

CONSTITUTION (AMENDMENT) ACT, 1980, No. 13

New South Wales



ANNO VICESIMO NONO

ELIZABETHÆ II REGINÆ

Act No. 13, 1980.

An Act to amend the Constitution Act, 1902, with respect to offices of profit under the Crown, and for other purposes.
[Assented to, 15th April, 1980.]

See also Parliamentary Contributory Superannuation (Constitution) Amendment Act, 1980;
Public Works (Amendment) Act, 1980.

Constitution (Amendment).

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

Short title. **1.** This Act may be cited as the "Constitution (Amendment) Act, 1980".

Commence-
ment. **2.** (1) Except as provided in subsection (2), this Act shall commence on the date of assent to this Act.

(2) Section 3 and Schedule 1 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment
of Act No.
32, 1902. **3.** The Constitution Act, 1902, is amended in the manner set forth in Schedule 1.

Sec. 3.

SCHEDULE 1.

AMENDMENTS TO THE CONSTITUTION ACT, 1902.

(1) Section 13 (4A), (4B)—

After section 13 (4), insert :—

(4A) Nothing in—

(a) subsection (1) applies so as to prevent a person who holds an office of profit under the Crown or has a pension from the Crown during pleasure or for a term of years from being elected or of sitting or voting as a Member of either House of Parliament; or

Constitution (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—*continued.*

- (b) subsection (2) requires or permits the seat of a Member of either House of Parliament who accepts such an office or such a pension to be declared to be, or to become or be, vacant,

by reason only of his holding or accepting that office of profit or his having or accepting that pension.

(4B) In subsection (4A), “office of profit under the Crown” includes any office or place of profit under the Crown which, by any Act, is declared or deemed not to be an office or place of profit under the Crown for the purposes of any Act or of this Act, whether in those terms or in terms to the like effect.

(2) (a) Section 13B (1)—

Omit “be capable of being elected or of sitting or voting as a Member of either House of Parliament”, insert instead “, if he is elected as a Member of either House of Parliament, be capable of sitting and voting as a Member of the House to which he is elected, and his seat as a Member shall become vacant, after the expiration of the period commencing with his election and ending on the expiration of 7 sitting days of that House after notice of his holding that office or having that pension has been given to that House in accordance with its Standing Rules and Orders, unless that House has previously passed a resolution indicating that it is satisfied that that person has ceased to hold that office or, as the case may be, that the right of that person to that pension has ceased or is suspended while he is a Member of that House”.

Act No. 13, 1980.

Constitution (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE CONSTITUTION ACT, 1902—*continued.*

(b) Section 13B (2)—

Omit “thereby become vacant”, insert instead “become vacant upon the expiration of the period commencing with his acceptance of the office or the pension and ending on the expiration of 7 sitting days of that House after notice of his accepting that office or pension has been given to that House in accordance with its Standing Rules and Orders, unless that House has previously passed a resolution indicating that it is satisfied that that Member has ceased to hold that office or, as the case may be, that the right of that Member to that pension has ceased or is suspended while he is a Member of that House”.

(c) Section 13B (3) (a)—

Omit the paragraph, insert instead :—

(a) a person—

- (i) who holds or accepts any of the offices enumerated in the Second Schedule or any office of profit under the Crown created by an Act as an office of the Executive Government;
- (ii) who holds or accepts an office of profit under the Crown in respect of which he is not entitled to any remuneration, except either fees payable to him, as a member of a body, in respect of his attendance at meetings of that body or an allowance for reasonable expenses incurred or to be incurred in carrying out the duties of the office, or both those fees and such an allowance;

Constitution (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—*continued.*

(iii) who holds or accepts an office of profit under the Crown, other than the Crown in right of the State of New South Wales, but not being an office as a member of any legislature of a country other than New South Wales;
or

(iv) who has or accepts a pension, referred to in subsection (1) (b) or (2), from the Crown, other than the Crown in right of the State of New South Wales,

shall be capable of being elected and of sitting and voting as a Member of either House of Parliament;

(d) Section 13B (4)—

After section 13B (3), insert :—

(4) For the purposes of subsections (1) and (2), sitting days shall be counted, whether or not they occur during the same session of Parliament.

(3) Section 14 (1)—

After “Act”, insert “, except section 13B.”.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 15th April, 1980.*

1921
The Board of Directors
of the
Company
has the honor to
acknowledge the
receipt of your
check for the
amount of \$100.00
dated 1/1/21
and to thank you
for your generous
contribution to the
Company.

Yours
truly,
The Board of Directors

The Board of Directors
of the
Company
has the honor to
acknowledge the
receipt of your
check for the
amount of \$100.00
dated 1/1/21
and to thank you
for your generous
contribution to the
Company.

The Board of Directors
of the
Company
has the honor to
acknowledge the
receipt of your
check for the
amount of \$100.00
dated 1/1/21
and to thank you
for your generous
contribution to the
Company.





CONSTITUTION (AMENDMENT) BILL, 1980

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The following Bills are cognate with this Bill:—

Parliamentary Contributory Superannuation (Constitution) Amendment Bill, 1980;

Public Works (Amendment) Bill, 1980.

The objects of this Bill are—

- (a) to ensure that section 13 (1) and (2) of the Constitution Act, 1902 (“the Principal Act”) do not apply so as to disqualify a person from sitting and voting or holding office as a Member of either House of Parliament by reason of his holding or accepting an office of profit under the Crown, leaving it to section 13B of that Act to specify the circumstances in which a disqualification for any such reason takes place (Schedule 1 (1));
- (b) to amend section 13B of the Principal Act so that a person is not automatically disqualified from sitting and voting or holding office, as referred to in paragraph (a), by reason of his holding or accepting an office of profit under the Crown or his having or accepting a pension from the Crown during pleasure or for a term of years but is so disqualified only if the House of Parliament of which he is a Member does not, within 7 sitting days after being notified of the circumstances that would otherwise give rise to the disqualification occur, pass a resolution indicating that those circumstances have terminated (Schedule 1 (2) (a), (b));
- (c) to provide that a person is not disqualified from sitting and voting or holding office as referred to in paragraph (a) by reason of—
 - (i) his holding or accepting an office of profit under the Crown in respect of which the only remuneration to which he is entitled is fees for attending meetings or an allowance for reasonable expenses, or both;
 - (ii) his holding or accepting an office of profit under the Crown, other than the Crown in right of the State of New South Wales, but not being an office as a member of any legislature of a country other than New South Wales; or

- (iii) his having or accepting a pension from the Crown, other than the Crown in right of the State of New South Wales, for pleasure or for a term of years (Schedule 1 (2) (c)); and
 - (d) to make other provisions of a minor or ancillary nature.
-

CONSTITUTION (AMENDMENT) BILL, 1980

No. ,1980.

A BILL FOR

An Act to amend the Constitution Act, 1902, with respect to
offices of profit under the Crown, and for other purposes.

[MR WRAN—27 *February*, 1980.]

See also Parliamentary Contributory Superannuation (Constitution) Amendment Bill, 1980:
Public Works (Amendment) Bill, 1980.

Constitution (Amendment).

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

5 **1.** This Act may be cited as the "Constitution (Amendment) Short title.
Act, 1980".

2. (1) Except as provided in subsection (2), this Act shall Commence-
commence on the date of assent to this Act. ment.

(2) Section 3 and Schedule 1 shall commence on such day
10 as may be appointed by the Governor in respect thereof and as
may be notified by proclamation published in the Gazette.

3. The Constitution Act, 1902, is amended in the manner set Amendment
forth in Schedule 1. of Act No.
32, 1902.

SCHEDULE 1.

Sec. 3.

15 AMENDMENTS TO THE CONSTITUTION ACT, 1902.

(1) Section 13 (4A), (4B)—

After section 13 (4), insert :—

(4A) Nothing in—

20 (a) subsection (1) applies so as to prevent a person
who holds an office of profit under the Crown or
has a pension from the Crown during pleasure or
for a term of years from being elected or of
sitting or voting as a Member of either House of
Parliament; or

Constitution (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—*continued.*

5 (b) subsection (2) requires or permits the seat of a Member of either House of Parliament who accepts such an office or such a pension to be declared to be, or to become or be, vacant,

by reason only of his holding or accepting that office of profit or his having or accepting that pension.

10 (4B) In subsection (4A), “office of profit under the Crown” includes any office or place of profit under the Crown which, by any Act, is declared or deemed not to be an office or place of profit under the Crown for the purposes of any Act or of this Act, whether in those terms or in terms to the like effect.

15 (2) (a) Section 13B (1)—

20 Omit “be capable of being elected or of sitting or voting as a Member of either House of Parliament”, insert instead “, if he is elected as a Member of either House of Parliament, be capable of sitting and voting as a Member of the House to which he is elected, and his seat as a Member shall become vacant, after the expiration of the period commencing with his election and ending on the expiration of 7 sitting days of that House after notice of his holding that office or
25 having that pension has been given to that House in accordance with its Standing Rules and Orders, unless that House has previously passed a resolution indicating that it is satisfied that that person has ceased to hold that office or, as the case may be, that
30 the right of that person to that pension has ceased or is suspended while he is a Member of that House”.

Constitution (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—*continued.*

(b) Section 13B (2)—

5 Omit “thereby become vacant”, insert instead “become
vacant upon the expiration of the period commencing
with his acceptance of the office or the pension and
ending on the expiration of 7 sitting days of that
House after notice of his accepting that office or
10 pension has been given to that House in accordance
with its Standing Rules and Orders, unless that House
has previously passed a resolution indicating that it
is satisfied that that Member has ceased to hold that
office or, as the case may be, that the right of that
15 Member to that pension has ceased or is suspended
while he is a Member of that House”.

(c) Section 13B (3) (a)—

Omit the paragraph, insert instead :—

(a) a person—

- 20 (i) who holds or accepts any of the offices
enumerated in the Second Schedule or
any office of profit under the Crown
created by an Act as an office of the
Executive Government;
- 25 (ii) who holds or accepts an office of
profit under the Crown in respect of
which he is not entitled to any
remuneration, except either fees
payable to him, as a member of a
body, in respect of his attendance at
30 meetings of that body or an allowance
for reasonable expenses incurred or
to be incurred in carrying out the
duties of the office, or both those fees
and such an allowance;

Constitution (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—*continued.*

- 5 (iii) who holds or accepts an office of profit under the Crown, other than the Crown in right of the State of New South Wales, but not being an office as a member of any legislature of a country other than New South Wales; or
- 10 (iv) who has or accepts a pension, referred to in subsection (1) (b) or (2), from the Crown, other than the Crown in right of the State of New South Wales,
- 15 shall be capable of being elected and of sitting and voting as a Member of either House of Parliament;

(d) Section 13B (4)—

After section 13B (3), insert :—

- 20 (4) For the purposes of subsections (1) and (2), sitting days shall be counted, whether or not they occur during the same session of Parliament.

(3) Section 14 (1)—

After "Act", insert ", except section 13B,".

