

**Legislative Council—No 106**

As received from the House of Assembly and read a first time, 8 March 2016

South Australia

**Constitution (Deadlocks) Amendment Bill 2015**

A BILL FOR

An Act to amend the *Constitution Act 1934*.

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## Contents

### Part 1—Preliminary

- 1 Short title
- 2 Commencement and operation
- 3 Amendment provisions

### Part 2—Amendment of *Constitution Act 1934*

- 4 Substitution of section 41
  - 41 Settlement of deadlocks
- 5 Amendment of section 57—Restoration of lapsed Bills

### Schedule 1—Transitional provisions

- 1 Powers of Legislative Council in relation to Bills
- 

## The Parliament of South Australia enacts as follows:

### Part 1—Preliminary

#### 1—Short title

This Act may be cited as the *Constitution (Deadlocks) Amendment Act 2015*.

#### 5 2—Commencement and operation

The commencement and operation of this Act is subject to the operation of the *Referendum (Deadlocks) Act 2015*.

#### 3—Amendment provisions

10 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*

#### 4—Substitution of section 41

Section 41—delete the section and substitute:

##### 41—Settlement of deadlocks

- 15 (1) If—
  - (a) the House of Assembly passes a Bill that has originated in that House (the *first Bill*); and
  - (b) the Legislative Council—
    - 20 (i) fails to pass the first Bill within the period of 15 sitting days after it is transmitted to the Legislative Council; or
    - (ii) rejects the first Bill; or

(iii) passes the first Bill with amendments to which the House of Assembly does not agree; and

(c) in the same or the next session of the Parliament in which the first Bill was passed by the House of Assembly, a Bill that is the same as the first Bill (as originally passed by the House of Assembly) is introduced into the House of Assembly and passes that House, with amendments (if any) within the ambit of subsection (6) (the *second Bill*); and

(d) the Legislative Council—

(i) fails to pass the second Bill within the period of 9 sitting days after it is transmitted to the Legislative Council; or

(ii) rejects the second Bill; or

(iii) passes the second Bill with amendments to which the House of Assembly does not agree,

the Governor may dissolve the Legislative Council and the House of Assembly by proclamation, except that a dissolution will not take place within 6 months before a general election of members of the House of Assembly is due to be held under section 28.

(2) If the Legislative Council and House of Assembly are dissolved under subsection (1), all the members of both Houses of Parliament will vacate their seats and members will be elected to supply the resulting vacancies.

(3) If—

(a) after a dissolution under subsection (1), a Bill that is the same as the second Bill (as originally passed by the House of Assembly) is introduced into the House of Assembly and passes that House, with amendments (if any) within the ambit of subsection (7) (the *third Bill*); and

(b) the Legislative Council—

(i) fails to pass the third Bill within the period of 9 sitting days after it is transmitted to the Legislative Council; or

(ii) rejects the third Bill; or

(iii) passes the third Bill with amendments to which the House of Assembly does not agree,

the Governor may, by proclamation, convene a joint sitting of the members of the Legislative Council and of the House of Assembly.

(4) The following provisions apply in relation to the constitution and proceedings of a joint sitting convened under subsection (3):

(a) the joint sitting will meet at a time and place appointed by proclamation;

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- (b) a member of the House of Assembly or the Legislative Council appointed by proclamation will preside over the joint sitting;
- (c) a suitable person will be appointed by proclamation to be the clerk of the joint sitting;
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- (d) the procedural rules (if any) prescribed by proclamation will be observed at the joint sitting and, in the absence of a rule governing a particular question of procedure that arises before the joint sitting, that question will be decided by the person presiding or, if the joint sitting is dissatisfied with that person's decision, by the joint sitting itself;
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- (e) the members of the joint sitting will, in relation to proceedings before the joint sitting, have the same privileges and immunities as the members of the House of Assembly in relation to proceedings before that House;
- (f) the person presiding over the joint sitting and the joint sitting itself have respectively the same powers to maintain order as the Speaker and the House of Assembly;
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- (g) there is no requirement for all members of both Houses of Parliament to be present at a meeting of the joint sitting;
- (h) the members present at the joint sitting may deliberate and will vote together on—
- (i) the third Bill; and
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- (ii) amendments (if any) that have been made to the third Bill by 1 House and not agreed to by the other (*prescribed amendments*);
- (i) the following provisions apply to the entitlement of members to vote on a question arising before a meeting of the joint sitting:
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- (i) in the case of a question that requires the affirmation of an absolute majority of the total number of members of the Legislative Council and the House of Assembly—each member present at the meeting, including the person presiding, will be entitled to 1 vote on the question; and
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- (ii) in the case of any other question—each member present at the meeting, except the person presiding, will be entitled to 1 vote on the question and, in the event of an equality of votes, the person presiding will have a casting vote.
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- (5) In connection with subsection (4)(h)—
- (a) any prescribed amendments that are affirmed by an absolute majority of the total number of the members of the Legislative Council and the House of Assembly will be taken to have been carried; and
  - (b) if the third Bill, with any prescribed amendments carried in accordance with paragraph (a), is affirmed by an absolute majority of the total number of members of the Legislative Council and the House of Assembly—
    - 10 (i) it will be taken to be a Bill that has passed both Houses of Parliament (and section 8 does not apply to the Bill); and
    - (ii) subject to sections 10A and 88 (if relevant), the Bill will be presented to the Governor for assent (and, on that assent, will be an Act of the Parliament of South Australia).
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- (6) For the purposes of subsection (1)(c), the following amendments are within the ambit of this subsection:
- 20 (a) amendments certified by the Speaker to be necessary to the second Bill owing to the time that has elapsed since the date on which the first Bill was passed by the House of Assembly;
  - 25 (b) amendments certified by the Speaker to be consistent with amendments made to, or agreed in relation to, the first Bill by the Legislative Council, subject to any additional amendments to those amendments certified by the Speaker to be necessary owing to the time that has elapsed or to be necessary as consequential amendments.
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- (7) For the purposes of subsection (3)(a), the following amendments are within the ambit of this subsection:
- 35 (a) amendments certified by the Speaker to be necessary to the third Bill owing to the time that has elapsed since the date on which the second Bill was passed by the House of Assembly;
  - 40 (b) amendments certified by the Speaker to be consistent with amendments made to, or agreed in relation to, the second Bill by the Legislative Council, subject to any additional amendments to those amendments certified by the Speaker to be necessary owing to the time that has elapsed or to be necessary as consequential amendments.
- (8) For the purposes of this section—
- (a) a reference to *sitting days* is a reference to sitting days of the House of Assembly; and

- (b) a reference to amendments (in the context of amendments made by the Legislative Council) includes a reference to amendments suggested by the Legislative Council.

### **5—Amendment of section 57—Restoration of lapsed Bills**

- 5 (1) Section 57(1)—delete ", and thereafter proceeded with as if no prorogation had intervened"
- (2) Section 57—after subsection (2) insert:
- 10 (3) If a Bill is restored to the notice paper in accordance with this section, the Bill will, for the purposes of section 41 and for all other purposes, be treated as if no prorogation had occurred.

## **Schedule 1—Transitional provisions**

### **1—Powers of Legislative Council in relation to Bills**

Section 41 of the *Constitution Act 1934*, as enacted by this Act, applies in relation to Bills introduced into the Parliament after the commencement of this clause.