

Constitution Amendment (Governor) Bill 2006

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Constitution Act 1902* with respect to the administration of the government of the State during the unavailability of the Governor or the Lieutenant-Governor.

The amendments generally provide for an assumption of administration of the government of the State by the Lieutenant-Governor or Administrator when the Governor is unavailable to carry out his or her duties otherwise than in the circumstances in which an assumption of administration is currently authorised (namely, in the event of the assumption of the administration of the government of the Commonwealth, absence from the State or physical or mental incapacity). An assumption of administration in the proposed extended circumstances will require the concurrence of the Premier or another senior Minister who is able to be contacted. That concurrence (or assumption of administration without concurrence in the absence of relevant Ministers) will only be authorised if:

- (a) the powers or functions of the Governor are required to be exercised or performed during that unavailability, or
 - (b) the duration of that unavailability cannot be determined,
- and the special circumstances require the assumption of administration.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision that gives effect to the amendments to the *Constitution Act 1902* set out in Schedule 1.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced, the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendments

Schedule 1 [1] inserts proposed section 9 into the Principal Act to define **unavailability** to include the current grounds of unavailability (transferred from section 9C) and the proposed ground of being otherwise unavailable to exercise and perform relevant powers and functions. **Schedule 1 [4]** amends section 9C to re-state the circumstances in which the Lieutenant-Governor or Administrator may assume the administration of government during a vacancy in the office of the Governor or Lieutenant-Governor or the unavailability (as defined) of the Governor or Lieutenant-Governor. Assumption of administration on the proposed new ground of being “otherwise unavailable” is subject to the restrictions outlined in the Overview of the Bill. **Schedule 1 [2], [3], [5], [6], [7] and [8]** make consequential amendments.