

South Australia

**Constitution (Casual Vacancies) Amendment
Bill 2008**

A BILL FOR

An Act to amend the *Constitution Act 1934*.

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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 (Casual Vacancies) Amendment Act 2008*.

2—Amendment provisions

- 5 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Constitution Act 1934*

3—Amendment of section 13—Casual vacancies

Section 13—after subsection (5) insert:

- 10 (6) Where—
 - (a) 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
 - 15 (b) the member whose seat has become vacant (being an elected member of the Legislative Council) (*the former member*) was not at the time of his or her election publicly recognised as being an endorsed candidate of any political party,
- the Electoral Commissioner must, by notice in the Gazette, declare who was the continuing candidate who had the highest number of votes after all vacancies required to be filled had been filled at the election at which the former member was elected following the counting of votes under section 95 of the *Electoral Act 1985* and if this is the second casual vacancy to be filled under this subsection in relation to a particular election then the declaration must relate to the continuing candidate who had the second highest number of votes after the required vacancies were filled, and so on for any third or
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- subsequent casual vacancy to be filled under this subsection.

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- (7) If the continuing candidate within the ambit of a declaration under subsection (6) was at the time of the relevant 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 the casual vacancy must, 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.