

# CONSTITUTION ACT AMENDMENT ACT

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**Queensland**



ANNO TRICESIMO OCTAVO

ELIZABETHAE SECUNDAE REGINAE

**No. 93 of 1989**

**An Act to amend the Constitution Act 1867-1988 in certain particulars**

[ASSENTED TO 10TH OCTOBER, 1989]

BE IT 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.** This Act may be cited as the *Constitution Act Amendment Act 1989*.

**2. Citation.** (1) In this Act, the *Constitution Act 1867-1988* is referred to as the Principal Act.

(2) The Principal Act as amended by this Act may be cited as the *Constitution Act 1867-1989*.

**3. New ss. 54 to 56.** The Principal Act is amended by inserting after section 53 the following heading and sections:—

#### “LOCAL GOVERNMENT

**54. System of local government.** (1) There must be and continue to be a system of local government in Queensland under which duly elected local government bodies are constituted, each being charged with the good rule and government of that part of Queensland from time to time subject to that system of local government and committed to the jurisdiction of that local government body.

(2) The manner in which local government bodies are constituted and the nature and extent of their powers, authorities, duties and functions are as determined by and in accordance with the laws of the Parliament of Queensland.

(3) Nothing in this section affects the operation of laws of the Parliament of Queensland with respect to the carrying out of the powers, authorities, duties and functions of a local government body by a person or persons appointed where—

(a) the council of the local government body has been dissolved;

or

(b) the council of a local government body is unable to be duly elected,

until such time as the council of a local government body has been duly elected.

(4) The reference in subsections (2) and (3) to the laws of the Parliament of Queensland is a reference to the laws enacted by that Parliament, before or after the passing of the Constitution Act Amendment Act 1989, and for the time being in force.

(5) For the purposes of this section a Joint Local Authority Board and any person or persons appointed to carry out the powers, authorities, duties and functions of a council of a local government body as an Administrator are deemed to be the council of a local government body.

**55. Manner of appointing persons to exercise powers, authorities, duties and functions of local government.** (1) A body constituted or deemed to be constituted by one or more persons appointed (but not duly elected) after the commencement of the *Constitution Act Amendment Act 1989* to carry out the powers, authorities, duties and functions of a council of a local government body is not a council of a local government body appointed in accordance with section 54 (3) (a) and, notwithstanding the provisions of any Act, such person or persons is or are not authorized to carry out powers, authorities, duties and functions of a council of a local government body unless the power conferred by law to dissolve the council of a local government body constituted or deemed to be constituted by such person or persons has been exercised in accordance with this section.

(2) The instrument that purports to dissolve the council of a local government body or a copy of the instrument must be tabled in the Legislative Assembly within 14 sitting days after the instrument has been made and, to the extent that it so purports, the instrument takes effect merely as a suspension from office of the duly elected members of the council of the local government body concerned until the Legislative Assembly, on the motion of the member of the Assembly for the time being responsible for local government in the State, within a period of 14 sitting days from such tabling confirms the dissolution of the council of the local government body.

(3) Where the Legislative Assembly confirms the dissolution of the council of a local government body, the instrument takes effect according to its terms as a dissolution of the council of the local government body concerned.

(4) Where the Legislative Assembly—

(a) refuses to affirm the motion referred to in subsection (2);

or

(b) fails, within the period of 14 sitting days, to affirm the motion referred to in subsection (2),

the instrument to dissolve the council of the local government body thereupon ceases to have effect and—

(c) the suspension from office of the duly elected members of the council of the local government body thereupon ceases and they are reinstated in their respective offices;

and

(d) the appointment of the person or persons appointed to exercise the powers, authorities, duties and functions of the council of the local government body thereupon terminates.

(5) Any person or persons appointed (but not duly elected) according to law to carry out the powers, authorities, duties and functions of a council of a local government body whose members are, pursuant to this section, suspended from office is or are

authorized to carry out those powers, authorities, duties and functions during the period of suspension.

(6) In this section, the expression "local government body" means a body constituted by duly elected members and charged with carrying on the functions of local government.

**56. Procedure on Bills affecting local government.** (1) A member of the Legislative Assembly who is to be in charge of the passage in the Assembly of a Bill that is the responsibility of the member of the Assembly for the time being responsible for local government in the State and that, if enacted by the Parliament, would affect local government bodies generally, or any of them, if he considers compliance with this subsection is practicable in the particular case, must cause a summary of the Bill to be given to an association that represents local government bodies in the State a reasonable time before he (or a member on his behalf) moves for leave of the Assembly to bring in the Bill.

(2) A Bill for an Act whereby the whole of the State would cease to have a system of local government that conforms to that prescribed by section 54 (1) must not be presented to Her Majesty or the Governor for assent unless, on a day, appointed by Order in Council, no earlier than six months and no later than one month before the Bill is introduced in the Assembly, a proposal that the State should cease to have such a system of local government has been approved by majority vote of the electors of the State voting on the proposal.

A Bill assented to consequent upon its presentation in contravention of this subsection is of no effect as an Act.

When such proposal is submitted to the electors of the State the vote must be taken in such manner as the Parliament prescribes.

Any of the electors of the State is entitled to bring proceedings in the Supreme Court for a declaration, injunction or other remedy to enforce the provisions of this subsection either before or after a Bill of a kind referred to in this subsection is presented for assent.

In this subsection "electors of the State" means the persons qualified to vote at a general election of members of the Assembly according to the provisions of the *Elections Act 1983-1985* or of any Act in substitution therefor."