



CONSTITUTION (MINISTERS OF THE CROWN)

No. 82 of 1977

ANALYSIS

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AN ACT to enact in the Constitution Act 1934 provisions relating to the appointment and tenure of office of Ministers of the Crown and to repeal the Ministers of the Crown Act 1923 and amend the Parliamentary Salaries and Allowances Act 1973.

[10 November 1977]

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—(1) This Act may be cited as the *Constitution (Ministers of the Crown) Act 1977*. Short title and citation.

(2) The *Constitution Act 1934**, as subsequently amended, is in this Act referred to as the Principal Act.

2 After section 8 of the Principal Act the following sections are inserted in Part II of that Act:—

Limit on number of Ministers of the Crown.

“ 8A No more than 10 persons shall hold office as Ministers of the Crown at any one time.

Appointment and tenure of office of Ministers of the Crown.

“ 8B—(1) No person shall be appointed a Minister of the Crown unless he is a member of the Council or the Assembly, and, subject to the following provisions of this section, a Minister of the Crown ceases to hold office as such on ceasing to be a member of the Council or the Assembly.

“(2) Where a member of the Council, on the expiry of his term of office as such in any year, also holds office as a Minister of the Crown he may continue in the office of Minister of the Crown until the expiration of the period of 7 days following the day of the return of the writs for the periodical election of members of the Council in that year.

“(3) Where, at the dissolution of the Assembly, or on its ceasing to continue, a member thereof holds office as a Minister of the Crown he may continue in the office of Minister of the Crown until the expiration of the period of 7 days following the day of the return of the writs for the ensuing general election.

“(4) If, as provided in subsection (2) or subsection (3), a person continues in office as a Minister of the Crown until the expiration of the period of 7 days following the day of the return of the writs referred to in either of those sections, he then ceases to hold office as a Minister of the Crown unless, since the return of the writs, he has again been appointed a Minister of the Crown.

Special provisions as to Attorney-General.

“ 8C—(1) Except as provided in this section, no office, power, duty, authority, obligation, or discretion that is by law conferred or imposed upon the Attorney-General shall be allocated to, or exercised or discharged by, any other Minister of the Crown.

“(2) In any case in which he considers it expedient so to do, the Governor may appoint another Minister of the Crown to be Acting Attorney-General for a specified period or until the happening of a specified event, and during the continuance of the appointment that Minister may exercise, perform and discharge all the powers, duties, authorities, obligations, and discretions conferred or imposed

by law upon the Attorney-General or appertaining to the office of Attorney-General in as full, complete and effectual manner as if he were the holder of the office of Attorney-General.

“ 8D Where, in any Act, official document, or contract reference is made to any Minister, whether that Minister be specifically designated or not, the same shall in every case be read and construed as if the reference were to the Minister for the time being administering the Act, or to the department or matter to which the document or contract has reference, as the case may be. Interpretation of references to Ministers.

“ 8E Except as provided in section 8c any official document requiring the signature or execution of any particular Minister shall be valid and effectual if it is signed or executed on his behalf by any other Minister.” Minister acting on behalf of another.

3 The *Ministers of the Crown Act 1923* is repealed.

Repeal of *Ministers of the Crown Act 1923*.

4 Section 3 of the *Parliamentary Salaries and Allowances Act 1973* is amended by omitting from subsection (1) the definition of “ Minister ”. Amendment of *Parliamentary Salaries and Allowances Act 1973*.

5—(1) Notwithstanding anything in any other Act, where before the commencement of this Act a member of either House held office as a Minister of the Crown he shall not be deemed to have ceased to hold that office by reason— Validation of previous Ministerial appointments.

- (a) if he was a member of the Council, of the expiry at any time before that commencement of his term of office as such a member; or
- (b) if he was a member of the Assembly, of the dissolution of the Assembly, or its ceasing to continue, at any time before that commencement,

and it shall always be deemed to have been lawful for him to continue in his office as Minister of the Crown notwithstanding that, following those events, he ceased or ceased for a time to be a member of the Council or the Assembly.

(2) Any appointment of a person as a Minister of the Crown made before the commencement of this Act shall have the like effect and operation as if the foregoing provisions of this section had then been in effect and had continued in effect until the commencement

of this Act, and accordingly any act or thing done by him, or in relation to his office, shall be deemed to be as valid and effectual as if that appointment had had that effect and operation.