

Introduced by the Hon I M Armstrong, MP

First print



New South Wales

# **Constitution Amendment (Office of Governor) Bill 1995**

## **Explanatory note**

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

### **Overview of Bill**

The object of this Bill is to provide that a Bill that abolishes the office of Governor, or limits the role and functions of the Governor in certain respects, cannot be assented to unless it is approved by the electors at a referendum held after it has passed both Houses of Parliament.

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## Outline of provisions

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

**Clause 2** provides that the proposed Act will commence on receiving assent.

**Clause 3** amends the *Constitution Act 1902* so as to insert a new section 7C.

The new section contains the following provisions:

- Subsection (1) provides that a referendum is necessary before a Bill can be assented to, where the Bill would abolish the office of Governor, alter the vice-regal role of the Governor, diminish the Governor's constitutional powers, or substantially diminish the general scope of the other functions of the Governor. A referendum is also necessary if the new section 7C is to be expressly or impliedly repealed or amended.
- Subsections (2)–(6) provide machinery provisions for a referendum, and these subsections are substantially the same as section 7B (2)–(6). Subsection (2) provides for a Bill to be submitted to the electors at a referendum to be held at least two months after that Bill has passed both Houses of Parliament. Subsection (3) provides for the date for a referendum to be set under the *Constitution Further Amendment (Referendum) Act 1930*. Subsection (4) requires the referendum to be conducted in accordance with that Act. Subsection (5) provides that, in the event of a successful referendum, the Bill concerned is to be presented for assent. Subsection (6) deals with the possibility that such a Bill could be the subject of a referendum under section 5B, following disagreement between the Houses—in this case, a referendum would not be required under the new section 7C.
- Subsection (7) defines functions as including powers, authorities and duties, and provides that the section extends to functions conferred or imposed on the Governor under future legislation as well as existing functions.

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New South Wales

## Constitution Amendment (Office of Governor) Bill 1995

No. , 1995

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### **A Bill for**

An Act to amend the *Constitution Act 1902* to provide that legislation abolishing the office of Governor or limiting the role and functions of the Governor must first be approved by the electors at a referendum.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Constitution Amendment (Office of Governor) Act 1995*.

**2 Commencement**

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This Act commences on the date of assent.

**3 Amendment of Constitution Act 1902 No 32**

The *Constitution Act 1902* is amended as set out in Schedule 1.



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## Schedule 1 Amendment

(Section 3)

### Section 7C

Insert after section 7B:

#### 7C Referendum for Bills with respect to office of Governor 5

- (1) A Bill that:
- (a) abolishes the office of Governor, or
  - (b) abolishes or alters the role of the Governor as the representative of Her Majesty in the State, or
  - (c) abolishes or diminishes any prerogative constitutional power of the Governor or any function conferred or imposed on the Governor under this Act, or 10
  - (d) otherwise substantially diminishes the general scope of the functions of the Governor, or 15
  - (e) expressly or impliedly repeals or amends this section,
- shall not be presented to the Governor for Her Majesty's assent until the Bill has been approved by the electors in accordance with this section. 20
- (2) On a day not sooner than two months after the passage of the Bill through both Houses of Parliament, the Bill shall be submitted to the electors entitled to vote at a general election of Members of the Legislative Assembly.
- (3) The day referred to in subsection (2) shall be appointed by the Governor under and in accordance with the *Constitution Further Amendment (Referendum) Act 1930* and any Act amending or replacing that Act. 25
- (4) When the Bill is submitted to the electors, the vote shall be taken under and in accordance with the *Constitution Further Amendment (Referendum) Act 1930* and any Act amending or replacing that Act. 30

Constitution Amendment (Office of Governor) Bill 1995

Schedule 1 Amendment

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- (5) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for Her Majesty's assent.
- (6) Nothing contained in this section affects the operation of section 5B and a Bill to which this section would otherwise apply which has been submitted to the electors under and in accordance with section 5B and has been approved by a majority of the electors voting may be presented to the Governor for Her Majesty's assent as if this section had not been enacted. 5  
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- (7) A reference in this section to a function includes a reference to a power, authority or duty, and extends to a function as so defined that is conferred or imposed after the commencement of this section.