

Legislative Council—No 156

As received from the House of Assembly and read a first time, 17 November 2009

South Australia

Constitution (Appointments) Bill 2009

A BILL FOR

An Act to remove doubts relating to actions taken by Lieutenant-Governors and Administrators of the State at any time since the commencement of the *Australia Act 1986* of the Commonwealth; and for other purposes.

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The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Constitution (Appointments) Act 2009*.

2—Interpretation

In this Act—

5 *Administrator* means a person appointed as, or purportedly appointed as, or acting as, or purportedly acting as, Administrator of the State;

Lieutenant-Governor means a person appointed as, or purportedly appointed as, Lieutenant-Governor of the State;

10 *relevant action* means an act or omission of an administrative or legislative nature, including the exercise, or purported exercise, of prerogative powers, done or omitted, or purportedly done or omitted, at a relevant time by a Lieutenant-Governor or an Administrator during the administration, or purported administration, of the government of the State by that person;

15 *relevant time* means any time between 5 am Greenwich Mean Time on 3 March 1986 and the commencement of this Act.

Note—

The *Australia Act 1986* of the Commonwealth came into operation at 5 am Greenwich Mean Time on 3 March 1986.

3—Act binds Crown

20 This Act binds the Crown in right of South Australia and, in so far as the legislative power of the Parliament of South Australia permits, the Crown in all its other capacities.

4—Effect of relevant actions

25 Every relevant action has, and is deemed always to have had, the same force and effect for all purposes as it would have had if it had been done, or omitted to be done, at the relevant time by a person validly holding the office of Governor at that time.

5—Act not to give rise to liability against the State

- (1) The State is not liable to any action, liability, claim or demand arising from the enactment, commencement or operation of this Act.

(2) Without limiting subsection (1), no proceedings lie against the State in respect of a relevant action affected by this Act, except to the extent that the proceedings would lie had the relevant action been done, or omitted to be done, at the relevant time by a person validly holding the office of Governor.

5 (3) In this section—

proceedings includes proceedings for an order in the nature of prohibition, certiorari or mandamus or for a declaration or injunction or for any other relief;

the State includes any State authority or officer of the State, and also includes—

- (a) the Crown in right of the State; and
- 10 (b) the Government of the State; and
- (c) a Minister of the Crown in right of the State; and
- (d) a statutory corporation, or other body, representing the Crown in right of the State.