

Legislative Council—No 129

As received from the House of Assembly and read a first time, 23 September 2009

South Australia

**Constitution (Reform of Legislative Council and
Settlement of Deadlocks on Legislation)
Amendment Bill 2009**

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 (Reform of Legislative Council and Settlement of Deadlocks on Legislation) Amendment Act 2009*.

5 2—Commencement and operation

- (1) The commencement and operation of this measure is subject to the operation of the *Referendum (Reform of Legislative Council and Settlement of Deadlocks on Legislation) Act 2009*.
- (2) Section 7(5) of the *Acts Interpretation Act 1915* does not apply with respect to the commencement of this measure.

10 3—Amendment provisions

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—Repeal of section 10

Section 10—delete the section

5—Substitution of section 11

5 Section 11—delete the section and substitute:

11—Number of members of Legislative Council

The Legislative Council will consist of 16 members.

6—Amendment of section 13—Casual vacancies

(1) Section 13(2)—delete subsection (2) and substitute:

10 (2) An assembly need not be held under subsection (1) to supply a casual vacancy if the vacancy occurs within 3 months before polling day for a general election of members of the House of Assembly under section 28.

(2) Section 13(3)(b)—delete "(otherwise than in pursuance of section 41)"

15 (3) Section 13(3)(d)—delete paragraph (d)

7—Substitution of sections 14 and 15

Sections 14 and 15—delete the sections and substitute:

14—Term of Legislative Councillors

20 (1) Subject to this Act, the term of office of a member of the Legislative Council is a term expiring on the dissolution or expiry of the House of Assembly (and the seat of a member is automatically vacated on the dissolution or expiry of the House of Assembly without the necessity of any action on the part of the member).

25 (2) An election for members of the Legislative Council will take place at the time of the general election of members of the House of Assembly.

8—Amendment of section 25—Continuance of President in office after dissolution or retirement

Section 25(1)—delete "by periodical retirement, or"

9—Amendment of section 26—Quorum of Council

(1) Section 26(1)—delete "ten" and substitute:

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(2) Section 26(2) and (3)—delete subsections (2) and (3) and substitute:

35 (2) All questions to be determined by the Council will be decided by a majority of the votes of those members of the Council who are present.

- (3) The President, or person chosen to preside in the President's absence, has a deliberative vote on a question to be determined by the Council but does not have, in the event of an equality of votes, a second or casting vote.

- 5 (4) In the event of an equality of votes, the question will be lost.

10—Amendment of section 38—Privileges, powers etc of Council and Assembly

Section 38—delete "The privileges" and substitute:

Subject to this Act, the privileges

10 **11—Substitution of section 41**

Section 41—delete the section and substitute:

41—Settlement of deadlocks

- (1) If—

- 15 (a) the House of Assembly passes a proposed law; and
- (b) within the period of 45 sitting days after the relevant Bill is transmitted to the Legislative Council the Legislative Council rejects or fails to pass the proposed law, or passes the proposed law with amendments to which the House of Assembly will not agree; and
- 20 (c) after an interval of at least 3 months the House of Assembly, in the same or the next session, again passes the proposed law with or without any amendments that have been made, suggested or agreed to by the Legislative Council; and
- 25 (d) within 30 sitting days after the relevant Bill is transmitted to the Legislative Council the Legislative Council rejects or fails to pass the proposed law, or passes the proposed law with amendments to which the House of Assembly will not agree; and
- 30 (e) the House of Assembly resolves that it would be appropriate for both Houses of Parliament to be dissolved on account of the position that has been taken by the Legislative Council on the proposed law,

35 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—

- 40 (a) after a dissolution under subsection (1) the House of Assembly again passes the proposed law, with or without any amendments that have been made, suggested or agreed to by the Legislative Council; and

- (b) within the period of 30 sitting days after the relevant Bill is transmitted to the Legislative Council the Legislative Council rejects or fails to pass the proposed law, or passes the proposed law with amendments to which the House of Assembly will not agree,

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

- (3) The members present at a joint sitting may deliberate and will vote together on the proposed law as last proposed by the House of Assembly, and on amendments, if any, that have been made to the relevant Bill by one House and not agreed to by the other, and any such 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 if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of members of the Legislative Council and the House of Assembly, it will be taken to have been duly passed by both Houses of the Parliament, and will be presented to the Governor for assent.
- (4) The House of Assembly may, by resolution, extend the period of 45 sitting days under subsection (1)(b) or a period of 30 sitting days under subsection (1)(d) or (2)(b).
- (5) For the purposes of this section, a reference to sitting days is a reference to sitting days of the House of Assembly.

12—Amendment of section 57—Restoration of lapsed Bills

- (1) Section 57(1)—delete ", and thereafter proceeded with as if no prorogation had intervened"
- (2) Section 57—after subsection (2) insert:
- (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—Expiry of terms of office

- (1) This Act affects the term of office of all members of the Legislative Council holding office immediately before writs are issued for the first general election of members of the House of Assembly next ensuing after the day of assent so that they will all retire when the House of Assembly is dissolved in connection with the issuing of those writs (including those members who were elected on the basis of a term of office that would otherwise have continued beyond the term of the House of Assembly that is so dissolved).

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Schedule 1—Transitional provisions

- (2) In connection with the operation of subclause (1), the amendments to the *Constitution Act 1934* effected by sections 5 and 9 of this Act will take effect immediately before writs are issued for the first general election of members of the House of Assembly next ensuing after the day of assent.

5 **2—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 Act.