

**CONSTITUTION (LEGISLATIVE COUNCIL) AMENDMENT  
ACT 1991 No. 20**

NEW SOUTH WALES



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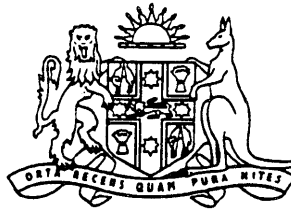
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**CONSTITUTION (LEGISLATIVE COUNCIL) AMENDMENT  
ACT 1991 No. 20**

NEW SOUTH WALES



**Act No. 20, 1991**

An Act:

- (a) to reduce the number of politicians in the Legislative Council and to reduce their maximum term of office; and
- (b) to apply to the Legislative council the same method of filling casual vacancies as applies to the Senate. [Assented to 1 July 1991]

*Constitution (Legislative Council) Amendment 1991*

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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, with the approval of the electors ærequired by the Constitution Act 1902, and by the authority of the same, as follows:

**Short title**

1. This Act may be cited æ the Constitution (Legislative Council) Amendment Act 1991.

**Commencement**

2. This Act commences on the date of assent.

**Amendment of Constitution Act 1902 No. 32**

3. The Constitution Act 1902 is amended æ set out in Schedule 1.

**Consequential amendment of Parliamentary Electorates and Elections Act 1912 No. 41**

4. The Parliamentary Electorates and Elections Act 1912 is amended as set out in Schedule 2.

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**SCHEDULE 1—AMENDMENT OF CONSTITUTION ACT 1902**

(Sec. 3)

(1) Section 3 (**Definitions**):

(a) Omit the definition of “Periodic Council election”, insert instead:

**“Periodic Council election”** means an election held for the return of 21 Members of the Legislative Council.

(b) Omit the definition of “The 1978 reconstitution Act”.

(2) Section 7A (**Referendum for Bills with respect to Legislative Council and certain other matters**):

From section 7A (1) (b), omit “Fifth or”.

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SCHEDULE 1—AMENDMENT OF CONSTITUTION  
ACT 1902—*continued*

(3) Sections 16–21:

Omit the sections, insert instead:

**Definitions**

16. In this Division:

“**periodic Council election**” includes an election for the return of 15 Members of the Legislative Council held after the commencement of the Constitution and Parliamentary Electorates and Elections (Amendment) Act 1978 and before the commencement of the 1991 reconstitution Act;

“**the 1991 reconstitution Act**” means the Constitution (Legislative Council) Amendment Act 1991.

**Reconstitution of the Legislative Council**

17. (1) On the commencement of the 1991 reconstitution Act, the Legislative Council is reconstituted.

(2) On and from that commencement, the Legislative Council shall (subject to this Division) consist of 42 Members elected at periodic Council elections.

(3) The following Members of the Legislative Council cease to be Members on the commencement of the 1991 reconstitution Act:

- (a) the last 3 Members of the Legislative Council elected at the third-last periodic Council election held before that commencement;
- (b) if the seat of such a Member has become vacant since that periodic Council election—a Member of the Legislative Council who is the successor (whether immediate, intermediate or ultimate) of that Member.

(4) Section 22A (**Conduct of periodic Council elections**):

- (a) Omit section 22A (2).
- (b) From section 22A (3), omit “, other than the first such election,”.
- (c) From section 22A (4), omit “(2) or”.

(5) Section 22B (**Term of service of Members of Legislative Council**):

- (a) Omit section 22B (2) and (3), insert instead:

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SCHEDULE 1—AMENDMENT OF CONSTITUTION  
ACT 1902—*continued*

(2) Subject to subsection (4), the term of service of a Member of the Legislative Council (other than a long-term continuing Member) shall expire on the day of the termination, either by dissolution or expiry, of the Legislative Assembly next preceding the second general election of Members of the Legislative Assembly to be held after his or her election as a Member of the Legislative Council.

(3) Subject to subsection (4), the term of service of a long-term continuing Member shall expire on the day of the termination, either by dissolution or expiry, of the Legislative Assembly next preceding the third general election of Members of the Legislative Assembly to be held after his or her election as a Member of the Legislative Council.

(b) After section 22B (4), insert:

(5) In this section, **“long-term continuing Member”** means:

- (a) a Member of the Legislative Council who was one of the first 12 Members elected at the third-last periodic Council election held before the commencement of the 1991 reconstitution Act; or
- (b) a Member of the Legislative Council who was one of the first 6 Members elected at the second-last periodic Council election held before that commencement; or
- (c) if the seat of a Member referred to in paragraph (a) or (b) has become vacant since the periodic Council election concerned—a Member of the Legislative Council who is the successor (whether immediate, intermediate or ultimate) of that Member.

(6) Section 22C (**Filling of casual vacancies in seats of elected Members of the Legislative Council from same group**):

Omit the section.

(7) Section 22D (**Filling of casual vacancies in seats of Members of Legislative Council by joint sitting of both Houses**):

- (a) From section 22D (1), omit “an elected Member” wherever occurring, insert instead “a Member”.
- (b) From section 22D (1) (a), omit “and that vacancy is not filled under section 22C”.

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**SCHEDULE 1—AMENDMENT OF CONSTITUTION  
ACT 1902—*continued***

- (c) From section 22D (4) (b), omit “elected under this section or section 22C”.
- (8) Section 22G (President):  
Omit section 22G (1) (a).
- (9) Fifth Schedule (**Continuing Members of the Legislative Council**):  
Omit the Schedule.
- (10) Sixth Schedule (**Conduct of Legislative Council Elections**):
  - (a) From clause 1, omit “15 Members”, insert instead “21 Members”.
  - (b) From clause 2, omit “10” wherever occurring, insert instead “15”.
  - (c) From clause 7, omit “16”, insert instead “22”.

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF  
PARLIAMENTARY ELECTORATES AND ELECTIONS  
ACT 1912**

(Sec. 4)

- (1) Section 81H (**Proceedings after close of nominations**):  
Omit “15 candidates” wherever occurring, insert instead “21 candidates”.
- (2) Section 81I (**Retention of claims for grouping**):  
Omit the section.
- (3) Section 83C (**Group voting tickets**):
  - (a) From section 83C (2) (a), omit “10 candidates”, insert instead “15 candidates”.
  - (b) From section 83C (2) (b), omit “11”, insert instead “16”.
- (4) Section 103 (**Vote, how given**):  
Omit section 103 (3), insert instead:
  - (3) In the case of a periodic Council election, a voter shall record his vote for at least 15 candidates by placing the numbers "1", "2", "3", "4", "5", "6", "7", "8", "9",

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SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF  
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ACT 1912—*continued*

"10", "11", "12", "13", "14" and "15" in the squares opposite the names of 15 candidates in the order of his preferences for them and may, if he wishes, vote for additional candidates by placing consecutive numbers beginning with the number "16" in the squares opposite the names of those additional candidates in the order of his preferences for them.

- (5) Schedules 4A (**Ballot-paper**) and 15A (**Postal ballot-paper**):
- (a) Omit "15 Members" wherever occurring, insert instead "21 Members".
  - (b) Omit "and "10" in the squares opposite the names of 10 candidates" wherever occurring, insert instead " , "10", "11", "12", "13", "14" and "15" in the squares opposite the names of 15 candidates".
  - (c) Omit "11" wherever occurring, insert instead "16".
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*[Minister's second reading speech made in—  
Legislative Assembly on 21 February 1991  
Legislative Council on 14 March 1991]*