

# CONSTITUTION ALTERATION (SENATE CASUAL VACANCIES) 1977

No. 82 of 1977

An Act to alter the Constitution so as to ensure so far as practicable that a Casual Vacancy in the Senate is filled by a Person of the same Political Party as the Senator chosen by the People and for the balance of his Term.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, with the approval of the electors, as required by the Constitution, as follows:—

Short title.

1. This Act may be cited as the *Constitution Alteration (Senate Casual Vacancies) 1977*.<sup>1</sup>

2. The Constitution is altered by omitting section 15 and substituting the following section:—

Casual vacancies.

“ 15. If the place of a senator becomes vacant before the expiration of his term of service, the Houses of Parliament of the State for which he was chosen, sitting and voting together, or, if there is only one House of that Parliament, that House, shall choose a person to hold the place until the expiration of the term. But if the Parliament of the State is not in session when the vacancy is notified, the Governor of the State, with the advice of the Executive Council thereof, may appoint a person to hold the place until the expiration of fourteen days from the beginning of the next session of the Parliament of the State or the expiration of the term, whichever first happens.

“Where a vacancy has at any time occurred in the place of a senator chosen by the people of a State and, at the time when he was so chosen, he was publicly recognized by a particular political party as being an endorsed candidate of that party and publicly represented himself to be such a candidate, a person chosen or appointed under this section in consequence of that vacancy, or in consequence of that vacancy and a subsequent vacancy or vacancies, shall, unless there is no member of that party available to be chosen or appointed, be a member of that party.

“Where—

(a) in accordance with the last preceding paragraph, a member of a particular political party is chosen or appointed to hold the place of a senator whose place had become vacant; and

(b) before taking his seat he ceases to be a member of that party (otherwise than by reason of the party having ceased to exist), he shall be deemed not to have been so chosen or appointed and the vacancy shall be again notified in accordance with section twenty-one of this Constitution.

“The name of any senator chosen or appointed under this section shall be certified by the Governor of the State to the Governor-General.

“If the place of a senator chosen by the people of a State at the election of senators last held before the commencement of the *Constitution Alteration (Senate Casual Vacancies) 1977* became vacant before that commencement and, at that commencement, no person chosen by the House or Houses of Parliament of the State, or appointed by the Governor of the State, in consequence of that vacancy, or in consequence of that vacancy and a subsequent vacancy or vacancies, held office, this section applies as if the place of the senator chosen by the people of the State had become vacant after that commencement.

“A senator holding office at the commencement of the *Constitution Alteration (Senate Casual Vacancies) 1977*, being a senator appointed by the Governor of a State in consequence of a vacancy that had at any time occurred in the place of a senator chosen by the people of the State, shall be deemed to have been appointed to hold the place until the expiration of fourteen days after the beginning of the next session of the Parliament of the State that commenced or commences after he was appointed and further action under this section shall be taken as if the vacancy in the place of the senator chosen by the people of the State had occurred after that commencement.

“Subject to the next succeeding paragraph, a senator holding office at the commencement of the *Constitution Alteration (Senate Casual Vacancies) 1977* who was chosen by the House or Houses of Parliament of a State in consequence of a vacancy that had at any time occurred in the place of a senator chosen by the people of the State shall be deemed to have been chosen to hold office until the expiration of the term of service of the senator elected by the people of the State.

“If, at or before the commencement of the *Constitution Alteration (Senate Casual Vacancies) 1977*, a law to alter the Constitution entitled ‘*Constitution Alteration (Simultaneous Elections) 1977*’ came into operation, a senator holding office at the commencement of that law who was chosen by the House or Houses of Parliament of a State in consequence of a vacancy that had at any time occurred in the place of a senator chosen by the people of a State shall be deemed to have been chosen to hold office—

(a) if the senator elected by the people of the State had a term of service expiring on the thirtieth day of June, One thousand nine hundred and seventy-eight—until the expiration or dissolution

of the first House of Representatives to expire or be dissolved after that law came into operation; or

- (b) if the senator elected by the people of the State had a term of service expiring on the thirtieth day of June, One thousand nine hundred and eighty-one—until the expiration or dissolution of the second House of Representatives to expire or be dissolved after that law came into operation or, if there is an earlier dissolution of the Senate, until that dissolution.”
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#### NOTE

1. Act No. 82, 1977; assented to and commenced 29 July 1977. See the statement showing the result of the referendum upon the proposed law to alter the Constitution that became this Act in *Gazette* 1977, No. S100, p.1.