

Queensland



ANNO VICESIMO SEXTO

ELIZABETHAE SECUNDAE REGINAE

No. 9 of 1977

An Act to amend the Constitution Act 1867–1972 in certain particulars by declaring with respect to the Parliament of Queensland, the composition thereof, the office and functions of the Governor as the Queen's representative in Queensland and with respect to related matters; and to provide measures concerning the alteration of certain provisions of the Constitution of Queensland

[RESERVED: HER MAJESTY'S ASSENT PROCLAIMED 5TH APRIL, 1977]

Preamble. Whereas by Letters Patent under the Great Seal of the United Kingdom dated the tenth day of June 1925 the office of Governor in and over the State of Queensland was constituted as therein provided;

And whereas since that date appointments to that office (and to the office of Lieutenant-Governor) have been made by Commission under the Royal Sign Manual and Signet;

And whereas by a dormant Commission under the Royal Sign Manual and Signet dated the twenty-ninth day of October 1900 the Chief Justice or the Senior Judge for the time being of Queensland has been appointed to administer the Government of the State of Queensland whenever and so long as the office of Governor is vacant or the Governor is incapable of discharging the duties of administration or has departed from the State or is otherwise incapable of administering the Government thereof;

And whereas by the said Letters Patent the Governor or other officer administering the Government of the State has been authorised and commanded to do and execute all things belonging to his office, according to the tenor of those Letters Patent and of his Commission and of an Order of Her Majesty Queen Victoria in Her Privy Council dated the sixth day of June 1859, and according to such Instructions as may from time to time be given to him under the Royal Sign Manual and Signet or by Order of Her Majesty in Her Privy Council or by Her Majesty through one of Her Principal Secretaries of State and according to such laws as are from time to time in force in the State of Queensland;

And whereas Her Majesty may make appointments to the offices aforesaid and may revoke or alter the Letters Patent, Order in Council or Dormant Commission aforesaid, and may issue Instructions to the Governor or other officer administering the Government of the State of Queensland and may vary the same, and may signify or withhold Her assent to Bills passed by the Legislative Assembly of Queensland properly reserved for Her assent, in all such cases on the advice of the Secretary of State in the United Kingdom given, where consistent with constitutional practice, after consultation with the Premier of Queensland and no other person;

And whereas it is proper and expedient that the Parliament of Queensland should make further constitutional provision to further establish the offices aforesaid and to regulate the powers of the holders of those offices and to confirm the established constitutional position aforesaid and to regulate the manner and form in which the powers of the Parliament of Queensland may hereafter be exercised in relation to the offices and powers aforesaid:

BE IT THEREFORE ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. Short title and citation. (1) This Act may be cited as the *Constitution Act Amendment Act 1977*.

(2) In this Act the *Constitution Act of 1867* as subsequently amended is referred to as the Principal Act.

(3) The Principal Act as amended by this Act may be cited as the *Constitution Act 1867-1977*.

2. Reservation. This Bill shall be reserved for the signification of Her Majesty's pleasure thereon.

3. **New s. 2A.** The Principal Act is amended by inserting after section 2 the following section:—

“**2A. The Parliament.** (1) The Parliament of Queensland consists of the Queen and the Legislative Assembly referred to in sections 1 and 2.

(2) Every Bill, after its passage through the Legislative Assembly, shall be presented to the Governor for assent by or in the name of the Queen and shall be of no effect unless it has been duly assented to by or in the name of the Queen.”.

4. **New s. 11A.** The Principal Act is amended by inserting below the heading “The Governor” and before section 12 the following section:—

“**11A. Office of Governor.** (1) The Queen’s representative in Queensland is the Governor who shall hold office during Her Majesty’s pleasure.

(2) Abolition of or alteration in the office of Governor shall not be effected by an Act of the Parliament except in accordance with section 53.

(3) In this Act and in every other Act a reference to the Governor shall be taken—

(a) to be a reference to the person appointed for the time being by the Queen by Commission under Her Majesty’s Royal Sign Manual and Signet to the office of Governor of the State of Queensland constituted under Letters Patent under the Great Seal of the United Kingdom; and

(b) to include any other person appointed by dormant or other Commission under the Royal Sign Manual and Signet to administer the Government of the State of Queensland whenever and so long as the office of Governor is vacant or the Governor is incapable of discharging the duties of administration or has departed from Queensland.”.

5. **New s. 11B.** The Principal Act is amended by inserting after section 11A the following section:—

“**11B. Governor to conform to instructions.** (1) It is the duty of the Governor to act in obedience to instructions conveyed to him by the Queen with the advice of Her Privy Council or under Her Majesty’s Royal Sign Manual and Signet or through one of Her Majesty’s principal Secretaries of State in the United Kingdom for his guidance, for the exercise of the powers vested in him by law of assenting to or dissenting from or for reserving for the signification of Her Majesty’s pleasure Bills to be passed by the Legislative Assembly.

(2) In this section and in section 11A the expression “Royal Sign Manual” means the signature or royal hand of the Sovereign and the expression “Signet” means the seal commonly used for the sign manual of the Sovereign or the seal with which documents are sealed by the Secretary of State in the United Kingdom on behalf of the Sovereign.”.

6. Amendment of s. 14. Section 14 of the Principal Act is amended by—

- (a) numbering the existing provisions as subsection (1).
- (b) adding the following subsection:—

“(2) Officers liable to retire from office on political grounds shall hold office at the pleasure of the Governor who in the exercise of his power to appoint and dismiss such officers, subject to his performing his duty prescribed by section 11B, shall not be subject to direction by any person whatsoever nor be limited as to his sources of advice.”.

7. New s. 53. The Principal Act is amended by inserting after section 52 the following heading and section:—

“ REQUIREMENT FOR REFERENDUM

53. Certain measures to be supported by referendum. (1) A Bill that expressly or impliedly provides for the abolition of or alteration in the office of Governor or that expressly or impliedly in any way affects any of the following sections of this Act namely—

sections 1, 2, 2A, 11A, 11B, 14; and
this section 53

shall not be presented for assent by or in the name of the Queen unless it has first been approved by the electors in accordance with this section and a Bill so assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

(2) On a day not sooner than two months after the passage through the Legislative Assembly of a Bill of a kind referred to in subsection (1) the question for the approval or otherwise of the Bill shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly according to the provisions of the *Elections Act 1915–1973* and of any Act amending the same or of any Act in substitution therefor.

Such day shall be appointed by the Governor in Council by Order in Council.

(3) When the Bill is submitted to the electors the vote shall be taken in such manner as the Parliament of Queensland prescribes.

(4) If a majority of the electors voting approve the Bill, it shall be presented to the Governor for reservation thereof for the signification of the Queen’s pleasure.

(5) Any person entitled to vote at a general election of members of the Legislative Assembly is entitled to bring proceedings in the Supreme Court for a declaration, injunction or other remedy to enforce the provisions of this section either before or after a Bill of a kind referred to in subsection (1) is presented for assent by or in the name of the Queen.

(6) **Act 24 Geo. 5 No. 35 preserved.** The provisions of this section shall in no way affect the operation of *The Constitution Act Amendment Act of 1934*.”.