



ANNO TRICESIMO TERTIO
ELIZABETHAE SECUNDAE REGINAE
VICTORIA

Constitution (Duration of Parliament) Act 1984

No. 10106

An Act to amend the *Constitution Act 1975* and *The Constitution Act Amendment Act 1958* with respect to the Duration of the Legislative Assembly, the Tenure of Members of the Legislative Council and the Dissolution of the Legislative Assembly and for other purposes.

[Assented to 25 September, 1984]

BE IT ENACTED by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):

Short title and commencement.

1. (1) This Act may be cited as the *Constitution (Duration of Parliament) Act 1984*.

(2) This Act shall come into operation on 1 January 1985.

Division into Parts.

2. This Act is divided into Parts as follows:

Part I.—Amendments to the *Constitution Act 1975*.

Part II.—Amendments to *The Constitution Act Amendment Act 1958*.

PART I.—AMENDMENTS TO THE CONSTITUTION ACT 1975

Principal Act.

3. In this Part the *Constitution Act 1975* is called the Principal Act.

Dissolution of Assembly.

4. Section 8 of the Principal Act is hereby amended as follows:

- (a) In sub-section (2) before the words "The Governor" there shall be inserted the words "Subject to sub-section (3)"; and
- (b) At the end of the section there shall be inserted the following sub-sections:

"(3) On and from the coming into existence of the Assembly first elected after the commencement of the *Constitution (Duration of Parliament) Act 1984* the Governor may not dissolve the Assembly unless—

- (a) a period of three years has elapsed since the day of its first meeting after a general election;
- (b) the dissolution is authorized under the provisions of section 66;
- (c) the Assembly has passed a Bill dealing only with the appropriation of the Consolidated Fund for the ordinary annual services of the Government and the Council rejects or fails to pass the Bill within one month after it is sent up to the Council and the Governor by proclamation declares that the dissolution is granted in consequence of the rejection or failure; or
- (d) the Assembly has passed a resolution expressing a lack of confidence in the Premier and the other Ministers of State for the State of Victoria.

(4) In sub-section (3) (c) a reference to a Bill dealing only with the appropriation of the Consolidated Fund for the ordinary annual services of the Government is a reference to a Bill which deals only with the appropriation of the Consolidated Fund for the ordinary annual services of the Government of a particular year only but does not include a Bill to appropriate moneys for—

- (a) the construction or acquisition of public works land or buildings;
- (b) the construction or acquisition of plant or equipment which normally would be regarded as involving an expenditure of capital;
- (c) appropriations for services proposed to be provided by the Government which have not formerly been provided by the Government; or
- (d) appropriations for or relating to the Parliament.

(5) There shall be endorsed on every Bill dealing only with the appropriation of the Consolidated Fund for the ordinary annual services of the Government when it is sent to the Council, the certificate of the Speaker signed by him that it is such a Bill.

(6) A certificate of the Speaker given under this section shall be conclusive for all purposes and shall not be questioned in any court of law."

Amendment of section 28.

5. For section 28 of the Principal Act there shall be substituted the following section:

Tenure of members.

"28. (1) Subject to this Act, a member of the Council shall be entitled to hold his seat until the expiration or dissolution of the second Legislative Assembly after he has been elected.

(2) The period during which a member of the Council elected at a periodical election is entitled to hold his seat therein shall, except in the case of a member elected at the first periodical election for the Council held after the commencement of the *Constitution (Duration of Parliament) Act 1984*, commence from and including the date appointed for taking the poll at which he is elected and the period during which a member of the Council elected at the first periodical election for the Council held after the commencement of the *Constitution (Duration of Parliament) Act 1984* is entitled to hold his seat therein shall commence from and including 15 July 1985.

(3) A member of the Council elected to fill the place of a member whose seat becomes vacant otherwise than by the expiration or dissolution of the Assembly shall, subject to this Act, be entitled to hold the seat from the declaration of the poll until the day upon which his predecessor would have ceased to have been entitled to hold the seat.

(4) Every retiring member of the Council shall if not otherwise dis-entitled be eligible to be re-elected.

(5) In the case of a member of the Council holding a seat at the commencement of the *Constitution (Duration of Parliament) Act 1984*—

- (a) if the period of his entitlement to hold his seat would under the provisions in force before that commencement have expired on 14 July 1985 that period shall expire upon 14 July 1985; or
- (b) if the period of his entitlement to hold his seat would under the provisions in force before that commencement have expired on 26 June 1988 that period shall expire upon the expiry or dissolution of the Legislative Assembly elected at

the first election for the Assembly held after that commencement.”.

New section 38.

6. For section 38 of the Principal Act there shall be substituted the following section:

Duration of Assembly.

“38. (1) The Assembly which is in existence at the commencement of the *Constitution (Duration of Parliament) Act 1984* shall continue until 27 April 1985 unless sooner dissolved by the Governor.

(2) The Assembly (other than the Assembly to which sub-section (1) applies) shall exist and continue for four years from the day of its first meeting after a general election unless sooner dissolved by the Governor.”.

New sections 66 and 67.

7. (1) For sections 66 and 67 of the Principal Act there shall be substituted the following sections:

Bills of special importance.

“66. (1) If—

- (a) the Assembly passes a Bill and the Council rejects it;
- (b) after the Bill has been rejected by the Council, the Assembly resolves that the Bill is a Bill of special importance;
- (c) the Bill is again passed by the Assembly and transmitted to and received by the Council endorsed with the resolution of the Assembly referred to in paragraph (b) and is rejected by the Council; and
- (d) not less than four months and not more than eight months has elapsed between the first rejection of the Bill by the Council and the second rejection—

the Governor may notwithstanding anything in this Act but subject to sub-section (2) by proclamation dissolve the Assembly.

(2) The Governor shall not pursuant to the power conferred by sub-section (1) dissolve the Assembly after one month has elapsed since the last rejection of the Bill by the Council.”.

Rejection of Bills.

“67. (1) A Bill shall be deemed to be rejected by the Council if having been transmitted to and received by the Council not less than two months before the end of the session—

- (a) it is not, within two months after being so transmitted, passed by the Council; or

- (b) (where the case so requires) the second and third readings are not, within two months after it has been so transmitted, passed with the concurrence of an absolute majority of the whole number of the members of the Council—

either without amendment or with such amendments only as may be agreed to by both Houses (and for the purposes of this and the next succeeding sub-section any omission or amendment suggested by the Council pursuant to section 64 shall be deemed to be an amendment made by the Council).

(2) A Bill shall be deemed to be the same Bill as a former Bill transmitted to the Council if, when it is transmitted to the Council, it is identical with the former Bill or contains only such alterations as are certified by the Speaker to be necessary owing to the time which has elapsed since the date of the former Bill or to represent any amendments which have been made by the Council in the former Bill.

(3) Where the Assembly has resolved that a Bill is a Bill of special importance that Bill may be re-introduced and dealt with in the same session of Parliament in each House of the Parliament notwithstanding any standing order, rule or practice to the contrary.

(4) A certificate by the Speaker given under this section shall be conclusive for all purposes and shall not be questioned in any court of law.”

(2) Section 68 (1) (2) (3) and (4) of the Principal Act shall be repealed.

Transitional provision.

8. Where a person who was a member of the Council at the commencement of this Act ceases by reason of the operation of the amendments to the Principal Act made by this Act to be entitled to hold his seat at a date earlier than the date upon which he would have ceased to be entitled to hold his seat as a member of the Council if this Act had not been passed he shall for the purposes of the calculation of benefits under Part II. of the *Parliamentary Salaries and Superannuation Act 1968* be deemed to have ceased to be a member of the Legislative Council upon the day that he would have ceased to be a member of the Council if this Act had not been passed and, if he would have become entitled to benefits under that Part on that day, to have become entitled to benefits under that Part on the day on which he actually ceased to be a member.

PART II.—AMENDMENTS TO THE CONSTITUTION ACT AMENDMENT ACT 1958

Principal Act.

9. In this Part *The Constitution Act Amendment Act 1958* is called the Principal Act.

No. 6224.
Reprinted to
No. 9216.
Subsequently
amended by Nos.
9427, 9576,
9581, 9753,
9788, 9826, 9945
and 10 028.

Amendment of interpretations.

10. Section 3 of the Principal Act is amended as follows:

(a) In sub-section (1)—

- (i) the interpretation of "Conjoint election" is repealed;
- (ii) for the interpretation of "President" there shall be substituted the following interpretation:

' "President" means President of the Council and includes any person acting as the President of the Council. ';

- (iii) after the interpretation of "Schedule" there shall be inserted the following interpretation:

' "Simultaneous election" means a general election for the Assembly and a periodical election for the Council the writs for which are issued on the same day and for which the same day of nomination and day of polling are appointed. '; and

- (iv) for the interpretation of "Speaker" there shall be substituted the following interpretation:

' "Speaker" means Speaker of the Assembly and includes any person acting as the Speaker of the Assembly. '; and

(b) Sub-section (2) is repealed.

New sections 149, 150 and 151.

11. For sections 149, 150 and 151 of the Principal Act there shall be substituted the following section:

Writs for Council and Assembly elections.

"149. (1) Writs for—

- (a) every periodical election of members of the Council; and
- (b) every general election of members of the Assembly—

shall be issued by the Governor within seven days after the expiration or dissolution of the Assembly (as the case requires).

(2) Whenever the Assembly expires or is dissolved and a periodical election of members of the Council is required writs for the two elections shall be issued together on the same day.

(3) A writ for an election to fill the place of a member falling vacant otherwise than by the expiration or dissolution of the Assembly shall—

- (a) in the case of a writ for the election of a member of the Council be issued by the President; and
- (b) in the case of a writ for the election of a member of the Assembly be issued by the Speaker—

within one month after the occurrence of the vacancy.

(4) Where there is no President or Speaker (as the case may be) to issue a writ under sub-section (3) the writ shall be issued by the Governor within one month after the occurrence of the vacancy.

(5) At least two clear days before the Speaker or President (as the case requires) issues a writ under sub-section (3) he shall give notice in writing under his hand to the Minister of his intention to issue the same and the Minister shall forthwith publish a copy of that notice in the *Government Gazette*.

(6) Every writ issued under this section for an election for members of the Council—

- (a) may be in the form of the Fifth Schedule or to the like effect;
- (b) shall be directed to the returning officer of the province;
- (c) shall name the day of nomination and the day for taking the poll in the event of the election being contested; and
- (d) shall be returnable to the Governor or the President (whosoever has issued the same), on such day within 21 clear days after the day of polling as is appointed by the Governor or the President (as the case may be), and is named therein.

(7) Every writ issued under this section for an election of members of the Assembly—

- (a) may be in the form of the Sixth Schedule or to the like effect;
- (b) shall be directed to the returning officer of the district;
- (c) shall name the day of nomination and the day for taking the poll in the event of the election being contested; and
- (d) shall be returnable to the Governor or the Speaker (whosoever has issued the same), on such day within 21 clear days after the day of polling as is appointed by the Governor or the Speaker (as the case may be) and is named therein.”

Amendment of section 153.

12. In section 153 of the Principal Act after the expression “153.” there shall be inserted the expression “(1)”.

New section 153 (2).

13. After section 153 of the Principal Act there shall be inserted the following sub-section:

“(2) Where in the case of a general election of members of the Assembly and a periodical election of members of the Council writs have been issued on the same day, the Governor shall appoint the same day of nomination and the same day of polling for both elections.”

Amendment of section 154.

14. In section 154 (1) of the Principal Act—

- (a) the words “general or” shall be repealed; and
- (b) for the words “conjoint election” there shall be substituted the words “simultaneous election”.

New section 155.

15. For section 155 there shall be substituted the following section:

Simultaneous elections.

“155. At every simultaneous election all elections shall take place on the same date.”

Amendment of section 187A.

16. In section 187A of the Principal Act for the words “conjoint election” there shall be substituted the words “simultaneous election”.

Repeal of Part V., Division 14.

17. Division 14 of Part V. of the Principal Act shall be repealed.

Amendment of section 238A.

18. In section 238A of the Principal Act for the words “conjoint election” there shall be substituted the words “simultaneous election”.

Amendment of section 252.

19. In section 252 (e) of the Principal Act for the words “conjoint election” there shall be substituted the words “simultaneous election”.

Amendment of section 268.

20. In the interpretation of “Election” in section 268 of the Principal Act for the words “conjoint election” there shall be substituted the words “simultaneous election”.

Amendment of section 270.

21. In section 270 (2) of the Principal Act for the words “conjoint election” there shall be substituted the words “simultaneous election”.

Amendment of section 306A.

22. (1) In section 306A of the Principal Act for the words “conjoint election” (wherever appearing) there shall be substituted the words “simultaneous election”.

(2) In section 306A (1) of the Principal Act for the words "conjoint elections" there shall substituted the words "simultaneous elections".

Amendment of section 311.

23. In section 311 (1A) of the Principal Act for the words "conjoint election" (wherever appearing) there shall be substituted the words "simultaneous election".

Simultaneous election for Council Members whose term expires on 14 July 1985.

24. Notwithstanding anything in any Act on the first dissolution of the Assembly after the commencement of the *Constitution (Duration of Parliament) Act 1984* writs for the periodical election of members of the Council whose term of office expires on 14 July 1985 shall be issued on the same day as the writs for the general election of the Assembly are issued and there shall be a simultaneous election for the Council and the Assembly.