2	7.3.1991
	amended by 48/2009 Sch 1 cl 2	6.1.2010
s 83	substituted by 1/1991 s 3	7.3.1991
s 83(1)	<b><i>deleted by 65/2017 s 3(1)</i></b>	<b>12.12.2017</b>
s 83(3)	<b><i>deleted by 65/2017 s 3(2)</i></b>	<b>12.12.2017</b>
s 83A	<b>inserted by 65/2017 s 4</b>	<b>12.12.2017</b>
s 84	amended by 6/2003 s 2	5.6.2003
s 85		
s 85(3)	amended by 36/1994 s 2(a)	2.6.1994
s 85(4)—(8)	inserted by 36/1994 s 2(b)	2.6.1994
s 86		
s 86(1a)	<b>inserted by 66/2017 s 3(1)</b>	<b>12.12.2017</b>
s 86(2)	<b>amended by 66/2017 s 3(2)</b>	<b>12.12.2017</b>
s 86(5a) and (5b)	<b>inserted by 66/2017 s 3(3)</b>	<b>12.12.2017</b>
s 86(10)	<b>inserted by 66/2017 s 3(4)</b>	<b>12.12.2017</b>
s 88		
s 88(2)	amended by 6/2003 s 2	5.6.2003
Pt 6	inserted by 53/2016 s 3	10.11.2016



<i>Sch 1</i>	<i>deleted by 44/2003 s 3(1) (Sch 1)</i>	24.11.2003
<i>Schs 2 and 3</i>	<i>deleted by 77/1982 s 10</i>	26.1.1984

## **Transitional etc provisions associated with Act or amendments**

### ***Constitution (Electoral Districts Boundaries Commission) Amendment Act 1994***

#### **3—Operation of amendment**

The amendments effected to the principal Act by section 2 of this Act extend to proceedings before the Electoral Districts Boundaries Commission on the commencement of this Act.

### ***Constitution (Parliamentary Terms) Amendment Act 2001***

#### **5—Commencement and transitional**

- (2) In the case of the House of Assembly of the fiftieth Parliament, section 28(1) of the principal Act as amended by this Act will be taken to refer to the third Saturday in March in the year 2006.

### ***Constitution (Casual Vacancies and Gender Neutral Language) Amendment Act 2003***

#### **3—Validation provision**

A decision under section 13 of the *Constitution Act 1934* made before the commencement of this section by an assembly of both Houses of Parliament cannot be called in question on the ground that not all members of both Houses of Parliament were present at the meeting of the assembly at which the decision was made.

### ***Constitution (Governor's Salary) Amendment Act 2015, Sch 1***

#### **1—Transitional provision**

The rate of salary determined by the Remuneration Tribunal under section 73 of the *Constitution Act 1934* (as inserted by this Act) in relation to the office of Governor cannot be lower than the rate applying before the commencement of this Act.

## **Historical versions**

- Reprint No 1—1.7.1991
- Reprint No 2—11.2.1992
- Reprint No 3—2.6.1994
- Reprint No 4—1.9.1994
- Reprint No 5—1.1.1995
- Reprint No 6—2.11.1995
- Reprint No 7—17.12.1997
- Reprint No 8—5.11.2001
- Reprint No 9—5.3.2002
- Reprint No 10—7.11.2002
- Reprint No 11—29.11.2002

**Constitution Act 1934—12.12.2017**  
Legislative history

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Reprint No 12—5.6.2003

Reprint No 13—24.11.2003

6.1.2010

28.3.2013

11.2.2016

10.11.2016

5.12.2016