

House of Assembly—No 20

As laid on the table and read a first time, 13 October 2004

South Australia

Constitution (Term of Members of the Legislative Council) Amendment Bill 2004

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 (Term of Members of the Legislative Council) Amendment Act 2004*.

5 2—Commencement

The commencement of this Act is subject to the operation of the *Referendum (Term of Members of the Legislative Council) Act 2004* and, if approved at the referendum, this Act will come into operation on the day on which it is assented to by the Governor.

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—Amendment of section 13—Casual vacancies

- (1) Section 13(2)—delete subsection (2) and substitute:
 - 15 (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)"
- 20 (3) Section 13(3)(d)—delete paragraph (d)

5—Substitution of sections 14 and 15

Sections 14 and 15—delete the sections and substitute:

14—Term of Legislative Councillors

- 5 (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).
- 10 (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.

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

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

7—Amendment of section 41—Settlement of deadlocks

- 15 (1) Section 41(1)(ii)—delete paragraph (ii)
- (2) Section 41(2) and (3)—delete subsections (2) and (3) and substitute:
- 20 (2) If the Legislative Council and House of Assembly are so dissolved, all members of both Houses will vacate their seats and members will be elected to supply the vacancies so created.

Schedule 1—Transitional provisions

1—Transitional provision

- 25 (1) This Act does not affect the term of office of a member of the Legislative Council elected at the election held on 9 February 2002 (or the term of office of a person chosen to occupy a vacant seat of such a member (if any)), and the *Constitution Act 1934* will continue to apply to such a member as if this Act had not been enacted.
- (2) However, in relation to a member of the Legislative Council referred to in subsection (1)—
- 30 (a) when the member is required to retire in accordance with the provisions of the *Constitution Act 1934* applying to the member; or
- (b) if the Legislative Council is dissolved under section 41 of the *Constitution Act 1934*,
- then the member will, if re-elected, become subject to the *Constitution Act 1934* as amended by this Act.
- 35 (3) If this Act is approved at a referendum held on the day on which a general election of members of the House of Assembly is held, then this Act, once assented to by the Governor, will affect the term of office of a member of the Legislative Council elected at the election for members of the Legislative Council held on that same day.