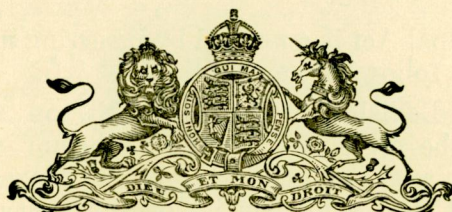


*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY,
and, having this day passed, is now ready for presentation to the
LEGISLATIVE COUNCIL for its concurrence.*

W. R. McCOURT,
Clerk of the Legislative Assembly.

*Legislative Assembly Chamber,
Sydney, 24 November, 1943.*

New South Wales.



ANNO SEPTIMO

GEORGII VI REGIS.

Act No. , 1943.

An Act to alter the constitution and the powers
of the Legislative Council; to amend the
Constitution Act, 1902, and certain other
Acts; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty,
by and with the advice and consent of the Legis-
lative Council and Legislative Assembly of New South
Wales in Parliament assembled, and by the authority of
5 the same, as follows :—

1. (1) This Act may be cited as the “Constitution Short title.
(Legislative Council Reform) Act, 1943,” and shall be
read and construed with the Constitution Act, 1902, as
amended by subsequent Acts.

34753 25—A

(2)

Constitution (Legislative Council Reform).

(2) The Constitution Act, 1902, as so amended, is in this Act referred to as the Principal Act.

2. In this Act, unless the context or subject matter otherwise indicates or requires,— Interpretation.

5 “The appointed day” means the day appointed by the Governor in pursuance of subsection one of section 17G of the Constitution Act, 1902, as inserted by section three of this Act, as the day on and from which the Legislative Council shall be reconstituted.

10 3. (1) The Principal Act is amended by inserting next after section 17F the following new section:—

Amendment of
Act No. 32,
1902.
New s. 17G.
Reconstitu-
tion of
Legislative
Council.

15 17G. (1) The Legislative Council shall, on and from a day to be appointed by the Governor and notified by proclamation published in the Gazette, be reconstituted, and shall consist of sixty elected Members.

20 (2) (a) For the purposes of the election of the Members referred to in subsection one of this section, New South Wales shall from time to time be divided into thirty Council Electorates.

(b) Each Council Electorate shall comprise three Legislative Assembly electoral districts.

25 (c) The division of New South Wales into thirty Council Electorates shall be carried out as may be provided by law.

(d) Each Council Electorate shall be represented in the Legislative Council by two Members.

30 (e) Subject to this Act each Member representing a Council Electorate shall be elected at an election at which the electors shall be the persons who would be qualified to vote if the election were an election of Members of the Legislative Assembly in each of the Legislative Assembly electoral districts comprised in the Council Electorate.

35 (3) For the purposes of the general election of the sixty Members who are to be elected in pursuance of this section for the first constitution of the
Legislative

Constitution (Legislative Council Reform).

Legislative Council under this section writs shall be issued as may be provided by law on the day upon which the writs are issued for the general election of Members of the Legislative Assembly next following the commencement of the Constitution (Legislative Council Reform) Act, 1943.

(4) Elections under this section shall be held and conducted and the results thereof shall be ascertained at such times and in such manner as may be provided by law.

(5) In this section "Legislative Assembly electoral district" means a district for the election of a Member to serve in the Legislative Assembly.

(2) The Principal Act is amended by omitting section 7A.

Amendment
of Act No. 32,
1902.
Repeal of
sec. 7A.

4. (1) This section shall commence on the day upon which the writs are issued for the general election of Members of the Legislative Assembly next following the commencement of this Act.

Commence-
ment of
section.

(2) The Principal Act is amended by omitting sections 17B, 17C, 17D and 17E.

Amendment
of Act No. 32,
1902.
Repeal of secs.
17B, 17C, 17D
and 17E.

(3) The Principal Act is amended by inserting next after section 17G as inserted by section three of this Act, the following new sections:—

Amendment
of Act No. 32,
1902.
New secs. 17H,
17I.

17H. (1) Subject to the disqualifications set out in this Act, any person whether male or female, married or unmarried—

Qualifica-
tions, etc.

(a) who is an elector entitled to vote at the election of Members of the Legislative Assembly, or a person entitled to become such elector; and

(b) who has been for three years at the least resident within the limits of the Commonwealth of Australia; and

(c) who is a natural-born or naturalised subject of the King,

shall

Constitution (Legislative Council Reform).

shall be capable of being elected as a Member of the Legislative Council and of sitting and voting therein.

5 (2) No person being a Member of the Legislative Assembly shall be capable of being elected or of sitting or voting as a Member of the Legislative Council.

171. (1) No person—

10 (a) holding an office of profit under the Crown, other than the office of Vice-President of the Executive Council or one or more of the offices enumerated in the Second Schedule hereto; or

Offices of profit.

(b) having a pension from the Crown during pleasure, or for any term of years,

15 shall be capable of being elected or of sitting or voting as a Member of the Legislative Council, but the holders for the time being of the office of Vice-President of the Executive Council or of the offices enumerated in the said Schedule shall be so capable:

20 Provided that the holder of any office of profit under the Crown created by Act of Parliament as an office of the Executive Government shall be capable of being elected and of sitting and voting as a Member of the Legislative Council.

25 (2) If any Member of the Legislative Council accepts any office of profit under the Crown, or pension from the Crown, during pleasure or for a term of years, his election shall thereupon become void, and a writ shall forthwith issue for a new election:

30 Provided that nothing in this subsection or in subsection one of this section shall extend to—

35 (a) any person in receipt only of pay, half-pay or a pension as an officer in His Majesty's navy or army, or who receives any new or other commission in the army or navy, or any increase of pay on such commission; or

(b)

Constitution (Legislative Council Reform).

- 5 (b) any of the officers enumerated in the Second Schedule hereto, or referred to in subsection one of this section, who accepts any other office of the Executive Government referred to in the said subsection or enumerated in the said Schedule; or
- 10 (c) any Member of the Legislative Council who accepts the office of Vice-President of the Executive Council, or any of the offices enumerated in the Second Schedule hereto, or any office of profit under the Crown created by Act of Parliament as an office of the Executive Government.
- 15 (4) The Constitution Amendment Act, 1914, is amended by inserting in section two after the word "twenty-seven" the words and symbols "or section 171". Amendment of Act No. 33, 1914, s. 2.
- 20 (5) The Constitution (Public Service) Amendment Act, 1916, is amended— Amendment of Act No. 45, 1916, s. 2.
- (a) by inserting in subsection one of section two after the word "twenty-six" the words and symbols "or subsection one of section 171";
- 25 (b) by inserting in subsection two of the same section after the word "member" the words "of the Legislative Council or".
- (6) The Principal Act is amended— Amendment of Act No. 32, 1902, s. 20.
- 30 (a) by omitting from section twenty the words "as reconstituted in pursuance of section 17A of this Act";
- (b) by omitting from the same section the words "as so reconstituted".
5. (1) This section shall commence upon the appointed day. Commencement of section.
- 35 (2) The Principal Act is amended by omitting sections 17A and 17F. Amendment of Act No. 32, 1902.
- (3) Repeal of secs. 17A and 17F.

Constitution (Legislative Council Reform).

(3) The Principal Act is amended by inserting next after section 17I as inserted by section four of this Act, the following new sections:—

Amendment
of Act No. 32,
1902.
New secs. 17J
and 17K.

5 17J. (1) Subject to the provisions of subsection three of this section and section 17K of this Act, the term of service of a Member of the Legislative Council shall expire at the end of the second Parliament after his election.

Term of
service.

10 (2) (a) One half of the Members of the Legislative Council shall be elected at the end of each Parliament.

(b) The Members so to be elected shall include one Member to represent each Council Electorate.

15 (3) (a) The term of service of thirty of the sixty Members elected in pursuance of section 17G of this Act for the first constitution of the Legislative Council under that section shall expire at the end of the first Parliament after their election.

20 (b) The thirty Members referred to in paragraph (a) of this subsection shall include one of the two Members elected to represent each Council Electorate and the selection of the Members who are to be so included shall be made as provided by law.

25 (4) A Member of the Legislative Council whose term of service has expired shall, if not otherwise disqualified, be capable of being re-elected.

30 (5) The writs for the general election to fill the seats of Members of the Legislative Council whose terms of service have expired shall be issued upon the day upon which the writs are issued for the general election of Members of the Legislative Assembly for the next ensuing Parliament.

35 17K. (1) Where the seat of a Member becomes vacant before the expiration of his term of service the vacancy shall be filled at an election at which the electors shall be the Members of the Legislative Council and the Members of the Legislative Assembly voting

Casual
vacancies.

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voting as one electoral body and recording their votes at sittings of the respective Houses of the Parliament.

5 (2) The term of service of the person elected to fill such casual vacancy shall expire on the day upon which the term of service of the Member whose seat he is elected to fill would have expired.

10 (3) Elections under this section shall be held and conducted and the results thereof shall be ascertained at such times and in such manner as may be provided by law.

(4) The Principal Act is amended by inserting next after section twenty the following new section:—

Amendment of Act No. 32, 1902.
New sec. 20A.

15 20A. Upon any general election of Members of the Legislative Council (including the general election referred to in subsection three of section 17G of this Act) the Legislative Council shall be competent to proceed to the despatch of business at the time appointed by the Governor for that purpose, notwithstanding that any of the writs of election (not exceeding five) have not been returned, or that in any of the Council Electorates, the electors have failed to elect a Member or Members to serve in the Legislative Council.

Council may proceed to business although all writs not returned.

25 (5) The Principal Act is amended by omitting sections 5A and 5B, and by inserting in lieu thereof the following sections:—

Amendment of Act No. 32, 1902.
Subst. secs. 5A, 5B.

30 5A. (1) If a Money Bill, having been passed by the Legislative Assembly, and sent to the Legislative Council at least one month before the end of the session, is not passed by the Legislative Council without amendment within one month after it is so sent to the Legislative Council, the Bill shall, unless the Legislative Assembly directs to the contrary, be presented to the Governor for the signification of His Majesty's pleasure thereon and become an Act of the Legislature on the Royal Assent being signified thereto notwithstanding that the Legislative Council has not consented to the Bill.

Powers of Legislative Council as to Money Bills.
cf. Imperial Parliament Act, 1911, s. 1.

(2)

Constitution (Legislative Council Reform).

(2) A Money Bill means a Public Bill which in the opinion of the Speaker of the Legislative Assembly contains only provisions dealing with all or any of the following subjects, namely, the imposition, repeal, remission, alteration, or regulation of taxation; the imposition for the payment of debt or other financial purposes of charges on the Consolidated Revenue Fund, or on money provided by Parliament, or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue or audit of accounts of public money; the raising or guarantee of any loan or the repayment thereof; or subordinate matters incidental to those matters or any of them.

In this subsection the expressions "taxation", "public money", and "loan" respectively do not include any taxation, money, or loan raised by local authorities or bodies for local purposes.

(3) There shall be endorsed on every Money Bill when it is sent to the Legislative Council and when it is presented to the Governor for the signification of His Majesty's pleasure thereon the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

5B. (1) If any Public Bill (other than a Money Bill or a Bill containing any provision to extend the maximum duration of Parliament beyond three years) is passed by the Legislative Assembly in three successive sessions (whether of the same Parliament or not), and, having been sent to the Legislative Council at least one month before the end of the session, is rejected by the Legislative Council in each of those sessions, that Bill shall, on its rejection for the third time by the Legislative Council, unless the Legislative Assembly directs to the contrary, be presented to the Governor for the signification of His Majesty's pleasure thereon and become an Act of the Legislature on the Royal Assent being signified thereto, notwithstanding that the Legislative Council has not consented to the Bill:

Restriction of the powers of the Legislative Council as to Bills other than Money Bills. cf. Imperial Parliament Act, 1911, s. 2

Provided

Constitution (Legislative Council Reform).

and, if agreed to by that House, shall be treated as amendments made by the Lēgislative Council and agreed to by the Legislative Assembly; but the exercise of this power by the Legislative Assembly shall not affect the operation of this section in the event of the Bill being rejected by the Legislative Council.

(5) Any certificate of the Speaker of the Legislative Assembly given under this section or under section 5A of this Act shall be conclusive for all purposes, and shall not be questioned in any court of law.

cf. Imperial
Parliament
Act, 1911,
s. 3.

(6) The Principal Act is amended by omitting subsection two of section 5c and by inserting in lieu thereof the following subsection:—

Amendment
of Act
No. 32,
1902, s. 5c.

(2) Where a Bill is presented to the Governor for the signification of His Majesty's pleasure in accordance with section 5B of this Act, the words of enactment shall be as follows:—

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of New South Wales in Parliament assembled, in accordance with the provisions of section 5B of the Constitution Act, 1902, as amended by subsequent Acts, and by the authority of the same, as follows:—

Any alteration of a Bill necessary to give effect to this subsection shall not be deemed to be an amendment of the Bill.

6. The Standing Rules and Orders of the Legislative Council in force immediately before the appointed day shall, to the extent to which they are not inconsistent with the provisions of the Principal Act as amended by this Act, continue in force until amended or repealed in accordance with section fifteen of the Principal Act.

Saving of
Standing
Rules and
Orders.