

Constitution of Queensland and Other Legislation Amendment Bill 2016

Explanatory Notes

FOR

Amendment to be moved during consideration in detail by the Honourable Annastacia Palaszczuk MP, Premier and Minister for the Arts

Title of the Bill

Constitution of Queensland and Other Legislation Amendment Bill 2016.

Objective of the amendment

The objective of the amendment is to provide that future amendments to the *Constitution of Queensland 2001* (the Constitution) respecting the constitution, powers or procedure of the Parliament require the support of an absolute majority of the members of the Legislative Assembly.

The amendment implements the relevant recommendation made by the Committee of the Legislative Assembly (CLA) in Report No. 18 titled Constitution of Queensland and Other Legislation Amendment Bill 2016, which was tabled in the Parliament on 15 August 2016.

Achievement of the objective

The amendment will provide that any future Bill for an Act to amend the Constitution respecting the constitution, powers or procedure of the Parliament must not be presented to the Governor for assent unless the Bill has been passed by an absolute majority of the Legislative Assembly i.e. a minimum of 45 votes in the current 89 seat Assembly.

Alternative ways of achieving policy objective

There is no alternative method of achieving the policy objective. The objective requires the amendment of existing legislation.

Estimated cost for government implementation

There are no additional administrative costs in implementing the amendment.

Consistency with fundamental legislative principles

The amendment has been drafted with due regard to the Fundamental Legislative Principles as outlined in the *Legislative Standards Act 1992*.

It is noted that the amendment will bind future Parliaments in that an absolute majority of the members of the Legislative Assembly, rather than an ordinary majority as is currently the case, will be required for any future Bill for an Act to amend the Constitution respecting the constitution, powers or procedure of the Parliament.

While it is noted that future Parliaments will be bound by this requirement, it is considered that the requirement is consistent with fundamental legislative principles because its intent is to strengthen the institution of Parliament by placing a higher threshold on the Parliament being able to alter its own constitution, powers or procedure.

Consultation

Community stakeholder consultation on the amendment has not been undertaken as the amendment is limited in scope and will primarily impact members of the Legislative Assembly who will state their views during the debate stage of the Constitution of Queensland and Other Legislation Amendment Bill 2016.

Notes on provisions

***Amendment 1* Insertion of a new section 4A (Particular amendments of this Act)**

Amendment 1 provides for the insertion of a new section which outlines that a Bill for an Act to amend the Constitution respecting the constitution, powers or procedure of the Parliament must not be presented to the Governor for assent unless it has been passed by an absolute majority of the Legislative Assembly.

New section 4A(1) recognises that the State's capacity for legislative entrenchment of the Constitution is limited to laws with respect to the constitution, powers or procedure of the Parliament. Section 6 of the *Australia Act 1986 (Cth)* allows State legislatures to impose manner and form requirements on such laws.

The Clause defines an absolute majority of the Legislative Assembly as being a majority of the number of members of the Assembly, as indicated in section 11 of the Constitution.

The Clause also clarifies that in determining if an absolute majority has been achieved as required by new section 4A, if a casting vote is exercised by the Speaker or Deputy Speaker in favour of the 'ayes' the casting vote is counted as a vote for the 'ayes'. Furthermore, the Clause clarifies that if an absent member votes by proxy or another method allowed by an Act and the vote is cast in favour of the 'ayes', the vote is counted as a vote for the 'ayes'.