



# **Australian Constitutions Act 1842**

**Current as at 11 April 1996**

# Information about this reprint

This Act is reprinted as at 11 April 1996. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use expressions consistent with current drafting practice (s 29)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current drafting practice (s 35)
- omit the enacting words (s 42A).

This page is specific to this reprint. A table of reprints is included in the endnotes.

**Also see endnotes for information about when provisions commenced.**

## Spelling

The spelling of certain words or phrases may be inconsistent with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’).



## Queensland

# Australian Constitutions Act 1842

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## **Australian Constitutions Act 1842**

[as amended by all amendments that commenced on or before 11 April 1996]

### **An Act for the government of New South Wales and Van Diemen's Land**

#### **51 Provision for constitution of new colonies**

And whereas the said Colony of New South Wales is of great extent and it may be fit that the territories now comprised within the said Colony should be divided into separate colonies and provision should be made for the temporary administration of the government of any such newly erected colony as not being comprised within the limits hereinafter mentioned may not possess a sufficient population for the immediate establishment therein of the form of government hereinbefore provided.

Be it therefore enacted that anything hereinbefore contained to the contrary notwithstanding it shall be lawful for Her Majesty by letters patent to be from time to time issued under the Great Seal of the United Kingdom of Great Britain and Ireland to define as to Her Majesty shall seem meet the limits of the Colony of New South Wales and to erect into a separate colony or colonies any territories which now are or are reputed to be or hereafter may be comprised within the said Colony of New South Wales.

Provided always that no part of the territories lying southward of the twenty-sixth degree of south latitude in the said Colony of New South Wales shall by any such letters patent as aforesaid be detached from the said colony.

## **52 Form of government in any such new colony**

And be it enacted that in case Her Majesty shall by any such letters patent as aforesaid establish any such new colony or colonies as aforesaid it shall be lawful for Her Majesty by any such letters patent to authorise any number of persons not less than 7 including the Governor or Lieutenant-Governor of any such new colony or colonies to constitute a Legislative Council or Legislative Councils for the same and that every such Legislative Council shall be composed of such persons as shall from time to time be named or designated by Her Majesty for that purpose and shall hold their places therein at Her Majesty's pleasure and that it shall be lawful for such Legislative Council to make and ordain all such ordinances as may be required for the peace order and good government of any such colony as aforesaid for which such Legislative Council may be so appointed and that in the making all such ordinances the said Legislative Council shall conform to and observe all such instructions as Her Majesty with the advice of Her Privy Council shall from time to time make for their guidance therein.

Provided always that no such instructions and that no such ordinances as aforesaid shall be repugnant to the law of England but consistent therewith so far as the circumstances of any such colony may admit.

Provided also that all such ordinances shall be subject to Her Majesty's confirmation or disallowance in such manner and according to such regulations as Her Majesty by any such instructions as aforesaid shall from time to time see fit to prescribe.

Provided also that all instructions which shall in pursuance hereof be made by Her Majesty with the advice of Her Privy Council and that all ordinances which shall be made in pursuance hereof by any such Legislative Council of any such newly erected colony as last aforesaid shall be laid before both Houses of Parliament within 1 calendar month from the date of any such instructions or from the arrival in this kingdom of the transcripts of any such ordinances if Parliament shall then be sitting or if not then within 1 calendar

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month from the commencement of the next ensuing session of Parliament.

**53 Repealing part and continuing other parts of 9 Geo 4 c 83 as continued by 6 and 7 Wm 4 c 46 7 Wm 4 and 1 Vic c 42 1 and 2 Vic c 50 2 and 3 Vic c 70 and by 3 and 4 Vic c 62**

And whereas an Act was passed in the ninth year of the reign of His late Majesty King George the Fourth intituled '*An Act to provide for the administration of justice in New South Wales and Van Diemen's Land and for the more effectual government thereof and for other purposes relating thereto*' which Act was continued by 3 Acts passed successively in the seventh year of the reign of His late Majesty in the first and in the second years of the reign of Her Majesty and was afterwards continued with amendments by 2 Acts passed in the third and in the fourth years of the reign of Her Majesty and whereas so much of the said first-recited Act as relates to the constitution of a Council in New South Wales will be superseded by this Act.

Be it enacted that so much of the said Acts or any of them as relates to the constitution appointment and powers of a Council in New South Wales therein mentioned shall continue until the first writs shall issue for the election of members of the Legislative Council under this Act and from and after the issue of such writs shall be repealed and that subject to the provision hereinafter contained the other parts of the said recited Acts which but for the passing of this Act would expire at the end of this session of Parliament shall become permanent both with respect to the said Colony of New South Wales and the said Colony of Van Diemen's Land.

Provided always that nothing herein contained shall extend or be construed to extend to repeal or abrogate any law or ordinance made in pursuance of the said recited Acts or any of them but that every such law or ordinance shall hereafter be as valid and effectual as if every part of the said recited Acts had been hereby made permanent.

Provided also that it shall be lawful for the Governor and Legislative Council of the said colony in exercise of the

[s 53]

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powers to them respectively granted by this present Act and in the manner and subject to the rules hereinbefore prescribed to repeal vary or alter all or any part of the said recited Acts or any of them or any law or ordinance made in pursuance thereof.



# Endnotes

## 1 Index to endnotes

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## 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 11 April 1996. Future amendments of the Australian Constitutions Act 1842 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

## 3 Key

### Key to abbreviations in list of legislation and annotations

| Key    | Explanation                    | Key     | Explanation                             |
|--------|--------------------------------|---------|-----------------------------------------|
| AIA    | = Acts Interpretation Act 1954 | (prev)  | = previously                            |
| amd    | = amended                      | proc    | = proclamation                          |
| amdt   | = amendment                    | prov    | = provision                             |
| ch     | = chapter                      | pt      | = part                                  |
| def    | = definition                   | pubd    | = published                             |
| div    | = division                     | R[X]    | = Reprint No. [X]                       |
| exp    | = expires/expired              | RA      | = Reprints Act 1992                     |
| gaz    | = gazette                      | reloc   | = relocated                             |
| hdg    | = heading                      | renum   | = renumbered                            |
| ins    | = inserted                     | rep     | = repealed                              |
| lap    | = lapsed                       | (retro) | = retrospectively                       |
| notfd  | = notified                     | rv      | = revised edition                       |
| num    | = numbered                     | s       | = section                               |
| o in c | = order in council             | sch     | = schedule                              |
| om     | = omitted                      | sdiv    | = subdivision                           |
| orig   | = original                     | SIA     | = Statutory Instruments Act 1992        |
| p      | = page                         | SIR     | = Statutory Instruments Regulation 2002 |
| para   | = paragraph                    | SL      | = subordinate legislation               |
| prec   | = preceding                    | sub     | = substituted                           |
| pres   | = present                      | unnum   | = unnumbered                            |
| prev   | = previous                     |         |                                         |

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

| Reprint No. | Amendments to   | Effective       | Reprint date  |
|-------------|-----------------|-----------------|---------------|
| 1           | 1987 Act No. 73 | 1 December 1987 | 11 April 1996 |

## 5 List of legislation

### **Australian Constitutions Act 1842 5 & 6 Vic c 76 (Imp)**

date of assent 30 July 1842  
commenced on date of assent  
amending legislation—

### **Australian Constitutions Act 1844 7 & 8 Vic c 74 (Imp) s 2**

date of assent 6 August 1844  
commenced on date of assent

### **Australian Constitutions Act 1850 13 & 14 Vic c 59 (Imp) s 16**

date of assent 5 August 1850  
commenced on date of assent

### **New South Wales Constitution Act 1855 18 & 19 Vic c 54 (Imp) s 2 sch 2**

date of assent 16 July 1855  
commenced on date of assent

### **Municipalities Act 1858 22 Vic No. 13 (Imp) s 93**

date of assent 27 October 1858  
commenced on date of assent

### **Statute Law Revision Act 1875 38 & 39 Vic c 66 (Imp) s 1 sch**

date of assent 11 August 1875  
commenced on date of assent

### **Short Titles Act 1896 59 & 60 Vic c 14 (Imp) s 1 sch 1**

date of assent 20 July 1896  
commenced on date of assent

### **Australian States Constitution Act 1907 7 Edw 7 c 7 (Imp) s 1(4) sch**

date of assent 2 August 1907  
commenced on date of assent

### **Constitution (Office of Governor) Act 1987 No. 73 pt 3**

date of assent 1 December 1987  
commenced on date of assent

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## 6 List of annotations

Note—The short title was given to this Act by the Short Titles Act 1896 59 & 60 Vic c 14 (Imp) s 1 sch 1.

### **Legislative Council to be constituted**

s 1 om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Electoral districts to be constituted**

s 2 om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Boundaries of cities and towns to be settled by the Governor**

s 3 om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Power to alter system of representation**

s 4 om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Qualification of electors**

s 5 om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Persons disqualified to vote**

s 6 om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Possession or occupancy requisite to qualification as also payment of rates and taxes**

s 7 om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Qualification of elective members of council**

s 8 om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Declaration by candidates**

s 9 amd 1844 7 & 8 Vic c 74 s 2  
om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Persons making false declarations liable to the penalties of perjury**

s 10 om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Writ for new election in case of vacancy**

s 11 om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Appointment of part of the council**

s 12 om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Appointment how made**

s 13 om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Tenure of office of non-elective councillor**

s 14 om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Resignation of Legislative Councillor**

s 15 om 1855 18 & 19 Vic c 54 s 2 sch 2

### **Causes by which seat may be vacated**

s 16 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Vacation of the seat of official councillors**

s 17 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Trial of questions of vacancy**

s 18 om 1855 1855 18 & 19 Vic c 54 s 2 sch 2

**Vacancy among appointed members of council how supplied**

s 19 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Place and times of holding council**

s 20 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Duration of council**

s 21 om 1855 18 & 19 Vic c 54 s 2 sch 2

**First calling together of the council**

s 22 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Election of speaker**

s 23 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Number necessarily present for transaction of business**

s 24 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Members to take the oath of allegiance**

s 25 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Affirmation**

s 26 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Standing orders to be adopted**

s 27 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Re-election and re-appointment of council**

s 28 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Governor and Legislative Council authorised to make laws**

s 29 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Governor may propose laws and amendments and may return bills amended**

s 30 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Giving or withholding assent to bills**

s 31 amd 1907 7 Edw 7 c 7 s 1(4) sch  
om 1987 No. 73 s 14

**Disallowance of bills assented to**

s 32 om 1987 No. 73 s 14

**Assent to bills reserved**

s 33 om 1987 No. 73 s 14

**Appropriation of taxes and duties**

s 34 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Issue of money under warrant**

s 35 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Revenue to be charged with the expense of collection and management**

s 36 om 1855 18 & 19 Vic c 54 s 2 sch 2

**Grants for civil and judicial services**

s 37 om 1850 13 & 14 Vic c 59 s 16

**How the appropriation of sums granted may be varied**

s 38 om 1850 13 & 14 Vic c 59 s 16

**Governor to intimate intended appropriation of the sum of £18,600**

s 39 om 1850 13 & 14 Vic c 59 s 16

**Governor to conform to instructions**

s 40 om 1987 No. 73 s 14

**District councils to be established**

s 41 om 1858 22 Vic No. 13 s 93

**For what purposes the council may make bye-laws**

s 42 om 1858 22 Vic No. 13 s 93

**No tax to be laid on property belonging to the Crown**

s 43 om 1858 22 Vic No. 13 s 93

**Transmission of bye-laws of district councils to the Governor for assent**

s 44 om 1858 22 Vic No. 13 s 93

**Provision for further definition of powers of district councils**

s 45 om 1858 22 Vic No. 13 s 93

**If no election Governor to appoint**

s 46 om 1858 22 Vic No. 13 s 93

**Police expenditure**

s 47 om 1858 22 Vic No. 13 s 93

**Assessments to be levied by local rate**

s 48 om 1858 22 Vic No. 13 s 93

**Power of distress and sale**

s 49 om 1858 22 Vic No. 13 s 93

**Amount to be expended for district police by the Governor**

s 50 om 1858 22 Vic No. 13 s 93

**Interpretation of "Governor"**

s 54 om 1987 No. 73 s 14

**Commencement of Act**

s 55 om 1875 38 & 39 Vic c 66 s 1 sch

**Act may be amended or repealed**

s 56 om 1875 38 & 39 Vic c 66 s 1 sch

**SCHEDULE A**

om 1850 13 & 14 c 59 s 16

**SCHEDULE B**

om 1850 13 & 14 c 59 s 16

**SCHEDULE C**

om 1850 13 & 14 c 59 s 16

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