

**CONSTITUTION (AMENDMENT) ACT, 1980, No. 13**

**New South Wales**



ANNO VICESIMO NONO

**ELIZABETHÆ II REGINÆ**

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**Act No. 13, 1980.**

An Act to amend the Constitution Act, 1902, with respect to offices of profit under the Crown, and for other purposes.  
[Assented to, 15th April, 1980.]

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See also Parliamentary Contributory Superannuation (Constitution) Amendment Act, 1980;  
Public Works (Amendment) Act, 1980.

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*Constitution (Amendment).*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.      **1.** This Act may be cited as the "Constitution (Amendment) Act, 1980".

Commence-      **2.** (1) Except as provided in subsection (2), this Act shall  
ment.            commence on the date of assent to this Act.

(2) Section 3 and Schedule 1 shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment      **3.** The Constitution Act, 1902, is amended in the manner set  
of Act No.      forth in Schedule 1.  
32, 1902.

Sec. 3.

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SCHEDULE 1.

AMENDMENTS TO THE CONSTITUTION ACT, 1902.

(1) Section 13 (4A), (4B)—

After section 13 (4), insert :—

(4A) Nothing in—

(a) subsection (1) applies so as to prevent a person who holds an office of profit under the Crown or has a pension from the Crown during pleasure or for a term of years from being elected or of sitting or voting as a Member of either House of Parliament; or

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*Constitution (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—*continued.*

- (b) subsection (2) requires or permits the seat of a Member of either House of Parliament who accepts such an office or such a pension to be declared to be, or to become or be, vacant,

by reason only of his holding or accepting that office of profit or his having or accepting that pension.

(4B) In subsection (4A), “office of profit under the Crown” includes any office or place of profit under the Crown which, by any Act, is declared or deemed not to be an office or place of profit under the Crown for the purposes of any Act or of this Act, whether in those terms or in terms to the like effect.

(2) (a) Section 13B (1)—

Omit “be capable of being elected or of sitting or voting as a Member of either House of Parliament”, insert instead “, if he is elected as a Member of either House of Parliament, be capable of sitting and voting as a Member of the House to which he is elected, and his seat as a Member shall become vacant, after the expiration of the period commencing with his election and ending on the expiration of 7 sitting days of that House after notice of his holding that office or having that pension has been given to that House in accordance with its Standing Rules and Orders, unless that House has previously passed a resolution indicating that it is satisfied that that person has ceased to hold that office or, as the case may be, that the right of that person to that pension has ceased or is suspended while he is a Member of that House”.

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*Constitution (Amendment).*

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SCHEDULE 1—*continued.*AMENDMENTS TO THE CONSTITUTION ACT, 1902—*continued.*

## (b) Section 13B (2)—

Omit “thereby become vacant”, insert instead “become vacant upon the expiration of the period commencing with his acceptance of the office or the pension and ending on the expiration of 7 sitting days of that House after notice of his accepting that office or pension has been given to that House in accordance with its Standing Rules and Orders, unless that House has previously passed a resolution indicating that it is satisfied that that Member has ceased to hold that office or, as the case may be, that the right of that Member to that pension has ceased or is suspended while he is a Member of that House”.

## (c) Section 13B (3) (a)—

Omit the paragraph, insert instead :—

## (a) a person—

- (i) who holds or accepts any of the offices enumerated in the Second Schedule or any office of profit under the Crown created by an Act as an office of the Executive Government;
- (ii) who holds or accepts an office of profit under the Crown in respect of which he is not entitled to any remuneration, except either fees payable to him, as a member of a body, in respect of his attendance at meetings of that body or an allowance for reasonable expenses incurred or to be incurred in carrying out the duties of the office, or both those fees and such an allowance;

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*Constitution (Amendment).*

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SCHEDULE 1—*continued.*

AMENDMENTS TO THE CONSTITUTION ACT, 1902—*continued.*

(iii) who holds or accepts an office of profit under the Crown, other than the Crown in right of the State of New South Wales, but not being an office as a member of any legislature of a country other than New South Wales;  
**or**

(iv) who has or accepts a pension, referred to in subsection (1) (b) or (2), from the Crown, other than the Crown in right of the State of New South Wales,

shall be capable of being elected and of sitting and voting as a Member of either House of Parliament;

(d) Section 13B (4)—

After section 13B (3), insert :—

(4) For the purposes of subsections (1) and (2), sitting days shall be counted, whether or not they occur during the same session of Parliament.

(3) Section 14 (1)—

After "Act", insert " , except section 13B."

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