

# **TASMANIA**

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## **CONSTITUTION (DOUBTS REMOVAL) BILL 2009**

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# **CONSTITUTION (DOUBTS REMOVAL) BILL 2009**

*(Brought in by the Premier, the Honourable David John Bartlett)*

## **A BILL FOR**

**An Act to remove doubts relating to actions taken by Lieutenant-Governors, Deputy Lieutenant-Governors, Administrators and Deputy Administrators of the State at any time since the commencement of the *Australia Act 1986* of the Commonwealth, to amend the *Constitution Act 1934* and for other purposes**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### **1. Short title**

This Act may be cited as the *Constitution (Doubts Removal) Act 2009*.

### **2. Commencement**

This Act commences on the day on which this Act receives the Royal Assent.

### **3. Interpretation**

In this Act –

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**“Administrator”** means a person appointed as, or purportedly appointed as, Administrator of the State;

**“Deputy Administrator”** means a person appointed as, or purportedly appointed as, Deputy Administrator of the State;

**“Deputy Lieutenant-Governor”** means a person appointed as, or purportedly appointed as, Deputy Lieutenant-Governor of the State;

**“Lieutenant-Governor”** means a person appointed as, or purportedly appointed as, Lieutenant-Governor of the State;

**“relevant action”** means an act or omission of an administrative or legislative nature, including the exercise, or purported exercise, of prerogative powers, done or omitted, or purportedly done or omitted, at a relevant time by a Lieutenant-Governor, a Deputy Lieutenant-Governor, an Administrator or a Deputy Administrator during the administration, or purported administration, of the government of the State by that person;

**“relevant time”** means any time between 5.00 a.m. Greenwich Mean Time on 3 March 1986 and the commencement of this Act.

**Note:** The *Australia Act 1986* of the Commonwealth came into operation at 5.00 a.m. Greenwich Mean Time on 3 March 1986.

**4. Act to bind the Crown**

This Act binds the Crown in right of Tasmania and, so far as the legislative power of the Parliament permits, in all its other capacities.

**5. Effect of relevant actions**

Every relevant action has, and is deemed always to have had, the same force and effect for all purposes as it would have had if it had been done, or omitted to be done, at the relevant time by a person validly holding the office of Governor at that time.

**6. Act not to give rise to liability against the State**

- (1) The State is not liable to any action, liability, claim or demand arising from the enactment, commencement or operation of this Act.
- (2) Without limiting subsection (1), no proceedings lie against the State in respect of a relevant action affected by this Act, except to the extent that the proceedings would lie had the relevant action been done, or omitted to be done, at the relevant time by a person validly holding the office of Governor.

- (3) In this section –

**“proceedings”** includes proceedings for an order in the nature of prohibition, certiorari or mandamus or for a

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declaration or injunction or for any other relief;

**“the State”** includes any State authority or officer of the State, and also includes –

- (a) the Crown in right of the State; and
- (b) the Government of the State; and
- (c) a Minister of the Crown in right of the State; and
- (d) a statutory corporation, or other body, representing the Crown in right of the State.

**7. Administration of Act**

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Premier; and
- (b) the department responsible to the Premier in relation to the administration of this Act is the Department of Premier and Cabinet.

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**8. Consequential amendments**

The legislation specified in Schedule 1 is amended as specified in that Schedule.

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**SCHEDULE 1 – CONSEQUENTIAL AMENDMENTS**

Section 8

***Constitution Act 1934***

1. Section 8(3) is amended by omitting “under Royal Sign Manual and Signet”.