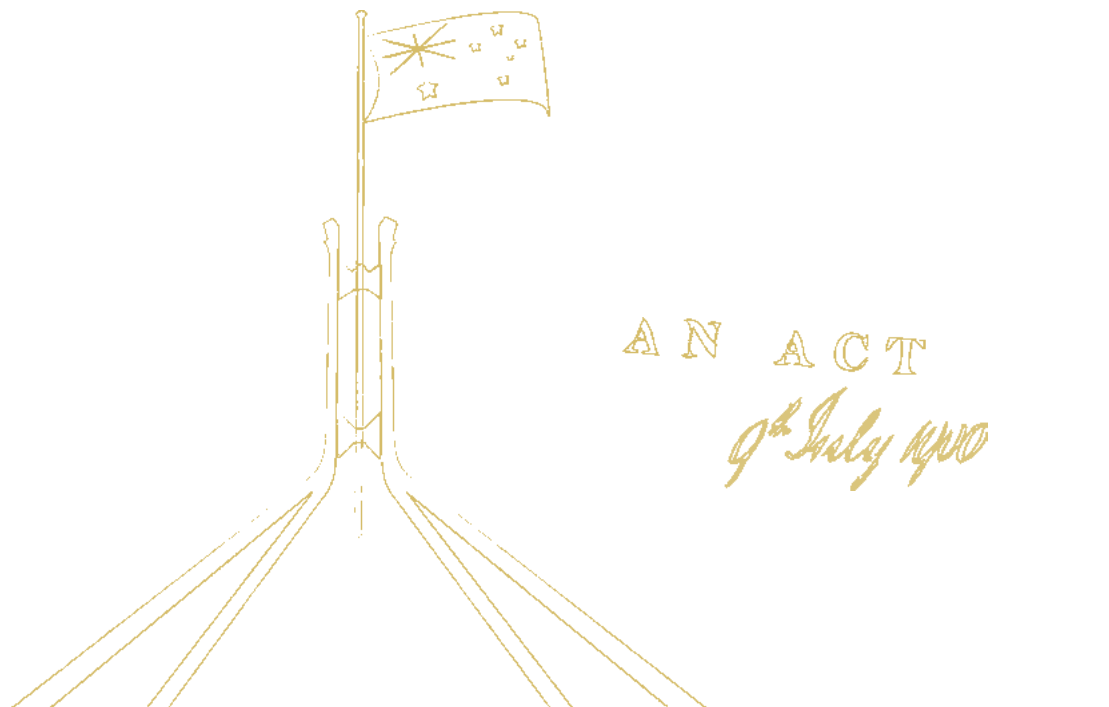




AUSTRALIA'S CONSTITUTION

**With Overview and Notes by the
Australian Government Solicitor**





Parliamentary Education Office



Australian Government Solicitor

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Overview

The Australian Constitution has properly been described as ‘the birth certificate of a nation’. It also provides the basic rules for the government of Australia. Indeed, the Constitution is the fundamental law of Australia binding everybody including the Commonwealth Parliament and the Parliament of each State. Accordingly, even an Act passed by a Parliament is invalid if it is contrary to the Constitution.

Background to the Constitution

The Constitution was drafted at a series of conventions held during the 1890s and attended by representatives of the colonies. Before the Constitution came into effect, its terms were approved, with one small exception, by the people of New South Wales, Victoria, Queensland, Western Australia, South Australia, and Tasmania.

The Australian Constitution was then passed as part of a British Act of Parliament in 1900, and took effect on 1 January 1901. A British Act was necessary because before 1901 Australia was a collection of six self-governing British colonies and ultimate power over those colonies rested with the British Parliament. In reality, however, the Constitution is a document which was conceived by Australians, drafted by Australians and approved by Australians.

Since that time, Australia has become an independent nation, and the character of the Constitution as the fundamental law of Australia is now seen as resting predominantly, not on its status as an Act of the British Parliament, which no longer has any power over Australia, but on the Australian people’s decision to approve and be bound by the terms of the Constitution.

What has been judicially described as ‘the sovereignty of the Australian people’ is also recognised by section 128 which provides that any change to the Constitution must be approved by the people of Australia.

The Constitution itself is contained in clause 9 of the British Act. The first eight clauses of the British Act are commonly referred to as the ‘covering clauses’. They contain mainly introductory, explanatory and consequential provisions. For example, covering clause 2 provides that references to ‘the Queen’ (meaning Queen Victoria, who was British sovereign at the time the British Act was enacted) shall include references to Queen Victoria’s heirs and successors.

Creation of the Commonwealth of Australia

On the commencement of the British Act on 1 January 1901, the Commonwealth came into being and the six colonies became the six States of Australia (covering clauses 4 and 6).

The Federal Structure

The Constitution establishes a federal system of government. It is for this reason that the establishment of the Commonwealth in 1901 is often referred to as ‘federation’. Under a federal system, powers are distributed between a central government and regional governments. In Australia, that distribution is between the Commonwealth and the six States. (The relationship between the Commonwealth and the Territories is discussed below.)

Separation of Powers

Chapters I, II, and III of the Constitution confer the legislative, executive, and judicial powers of the Commonwealth on three different bodies which are established by the Constitution – the Parliament (Chapter I), the Executive Government (Chapter II), and the Judicature (Chapter III). Legislative power is the power to make laws. Executive power is the power to administer laws and carry out the business of government, through such bodies as government departments, statutory authorities and the defence forces. Judicial power is the power to conclusively determine legal disputes, traditionally exercised by courts in criminal trials and litigation about such things as contracts and motor accidents.

Despite the structure of the Constitution there is no strict demarcation between the legislative and executive powers of the Commonwealth. Only the Parliament can pass Acts, but these Acts often confer on the Executive Government the power to make regulations, rules and by-laws in relation to matters relevant to the particular Acts.

For example, the Parliament may enact in the Customs Act that no person may bring a ‘prohibited import’ into Australia and then leave it to the Executive to specify in the Customs Regulations what is a ‘prohibited import’. This delegation of legislative power is not as extreme as it may appear, however, as both Houses of Parliament usually retain the power to ‘disallow’ (that is, reject), within a specified time, any regulation which has been made by the Executive.

The distinction between the Parliament and the Executive Government is further blurred by the fact that the Prime Minister and the other Government Ministers (who form part of the Executive) must be members of Parliament. This reflects the principle of responsible government (discussed below) under which Government Ministers must be members of, and accountable to, the Parliament.

By contrast, the separation between the Judicature on the one hand and the Parliament and the Executive Government on the other is strict. Only a court may exercise the judicial power of the Commonwealth, so that, for example, the question whether a person has contravened a law of the Parliament (for example, by bringing a 'prohibited import' into the country) can only be conclusively determined by a court.

The Crown and Responsible Government

As well as being a federation, Australia is a constitutional monarchy. Under this system of government, as the term suggests, the head of State of a country is a monarch whose functions are regulated by a constitution. The concept of 'the Crown' pervades the Constitution. For example, the Queen is part of the Parliament (section 1), and is empowered to appoint the Governor-General as her representative (section 2). The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as her representative (section 61).

Despite the terms of the Constitution, the Queen does not play a day-to-day role in the Commonwealth Government. Those few functions which the Queen does perform (for example, appointing the Governor-General) are done in accordance with advice from the Prime Minister.

The Governor-General performs a large number of functions. However, apart from exceptional circumstances (discussed below), the Governor-General acts in accordance with the advice of Commonwealth Ministers. The reason for this is the principle of 'responsible government' which is basic to our system of government and which underlies our Constitution. Under this principle, the Crown (represented by the Governor-General) acts on the advice of its Ministers who are in turn members of, and responsible to, the Parliament. It is for this reason that section 64 of the Constitution requires Ministers to be, or become, members of Parliament.

There is a small number of matters (probably only four) in relation to which the Governor-General is not required to act in accordance with Ministerial advice. The powers which the Governor-General has in this respect are known as 'reserve powers'. The two most important reserve powers are the powers to appoint and to dismiss a Prime Minister. In exercising a reserve power, the Governor-General ordinarily acts in accordance with established and generally accepted rules of practice known as 'conventions'. For example, when appointing a Prime Minister under section 64 of the Constitution, the Governor-General must, by convention, appoint the parliamentary leader of the party or coalition of parties which has a majority of seats in the House of Representatives.

There can be circumstances, however, where there is no generally agreed convention to control the exercise of the Governor-General's reserve powers. Such a situation arose in 1975 when the Governor-General, Sir John Kerr, dismissed the Prime Minister, Mr E.G. Whitlam, after the Senate – controlled by Opposition parties – blocked the passage of the Supply Bill in an attempt to deprive the Whitlam Government of the funds needed to govern.

Some people argue that Sir John acted properly in dismissing Mr Whitlam as it was consistent with a 'convention' that a Prime Minister who cannot obtain supply should either seek a general election or be dismissed. Others contend that the dismissal of Mr Whitlam breached the convention that a person who retains majority support of the House of Representatives, as Mr Whitlam did, is entitled to remain Prime Minister.

Representative Government

Another fundamental principle which underlies the Constitution is that of 'representative government' – that is, government by representatives of the people who are chosen by the people. Consistently with this principle, sections 7 and 28 of the Constitution require regular elections for the House of Representatives and the Senate, and sections 7 and 24 require members of the Commonwealth Parliament to be directly chosen by the people.

Commonwealth Parliament

The Constitution established the Commonwealth Parliament comprising the Queen, a House of Representatives and a Senate (sections 1–60). The people of each of the six States elect the same number of senators (currently 12), regardless of their State's population, and the people of the Northern Territory and the Australian Capital Territory are each currently represented by two senators. This gives a total of 76 senators. In the House of Representatives the number of seats from each State (and Territory) depends on the population (although each State is guaranteed at least five seats). The current number of members of the House of Representatives is 150.

Before a proposed law (commonly referred to as a Bill) becomes an Act of Parliament it must be passed by both the House of Representatives and the Senate. The Bill is then presented to the Governor-General who assents to it in the Queen's name (section 58). A Bill becomes an Act of Parliament when it receives this assent. Nearly all Bills which subsequently become Acts of Parliament are proposed by the Government – that is, the parliamentary party or coalition of parties which holds a majority of seats in the House of Representatives.

Subject to the few exceptions referred to in section 53 in relation to the initiation and amendment of Bills which appropriate revenue or impose taxation, the Senate has equal power with the House of Representatives in respect of all Bills. Often the Government does not have a majority of seats in the Senate. Accordingly, disputes may arise between the two Houses as to whether a Bill should be passed in its proposed form. These disputes are nearly always resolved by the two Houses.

Section 57 prescribes the procedure for resolving any irreconcilable disagreement between the two Houses. That procedure essentially involves the dissolution of both Houses of Parliament by the Governor-General (that is, a 'double dissolution'), the holding of an election for both the House of Representatives and the Senate, and then, if necessary, the convening of a joint sitting of the two Houses following the election to determine whether the proposed law or laws which led to the dissolution should be passed.

Commonwealth Legislative Powers

The Constitution confers the power to make laws on the Commonwealth Parliament. However, the power of the Commonwealth Parliament to make laws is limited to particular subjects. Most of these subjects are listed in sections 51 and 52. They include defence; external affairs; interstate and international trade; taxation; foreign, trading and financial corporations; marriage and divorce; immigration; bankruptcy; and interstate industrial conciliation and arbitration.

This list of powers given to the Commonwealth Parliament does not expressly refer to a number of important subjects including education, the environment, criminal law, and roads – but this does not mean that those subjects are wholly outside the Parliament's powers. For example, even though the Commonwealth Parliament has no specific power in relation to the environment, it can, under its external affairs power, prohibit the construction of a dam by a State if that is necessary to give effect to an international agreement on the environment. The legislative powers of the Commonwealth Parliament can also be expanded by the Parliaments of the States referring matters to the Commonwealth Parliament under section 51(xxxvii).

The States and their Legislative Powers

Under the federal system created by the Australian Constitution, the six former colonies became the six States of Australia. Before federation, each of the six colonies had its own constitution. These constitutions regulated, among other things, the Legislature, the Executive Government, and the Judiciary of the States. The Australian Constitution expressly guarantees the continuing existence of the States and preserves each of their constitutions. However, the States are bound by the Australian Constitution, and the constitutions of the States must be read subject to the Australian Constitution (sections 106 and 107).

Under the constitutions of each of the States, a State Parliament can make laws on any subject of relevance to that particular State. Subject to a few exceptions, the Australian Constitution does not confine the matters about which the States may make laws. (The most important exceptions are that the States cannot impose duties of customs and excise (section 90) and cannot raise defence forces without the consent of the Commonwealth Parliament (section 114).) Accordingly, the State Parliaments can pass laws on a wider range of subjects than the Commonwealth Parliament, and for this reason important areas such as education, criminal law, and roads are regulated primarily by laws of the States rather than by laws of the Commonwealth Parliament.

The Relationship between Commonwealth and State Powers

Although the State Parliaments can pass laws on a wider range of subjects than the Commonwealth Parliament, the Commonwealth is generally regarded as the more powerful partner in the federation. One of the principal reasons for this is section 109 of the Constitution which provides that if a valid Commonwealth law is inconsistent with a law of a State Parliament, the Commonwealth law operates and the State law is invalid to the extent of the inconsistency.

Accordingly, the Commonwealth can, within the subject matters conferred on it by the Constitution, override State laws. As a result, many subjects of Commonwealth power are regulated almost entirely by Commonwealth law, for example, bankruptcy, marriage and divorce, and immigration.

Further, the States have traditionally not raised sufficient revenue to perform all their functions. During the Second World War, Commonwealth legislation effectively excluded the States from imposing income tax, and since then,

various political and economic considerations have resulted in income tax being imposed solely by the Commonwealth. Also, the States are unable to impose taxes of customs and excise (section 90). Consequently, the States have received grants of financial assistance from the Commonwealth. Many of these grants are made without conditions.

Section 96 of the Constitution, however, allows the Commonwealth to make conditional grants of money to the States for any purpose. This power to impose conditions on how the money is spent by the States allows the Commonwealth to influence the way things are done in areas over which it has no direct power to pass laws. For example, the Commonwealth has exerted significant control over universities in this way even though it has no specific power in relation to education.

The Executive Government of the Commonwealth

A literal reading of the Constitution does not give much information about how the Executive Government of the Commonwealth functions. For example, the terms of Chapter II (sections 61–70) give the impression that the Governor-General has sweeping powers in relation to the Commonwealth Government. Section 61 says that the executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General, while section 68 provides that the command of the defence forces is vested in the Governor-General.

The Governor-General, however, exercises his or her powers in accordance with the principle of responsible government (discussed earlier). Consequently, in all but exceptional circumstances, the Governor-General acts in accordance with advice from the Ministers of the Government. The appointment of Ministers and the creation of Departments of State to administer the Government of the Commonwealth are referred to in section 64. Section 64 also provides that Ministers must be, or become, members of Parliament.

In practice Ministers are also members of the parliamentary party or coalition of parties which holds a majority of seats in the House of Representatives. Ministers may either be senators or members of the House of Representatives, although established constitutional practice dictates that the Prime Minister must be a member of the House of Representatives rather than a senator. Despite their importance to the operations of the Executive Government, neither the head of the Government (the Prime Minister) nor the principal decision-making body in the Government (the Cabinet, which is made up of senior Government Ministers) is mentioned in the Constitution.

The Federal Executive Council, which is referred to in various provisions of the Constitution, and in the expression ‘Governor-General in Council’, comprises all past and current Ministers. However, only current Ministers take part in Executive Council business, and usually only two or three Ministers attend meetings of the Council with the Governor-General. Unlike the Cabinet, the Executive Council is not a deliberative body. Its principal functions are to receive advice and approve the signing of formal documents such as regulations and statutory appointments.

Federal Judicature

Chapter III of the Constitution (sections 71–80) provides for the establishment of the High Court of Australia. One of the High Court’s principal functions is to decide disputes about the meaning of the Constitution. For example, it is the High Court which ultimately determines whether an Act passed by the Commonwealth Parliament is within the legislative powers of the Commonwealth. The power which the High Court has to interpret the Constitution means that it is a very important body. The High Court is also the final court of appeal within Australia in all other types of cases, even those dealing with purely State matters such as convictions under State criminal laws.

Chapter III also gives the Commonwealth Parliament power to create other federal courts (for example, the Federal Court of Australia and the Family Court of Australia), and to vest federal judicial power in such courts and in courts of the States. ‘Federal judicial power’ is judicial power relating to one or more of the classes of dispute set out in sections 75 and 76.

An Australian ‘Common Market’

Chapter IV of the Constitution (sections 81–105A) contains provisions regulating, among other things, trade and commerce throughout Australia. The desire to have a single trade area throughout Australia was one of the main reasons for the movement by the Australian people towards federation. To achieve this, Australia needed both uniform customs duties and the abolition of protectionist burdens on interstate trade.

The Constitution achieves the first of these objectives by requiring the Commonwealth Parliament to impose uniform customs duties (section 88) and by prohibiting the State Parliaments from imposing customs duties (section 90). It achieves the second objective primarily by providing in section 92 that trade and commerce between the States shall be ‘absolutely free’.

Section 92, in effect, prohibits action by either the Commonwealth or a State which discriminates against interstate trade or commerce and which has the purpose or effect of protecting intrastate trade or commerce of a State against competition from other States. For example, section 92 would be contravened if the New South Wales Parliament, in an attempt to make NSW milk more price-competitive, imposed a special tax on all milk sold in NSW which had been produced in Victoria.

Chapter IV also regulates other aspects of finance and trade. Two of the more important provisions are section 81, which provides that all money raised or received by the Executive Government of the Commonwealth is to form one Consolidated Revenue Fund, and section 83, which provides that no money may be expended by the Executive Government of the Commonwealth without the authority of Parliament.

New States

The Constitution makes provision for the establishment and admission of new States (sections 121 and 124). No new States have been established or admitted since federation. Under section 121, a new State can be created by an Act of the Commonwealth Parliament.

Territories

Section 122 empowers the Commonwealth Parliament to make laws in relation to Territories which have been 'surrendered' by the States or which have otherwise been acquired by the Commonwealth. In relation to these Territories (of which there are currently 10), the Commonwealth Parliament can make laws on any subject – that is, it does not share its law-making power with the State Parliaments as it does in relation to the States. The Commonwealth Parliament has conferred a large measure of self-government on the people of three of the Territories, namely the Australian Capital Territory, Norfolk Island, and the Northern Territory.

Rights

The Constitution has no Bill of Rights, such as that found in the United States Constitution, which prevents a legislature from passing laws that infringe basic human rights, such as freedom of speech. Some express protections, however, are given by the Constitution against legislative or executive action by the Commonwealth, but not by the States. Examples are section 51(xxxi) (acquisition of property must be 'on just terms'), section 80 (trial by jury is required in relation to some criminal offences), and section 116 (a right exists to exercise any religion).

Section 117 prohibits the Parliament of a State from discriminating against non-residents of that State. It provides, in effect, that a resident in, say, Victoria shall not be subject to any discrimination or disability in, say, Queensland unless the person would also be subject to that disability or discrimination as a resident of Queensland. (The question whether section 117 limits the lawmaking power of the Commonwealth Parliament has not yet been conclusively resolved by the High Court.)

The High Court has also recognised some implied restrictions on legislative power derived from the fundamental system of government established by the Constitution. For example, because of the separation of powers effected by the Constitution, only a court may exercise the judicial power of the Commonwealth. Accordingly, a law of the Commonwealth Parliament cannot provide for criminal conviction by any body other than a court.

Another example of how implications from the terms or structure of the Constitution can restrict legislative power was provided in 1992 when the High Court declared invalid a Commonwealth law which attempted to restrict the broadcasting of political advertising. The Court decided that the restrictions imposed by that law were inconsistent with a necessary aspect of representative government entrenched by the Constitution – specifically, the right to freedom of communication on political matters.

Amending the Constitution

The Constitution provides a mechanism by which it can be altered, called a referendum. Before there can be any change to the Constitution, a majority of electors must vote in favour of the change. In addition, there must be a majority vote in a majority of States, that is, in four out of the six States. (Further, a proposed amendment which would diminish the representation of a State in the Commonwealth Parliament or which would alter the territorial limits of a State must be approved by a majority of electors in that State.) Ordinarily, before a matter can be the subject of a referendum, both Houses of the Commonwealth Parliament must pass the proposed law containing the suggested amendment of the Constitution (section 128).

*Australian Government Solicitor
October 2010*



THE CONSTITUTION

Commonwealth of Australia Constitution Act

with alterations of the Constitution made by

- *Constitution Alteration (Senate Elections) 1906*
(No. 1 of 1907)
- *Constitution Alteration (State Debts) 1909*
(No. 3 of 1910)
- *Constitution Alteration (State Debts) 1928*
(No. 1 of 1929)
- *Constitution Alteration (Social Services) 1946*
(No. 81 of 1946)
- *Constitution Alteration (Aboriginals) 1967*
(No. 55 of 1967)
- *Constitution Alteration (Senate Casual Vacancies) 1977*
(No. 82 of 1977)
- *Constitution Alteration (Retirement of Judges) 1977*
(No. 83 of 1977)
- *Constitution Alteration (Referendums) 1977*
(No. 84 of 1977)

Note: The Constitution is printed here as fully amended by the Constitution Alterations specified above. Sections and paragraphs affected by these amendments are shown in their unamended form, in full, in the Notes commencing on page 32.

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Commonwealth of Australia Constitution Act

An Act to constitute the Commonwealth of Australia

[9th July 1900]

WHEREAS the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established:

And whereas it is expedient to provide for the admission into the Commonwealth of other Australasian Colonies and possessions of the Queen:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. Short title

This Act may be cited as the Commonwealth of Australia Constitution Act.¹

2. Act to extend to the Queen's successors

The provisions of this Act referring to the Queen shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom.

3. Proclamation of Commonwealth

It shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation² that, on and after a day therein appointed, not being later than one year after the passing of this Act, the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, and also, if Her Majesty is satisfied that the people of Western Australia have agreed thereto, of Western Australia, shall be united in a Federal Commonwealth under the name of the Commonwealth of Australia. But the Queen may, at any time after the proclamation, appoint a Governor-General for the Commonwealth.

4. Commencement of Act

The Commonwealth shall be established, and the Constitution of the Commonwealth shall take effect, on and after the day so appointed. But the Parliaments of the several colonies may at any time after the passing of this Act make any such laws, to come into operation on the day so appointed, as they might have made if the Constitution had taken effect at the passing of this Act.

5. Operation of the Constitution and laws

This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the courts, judges, and people of every State and of every part of the Commonwealth, notwithstanding anything in the laws of any State; and the laws of the Commonwealth shall be in force on all British ships, the Queen's ships of war excepted, whose first port of clearance and whose port of destination are in the Commonwealth.³

6. Definitions

The Commonwealth shall mean the Commonwealth of Australia as established under this Act.

The States shall mean such of the colonies of New South Wales, New Zealand, Queensland, Tasmania, Victoria, Western Australia, and South Australia, including the northern territory of South Australia, as for the time being are parts of the Commonwealth, and such colonies or territories as may be admitted into or established by the Commonwealth as States; and each of such parts of the Commonwealth shall be called *a State*.

Original States shall mean such States as are parts of the Commonwealth at its establishment.

7. Repeal of Federal Council Act

The Federal Council of Australasia Act, 1885, is hereby repealed, but so as not to affect any laws passed by the Federal Council of Australasia and in force at the establishment of the Commonwealth.

Any such law may be repealed⁴ as to any State by the Parliament of the Commonwealth, or as to any colony not being a State by the Parliament thereof.

8. Application of Colonial Boundaries Act

After the passing of this Act the Colonial Boundaries Act, 1895, shall not apply to any colony which becomes a State of the Commonwealth; but the Commonwealth shall be taken to be a self-governing colony for the purposes of that Act.

9. Constitution

The Constitution of the Commonwealth shall be as follows:

The Constitution¹

This Constitution is divided as follows:

Chapter I—The Parliament

Part I—General

Part II—The Senate

Part III—The House of Representatives

Part IV—Both Houses of the Parliament

Part V—Powers of the Parliament

Chapter II—The Executive Government

Chapter III—The Judicature

Chapter IV—Finance and Trade

Chapter V—The States

Chapter VI—New States

Chapter VII—Miscellaneous

Chapter VIII—Alteration of the Constitution

The Schedule

Chapter I—The Parliament

Part I—General

1. Legislative power

The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives, and which is hereinafter called *The Parliament*, or *The Parliament of the Commonwealth*.

2. Governor-General

A Governor-General appointed by the Queen shall be Her Majesty's representative in the Commonwealth, and shall have and may exercise in the Commonwealth during the Queen's pleasure, but subject to this Constitution, such powers and functions of the Queen as Her Majesty may be pleased to assign to him.

3. Salary of Governor-General

There shall be payable to the Queen out of the Consolidated Revenue fund of the Commonwealth, for the salary of the Governor-General, an annual sum which, until the Parliament otherwise provides, shall be ten thousand pounds.

The salary of a Governor-General shall not be altered during his continuance in office.

4. Provisions relating to Governor-General

The provisions of this Constitution relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as the Queen may appoint to administer the Government of the Commonwealth; but no such person shall be entitled to receive any salary from the Commonwealth in respect of any other office during his administration of the Government of the Commonwealth.

5. Sessions of Parliament, prorogation and dissolution

The Governor-General may appoint such times for holding the sessions of the Parliament as he thinks fit, and may also from time to time, by Proclamation or otherwise, prorogue the Parliament, and may in like manner dissolve the House of Representatives.

Summoning Parliament

After any general election the Parliament shall be summoned to meet not later than thirty days after the day appointed for the return of the writs.

First session

The Parliament shall be summoned to meet not later than six months after the establishment of the Commonwealth.

6. Yearly session of Parliament

There shall be a session of the Parliament once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

Part II – The Senate

7. The Senate

The Senate shall be composed of senators for each State, directly chosen by the people of the State, voting, until the Parliament otherwise provides, as one electorate.

But until the Parliament of the Commonwealth otherwise provides, the Parliament of the State of Queensland, if that State be an Original State, may make laws dividing the State into divisions and determining the number of senators to be chosen for each division, and in the absence of such provision the State shall be one electorate.

Until the Parliament otherwise provides there shall be six senators for each Original State. The Parliament may make laws increasing or diminishing the number of senators for each State,⁵ but so that equal representation of the several Original States shall be maintained and that no Original State shall have less than six senators.

The senators shall be chosen for a term of six years, and the names of the senators chosen for each State shall be certified by the Governor to the Governor-General.

8. Qualification of electors

The qualification of electors of senators shall be in each State that which is prescribed by this Constitution, or by the Parliament, as the qualification for electors of members of the House of Representatives; but in the choosing of senators each elector shall vote only once.

9. Method of election of senators

The Parliament of the Commonwealth may make laws prescribing the method of choosing senators, but so that the method shall be uniform for all the States. Subject to any such law, the Parliament of each State may make laws⁶ prescribing the method of choosing the senators for that State.

Times and places

The Parliament of a State may make laws⁶ for determining the times and places of elections of senators for the State.

10. Application of State laws

Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State, for the time being, relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections of senators for the State.

11. Failure to choose senators

The Senate may proceed to the despatch of business, notwithstanding the failure of any State to provide for its representation in the Senate.

12. Issue of writs

The Governor of any State may cause writs to be issued for elections of senators for the State. In case of the dissolution of the Senate the writs shall be issued within ten days from the proclamation of such dissolution.

13. Rotation of senators⁷

As soon as may be after the Senate first meets, and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of three years, and the places of those of the second class at the expiration of six years, from the beginning of their term of service; and afterwards the places of senators shall become vacant at the expiration of six years from the beginning of their term of service.

The election to fill vacant places shall be made within one year before the places are to become vacant.

For the purposes of this section the term of service of a senator shall be taken to begin on the first day of July following the day of his election, except in the cases of the first election and of the election next after any dissolution of the Senate, when it shall be taken to begin on the first day of July preceding the day of his election.

14. Further provision for rotation

Whenever the number of senators for a State is increased or diminished, the Parliament of the Commonwealth may make such provision for the vacating of the places of senators for the State as it deems necessary to maintain regularity in the rotation.⁸

15. Casual vacancies⁹

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,¹⁰ 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 the 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.

16. Qualifications of senator

The qualifications of a senator shall be the same as those of a member of the House of Representatives.

17. Election of President

The Senate shall, before proceeding to the despatch of any other business, choose a senator to be the President of the Senate; and as often as the office of President becomes vacant the Senate shall again choose a senator to be the President.

The President shall cease to hold his office if he ceases to be a senator. He may be removed from office by a vote of the Senate, or he may resign his office or his seat by writing addressed to the Governor-General.

18. Absence of President

Before or during any absence of the President, the Senate may choose a senator to perform his duties in his absence.

19. Resignation of senator

A senator may, by writing addressed to the President, or to the Governor-General if there is no President or if the President is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

20. Vacancy by absence

The place of a senator shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the Senate, fails to attend the Senate.

21. Vacancy to be notified

Whenever a vacancy happens in the Senate, the President, or if there is no President or if the President is absent from the Commonwealth the Governor-General, shall notify the same to the Governor of the State in the representation of which the vacancy has happened.

22. Quorum

Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the senators shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

23. Voting in Senate

Questions arising in the Senate shall be determined by a majority of votes, and each senator shall have one vote. The President shall in all cases be entitled to a vote; and when the votes are equal the question shall pass in the negative.

Part III – The House of Representatives

24. Constitution of House of Representatives

The House of Representatives shall be composed of members directly chosen by the people of the Commonwealth, and the number of such members shall be, as nearly as practicable, twice the number of the senators.

The number of members chosen in the several States shall be in proportion to the respective numbers of their people, and shall, until the Parliament otherwise provides, be determined, whenever necessary, in the following manner:

- (i) a quota shall be ascertained by dividing the number of the people of the Commonwealth, as shown by the latest statistics of the Commonwealth, by twice the number of the senators;
- (ii) the number of members to be chosen in each State shall be determined by dividing the number of the people of the State, as shown by the latest statistics of the Commonwealth, by the quota; and if on such division there is a remainder greater than one-half of the quota, one more member shall be chosen in the State.

But notwithstanding anything in this section, five members at least shall be chosen in each Original State.

25. Provisions as to races disqualified from voting

For the purposes of the last section, if by the law of any State all persons of any race are disqualified from voting at elections for the more numerous House of the Parliament of the State, then, in reckoning the number of the people of the State or of the Commonwealth, persons of that race resident in that State shall not be counted.

26. Representatives in first Parliament

Notwithstanding anything in section twenty-four, the number of members to be chosen in each State at the first election shall be as follows:

New South Wales twenty-three;
Victoria twenty;
Queensland eight;
South Australia six;
Tasmania five;

Provided that if Western Australia is an Original State, the numbers shall be as follows:

New South Wales twenty-six;
Victoria twenty-three;
Queensland nine;
South Australia seven;
Western Australia five;
Tasmania five.

27. Alteration of number of members

Subject to this Constitution, the Parliament may make laws for increasing or diminishing the number of the members of the House of Representatives.

28. Duration of House of Representatives

Every House of Representatives shall continue for three years from the first meeting of the House, and no longer, but may be sooner dissolved by the Governor-General.

29. Electoral divisions

Until the Parliament of the Commonwealth otherwise provides, the Parliament of any State may make laws¹¹ for determining the divisions in each State for which members of the House of Representatives may be chosen, and the number of members to be chosen for each division. A division shall not be formed out of parts of different States.

In the absence of other provision, each State shall be one electorate.

30. Qualification of electors

Until the Parliament otherwise provides, the qualification of electors of members of the House of Representatives shall be in each State that which is prescribed by the law of the State as the qualification of electors of the more numerous House of Parliament of the State; but in the choosing of members each elector shall vote only once.

31. Application of State laws

Until the Parliament otherwise provides, but subject to this Constitution, the laws in force in each State for the time being relating to elections for the more numerous House of the Parliament of the State shall, as nearly as practicable, apply to elections in the State of members of the House of Representatives.

32. Writs for general election

The Governor-General in Council may cause writs to be issued for general elections of members of the House of Representatives.

After the first general election, the writs shall be issued within ten days from the expiry of a House of Representatives or from the proclamation of a dissolution thereof.

33. Writs for vacancies

Whenever a vacancy happens in the House of Representatives, the Speaker shall issue his writ for the election of a new member, or if there is no Speaker or if he is absent from the Commonwealth the Governor-General in Council may issue the writ.

34. Qualifications of members

Until the Parliament otherwise provides, the qualifications of a member of the House of Representatives shall be as follows:

- (i) he must be of the full age of twenty-one years, and must be an elector entitled to vote at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at the least a resident within the limits of the Commonwealth as existing at the time when he is chosen;
- (ii) he must be a subject of the Queen, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a Colony which has become or becomes a State, or of the Commonwealth, or of a State.

35. Election of Speaker

The House of Representatives shall, before proceeding to the despatch of any other business, choose a member to be the Speaker of the House, and as often as the office of Speaker becomes vacant the House shall again choose a member to be the Speaker.

The Speaker shall cease to hold his office if he ceases to be a member. He may be removed from office by a vote of the House, or he may resign his office or his seat by writing addressed to the Governor-General.

36. Absence of Speaker

Before or during any absence of the Speaker, the House of Representatives may choose a member to perform his duties in his absence.

37. Resignation of member

A member may by writing addressed to the Speaker, or to the Governor-General if there is no Speaker or if the Speaker is absent from the Commonwealth, resign his place, which thereupon shall become vacant.

38. Vacancy by absence

The place of a member shall become vacant if for two consecutive months of any session of the Parliament he, without the permission of the House, fails to attend the House.

39. Quorum

Until the Parliament otherwise provides, the presence of at least one-third of the whole number of the members of the House of Representatives shall be necessary to constitute a meeting of the House for the exercise of its powers.

40. Voting in House of Representatives

Questions arising in the House of Representatives shall be determined by a majority of votes other than that of the Speaker. The Speaker shall not vote unless the numbers are equal, and then he shall have a casting vote.

Part IV – Both Houses of the Parliament

41. Right of electors of States

No adult person who has or acquires a right to vote at elections for the more numerous House of the Parliament of a State shall, while the right continues, be prevented by any law of the Commonwealth from voting at elections for either House of the Parliament of the Commonwealth.

42. Oath or affirmation of allegiance

Every senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the form set forth in the schedule to this Constitution.

43. Member of one House ineligible for other

A member of either House of the Parliament shall be incapable of being chosen or of sitting as a member of the other House

44. Disqualification

Any person who:

- (i) is under any acknowledgment of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign power; or
- (ii) is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer; or
- (iii) is an undischarged bankrupt or insolvent; or
- (iv) holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth: or

- (v) has any direct or indirect pecuniary interest in any agreement with the Public Service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than twenty-five persons;

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

But subsection (iv) does not apply to the office of any of the Queen's Ministers of State for the Commonwealth, or of any of the Queen's Ministers for a State, or to the receipt of pay, half pay, or a pension, by any person as an officer or member of the Queen's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth.

45. Vacancy on happening of disqualification

If a senator or member of the House of Representatives:

- (i) becomes subject to any of the disabilities mentioned in the last preceding section; or
- (ii) takes the benefit, whether by assignment, composition, or otherwise, of any law relating to bankrupt or insolvent debtors; or
- (iii) directly or indirectly takes or agrees to take any fee or honorarium for services rendered to the Commonwealth, or for services rendered in the Parliament to any person or State;

his place shall thereupon become vacant.

46. Penalty for sitting when disqualified

Until the Parliament otherwise provides, any person declared by this Constitution to be incapable of sitting as a senator or as a member of the House of Representatives shall, for every day on which he so sits, be liable to pay the sum of one hundred pounds to any person who sues for it in any court of competent jurisdiction.

47. Disputed elections

Until the Parliament otherwise provides, any question respecting the qualification of a senator or of a member of the House of Representatives, or respecting a vacancy in either House of the Parliament, and any question of a disputed election to either House, shall be determined by the House in which the question arises.

48. Allowance to members

Until the Parliament otherwise provides, each senator and each member of the House of Representatives shall receive an allowance of four hundred pounds a year, to be reckoned from the day on which he takes his seat.

49. Privileges etc. of Houses

The powers, privileges, and immunities of the Senate and of the House of Representatives, and of the members and the committees of each House, shall be such as are declared by the Parliament, and until declared shall be those of the Commons House of Parliament of the United Kingdom, and of its members and committees, at the establishment of the Commonwealth.

50. Rules and orders

Each House of the Parliament may make rules and orders with respect to:

- (i) the mode in which its powers, privileges, and immunities may be exercised and upheld;
- (ii) the order and conduct of its business and proceedings either separately or jointly with the other House.

Part V – Powers of the Parliament

51. Legislative powers of the Parliament

The Parliament shall, subject to this Constitution, have power¹² to make laws for the peace, order, and good government of the Commonwealth with respect to:

- (i) trade and commerce with other countries, and among the States;
- (ii) taxation; but so as not to discriminate between States or parts of States;

- (iii) bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth;
- (iv) borrowing money on the public credit of the Commonwealth;
- (v) postal, telegraphic, telephonic, and other like services;
- (vi) the naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth;
- (vii) lighthouses, lightships, beacons and buoys;
- (viii) astronomical and meteorological observations;
- (ix) quarantine;
- (x) fisheries in Australian waters beyond territorial limits;
- (xi) census and statistics;
- (xii) currency, coinage, and legal tender;
- (xiii) banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money;
- (xiv) insurance, other than State insurance; also State insurance extending beyond the limits of the State concerned;
- (xv) weights and measures;
- (xvi) bills of exchange and promissory notes;
- (xvii) bankruptcy and insolvency;
- (xviii) copyrights, patents of inventions and designs, and trade marks;
- (xix) naturalization and aliens;
- (xx) foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth;
- (xxi) marriage;
- (xxii) divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants;
- (xxiii) invalid and old-age pensions;
- (xxiiiA)¹³ the provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorize any form of civil conscription), benefits to students and family allowances;
- (xxiv) the service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States;
- (xxv) the recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States;
- (xxvi)¹⁴ the people of any race for whom it is deemed necessary to make special laws;
- (xxvii) immigration and emigration;
- (xxviii) the influx of criminals;
- (xxix) external affairs;
- (xxx) the relations of the Commonwealth with the islands of the Pacific;
- (xxxi) the acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws;
- (xxxii) the control of railways with respect to transport for the naval and military purposes of the Commonwealth;

- (xxxiii) the acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State;
- (xxxiv) railway construction and extension in any State with the consent of that State;
- (xxxv) conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State;
- (xxxvi) matters in respect of which this Constitution makes provision until the Parliament otherwise provides;
- (xxxvii) matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States,¹⁵ but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law;
- (xxxviii) the exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia;
- (xxxix) matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any department or officer of the Commonwealth.

52. Exclusive powers of the Parliament

The Parliament shall, subject to this Constitution, have exclusive power to make laws for the peace, order, and good government of the Commonwealth with respect to:

- (i) the seat of government of the Commonwealth, and all places acquired by the Commonwealth for public purposes;
- (ii) matters relating to any department of the public service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth;
- (iii) other matters declared by this Constitution to be within the exclusive power of the Parliament.

53. Powers of the Houses in respect of legislation

Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate. But a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

The Senate may not amend any proposed law so as to increase any proposed charge or burden on the people.

The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein. And the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

Except as provided in this section, the Senate shall have equal power with the House of Representatives in respect of all proposed laws.

54. Appropriation Bills

The proposed law which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

55. Tax Bill

Laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.

Laws imposing taxation, except laws imposing duties of customs or of excise, shall deal with one subject of taxation only; but laws imposing duties of customs shall deal with duties of customs only, and laws imposing duties of excise shall deal with duties of excise only.

56. Recommendation of money votes

A vote, resolution, or proposed law for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor-General to the House in which the proposal originated.

57. Disagreement between the Houses

If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor-General may convene a joint sitting of the members of the Senate and of the House of Representatives.

The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives, it shall be taken to have been duly passed by both Houses of the Parliament, and shall be presented to the Governor-General for the Queen's assent.

58. Royal assent to Bills

When a proposed law passed by both Houses of the Parliament is presented to the Governor-General for the Queen's assent, he shall declare, according to his discretion, but subject to this Constitution, that he assents in the Queen's name, or that he withholds assent, or that he reserves the law for the Queen's pleasure.

Recommendations by Governor-General

The Governor-General may return to the house in which it originated any proposed law so presented to him, and may transmit therewith any amendments which he may recommend, and the Houses may deal with the recommendation.

59. Disallowance by the Queen

The Queen may disallow any law within one year from the Governor-General's assent, and such disallowance on being made known by the Governor-General by speech or message to each of the Houses of the Parliament, or by Proclamation, shall annul the law from the day when the disallowance is so made known.

60. Signification of Queen's pleasure on Bills reserved

A proposed law reserved for the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor-General for the Queen's assent the Governor-General makes known, by speech or message to each of the Houses of the Parliament, or by Proclamation, that it has received the Queen's assent.

Chapter II—The Executive Government

61. Executive power

The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.

62. Federal Executive Council

There shall be a Federal Executive Council to advise the Governor-General in the government of the Commonwealth, and the members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure.

63. Provisions referring to Governor-General

The provisions of this Constitution referring to the Governor-General in Council shall be construed as referring to the Governor-General acting with the advice of the Federal Executive Council.

64. Ministers of State

The Governor-General may appoint officers to administer such departments of State of the Commonwealth as the Governor-General in Council may establish.

Such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Federal Executive Council, and shall be the Queen's Ministers of State for the Commonwealth.

Ministers to sit in Parliament

After the first general election no Minister of State shall hold office for a longer period than three months unless he is or becomes a senator or a member of the House of Representatives.

65. Number of Ministers

Until the Parliament otherwise provides, the Ministers of State shall not exceed seven in number, and shall hold such offices as the Parliament prescribes, or, in the absence of provision, as the Governor-General directs.

66. Salaries of Ministers

There shall be payable to the Queen, out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of the Ministers of State, an annual sum which, until the Parliament otherwise provides, shall not exceed twelve thousand pounds a year.

67. Appointment of civil servants

Until the Parliament otherwise provides, the appointment and removal of all other officers of the Executive Government of the Commonwealth shall be vested in the Governor-General in Council, unless the appointment is delegated by the Governor-General in Council or by a law of the Commonwealth to some other authority.

68. Command of naval and military forces

The command in chief of the naval and military forces of the Commonwealth is vested in the Governor-General as the Queen's representative.

69. Transfer of certain departments

On a date or dates to be proclaimed by the Governor-General after the establishment of the Commonwealth the following departments of the public service in each State shall become transferred to the Commonwealth:

posts, telegraphs, and telephones;
naval and military defence;
lighthouses, lightships, beacons, and buoys;
quarantine.

But the departments of customs and of excise in each State shall become transferred to the Commonwealth on its establishment.

70. Certain powers of Governors to vest in Governor-General

In respect of matters which, under this Constitution, pass to the Executive Government of the Commonwealth, all powers and functions which at the establishment of the Commonwealth are vested in the Governor of a Colony, or in the Governor of a Colony with the advice of his Executive Council, or in any authority of a Colony, shall vest in the Governor-General, or in the Governor-General in Council, or in the authority exercising similar powers under the Commonwealth, as the case requires.

Chapter III—The Judicature

71. Judicial power and Courts

The judicial power of the Commonwealth shall be vested in a Federal Supreme Court, to be called the High Court of Australia, and in such other federal courts as the Parliament creates, and in such other courts as it invests with federal jurisdiction. The High Court shall consist of a Chief Justice, and so many other Justices, not less than two, as the Parliament prescribes.

72. Judges' appointment, tenure and remuneration¹⁶

The Justices of the High Court and of the other courts created by the Parliament:

- (i) shall be appointed by the Governor-General in Council;
- (ii) shall not be removed except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity;
- (iii) shall receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during their continuance in office.

The appointment of a Justice of the High Court shall be for a term expiring upon his attaining the age of seventy years, and a person shall not be appointed as a Justice of the High Court if he has attained that age.

The appointment of a Justice of a court created by the Parliament shall be for a term expiring upon his attaining the age that is, at the time of his appointment, the maximum age for Justices of that court and a person shall not be appointed as a Justice of such a court if he has attained the age that is for the time being the maximum age for Justices of that court.

Subject to this section, the maximum age for Justices of any court created by the Parliament is seventy years.

The Parliament may make a law fixing an age that is less than seventy years as the maximum age for Justices of a court created by the Parliament and may at any time repeal or amend such a law, but any such repeal or amendment does not affect the term of office of a Justice under an appointment made before the repeal or amendment.

A Justice of the High Court or of a court created by the Parliament may resign his office by writing under his hand delivered to the Governor-General.

Nothing in the provisions added to this section by the *Constitution Alteration (Retirement of Judges) 1977* affects the continuance of a person in office as a Justice of a court under an appointment made before the commencement of those provisions.

A reference in this section to the appointment of a Justice of the High Court or of a court created by the Parliament shall be read as including a reference to the appointment of a person who holds office as a Justice of the High Court or of a court created by the Parliament to another office of Justice of the same court having a different status or designation.

73. Appellate jurisdiction of High Court

The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences:

- (i) of any Justice or Justices exercising the original jurisdiction of the High Court;
- (ii) of any other federal court, or court exercising federal jurisdiction; or of the Supreme Court of any State, or of any other court of any State from which at the establishment of the Commonwealth an appeal lies to the Queen in Council;
- (iii) of the Inter-State Commission, but as to questions of law only;

and the judgment of the High Court in all such cases shall be final and conclusive.

But no exception or regulation prescribed by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter in which at the establishment of the Commonwealth an appeal lies from such Supreme Court to the Queen in Council.

Until the Parliament otherwise provides, the conditions of and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court.

74. Appeal to Queen in Council

No appeal shall be permitted to the Queen in Council from a decision of the High Court upon any question, howsoever arising, as to the limits inter se of the Constitutional powers of the Commonwealth and those of any State or States, or as to the limits inter se of the Constitutional powers of any two or more States, unless the High Court shall certify that the question is one which ought to be determined by Her Majesty in Council.

The High Court may so certify if satisfied that for any special reason the certificate should be granted, and thereupon an appeal shall lie to Her Majesty in Council on the question without further leave.

Except as provided in this section, this Constitution shall not impair any right which the Queen may be pleased to exercise by virtue of Her Royal prerogative to grant special leave of appeal from the High Court to Her Majesty in Council. The Parliament may make laws limiting the matters in which such leave may be asked,¹⁷ but proposed laws containing any such limitation shall be reserved by the Governor-General for Her Majesty's pleasure.

75. Original jurisdiction of High Court

In all matters:

- (i) arising under any treaty;
- (ii) affecting consuls or other representatives of other countries;
- (iii) in which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party;
- (iv) between States, or between residents of different States, or between a State and a resident of another State;
- (v) in which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Commonwealth;

the High Court shall have original jurisdiction.

76. Additional original jurisdiction

The Parliament may make laws conferring original jurisdiction on the High Court in any matter:

- (i) arising under this Constitution, or involving its interpretation;
- (ii) arising under any laws made by the Parliament;
- (iii) of Admiralty and maritime jurisdiction;
- (iv) relating to the same subject-matter claimed under the laws of different States.

77. Power to define jurisdiction

With respect to any of the matters mentioned in the last two sections the Parliament may make laws:

- (i) defining the jurisdiction of any federal court other than the High Court;
- (ii) defining the extent to which the jurisdiction of any federal court shall be exclusive of that which belongs to or is invested in the courts of the States;
- (iii) investing any court of a State with federal jurisdiction.

78. Proceedings against Commonwealth or State

The Parliament may make laws conferring rights to proceed against the Commonwealth or a State in respect of matters within the limits of the judicial power.

79. Number of judges

The federal jurisdiction of any court may be exercised by such number of judges as the Parliament prescribes.

80. Trial by jury

The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes.

Chapter IV—Finance and Trade

81. Consolidated Revenue Fund

All revenues or moneys raised or received by the Executive Government of the Commonwealth shall form one Consolidated Revenue Fund, to be appropriated for the purposes of the Commonwealth in the manner and subject to the charges and liabilities imposed by this Constitution.

82. Expenditure charged thereon

The costs, charges, and expenses incident to the collection, management, and receipt of the Consolidated Revenue Fund shall form the first charge thereon; and the revenue of the Commonwealth shall in the first instance be applied to the payment of the expenditure of the Commonwealth.

83. Money to be appropriated by law

No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law.

But until the expiration of one month after the first meeting of the Parliament the Governor-General in Council may draw from the Treasury and expend such moneys as may be necessary for the maintenance of any department transferred to the Commonwealth and for the holding of the first elections for the Parliament.

84. Transfer of officers

When any department of the public service of a State becomes transferred to the Commonwealth, all officers of the department shall become subject to the control of the Executive Government of the Commonwealth.

Any such officer who is not retained in the service of the Commonwealth shall, unless he is appointed to some other office of equal emolument in the public service of the State, be entitled to receive from the State any pension, gratuity, or other compensation, payable under the law of the State on the abolition of his office.

Any such officer who is retained in the service of the Commonwealth shall preserve all his existing and accruing rights, and shall be entitled to retire from office at the time, and on the pension or retiring allowance, which would be permitted by the law of the State if his service with the Commonwealth were a continuation of his service with the State. Such pension or retiring allowance shall be paid to him by the Commonwealth; but the State shall pay to the Commonwealth a part thereof, to be calculated on the proportion which his term of service with the State bears to his whole term of service, and for the purpose of the calculation his salary shall be taken to be that paid to him by the State at the time of the transfer.

Any officer who is, at the establishment of the Commonwealth, in the public service of a State, and who is, by consent of the Governor of the State with the advice of the Executive Council thereof, transferred to the public service of the Commonwealth, shall have the same rights as if he had been an officer of a department transferred to the Commonwealth and were retained in the service of the Commonwealth.

85. Transfer of property of State

When any department of the public service of a State is transferred to the Commonwealth:

- (i) all property of the State of any kind, used exclusively in connexion with the department, shall become vested in the Commonwealth; but, in the case of the departments controlling customs and excise and bounties, for such time only as the Governor-General in Council may declare to be necessary;
- (ii) the Commonwealth may acquire any property of the State, of any kind used, but not exclusively used in connexion with the department; the value thereof shall, if no agreement can be made, be ascertained in, as nearly as may be, the manner in which the value of land, or of an interest in land, taken by the State for public purposes is ascertained under the law of the State in force at the establishment of the Commonwealth;
- (iii) the Commonwealth shall compensate the State for the value of any property passing to the Commonwealth under this section; if no agreement can be made as to the mode of compensation, it shall be determined under laws to be made by the Parliament;
- (iv) the Commonwealth shall, at the date of the transfer, assume the current obligations of the State in respect of the department transferred.

86. [Customs, excise, and bounties]

On the establishment of the Commonwealth, the collection and control of duties of customs and of excise, and the control of the payment of bounties, shall pass to the Executive Government of the Commonwealth.

87. [Revenue from customs and excise duties]

During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, of the net revenue of the Commonwealth from duties of customs and of excise not more than one-fourth shall be applied annually by the Commonwealth towards its expenditure.

The balance shall, in accordance with this Constitution, be paid to the several States, or applied towards the payment of interest on debts of the several States taken over by the Commonwealth.

88. Uniform duties of customs

Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth.

89. Payment to States before uniform duties

Until the imposition of uniform duties of customs:

- (i) the Commonwealth shall credit to each State the revenues collected therein by the Commonwealth;
- (ii) the Commonwealth shall debit to each State:
 - (a) the expenditure therein of the Commonwealth incurred solely for the maintenance or continuance, as at the time of transfer, of any department transferred from the State to the Commonwealth;
 - (b) the proportion of the State, according to the number of its people, in the other expenditure of the Commonwealth;
- (iii) the Commonwealth shall pay to each State month by month the balance (if any) in favour of the State.

90. Exclusive power over customs, excise, and bounties

On the imposition of uniform duties of customs the power of the Parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods, shall become exclusive.

On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or of excise, or offering bounties on the production or export of goods, shall cease to have effect, but any grant of or agreement for any such bounty lawfully made by or under the authority of the Government of any State shall be taken to be good if made before the thirtieth day of June, one thousand eight hundred and ninety-eight, and not otherwise.

91. Exceptions as to bounties

Nothing in this Constitution prohibits a State from granting any aid to or bounty on mining for gold, silver, or other metals, nor from granting, with the consent of both Houses of the Parliament of the Commonwealth expressed by resolution, any aid to or bounty on the production or export of goods.

92. Trade within the Commonwealth to be free

On the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.

But notwithstanding anything in this Constitution, goods imported before the imposition of uniform duties of customs into any State, or into any Colony which, whilst the goods remain therein, becomes a State, shall, on thence passing into another State within two years after the imposition of such duties, be liable to any duty chargeable on the importation of such goods into the Commonwealth, less any duty paid in respect of the goods on their importation.

93. Payment to States for five years after uniform tariffs

During the first five years after the imposition of uniform duties of customs, and thereafter until the Parliament otherwise provides:

- (i) the duties of customs chargeable on goods imported into a State and afterwards passing into another State for consumption, and the duties of excise paid on goods produced or manufactured in a State and afterwards

passing into another State for consumption, shall be taken to have been collected not in the former but in the latter State;

- (ii) subject to the last subsection, the Commonwealth shall credit revenue, debit expenditure, and pay balances to the several States as prescribed for the period preceding the imposition of uniform duties of customs.

94. Distribution of surplus

After five years from the imposition of uniform duties of customs, the Parliament may provide, on such basis as it deems fair, for the monthly payment to the several States of all surplus revenue of the Commonwealth.

95. Customs duties of Western Australia

Notwithstanding anything in this Constitution, the Parliament of the State of Western Australia, if that State be an Original State, may, during the first five years after the imposition of uniform duties of customs, impose duties of customs on goods passing into that State and not originally imported from beyond the limits of the Commonwealth; and such duties shall be collected by the Commonwealth.

But any duty so imposed on any goods shall not exceed during the first of such years the duty chargeable on the goods under the law of Western Australia in force at the imposition of uniform duties, and shall not exceed during the second, third, fourth, and fifth of such years respectively, four-fifths, three-fifths, two-fifths, and one-fifth of such latter duty, and all duties imposed under this section shall cease at the expiration of the fifth year after the imposition of uniform duties.

If at any time during the five years the duty on any goods under this section is higher than the duty imposed by the Commonwealth on the importation of the like goods, then such higher duty shall be collected on the goods when imported into Western Australia from beyond the limits of the Commonwealth.

96. Financial assistance to States

During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit.

97. Audit

Until the Parliament otherwise provides, the laws in force in any Colony which has become or becomes a State with respect to the receipt of revenue and the expenditure of money on account of the Government of the Colony, and the review and audit of such receipt and expenditure, shall apply to the receipt of revenue and the expenditure of money on account of the Commonwealth in the State in the same manner as if the Commonwealth, or the Government or an officer of the Commonwealth, were mentioned whenever the Colony, or the Government or an officer of the Colony, is mentioned.

98. Trade and commerce includes navigation and State railways

The power of the Parliament to make laws with respect to trade and commerce extends to navigation and shipping, and to railways the property of any State.

99. Commonwealth not to give preference

The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.

100. Nor abridge right to use water

The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

101. Inter-State Commission

There shall be an Inter-State Commission, with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this Constitution relating to trade and commerce, and of all laws made thereunder.

102. Parliament may forbid preferences by State

The Parliament may by any law with respect to trade or commerce forbid, as to railways, any preference or discrimination by any State, or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable, or unjust to any State; due regard being had to the financial responsibilities incurred by any State in connexion with the construction and maintenance of its railways. But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the Inter-State Commission.

103. Commissioners' appointment, tenure, and remuneration

The members of the Inter-State Commission:

- (i) shall be appointed by the Governor-General in Council;
- (ii) shall hold office for seven years, but may be removed within that time by the Governor-General in Council, on an address from both Houses of the Parliament in the same session praying for such removal on the ground of proved misbehaviour or incapacity;
- (iii) shall receive such remuneration as the Parliament may fix; but such remuneration shall not be diminished during their continuance in office.

104. Saving of certain rates

Nothing in this Constitution shall render unlawful any rate for the carriage of goods upon a railway, the property of a State, if the rate is deemed by the Inter-State Commission to be necessary for the development of the territory of the State, and if the rate applies equally to goods within the State and to goods passing into the State from other States.

105. Taking over public debts of States

The Parliament may take over from the States their public debts, or a proportion thereof according to the respective numbers of their people as shown by the latest statistics of the Commonwealth, and may convert, renew, or consolidate such debts, or any part thereof; and the States shall indemnify the Commonwealth in respect of the debts taken over, and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States.¹⁸

105A. Agreements with respect to State debts¹⁹

- (1) The Commonwealth may make agreements with the States with respect to the public debts of the States, including:
 - (a) the taking over of such debts by the Commonwealth;
 - (b) the management of such debts;
 - (c) the payment of interest and the provision and management of sinking funds in respect of such debts;
 - (d) the consolidation, renewal, conversion, and redemption of such debts;
 - (e) the indemnification of the Commonwealth by the States in respect of debts taken over by the Commonwealth; and
 - (f) the borrowing of money by the States or by the Commonwealth, or by the Commonwealth for the States.
- (2) The Parliament may make laws for validating any such agreement made before the commencement of this section.
- (3) The Parliament may make laws for the carrying out by the parties thereto of any such agreement.
- (4) Any such agreement may be varied or rescinded by the parties thereto.
- (5) Every such agreement and any such variation thereof shall be binding upon the Commonwealth and the States parties thereto notwithstanding anything contained in this Constitution or the Constitution of the several States or in any law of the Parliament of the Commonwealth or of any State.
- (6) The powers conferred by this section shall not be construed as being limited in any way by the provisions of section one hundred and five of this Constitution.

Chapter V—The States

106. Saving of Constitutions

The Constitution of each State of the Commonwealth shall, subject to this Constitution, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be, until altered in accordance with the Constitution of the State.

107. Saving of power of State Parliaments

Every power of the Parliament of a Colony which has become or becomes a State, shall, unless it is by this Constitution exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be.

108. Saving of State laws

Every law in force in a Colony which has become or becomes a State, and relating to any matter within the powers of the Parliament of the Commonwealth, shall, subject to this Constitution, continue in force in the State; and, until provision is made in that behalf by the Parliament of the Commonwealth, the Parliament of the State shall have such powers of alteration and of repeal in respect of any such law as the Parliament of the Colony had until the Colony became a State.

109. Inconsistency of laws

When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

110. Provisions referring to Governor

The provisions of this Constitution relating to the Governor of a State extend and apply to the Governor for the time being of the State, or other chief executive officer or administrator of the government of the State.

111. States may surrender territory

The Parliament of a State may surrender any part of the State to the Commonwealth; and upon such surrender, and the acceptance thereof by the Commonwealth, such part of the State shall become subject to the exclusive jurisdiction of the Commonwealth.

112. States may levy charges for inspection laws

After uniform duties of customs have been imposed, a State may levy on imports or exports, or on goods passing into or out of the State, such charges as may be necessary for executing the inspection laws of the State; but the net produce of all charges so levied shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

113. Intoxicating liquids

All fermented, distilled, or other intoxicating liquids passing into any State or remaining therein for use, consumption, sale, or storage, shall be subject to the laws of the State as if such liquids had been produced in the State.

114. States may not raise forces. Taxation of property of

Commonwealth or State

A State shall not, without the consent of the Parliament of the Commonwealth, raise or maintain any naval or military force, or impose any tax on property of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property of any kind belonging to a State.

115. States not to coin money

A State shall not coin money, nor make anything but gold and silver coin a legal tender in payment of debts.

116. Commonwealth not to legislate in respect of religion

The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

117. Rights of residents in States

A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

118. Recognition of laws etc. of States

Full faith and credit shall be given, throughout the Commonwealth to the laws, the public Acts and records, and the judicial proceedings of every State.

119. Protection of States from invasion and violence

The Commonwealth shall protect every State against invasion and, on the application of the Executive Government of the State, against domestic violence.

120. Custody of offenders against laws of the Commonwealth

Every State shall make provision for the detention in its prisons of persons accused or convicted of offences against the laws of the Commonwealth, and for the punishment of persons convicted of such offences, and the Parliament of the Commonwealth may make laws to give effect to this provision.

Chapter VI—New States

121. New States may be admitted or established

The Parliament may admit to the Commonwealth or establish new States, and may upon such admission or establishment make or impose such terms and conditions, including the extent of representation in either House of the Parliament, as it thinks fit.

122. Government of territories

The Parliament may make laws for the government of any territory surrendered by any State to and accepted by the Commonwealth, or of any territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit.

123. Alteration of limits of States

The Parliament of the Commonwealth may, with the consent of the Parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed on, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.

124. Formation of new States

A new State may be formed by separation of territory from a State, but only with the consent of the Parliament thereof, and a new State may be formed by the union of two or more States or parts of States, but only with the consent of the Parliaments of the States affected.

Chapter VII—Miscellaneous

125. Seat of Government

The seat of Government of the Commonwealth shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth, and shall be in the State of New South Wales, and be distant not less than one hundred miles from Sydney.

Such territory shall contain an area of not less than one hundred square miles, and such portion thereof as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor.

The Parliament shall sit at Melbourne until it meet at the seat of Government.

126. Power to Her Majesty to authorise Governor-General to appoint deputies

The Queen may authorise the Governor-General to appoint any person, or any persons jointly or severally, to be his deputy or deputies²⁰ within any part of the Commonwealth, and in that capacity to exercise during the pleasure of the Governor-General such powers and functions of the Governor-General as he thinks fit to assign to such deputy or deputies, subject to any limitations expressed or directions given by the Queen; but the appointment of such deputy or deputies shall not affect the exercise by the Governor-General himself of any power or function.

127.²¹

Chapter VIII—Alteration of the Constitution

128. Mode of altering the Constitution²²

This Constitution shall not be altered except in the following manner:

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State and Territory to the electors qualified to vote for the election of members of the House of Representatives.

But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it, or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State and Territory qualified to vote for the election of the House of Representatives.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails.

And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen's assent.

No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.

In this section, *Territory* means any territory referred to in section one hundred and twenty-two of this Constitution in respect of which there is in force a law allowing its representation in the House of Representatives.

Schedule

OATH

I, *A.B.*, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law. SO HELP ME GOD!

AFFIRMATION

I, *A.B.*, do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law.

(NOTE – *The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time.*)

Notes

1. The Constitution as printed above contains all the alterations of the Constitution made up to 1 October 2010. These notes generally deal with matters up to that date. Particulars of the Acts by which the Constitution was altered are as follows:

Act	Number and year	Date of Assent
<i>Constitution Alteration (Senate Elections) 1906</i>	1, 1907	3 Apr 1907
<i>Constitution Alteration (State Debts) 1909</i>	3, 1910	6 Aug 1910
<i>Constitution Alteration (State Debts) 1928</i>	1, 1929	13 Feb 1929
<i>Constitution Alteration (Social Services) 1946</i>	81, 1946	19 Dec 1946
<i>Constitution Alteration (Aboriginals) 1967</i>	55, 1967	10 Aug 1967
<i>Constitution Alteration (Senate Casual Vacancies) 1977</i>	82, 1977	29 July 1977
<i>Constitution Alteration (Retirement of Judges) 1977</i>	83, 1977	29 July 1977
<i>Constitution Alteration (Referendums) 1977</i>	84, 1977	29 July 1977

Table of Amendments

ad. = added or inserted; *am.* = amended; *rep.* = repealed; *rs.* = repealed and substituted

Provision affected	How affected
s. 13	am. No. 1, 1907
s. 15	rs. No. 82, 1977
s. 51	am. No. 81, 1946; No. 55, 1967
s. 72	am. No. 83, 1977
s. 105	am. No. 3, 1910
s. 105A	ad. No. 1, 1929
s. 127	rep. No. 55, 1967
s. 128	am. No. 84, 1977

2. Covering clause 3 – The Proclamation under covering clause 3 was made on 17 September 1900 and is published in *Gazette* 1901, p. 1.
3. Covering clause 5 – Cf. the *Statute of Westminster Adoption Act 1942*.
4. Covering clause 7 – The following Acts have repealed Acts passed by the Federal Council of Australasia:
 - Defence Act 1903* (No. 20, 1903), s. 6
 - Pearl Fisheries Act 1952* (No. 8, 1952), s. 3 (*Pearl Fisheries Act 1952* repealed by *Continental Shelf (Living Natural Resources) Act 1968*, s. 3)
 - Service and Execution of Process Act 1901* (No. 11, 1901), s. 2 (s. 2 subsequently repealed by *Service and Execution of Process Act 1963*, s. 3).
5. Section 7 – The number of senators for each State was increased to 12 by the *Representation Act 1983*, s. 3.

6. Section 9 – The following State Acts have been passed in pursuance of the powers conferred by s. 9:

State	Number	Short title	How affected
New South Wales	No. 73, 1900	<i>Federal Elections Act 1900</i>	Ss. 2, 3, 4, 5 and 6 and the Schedule repealed by No. 9, 1903; wholly repealed by No. 41, 1912
	No. 9, 1903	<i>Senators' Elections Act 1903</i>	<i>(Still in force)</i>
Victoria	No. 1715	<i>Federal Elections Act 1900</i>	Repealed by No. 1860
	No. 1860	<i>Senate Elections (Times and Places) Act 1903</i>	Repealed by No. 2723
	No. 2399	<i>Senate Elections (Times and Places) Act 1912</i>	Repealed by No. 2723
	No. 2723	<i>Senate Elections (Times and Places) Act 1915</i>	Repealed by No. 3769
	No. 3769	<i>Senate Elections (Times and Places) Act 1928</i>	Repealed by No. 6365
	No. 6365	<i>Senate Elections Act 1958</i>	<i>(Still in force)</i>
Queensland	64 Vic. No. 25	<i>The Parliament of the Commonwealth Elections Act and The Elections Acts 1885 to 1898 Amendment Act of 1900</i>	Operation exhausted
	3 Edw.VII. No. 6	<i>The Election of Senators Act of 1903</i>	Repealed by 9 Eliz. II. No. 20
	9 Eliz. II. No. 20	<i>Senate Elections Act 1960</i>	<i>(Still in force)</i>
South Australia	No. 834	<i>The Election of Senators Act 1903</i>	<i>(Still in force)</i>
Western Australia	No. 11, 1903	<i>Election of Senators Act 1903</i>	<i>(Still in force)</i>
Tasmania	64 Vic. No. 59	<i>The Federal Elections Act 1900</i>	Repealed by 26 Geo. V. No. 3
	3 Edw. VII No. 5	<i>The Election of Senators Act 1903</i>	Repealed by 26 Geo. V. No. 3
	26 Geo. V No. 3	<i>Senate Elections Act 1935</i>	<i>(Still in force)</i>

7. Section 13 was amended by the *Constitution Alteration (Senate Elections) 1906*, and previously read as follows:

“13. As soon as may be after the Senate first meets, and after each first meeting of the Senate following a dissolution thereof, the Senate shall divide the senators chosen for each State into two classes, as nearly equal in number as practicable; and the places of the senators of the first class shall become vacant at the expiration of the third year, and the places of those of the second class at the expiration of the sixth year, from the beginning of their term of service; and afterwards the places of senators shall become vacant at the expiration of six years from the beginning of their term of service.

The election to fill vacant places shall be made in the year at the expiration of which the places are to become vacant.

For the purposes of this section the term of service of a senator shall be taken to begin on the first day of January following the day of his election, except in the case of the first election and of the election next after any dissolution of the Senate, when it shall be taken to begin on the first day of January preceding the day of his election.”

8. Section 14 – For the provisions applicable upon the increase in the number of senators to 12 made by the *Representation Act 1983*, see s. 3 of that Act.

9. Section 15 was amended by the *Constitution Alteration (Senate Casual Vacancies) 1977*, and previously read as follows:

“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 shall, sitting and voting together, choose a person to hold the place until the expiration of the term, or until the election of a successor as hereinafter provided, whichever first happens. But if the Houses of Parliament of the State are not in session at the time 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 after the beginning of the next session of the Parliament of the State, or until the election of a successor, whichever first happens.

At the next general election of members of the House of Representatives, or at the next election of senators for the State, whichever first happens, a successor shall, if the term has not then expired, be chosen to hold the place from the date of his election until the expiration of the term.

The name of any senator so chosen or appointed shall be certified by the Governor of the State to the Governor-General.”

10. Section 15 – The proposed law to alter the Constitution entitled “*Constitution Alteration (Simultaneous Elections) 1977*” was submitted to the electors in each State of the Commonwealth on 21 May 1977: it was not approved by a majority of all the electors voting in a majority of the States. See *Gazette 1977*, No. S100, p. 1.

11. Section 29 – The following State Acts were passed in pursuance of the powers conferred by s. 29, but ceased to be in force upon the enactment of the *Commonwealth Electoral Act 1902*:

State	Number	Short title
New South Wales	No. 73, 1900	<i>Federal Elections Act 1900</i>
Victoria	No. 1667	<i>Federal House of Representatives Victorian Electorates Act 1900</i>
Queensland	64 Vic. No. 25	<i>The Parliament of the Commonwealth Elections Act and The Elections Acts 1885 to 1898 Amendment Act of 1900</i>
Western Australia	64 Vic. No. 6	<i>Federal House of Representatives Western Australian Electorates Act 1900</i>

12. Section 51 – The following Imperial Acts extended the legislative powers of the Parliament:

Whaling Industry (Regulations) Act 1934, s. 15
Geneva Convention Act 1937, s. 2
Emergency Powers (Defence) Act 1939, s. 5
Army and Air Force (Annual) Act 1940, s. 3.

13. Section 51 (xxiiiA) – This section was inserted by the *Constitution Alteration (Social Services) 1946*.

14. Section 51 (xxvi) was amended by the *Constitution Alteration (Aboriginals) 1967*, and previously read as follows:

“(xxvi) the people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws;”

15. Section 51 (xxxvii) – The following Acts have been passed by the Parliaments of the States to refer matters to the Parliament under section 51 (xxxvii):

State	Number	Short title	How affected
New South Wales	No. 65, 1915	<i>Commonwealth Powers (War) Act 1915</i>	Expired 9 Jan 1921; see s. 5
	No. 33, 1942	<i>Commonwealth Powers Act 1942</i>	Expired; see s. 4
	No. 18, 1943	<i>Commonwealth Powers Act 1943</i>	Expired; see s. 4
	No. 48, 1983	<i>Commonwealth Powers (Meat Inspection) Act 1983</i>	Repealed by No. 147, 1997
	No. 182, 1986	<i>Commonwealth Powers (Family Law – Children) Act 1986</i>	(Still in force)
	No. 61, 1992	<i>Mutual Recognition (New South Wales) Act 1992</i>	(Still in force)
	No. 104, 1992	<i>Commonwealth Powers (State Banking) Act 1992</i>	(Still in force)
	No. 100, 1993	<i>Commonwealth Powers (Poultry Processing) Act 1993</i>	Repealed by No. 55, 1997
	No. 102, 1996	<i>Trans-Tasman Mutual Recognition (New South Wales) Act 1996</i>	(Still in force)
	No. 1, 2001	<i>Corporations (Commonwealth Powers) Act 2001</i>	(Still in force)
	No. 114, 2002	<i>Terrorism (Commonwealth Powers) Act 2002</i>	(Still in force)
	No. 49, 2003	<i>Commonwealth Powers (De Facto Relationships) Act 2003</i>	(Still in force)
	No. 69, 2008	<i>Water (Commonwealth Powers) Act 2008</i>	(Still in force)
	No. 35, 2009	<i>Personal Property Securities (Commonwealth Powers) Act 2009</i>	(Still in force)
	No. 115, 2009	<i>Industrial Relations (Commonwealth Powers) Act 2009</i>	(Still in force)
Victoria	No. 6, 2010	<i>Credit (Commonwealth Powers) Act 2010</i>	(Still in force)
	No. 3108	<i>Commonwealth Powers (Air Navigation) Act 1920</i>	Repealed by No. 4502, 1937
	No. 3658	<i>Commonwealth Arrangements Act 1928</i>	Part III repealed by No. 4502, 1937; Parts I and II repealed by No. 6223, 1958
	No. 4009	<i>Debt Conversion Agreement Act 1931 (No. 2)</i>	Repealed by No. 73, 2005
	No. 4950	<i>Commonwealth Powers Act 1943</i>	Not proclaimed to come into operation and cannot now be so proclaimed
	No. 92, 1986	<i>Commonwealth Powers (Family Law – Children) Act 1986</i>	(Still in force)
	No. 2, 1993	<i>Mutual Recognition (Victoria) Act 1993</i>	Expired; see s. 6
	No. 59, 1996	<i>Commonwealth Powers (Industrial Relations) Act 1996</i>	Repealed by No. 24, 2009
	No. 4, 1998	<i>Trans-Tasman Mutual Recognition (Victoria) Act 1998</i>	(Still in force)
	No. 62, 1998	<i>Mutual Recognition (Victoria) Act 1998</i>	(Still in force)
	No. 6, 2001	<i>Corporations (Commonwealth Powers) Act 2001</i>	(Still in force)
	No. 14, 2003	<i>Terrorism (Commonwealth Powers) Act 2003</i>	(Still in force)
No. 84, 2004	<i>Commonwealth Powers (De Facto Relationships) Act 2004</i>	(Still in force)	

State	Number	Short title	How affected
Victoria (continued)	No. 75, 2008	<i>Water (Commonwealth Powers) Act 2008</i>	<i>(Still in force)</i>
	No. 24, 2009	<i>Fair Work (Commonwealth Powers) Act 2009</i>	<i>(Still in force)</i>
	No. 60, 2009	<i>Personal Property Securities (Commonwealth Powers) Act 2009</i>	<i>(Still in force)</i>
	No. 11, 2010	<i>Credit (Commonwealth Powers) Act 2010</i>	<i>(Still in force)</i>
Queensland	12 Geo. V. No. 30	<i>The Commonwealth Powers (Air Navigation) Act 1921</i>	Repealed by 1 Geo. VI. No. 8
	22 Geo. V. No. 30	<i>The Commonwealth Legislative Power Act 1931</i>	Repealed by No. 46, 1983
	7 Geo. VI. No. 19	<i>Commonwealth Powers Act 1943</i>	Expired; see s. 4
	14 Geo. VI. No. 2	<i>The Commonwealth Powers (Air Transport) Act 1950</i>	<i>(Still in force)</i>
	No. 37, 1990	<i>Commonwealth Powers (Family Law – Children) Act 1990</i>	<i>(Still in force)</i>
	No. 67, 1992	<i>Mutual Recognition (Queensland) Act 1992</i>	<i>(Still in force)</i>
	No. 43, 2001	<i>Corporations (Commonwealth Powers) Act 2001</i>	<i>(Still in force)</i>
	No. 79, 2002	<i>Terrorism (Commonwealth Powers) Act 2002</i>	<i>(Still in force)</i>
	No. 45, 2003	<i>Trans-Tasman Mutual Recognition (Queensland) Act 2003</i>	<i>(Still in force)</i>
	No. 78, 2003	<i>Commonwealth Powers (De Facto Relationships) Act 2003</i>	<i>(Still in force)</i>
	No. 58, 2008	<i>Water (Commonwealth Powers) Act 2008</i>	<i>(Still in force)</i>
	No. 37, 2009	<i>Personal Property Securities (Commonwealth Powers) Act 2009</i>	<i>(Still in force)</i>
	No. 49, 2009	<i>Fair Work (Commonwealth Powers) and Other Provisions Act 2009</i>	<i>(Still in force)</i>
No. 16, 2010	<i>Credit (Commonwealth Powers) Act 2010</i>	<i>(Still in force)</i>	
South Australia	No. 1469, 1921	<i>Commonwealth Powers (Air Navigation) Act 1921</i>	Repealed by No. 2352, 1937
	No. 2061, 1931	<i>Commonwealth Legislative Power Act 1931</i>	<i>(Still in force)</i>
	No. 3, 1943	<i>Commonwealth Powers Act 1943</i>	Expired; see s. 5
	No. 89, 1986	<i>Commonwealth Powers (Family Law) Act 1986</i>	<i>(Still in force)</i>
	No. 72, 1993	<i>Mutual Recognition (South Australia) Act 1993</i>	<i>(Still in force)</i>
	No. 27, 1999	<i>Trans-Tasman Mutual Recognition (South Australia) Act 1999</i>	<i>(Still in force)</i>
	No. 21, 2001	<i>Corporations (Commonwealth Powers) Act 2001</i>	<i>(Still in force)</i>
	No. 50, 2002	<i>Terrorism (Commonwealth Powers) Act 2002</i>	<i>(Still in force)</i>
	No. 43, 2008	<i>Water (Commonwealth Powers) Act 2008</i>	<i>(Still in force)</i>
	No. 47, 2009	<i>Personal Property Securities (Commonwealth Powers) Act 2009</i>	<i>(Still in force)</i>
	No. 57, 2009	<i>Fair Work (Commonwealth Powers) Act 2009</i>	<i>(Still in force)</i>
	No. 86, 2009	<i>Commonwealth Powers (De Facto Relationships) Act 2009</i>	<i>(Still in force)</i>
No. 2, 2010	<i>Credit (Commonwealth Powers) Act 2010</i>	<i>(Still in force)</i>	
Western Australia	No. 4, 1943	<i>Commonwealth Powers Act 1943</i>	Repealed by No. 58, 1965
	No. 57, 1945	<i>Commonwealth Powers Act 1945</i>	Repealed by No. 58, 1965
	No. 30, 1947	<i>Commonwealth Powers Act 1943, Amendment Act 1947</i>	Repealed by No. 58, 1965
	No. 31, 1947	<i>Commonwealth Powers Act 1945, Amendment Act 1947</i>	Repealed by No. 58, 1965
	No. 73, 1947	<i>Commonwealth Powers Act 1945, Amendment Act (No. 2) 1947</i>	Repealed by No. 58, 1965
	No. 81, 1947	<i>Commonwealth Powers Act 1945–1947, Amendment (Continuance) Act 1947</i>	Repealed by No. 58, 1965
	No. 53, 1995	<i>Mutual Recognition (Western Australia) Act 1995</i>	Expired, see s. 7
	No. 6, 2001	<i>Mutual Recognition (Western Australia) Act 2001</i>	<i>(Still in force)</i>
	No. 7, 2001	<i>Corporations (Commonwealth Powers) Act 2001</i>	<i>(Still in force)</i>
	No. 53, 2002	<i>Terrorism (Commonwealth Powers) Act 2002</i>	<i>(Still in force)</i>
	No. 26, 2006	<i>Commonwealth Powers (De Facto Relationships) Act 2006</i>	<i>(Still in force)</i>
	No. 30, 2007	<i>Trans-Tasman Mutual Recognition (Western Australia) Act 2007</i>	<i>(Still in force)</i>
	No. 13, 2010	<i>Credit (Commonwealth Powers) Act 2010</i>	<i>(Still in force)</i>
	Tasmania	11 Geo. V. No. 42	<i>Commonwealth Powers (Air Navigation) Act 1920</i>
No. 46, 1952		<i>Commonwealth Powers (Air Transport) Act 1952</i>	<i>(Still in force)</i>
No. 62, 1966		<i>Commonwealth Powers (Trade Practices) Act 1966</i>	Expired; see s. 2
No. 5, 1987		<i>Commonwealth Powers (Family Law) Act 1987</i>	<i>(Still in force)</i>
No. 33, 1993		<i>Mutual Recognition (Tasmania) Act 1993</i>	<i>(Still in force)</i>
No. 39, 2001		<i>Corporations (Commonwealth Powers) Act 2001</i>	<i>(Still in force)</i>
No. 68, 2002		<i>Terrorism (Commonwealth Powers) Act 2002</i>	<i>(Still in force)</i>
No. 60, 2003		<i>Trans-Tasman Mutual Recognition (Tasmania) Act 2003</i>	<i>(Still in force)</i>
No. 18, 2006		<i>Commonwealth Powers (De Facto Relationships) Act 2006</i>	<i>(Still in force)</i>
No. 51, 2009		<i>Credit (Commonwealth Powers) Act 2009</i>	<i>(Still in force)</i>
No. 88, 2009	<i>Industrial Relations (Commonwealth Powers) Act 2009</i>	<i>(Still in force)</i>	

16. Section 72 was amended by the *Constitution Alteration (Retirement of Judges) 1977*, and previously read as follows:

“72. The Justices of the High Court and of the other courts created by the Parliament:

- (i) shall be appointed by the Governor-General in Council;
- (ii) shall not be removed except by the Governor-General in Council, on an address from both Houses of the Parliament in the same session, praying for such removal on the ground of proved misbehaviour or incapacity;
- (iii) shall receive such remuneration as the Parliament may fix; but the remuneration shall not be diminished during their continuance in office.”

17. Section 74 – See *Privy Council (Limitation of Appeals) Act 1968*, *Privy Council (Appeals from the High Court) Act 1975* and *Kirmani v Captain Cook Cruises Pty Ltd (No. 2)*; *Ex parte Attorney-General (QLD)* (1985) 159 CLR 451.

18. Section 105 was amended by the *Constitution Alteration (State Debts) 1909*, and previously read as follows:

“105. The Parliament may take over from the States their public debts as existing at the establishment of the Commonwealth, or a proportion thereof according to the respective numbers of their people as shown by the latest statistics of the Commonwealth, and may convert, renew, or consolidate such debts, or any part thereof; and the States shall indemnify the Commonwealth in respect of the debts taken over, and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States.”

19. Section 105A – This section was inserted by the *Constitution Alteration (State Debts) 1928*.

20. Section 126 – See clause IV of the Letters Patent relating to the Office of Governor-General, published in *Gazette* 2008 S179, pp. 3 and 4.

21. Section 127 (titled “Aborigines not to be counted in reckoning population”) was repealed by the *Constitution Alteration (Aboriginals) 1967*, and previously read as follows:

“127. In reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal natives shall not be counted.”

22. Section 128 was amended by the *Constitution Alteration (Referendums) 1977*, and previously read as follows:

“128. This Constitution shall not be altered except in the following manner:

The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses the proposed law shall be submitted in each State to the electors qualified to vote for the election of members of the House of Representatives.

But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it, or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it or passes it with any amendment to which the first-mentioned House will not agree, the Governor-General may submit the proposed law as last proposed by the first-mentioned House, and either with or without any amendments subsequently agreed to by both Houses, to the electors in each State qualified to vote for the election of the House of Representatives.

When a proposed law is submitted to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of electors of members of the House of Representatives becomes uniform throughout the Commonwealth, only one-half the electors voting for and against the proposed law shall be counted in any State in which adult suffrage prevails.

And if in a majority of the States a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor-General for the Queen’s assent.

No alteration diminishing the proportionate representation of any State in either House of the Parliament, or the minimum number of representatives of a State in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the State, or in any manner affecting the provisions of the Constitution in relation thereto, shall become law unless the majority of the electors voting in that State approve the proposed law.”



Acts Interpretation Act 1901

No. 2, 1901

Compilation No. 36

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About this compilation

This compilation

This is a compilation of the *Acts Interpretation Act 1901* that shows the text of the law as amended and in force on 20 December 2018 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act for the Interpretation of Acts of Parliament and for Shortening their Language

Part 1—Preliminary

1 Short title

This Act may be cited as the *Acts Interpretation Act 1901*.

1A Simplified outline

The following is a simplified outline of this Act:

Overview

This Act is like a dictionary and manual to use when reading and interpreting Commonwealth Acts and instruments made under Commonwealth Acts.

The definitions and many of the interpretation rules are aimed at making Commonwealth legislation shorter, less complex and more consistent in operation.

A provision of this Act is subject to a contrary intention in other Commonwealth legislation.

Structure

Part 1 provides that this Act applies to all Acts. This Act also applies to legislative instruments, notifiable instruments and other instruments made under an Act (see subsection 13(1) of the *Legislation Act 2003* and subsection 46(1) of this Act).

Part 2 contains definitions that apply across all Commonwealth legislation (for example, *Australian citizen*, *business day*, *document* and *month*).

Section 1A

Part 3 deals with the commencement of Commonwealth Acts. For example, section 4 allows certain powers to be exercised (like the making of appointments) between the enactment and commencement of an Act.

Part 4 deals with the amendment, repeal and expiry of Commonwealth legislation. For example, section 7 provides that the repeal of an Act does not affect any rights accrued under the Act, or any legal proceedings instituted, before the repeal.

Part 5 contains various rules for interpreting Commonwealth legislation, including:

- (a) section 15A (about interpreting an Act subject to the Constitution); and
- (b) section 15AA (which provides for interpreting an Act in a way that best achieves the purpose or object of the Act); and
- (c) section 15AB (about using material that is not part of an Act (like explanatory memorandums and second reading speeches) in interpreting an Act); and
- (d) sections 19 to 20 (which deal generally with references to Ministers and Departments in Acts, with the effect of machinery of government changes on references to Ministers and Departments and other authorities in Acts and Commonwealth agreements, and with the validity of acts done by Ministers).

Part 6 deals with the service of documents on persons.

Part 7 contains rules about exercising powers and performing functions and duties under Commonwealth legislation, including:

- (a) subsection 33(3) (which provides that a power to make an instrument includes the power to vary or revoke the instrument); and
- (b) section 33A (about acting appointments); and
- (c) sections 34AA, 34AB and 34A (about delegating powers, functions and duties).

Part 8 deals with the calculation of distance, time and age.

Part 9 deals with the citation of Acts.

Part 10 deals with instruments other than legislative instruments or notifiable instruments. For example, it provides that this Act applies to those instruments and that expressions in those instruments have the same meaning as in the enabling legislation.

Part 11 contains a regulation-making power.

2 Application of Act

- (1) This Act applies to all Acts (including this Act).

Note: This Act also applies to legislative instruments, notifiable instruments and other instruments: see subsection 13(1) of the *Legislation Act 2003* and subsection 46(1) of this Act.

- (2) However, the application of this Act or a provision of this Act to an Act or a provision of an Act is subject to a contrary intention.

2A Binding the Crown

This Act binds the Crown in each of its capacities.

Part 2—Definitions

2B Definitions

In any Act:

acting SES employee has the same meaning as in the *Public Service Act 1999*.

Administrative Arrangements Order:

- (a) means an instrument (a **primary AAO**) made by the Governor-General that is described as an Administrative Arrangements Order; and
- (b) includes an instrument made by the Governor-General that:
 - (i) amends a primary AAO; or
 - (ii) revokes a primary AAO and substitutes a new primary AAO.

Note: The Administrative Arrangements Order sets out, from time to time, the matters dealt with by Departments of State of the Commonwealth together with the legislation administered by the Ministers for those Departments.

affidavit includes affirmation, declaration and promise.

appoint: see section 33AA.

APS employee has the same meaning as in the *Public Service Act 1999*.

Australia means the Commonwealth of Australia and, when used in a geographical sense, includes Norfolk Island, the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands, but does not include any other external Territory.

Note: See also section 15B.

Australian citizen has the same meaning as in the *Australian Citizenship Act 2007*.

Australian Privacy Principle has the same meaning as in the *Privacy Act 1988*.

Australian Standard: see section 2L.

business day means a day that is not a Saturday, a Sunday or a public holiday in the place concerned.

calendar month means one of the 12 months of the year.

calendar year means a period of 12 months starting on 1 January.

charitable has the meaning given by Part 2 of the *Charities Act 2013*.

charitable purpose has the meaning given by Part 3 of the *Charities Act 2013*.

charity has the meaning given by Part 2 of the *Charities Act 2013*.

commencement, in relation to an Act or a provision of an Act, means the time at which the Act or provision comes into operation.

Note: See also section 3.

Commonwealth means the Commonwealth of Australia and, when used in a geographical sense, includes Norfolk Island, the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands, but does not include any other external Territory.

Note: See also section 15B.

Consolidated Revenue Fund means the Consolidated Revenue Fund referred to in section 81 of the Constitution.

Constitution means the Constitution of the Commonwealth.

contiguous zone has the same meaning as in the *Seas and Submerged Lands Act 1973*.

continental shelf has the same meaning as in the *Seas and Submerged Lands Act 1973*.

Section 2B

contravene includes fail to comply with.

court exercising federal jurisdiction means any court when exercising federal jurisdiction, and includes a federal court.

court of summary jurisdiction means any justice of the peace, or magistrate of a State or Territory, sitting as a court of summary jurisdiction.

de facto partner: see section 2D.

document means any record of information, and includes:

- (a) anything on which there is writing; and
- (b) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and
- (c) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; and
- (d) a map, plan, drawing or photograph.

estate includes any estate, interest, charge, right, title, claim demand, lien or encumbrance at law or in equity.

exclusive economic zone has the same meaning as in the *Seas and Submerged Lands Act 1973*.

Executive Council means the Federal Executive Council.

external Territory means a Territory, other than an internal Territory, where an Act makes provision for the government of the Territory as a Territory.

Note: See also section 15B.

federal court means the High Court or any court created by the Parliament.

financial year means a period of 12 months starting on 1 July.

foreign country means any country (whether or not an independent sovereign state) outside Australia and the external Territories.

Gazette means the *Commonwealth of Australia Gazette*.

Government Printer includes any person printing for the Government of the Commonwealth.

Note: See also section 17A.

Governor of a State: see section 16B.

Governor-General: see section 16A.

High Court means the High Court of Australia.

individual means a natural person.

insolvent under administration has the same meaning as in the *Corporations Act 2001*.

internal Territory means the Australian Capital Territory, the Northern Territory or the Jervis Bay Territory.

Jervis Bay Territory means the Territory referred to in the *Jervis Bay Territory Acceptance Act 1915*.

judge has a meaning affected by section 16BA.

justice of the peace includes a justice of the peace for a State or part of a State or for a Territory.

land includes messuages, tenements and hereditaments, corporeal and incorporeal, of any tenure or description, whatever may be the estate or interest in them.

law of the Commonwealth: see section 2H.

legislative instrument has the same meaning as in the *Legislation Act 2003*.

Magistrate: see subsections 16C(2) and (3).

Minister or **Minister of State** means one of the Ministers of State for the Commonwealth.

Note: See also section 19.

Section 2B

modifications, in relation to a law, includes additions, omissions and substitutions.

month: see section 2G.

Northern Territory means the Northern Territory of Australia.

notifiable instrument has the same meaning as in the *Legislation Act 2003*.

oath includes affirmation, declaration and promise.

Parliament means the Parliament of the Commonwealth.

penalty unit, including in relation to a civil penalty provision, has the meaning given by section 4AA of the *Crimes Act 1914*.

person: see section 2C.

prescribed means prescribed by the Act or by regulations under the Act.

Proclamation means a Proclamation by the Governor-General that is registered in the Federal Register of Legislation established under the *Legislation Act 2003* as a legislative instrument or notifiable instrument.

Note: Some Proclamations provide solely for the commencement of Acts, legislative instruments or notifiable instruments, or provisions of Acts or such instruments. Under section 11 of the *Legislation Act 2003*, these are notifiable instruments.

record includes information stored or recorded by means of a computer.

regulations means regulations under the Act.

rules of court: see section 2K.

seat of Government means the seat of Government of the Commonwealth.

SES employee has the same meaning as in the *Public Service Act 1999*.

sitting day: see section 2M.

Sovereign: see section 16.

spouse: see section 2CA.

Standards Australia means Standards Australia Limited (ACN 087 326 690).

State means a State of the Commonwealth.

statutory declaration means a declaration made because of any Act authorising a declaration to be made otherwise than in the course of a judicial proceeding.

Stipendiary Magistrate: see subsections 16C(1) and (3).

swear includes affirm, declare and promise.

territorial sea has the same meaning as in the *Seas and Submerged Lands Act 1973*.

Territory, Territory of the Commonwealth, Territory under the authority of the Commonwealth or Territory of Australia means a Territory referred to in section 122 of the Constitution.

United Kingdom means the United Kingdom of Great Britain and Northern Ireland.

writing includes any mode of representing or reproducing words, figures, drawings or symbols in a visible form.

2C References to persons

- (1) In any Act, expressions used to denote persons generally (such as “person”, “party”, “someone”, “anyone”, “no-one”, “one”, “another” and “whoever”), include a body politic or corporate as well as an individual.

Section 2CA

- (2) Express references in an Act to companies, corporations or bodies corporate do not imply that expressions in that Act, of the kind mentioned in subsection (1), do not include companies, corporations or bodies corporate.

2CA References to spouses

- (1) For the purposes of any Act, a person is the *spouse* of another person (whether of the same sex or a different sex) if the person is legally married to the other person.
- (2) Subsection (1) has effect in addition to any provision of an Act that affects the meaning of *spouse* in a provision of that Act.

Example: *Spouse* is defined for the purposes of an Act to include a de facto partner and a former spouse. Because of this section, a reference in the Act to a person's spouse covers any person who is legally married to the person, in addition to any person covered by the definition in the Act.

2D References to de facto partners

For the purposes of a provision of an Act that is a provision in which de facto partner has the meaning given by this Act, a person is the *de facto partner* of another person (whether of the same sex or a different sex) if:

- (a) the person is in a registered relationship with the other person under section 2E; or
- (b) the person is in a de facto relationship with the other person under section 2F.

2E Registered relationships

For the purposes of paragraph 2D(a), a person is in a *registered relationship* with another person if the relationship between the persons is registered under a prescribed law of a State or Territory as a prescribed kind of relationship.

2F De facto relationships

- (1) For the purposes of paragraph 2D(b), a person is in a *de facto relationship* with another person if the persons:
 - (a) are not legally married to each other; and
 - (b) are not related by family (see subsection (6)); and
 - (c) have a relationship as a couple living together on a genuine domestic basis.
- (2) In determining for the purposes of paragraph (1)(c) whether 2 persons have a relationship as a couple, all the circumstances of their relationship are to be taken into account, including any or all of the following circumstances:
 - (a) the duration of the relationship;
 - (b) the nature and extent of their common residence;
 - (c) whether a sexual relationship exists;
 - (d) the degree of financial dependence or interdependence, and any arrangements for financial support, between them;
 - (e) the ownership, use and acquisition of their property;
 - (f) the degree of mutual commitment to a shared life;
 - (g) the care and support of children;
 - (h) the reputation and public aspects of the relationship.
- (3) No particular finding in relation to any circumstance mentioned in subsection (2) is necessary in determining whether 2 persons have a relationship as a couple for the purposes of paragraph (1)(c).
- (4) For the purposes of paragraph (1)(c), the persons are taken to be living together on a genuine domestic basis if the persons are not living together on a genuine domestic basis only because of:
 - (a) a temporary absence from each other; or
 - (b) illness or infirmity of either or both of them.
- (5) For the purposes of subsection (1), a de facto relationship can exist even if one of the persons is legally married to someone else or is in a registered relationship (within the meaning of section 2E) with someone else or is in another de facto relationship.

Section 2G

(6) For the purposes of paragraph (1)(b), 2 persons are *related by family* if:

- (a) one is the child (including an adopted child) of the other; or
- (b) one is another descendant of the other (even if the relationship between them is traced through an adoptive parent); or
- (c) they have a parent in common (who may be an adoptive parent of either or both of them).

For this purpose, disregard whether an adoption is declared void or has ceased to have effect.

(7) For the purposes of subsection (6), *adopted* means adopted under the law of any place (whether in or out of Australia) relating to the adoption of children.

2G Months

(1) In any Act, *month* means a period:

- (a) starting at the start of any day of one of the calendar months; and
- (b) ending:
 - (i) immediately before the start of the corresponding day of the next calendar month; or
 - (ii) if there is no such day—at the end of the next calendar month.

Example 1: A month starting on 15 December in a year ends immediately before 15 January in the next year.

Example 2: A month starting on 31 August in a year ends at the end of September in that year (because September is the calendar month coming after August and does not have 31 days).

(2) In any Act, a reference to a period of 2 or more months is a reference to a period:

- (a) starting at the start of a day of one of the calendar months (the *starting month*); and
- (b) ending:

- (i) immediately before the start of the corresponding day of the calendar month that is that number of calendar months after the starting month; or
- (ii) if there is no such day—at the end of the calendar month that is that number of calendar months after the starting month.

Example 1: A reference to 6 months starting on 15 December in a year is a reference to a period starting on that day and ending immediately before 15 June in the next year.

Example 2: A reference to 6 months starting on 31 October in a year is a reference to a period starting on that day and ending at the end of April in the next year (because April is the calendar month coming sixth after October and does not have 31 days).

2H References to law of the Commonwealth

In any Act, a reference to the law of the Commonwealth, or to a law of the Commonwealth, does not include, and is taken never to have included, a reference to a law in force in a Territory so far as the law is so in force because of an Act providing for the acceptance, administration or government of that Territory.

2J Documents commencing proceedings

A reference in a provision of an Act to any one or more of the following in connection with court proceedings:

- (a) a summons;
- (b) an information;
- (c) a claim;
- (d) a complaint;
- (e) a declaration;

is taken to include a reference to any document through which proceedings may be instituted in a court.

Note: An example of such a document is a court attendance notice under the *Criminal Procedure Act 1986* of New South Wales.

Section 2K

2K Rules of court

- (1) In any Act, **rules of court**, in relation to any court, means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court.
- (2) The power of the authority to make rules of court includes a power to make rules of court for the purpose of any Act which directs or authorises anything to be done by rules of court.

2L References to Australian Standards

In any Act, a reference consisting of the words “Australian Standard” followed by the letters “AS” and a number is a reference to the standard so numbered that is published by, or on behalf of, Standards Australia.

2M Sitting day

- (1) In any Act, a **sitting day**, in relation to a House of the Parliament, is a day on which the House actually sits.
- (2) However, if the House sat without adjourning on a previous day (the **earlier sitting day**), any period during which the House continues to sit, with or without a suspension, on a later day, until it adjourns, is taken to be part of the earlier sitting day.

Example 1: The Senate begins sitting at 9 am on Thursday and extends (with or without a suspension of the sitting) until it is adjourned at 3 pm on Friday. Thursday is a sitting day for the Senate but Friday is not. This example applies equally to the House of Representatives.

Example 2: The House of Representatives begins sitting at 9 am on Wednesday and extends (with or without a suspension of the sitting) until it is adjourned at 1 am on Thursday. The House of Representatives then starts sitting again at 10 am on Thursday and adjourns at 3 pm on Thursday. Both Wednesday and Thursday are sitting days for the House of Representatives. This example applies equally to the Senate.

- (3) For the purposes of this section, a House is taken to have adjourned if:
 - (a) the Parliament is prorogued; or

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- (b) that House is dissolved; or
- (c) if that House is the House of Representatives—that House expires.

Part 3—Commencement of Acts

3 When Acts come into operation

If an Act or a provision of an Act is expressed to come into operation on a particular day (whether the expression “come into operation” or “commence” is used), it comes into operation at the start of the day.

3A Commencement of Acts

- (1) This section does not apply to an Act so far as it provides for its commencement.
- (2) An Act (other than an Act to alter the Constitution) commences on the 28th day after the day on which that Act receives the Royal Assent.
- (3) An Act to alter the Constitution commences on the day on which that Act receives the Royal Assent.

4 Exercise of powers between enactment and commencement of Act

Application of section

- (1) This section applies if an Act is enacted and at a time (the ***start time***) after its enactment the Act will confer power to make an appointment, or to make an instrument of a legislative or administrative character (including rules, regulations or by-laws), because:
 - (a) the Act will commence at the start time; or
 - (b) the Act will be amended at the start time by an Act that has been enacted and that commences at that time.

Exercise of power before start time

- (2) The power may be exercised before the start time as if the relevant commencement had occurred.
- (3) Anything may be done before the start time for the purpose of enabling the exercise of the power, or of bringing the appointment or instrument into effect, as if the relevant commencement had occurred.
- (4) The exercise of a power under subsection (2) does not confer a power or right or impose an obligation on a person before the relevant commencement except so far as is necessary or convenient for the purpose of:
 - (a) bringing the appointment or instrument into effect; or
 - (b) bringing the Act conferring power into operation; or
 - (c) making the Act conferring power fully effective at or after the start time.
- (5) An appointment, or a provision of an instrument, made under subsection (2) takes effect at the start time or a later time specified in the appointment or instrument.

One instrument may rely on subsection (2) and existing power

- (6) To avoid doubt, a single instrument may be made before the start time partly under subsection (2) and partly under a power already conferred by an Act.

Extended application to provisions of an Act

- (7) Subsections (1) to (6) also apply in relation to a provision of an Act in the same way as they apply in relation to an Act.

6 Evidence of date of assent

The date appearing on the copy of an Act printed by the Government Printer, and purporting to be the date on which the Governor-General assented thereto, or made known the

Part 3 Commencement of Acts

Section 6

Sovereign's assent, shall be evidence that such date was the date on which the Governor-General so assented or made known the Sovereign's assent, and shall be judicially noticed.

Part 4—Amendment, repeal and expiry of Acts

7 Effect of repeal or amendment of Act

No revival of other Act or part

- (1) The repeal of an Act, or of a part of an Act, that repealed an Act (the **old Act**) or part (the **old part**) of an Act does not revive the old Act or old part, unless express provision is made for the revival.

No effect on previous operation of Act or part

- (2) If an Act, or an instrument under an Act, repeals or amends an Act (the **affected Act**) or a part of an Act, then the repeal or amendment does not:
- (a) revive anything not in force or existing at the time at which the repeal or amendment takes effect; or
 - (b) affect the previous operation of the affected Act or part (including any amendment made by the affected Act or part), or anything duly done or suffered under the affected Act or part; or
 - (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the affected Act or part; or
 - (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the affected Act or part; or
 - (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment.

Any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the affected Act or part had not been repealed or amended.

Note: The Act that makes the repeal or amendment, or provides for the instrument to make the repeal or amendment, may be different from,

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or the same as, the affected Act or the Act containing the part repealed or amended.

Interpretation

- (3) A reference in subsection (1) or (2) to the repeal or amendment of an Act or of a part of an Act includes a reference to:
- (a) a repeal or amendment effected by implication; and
 - (b) the expiry, lapsing or cessation of effect of the Act or part; and
 - (c) the abrogation or limitation of the effect of the Act or part; and
 - (d) the exclusion of the application of the Act or part to any person, subject-matter or circumstance.
- (4) A reference in this section to a part of an Act includes a reference to any provision of, or words, figures, drawings or symbols in, an Act.

10 References to amended or re-enacted Acts

Where an Act contains a reference to a short title that is or was provided by law for the citation of another Act as originally enacted, or of another Act as amended, then:

- (a) the reference shall be construed as a reference to that other Act as originally enacted and as amended from time to time; and
- (b) where that other Act has been repealed and re-enacted, with or without modifications, the reference shall be construed as including a reference to the re-enacted Act as originally enacted and as amended from time to time; and
- (c) if a provision of the other Act is repealed and re-enacted (including where the other Act is repealed and re-enacted), with or without modifications, a reference to the repealed provision extends to any corresponding re-enacted provision (whether or not the re-enacted provision has the same number as the repealed provision).

10A References to amended or re-enacted laws of States and Territories

Where an Act contains a reference to a short title or other citation that is or was provided by the law of a State or Territory for the citation of a law of that State or Territory as originally enacted or made, or as amended, then:

- (a) the reference shall be construed as a reference to that law as originally enacted or made and as amended from time to time; and
- (b) where that law has been repealed and re-enacted or re-made, with or without modifications, the reference shall be construed as including a reference to the re-enacted or re-made law as originally enacted or made and as amended from time to time; and
- (c) if a provision of that law is repealed and re-enacted or re-made (including where that law is repealed and re-enacted or re-made), with or without modifications, a reference to the repealed provision extends to any corresponding re-enacted or re-made provision (whether or not the re-enacted or re-made provision has the same number as the repealed provision).

11 Acts may be altered etc. in same session

An Act may be altered, amended or repealed in the same session of Parliament in which it was passed.

11A Inserting definitions into provisions or inserting items into lists or tables*Inserting definitions*

- (1) If an amending Act inserts a definition in a provision of the Act being amended, but does not specify the position in that provision where it is to be inserted, it is to be inserted in the appropriate alphabetical position, determined on a letter-by-letter basis.

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Inserting items into lists or tables

- (2) If:
- (a) an amending Act inserts an item into a list or table in a provision of the Act being amended, but does not specify the position in the list or table where the item is to be inserted; and
 - (b) immediately before the insertion, the list or table was arranged alphabetically;
- the item is inserted in the appropriate alphabetical position, determined on a letter-by-letter basis.

11B Amending Act to be construed with amended Act

- (1) Every Act amending another Act must be construed with the other Act as part of the other Act.
- (2) If:
- (a) an Act (the ***amending Act***) amends another Act (the ***principal Act***); and
 - (b) a provision (the ***non-amending provision***) of the amending Act does not amend the principal Act, but relates to an amendment of the principal Act made by another provision of the amending Act; and
 - (c) a term is used in the non-amending provision that has a particular meaning in the principal Act or in a provision of the principal Act amended or included by the amending Act;
- then the term has that meaning in the non-amending provision.

Note: Subsection (2) covers, for example, application, transitional and saving items in a Schedule to an amending Act that relate to amendments of a principal Act made by other items in the Schedule.

- (3) Subsection (2) does not limit subsection (1).

Part 5—General interpretation rules

12 Every section a substantive enactment

Every section of an Act shall have effect as a substantive enactment without introductory words.

13 Material that is part of an Act

- (1) All material from and including the first section of an Act to the end of:
 - (a) if there are no Schedules to the Act—the last section of the Act; or
 - (b) if there are one or more Schedules to the Act—the last Schedule to the Act;is part of the Act.
- (2) The following are also part of an Act:
 - (a) the long title of the Act;
 - (b) any Preamble to the Act;
 - (c) the enacting words for the Act;
 - (d) any heading to a Chapter, Part, Division or Subdivision appearing before the first section of the Act.
- (3) However, text is not part of an Act, or a compilation of an Act within the meaning of the *Legislation Act 2003*, if the text:
 - (a) only indicates the effect of an element of the Act; and
 - (b) is accessible in an electronic version of the Act or compilation; and
 - (c) does not appear in the printed text of the Act (or any amendment of the Act) as enacted by the Parliament, or any other printed version of the Act or compilation.

Note: This text is known as alternative text or “alt text”. Alternative text may be accessible in an electronic version of an Act or compilation that is published on an approved website under the *Legislation Act*

Section 15A

2003. This text may, for example, aurally indicate the effect of a graphic image in an Act to assist users of the website who have visual disabilities.

15A Construction of Acts to be subject to Constitution

Every Act shall be read and construed subject to the Constitution, and so as not to exceed the legislative power of the Commonwealth, to the intent that where any enactment thereof would, but for this section, have been construed as being in excess of that power, it shall nevertheless be a valid enactment to the extent to which it is not in excess of that power.

15AA Interpretation best achieving Act's purpose or object

In interpreting a provision of an Act, the interpretation that would best achieve the purpose or object of the Act (whether or not that purpose or object is expressly stated in the Act) is to be preferred to each other interpretation.

15AB Use of extrinsic material in the interpretation of an Act

- (1) Subject to subsection (3), in the interpretation of a provision of an Act, if any material not forming part of the Act is capable of assisting in the ascertainment of the meaning of the provision, consideration may be given to that material:
 - (a) to confirm that the meaning of the provision is the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act; or
 - (b) to determine the meaning of the provision when:
 - (i) the provision is ambiguous or obscure; or
 - (ii) the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act leads to a result that is manifestly absurd or is unreasonable.

Section 15AB

- (2) Without limiting the generality of subsection (1), the material that may be considered in accordance with that subsection in the interpretation of a provision of an Act includes:
- (a) all matters not forming part of the Act that are set out in the document containing the text of the Act as printed by the Government Printer;
 - (b) any relevant report of a Royal Commission, Law Reform Commission, committee of inquiry or other similar body that was laid before either House of the Parliament before the time when the provision was enacted;
 - (c) any relevant report of a committee of the Parliament or of either House of the Parliament that was made to the Parliament or that House of the Parliament before the time when the provision was enacted;
 - (d) any treaty or other international agreement that is referred to in the Act;
 - (e) any explanatory memorandum relating to the Bill containing the provision, or any other relevant document, that was laid before, or furnished to the members of, either House of the Parliament by a Minister before the time when the provision was enacted;
 - (f) the speech made to a House of the Parliament by a Minister on the occasion of the moving by that Minister of a motion that the Bill containing the provision be read a second time in that House;
 - (g) any document (whether or not a document to which a preceding paragraph applies) that is declared by the Act to be a relevant document for the purposes of this section; and
 - (h) any relevant material in the Journals of the Senate, in the Votes and Proceedings of the House of Representatives or in any official record of debates in the Parliament or either House of the Parliament.
- (3) In determining whether consideration should be given to any material in accordance with subsection (1), or in considering the weight to be given to any such material, regard shall be had, in addition to any other relevant matters, to:

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- (a) the desirability of persons being able to rely on the ordinary meaning conveyed by the text of the provision taking into account its context in the Act and the purpose or object underlying the Act; and
- (b) the need to avoid prolonging legal or other proceedings without compensating advantage.

15AC Changes to style not to affect meaning

Where:

- (a) an Act has expressed an idea in a particular form of words; and
- (b) a later Act appears to have expressed the same idea in a different form of words for the purpose of using a clearer style;

the ideas shall not be taken to be different merely because different forms of words were used.

15AD Examples

If an Act includes an example of the operation of a provision:

- (a) the example is not exhaustive; and
- (b) the example may extend the operation of the provision.

15B Application of Acts in coastal sea

Coastal sea of Australia

- (1) An Act is taken to have effect in, and in relation to, the coastal sea of Australia as if that coastal sea were part of Australia.
- (2) A reference in an Act to Australia, or to the Commonwealth, is taken to include a reference to the coastal sea of Australia.

Coastal sea of external Territory

- (3) An Act that is in force in an external Territory is taken to have effect in, and in relation to, the coastal sea of the Territory as if that coastal sea were part of the Territory.
- (3A) A reference in an Act to all or any of the external Territories (whether or not one or more particular Territories are referred to) is taken to include a reference to the coastal sea of any Territory to which the reference relates.

Definition

- (4) In this section, *coastal sea*:
- (a) in relation to Australia, means:
- (i) the territorial sea of Australia; and
 - (ii) the sea on the landward side of the territorial sea of Australia and not within the limits of a State or internal Territory;
- and includes the airspace over, and the sea-bed and subsoil beneath, any such sea; and
- (b) in relation to an external Territory, means:
- (i) the territorial sea adjacent to the Territory; and
 - (ii) the sea on the landward side of the territorial sea adjacent to the Territory and not within the limits of the Territory;
- and includes the airspace over, and the sea-bed and subsoil beneath, any such sea.

15C Jurisdiction of courts

Where a provision of an Act, whether expressly or by implication, authorises a civil or criminal proceeding to be instituted in a particular court in relation to a matter:

- (a) that provision shall be deemed to vest that court with jurisdiction in that matter;

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- (b) the jurisdiction so vested is not limited by any limits to which any other jurisdiction of the court may be subject; and
- (c) in the case of a court of a Territory, that provision shall be construed as providing that the jurisdiction is vested so far only as the Constitution permits.

16 References to the Sovereign

In any Act references to the Sovereign reigning at the time of the passing of such Act, or to the Crown, shall be construed as references to the Sovereign for the time being.

16A References to the Governor-General

Where, in an Act, the Governor-General is referred to, the reference shall be deemed to include:

- (a) the person for the time being administering the Government of the Commonwealth; or
- (b) where the reference occurs in or in relation to a provision conferring on the Governor-General a power or function which the Governor-General or the person administering the Government of the Commonwealth has for the time being assigned to a person as his or her deputy, that last-mentioned person in his or her capacity as deputy;

and shall be read as referring to the Governor-General, or a person so deemed to be included in the reference, acting with the advice of the Executive Council.

16B References to the Governor of a State

Where, in an Act, the Governor of a State is referred to, the reference shall be deemed to include the Governor for the time being of the State or any other person who is, for the time being, the chief executive officer or administrator of the government of the State.

16BA References to judge

In any Act, a reference (whether general or otherwise) to a judge does not include a reference to a Judge, or an acting Judge, of the Local Court of the Northern Territory.

16C References to Stipendiary Magistrate and Magistrate

- (1) Where, in an Act, reference is made to a Stipendiary Magistrate, the reference shall be read as including a reference to any Magistrate in respect of whose office an annual salary is payable.
- (2) Where, in an Act passed after the date of commencement of this section, reference is made to a Magistrate, the reference shall be read as a reference to:
 - (a) a Chief, Police, Stipendiary, Resident or Special Magistrate; or
 - (b) any other Magistrate in respect of whose office an annual salary is payable.
- (3) In any Act, a reference to a Stipendiary Magistrate or Magistrate includes a reference to a Judge, or an acting Judge, of the Local Court of the Northern Territory.

17A Paper or document purporting to be printed by Government Printer

For the purposes of an Act in which reference is made to a paper or document purporting to be printed by the Government Printer, the words “Government Printer of the Commonwealth”, “Government Printer of the Commonwealth of Australia”, “Commonwealth Government Printer” or “Government Printer of Australia” appearing on a paper or document shall be deemed to refer to the Government Printer.

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18A Parts of speech and grammatical forms

In any Act where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

18B Titles of Chairs and Deputy Chairs

Chair titles

- (1) For the purposes of this section, each of the following is a ***chair title***:
 - (a) Chair;
 - (b) Chairperson;
 - (c) Chairman;
 - (d) Chairwoman.
- (2) A person occupying an office that is established by an Act and that has a chair title may choose to be referred to by:
 - (a) that chair title; or
 - (b) another chair title; or
 - (c) any other similar title.
- (3) If a person occupying an office that is established by an Act and that has a chair title does not choose to be referred to by a title mentioned in subsection (2), the person may be referred to by the chair title that someone addressing the person considers appropriate.

Deputy chair titles

- (4) For the purposes of this section, each of the following is a ***deputy chair title***:
 - (a) Deputy Chair;
 - (b) Deputy Chairperson;
 - (c) Deputy Chairman;
 - (d) Deputy Chairwoman.

- (5) A person occupying an office that is established by an Act and that has a deputy chair title may choose to be referred to by:
- (a) that deputy chair title; or
 - (b) another deputy chair title; or
 - (c) any other similar title.
- (6) If a person occupying an office that is established by an Act and that has a deputy chair title does not choose to be referred to by a title mentioned in subsection (5), the person may be referred to by the deputy chair title that someone addressing the person considers appropriate.

19 References to Ministers in Acts

- (1) If a provision of an Act refers to a Minister, the following table provides which Minister the provision refers to in relation to a particular matter (the *relevant matter*) on a particular day (the *relevant day*).

References to Ministers in Acts	
If the provision ...	then the Minister referred to is ...
1 refers to a Minister by using the expression “the Minister”, without identifying the Minister	the Minister, or any of the Ministers, administering the provision on the relevant day, in relation to the relevant matter.
2 refers to a Minister by reference to the fact that the Minister administers any of the following laws: (a) the Act, that provision or another provision of the Act; (b) another Act, or a provision of another Act	the Minister, or any of the Ministers, administering that law on the relevant day, in relation to the relevant matter.

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References to Ministers in Acts

If the provision ...	then the Minister referred to is ...
<p>3 refers to a Minister by title (for example, “the Attorney-General” or “the Minister for Industry”), even if that title no longer exists</p>	<p>(a) if, at the time the provision commenced, or the reference to the Minister was inserted, the Minister referred to by title administered the provision—the Minister, or any of the Ministers, identified by item 1; or</p> <p>(b) if paragraph (a) does not apply—the Minister currently identified by the title, or by a substituted reference order under section 19B; or</p> <p>(c) in any case—any other Minister administering the Department of State of the Commonwealth that deals with the matters for which the Minister mentioned in paragraph (a) or (b) (as the case may be) is responsible on the relevant day.</p>
<p>4 refers to a Minister by describing a matter for which the Minister is responsible (for example, “the Minister responsible for the environment”)</p>	<p>the Minister, or any of the Ministers, administering the Department of State of the Commonwealth that deals with the relevant matter on the relevant day.</p>

(2) Instruments including the following, as in force on the relevant day, or any earlier day, may be used to work out which Minister (or Ministers) is referred to under subsection (1):

- (a) an Administrative Arrangements Order;
- (b) a substituted reference order under section 19B.

Note: Substituted reference orders under section 19B may have effect in relation to days before the orders are made.

(3) To avoid doubt, if, because of this section, a provision of an Act is taken to require anything to be done by or in relation to any one of 2 or more Ministers, the provision is not taken to require it to be

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done in any particular case by or in relation to more than one of those Ministers.

Acting Ministers

- (4) If a provision of an Act refers to a Minister, the reference is taken to include a reference to a Minister or member of the Executive Council for the time being acting for or on behalf of the Minister.

19A References to Departments in Acts

- (1) If a provision of an Act refers to a Department, the following table provides which Department the provision refers to in relation to a particular matter (the *relevant matter*) on a particular day (the *relevant day*).

References to Departments in Acts		
Item	If the provision ...	then the Department is ...
1	refers to a Department by using the expression “the Department”, without identifying the Department	the Department of State of the Commonwealth that is administered by the Minister or Ministers administering that provision in relation to the relevant matter, and that deals with that matter.
2	refers to a Department by title (for example, “the Attorney-General’s Department” or “the Department of Industry”), even if that title no longer exists	(a) if, at the time the provision commenced, or the reference to the Department was inserted, the Department referred to by title was administered by the Minister or Ministers administering that provision in relation to the relevant matter—the Department identified by item 1; or (b) if paragraph (a) does not apply—the Department of State of the Commonwealth identified by the title, or by a substituted reference order under section 19B; or

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Section 19B

References to Departments in Acts

Item	If the provision ...	then the Department is ...
		(c) in any case—any other Department of State of the Commonwealth that deals with the matters for which the Department mentioned in paragraph (a) or (b) (as the case may be) is responsible on the relevant day.
3	refers to a Department by describing a matter for which the Department is responsible (for example, “the Department responsible for the environment”)	the Department of State of the Commonwealth that deals with the relevant matter on the relevant day.

Example: A provision of an Act refers to “the Secretary of the Department” but does not identify which Department is referred to. Under item 1, the reference is to the Secretary of the Department administered by the Minister who administers that provision in relation to the relevant matter, and that deals with that matter, as worked out under subsection (2).

- (2) Instruments including the following, as in force on the relevant day, or any earlier day, may be used to work out which Department is identified by the table in subsection (1):
- (a) an Administrative Arrangements Order;
 - (b) a substituted reference order under section 19B.

Note: Substituted reference orders under section 19B may have effect in relation to days before the orders are made.

19B Machinery of government—substituted reference orders

Scope

- (1) This section applies if:
- (a) a provision of an Act refers to an authority (see subsection (7)); and
 - (b) any of the following happens:

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- (i) the authority is abolished;
- (ii) the name or title of the authority is changed;
- (iii) there is a change in the matters dealt with by the authority because of the effect of an Administrative Arrangements Order;
- (iv) the reference to the authority becomes no longer appropriate for any other reason.

Substituted reference orders—Ministers, Departments, Agencies and offices

- (2) The Governor-General may make a substituted reference order directing that the provision is to have effect for all purposes, on and after a day specified in the order:
 - (a) as if there were substituted, for the reference to the authority mentioned in subsection (1), a reference to another specified authority (or authorities); or
 - (b) as if, in so far as the provision applies in a particular respect specified in the order, there were substituted, for the reference to the authority mentioned in subsection (1), a reference to another specified authority (or authorities).

Note: A substituted reference order may be amended or revoked in the same way as it is made (see subsection 33(3)).

- (3) The day specified in the order (as the day on and after which the order is to have effect) may be a day before the order is made.
- (4) A substituted reference order has effect according to its terms.

Note: The order has effect for the purpose of the making of any subsequent order under this section.

- (5) A substituted reference order is a legislative instrument.

Authority abolished and another established with the same name

- (6) A substituted reference order must not be made only because an authority is abolished, and, immediately after its abolition, another authority of the same type, with the same name, is established.

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- Note: However, a substituted reference order may be made if either of the following happens in relation to the authority:
- (a) there is a change in the matters dealt with by the authority because of the effect of an Administrative Arrangements Order (see subparagraph (1)(b)(iii));
 - (b) a reference to the authority becomes no longer appropriate for any other reason (see subparagraph (1)(b)(iv)).

Definition of authority

(7) In this section:

authority means any of the following:

- (a) a Minister;
- (b) a Department of State of the Commonwealth;
- (c) any other Agency within the meaning of the *Public Service Act 1999*;
- (d) an office (including an APS employee's office and any other appointment or position), or the holder of an office.

Note: Offices are offices in and for the Commonwealth (see section 21). An example is the office of Secretary of a Department of State.

19C Machinery of government—references to authorities in Commonwealth agreements

Scope

- (1) This section applies if:
- (a) a provision of an agreement entered into by or on behalf of the Commonwealth refers to an authority (see subsection (6)) in relation to a particular matter (the **relevant matter**); and
 - (b) any of the following happens after the agreement was entered into:
 - (i) the authority is abolished;
 - (ii) the name or title of the authority is changed;
 - (iii) there is a change in the matters dealt with by the authority because of the effect of an Administrative Arrangements Order;

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- (iv) the reference to the authority becomes no longer appropriate for any other reason.

References to authorities in Commonwealth agreements

- (2) The following table provides which authority the provision of the agreement is taken to refer to in relation to the relevant matter on a particular day (the **relevant day**) after the most recent event mentioned in paragraph (1)(b).

References to authorities in Commonwealth agreements		
Item	If the provision refers to ...	then the provision is taken to refer to ...
1	a Minister	the Minister, or any of the Ministers, administering the Department of State of the Commonwealth that deals with the relevant matter on the relevant day.
2	a Department	the Department of State of the Commonwealth that deals with the relevant matter on the relevant day.
3	any other authority (the relevant authority)	an authority (including the relevant authority): (a) exercising the powers, or performing the functions, of the relevant authority on the relevant day; or (b) determined under subsection (4).

- (3) The following instruments, as in force on the relevant day, or any earlier day, may be used to work out which authority is taken to be referred to under subsection (2):
- (a) an Administrative Arrangements Order;
 - (b) a substituted reference order under section 19B.

Note: Substituted reference orders under section 19B may have effect in relation to days before the orders are made.

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- (4) The Minister administering the Department of State of the Commonwealth that deals with the relevant matter may, by notifiable instrument, make a determination for the purposes of item 3 of the table in subsection (2).

Note 1: A determination may be amended or revoked in the same way as it is made (see subsection 33(3)).

Note 2: Notifiable instruments must be registered under the *Legislation Act 2003*, but they are not subject to parliamentary scrutiny or sunseting under that Act.

- (5) To avoid doubt, if, because of this section, a provision of an agreement entered into by or on behalf of the Commonwealth is taken to require anything to be done by or in relation to any one of 2 or more Ministers, the provision is not taken to require it to be done in any particular case by or in relation to more than one of those Ministers.

Definition of authority

- (6) In this section:

authority means any of the following:

- (a) a Minister;
- (b) a Department of State of the Commonwealth;
- (c) any other Agency within the meaning of the *Public Service Act 1999*;
- (d) an office (including an APS employee's office and any other appointment or position), or the holder of an office.

Note: Offices are offices in and for the Commonwealth (see section 21). An example is the office of Secretary of a Department of State.

19D Machinery of government changes—saving the validity of acts done by authorities

Saving the validity of acts done by authorities

- (1) Subject to section 19E, the purported exercise or performance of a power, function or duty by or on behalf of an authority (see

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subsection (5)) is not invalid merely because, following a machinery of government change, the power, function or duty:

- (a) is conferred or imposed on another authority; or
 - (b) is conferred or imposed on the same authority under another name or title; or
 - (c) is no longer conferred or imposed on any authority.
- (2) Subsection (1) only applies if the authority acted on the basis of a reasonable, but mistaken, belief about the occurrence, timing or nature of the machinery of government change.

Machinery of government change

- (3) For the purposes of this section, a ***machinery of government change*** occurs if any of the following applies in relation to an authority:
- (a) the authority is abolished;
 - (b) the name or title of the authority is changed;
 - (c) there is a change in the matters dealt with by the authority because of the effect of an Administrative Arrangements Order;
 - (d) the authority no longer exercises or performs the power, function or duty for any other reason.

Powers, functions and duties

- (4) This section applies in relation to a power, function or duty purportedly exercised or performed by or on behalf of an authority, whether before or after the machinery of government change, under any of the following:
- (a) an Act or legislative instrument;
 - (b) an agreement entered into by or on behalf of the Commonwealth;
 - (c) any other authorisation under a law of the Commonwealth.

*Definition of **authority***

- (5) In this section:
-

Section 19E

authority means any of the following persons or bodies:

- (a) a Minister;
- (b) a Department of State of the Commonwealth;
- (c) any other Agency within the meaning of the *Public Service Act 1999*;
- (d) an office (including an APS employee's office and any other appointment or position), or the holder of an office.

Note: Offices are offices in and for the Commonwealth (see section 21). An example is the office of Secretary of a Department of State.

19E Validity of acts done by Ministers

If a Minister purports to exercise a power or perform a function or duty that is conferred or imposed on another Minister by an Act, the exercise of that power or the performance of that function or duty is not invalid merely because the power, function or duty is conferred or imposed on the other Minister.

20 References to holders of appointments, offices and positions in Acts and Commonwealth agreements

In a provision of an Act, or of an agreement entered into by or on behalf of the Commonwealth, a reference in general terms to the holder or occupier of an office, appointment or position includes all persons who for the time being:

- (a) hold or occupy the office, appointment or position; or
- (b) perform the duties of the office, appointment or position.

21 Office etc. means office etc. of the Commonwealth

- (1) In any Act:
 - (a) references to any officer or office shall be construed as references to such officer or office in and for the Commonwealth; and
 - (b) references to localities jurisdictions and other matters and things shall be construed as references to such localities

jurisdictions and other matters and things in and of the Commonwealth.

(2) In this section:

office includes a position occupied by an APS employee.

officer includes an APS employee.

23 Rules as to gender and number

In any Act:

- (a) words importing a gender include every other gender; and
- (b) words in the singular number include the plural and words in the plural number include the singular.

25A Production of records kept in computers etc.

Where a person who keeps a record of information by means of a mechanical, electronic or other device is required by or under an Act to produce the information or a document containing the information to, or make a document containing the information available for inspection by, a court, tribunal or person, then, unless the court, tribunal or person otherwise directs, the requirement shall be deemed to oblige the person to produce or make available for inspection, as the case may be, a writing that reproduces the information in a form capable of being understood by the court, tribunal or person, and the production of such a writing to the court, tribunal or person constitutes compliance with the requirement.

25B Alterations of names and constitutions

- (1) Where an Act alters the name of a body (whether or not the body is incorporated) or alters the name of an office, then:
 - (a) the body or office continues in existence under the new name so that its identity is not affected; and
 - (b) in any Act, in any instrument under an Act, in any award or other industrial determination or order or any industrial

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agreement, in any other order (whether executive, judicial or otherwise), in any contract, in any pleading in, or process issued in connection with, any legal or other proceedings or in any other instrument, a reference to the body or the office under the former name shall, except in relation to matters that occurred before the alteration took place, be construed as a reference to the body or the office under the new name.

- (1A) Where a law of a State or Territory alters the name of a body (whether or not incorporated) or of an office, then a reference in an Act or an instrument made under an Act to the body or office under the former name is to be construed, except in relation to matters that occurred before the alteration, as a reference to the body or office under the new name.
- (2) Where an Act alters the constitution of a body (whether or not the body is incorporated), then:
- (a) the body continues in existence as newly constituted so that its identity is not affected;
 - (b) the alteration does not affect any functions, powers, property, rights, liabilities or obligations of the body;
 - (c) the alteration does not affect any legal or other proceedings instituted or to be instituted by or against the body, and any legal or other proceedings that might have been continued or commenced by or against the body as previously constituted may be continued or commenced by or against the body as newly constituted; and
 - (d) the alteration does not affect any investigation or inquiry being or proposed to be undertaken by any tribunal, authority or person into any action taken or practice engaged in by the body before the alteration took place, and any investigation or inquiry that might have been continued or commenced into any such action or practice may be continued or commenced as if the action had been taken or the practice had been engaged in by the body as newly constituted.
- (3) In this section:
- office* includes a position occupied by an APS employee.
-

25C Compliance with forms

Where an Act prescribes a form, then strict compliance with the form is not required and substantial compliance is sufficient.

25D Content of statements of reasons for decisions

Where an Act requires a tribunal, body or person making a decision to give written reasons for the decision, whether the expression “reasons”, “grounds” or any other expression is used, the instrument giving the reasons shall also set out the findings on material questions of fact and refer to the evidence or other material on which those findings were based.

Part 6—Service of documents

28A Service of documents

- (1) For the purposes of any Act that requires or permits a document to be served on a person, whether the expression “serve”, “give” or “send” or any other expression is used, then the document may be served:
- (a) on a natural person:
 - (i) by delivering it to the person personally; or
 - (ii) by leaving it at, or by sending it by pre-paid post to, the address of the place of residence or business of the person last known to the person serving the document; or
 - (b) on a body corporate—by leaving it at, or sending it by pre-paid post to, the head office, a registered office or a principal office of the body corporate.

Note: The *Electronic Transactions Act 1999* deals with giving information in writing by means of an electronic communication.

- (2) Nothing in subsection (1):
- (a) affects the operation of any other law of the Commonwealth, or any law of a State or Territory, that authorises the service of a document otherwise than as provided in that subsection; or
 - (b) affects the power of a court to authorise service of a document otherwise than as provided in that subsection.

29 Meaning of service by post

- (1) Where an Act authorises or requires any document to be served by post, whether the expression “serve” or the expression “give” or “send” or any other expression is used, then the service shall be deemed to be effected by properly addressing, prepaying and posting the document as a letter and, unless the contrary is proved,

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to have been effected at the time at which the letter would be delivered in the ordinary course of post.

- (2) This section does not affect the operation of section 160 of the *Evidence Act 1995*.

Part 7—Powers, functions and duties

33 Exercise of powers and performance of functions or duties

Powers, functions and duties may be exercised or must be performed as the occasion requires

- (1) Where an Act confers a power or function or imposes a duty, then the power may be exercised and the function or duty must be performed from time to time as occasion requires.

*Meaning of **may***

- (2A) Where an Act assented to after the commencement of this subsection provides that a person, court or body may do a particular act or thing, and the word **may** is used, the act or thing may be done at the discretion of the person, court or body.

Powers, functions and duties of bodies not affected by membership vacancies

- (2B) Where an Act confers a power or function, or imposes a duty, on a body, whether incorporated or unincorporated, the exercise of the power or the performance of the function or duty is not affected merely because of a vacancy or vacancies in the membership of the body.

Power to make instrument includes power to vary or revoke etc. instrument

- (3) Where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

- (3AA) If a condition (the *ongoing condition*):
- (a) must be satisfied before the making, granting or issuing of an instrument; and
 - (b) is capable of ceasing to be satisfied after the making, granting or issuing of the instrument;

subsection (3) has effect, in relation to the repeal, rescission or revocation of the instrument, as if the reference to like conditions (to the extent that the reference relates to the ongoing condition) were a reference to the ongoing condition ceasing to be satisfied.

Example: A Minister may give a person a written permission if, among other things, the Minister is satisfied the person is of good character.

This condition is capable of ceasing to be satisfied after the giving of the permission.

The Minister may repeal, rescind or revoke the permission in the like manner if the Minister ceases to be satisfied that the person is of good character.

Scope of powers in respect of matters

- (3A) Where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) with respect to particular matters (however the matters are described), the power shall be construed as including a power to make, grant or issue such an instrument with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.
- (3AB) If an Act confers on a person or authority the power to make an instrument (except a legislative instrument, a notifiable instrument or a rule of court):
- (a) specifying, declaring or prescribing a matter; or
 - (b) doing anything in relation to a matter;
- then, in exercising the power, the person or authority may identify the matter by reference to a class or classes of matters.

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Note: This provision has a parallel, in relation to legislative instruments, and notifiable instruments, in section 13 of the *Legislation Act 2003*.

- (3AC) For the purposes of subsections (3A) and (3AB), *matter* includes thing, person and animal.
- (3B) Where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall not be taken, by implication, not to include the power to make provision for or in relation to a particular aspect of a matter by reason only that provision is made by the Act in relation to another aspect of that matter or in relation to another matter.

Power to make appointment to an office or place

- (4) Where an Act confers upon any person or authority a power to make appointments to any office or place, the power shall be construed as including a power to appoint a person to act in the office or place until:
- (a) a person is appointed to the office or place; or
 - (b) the expiration of 12 months after the office or place was created or became vacant, as the case requires:
- whichever first happens, and as also including a power to remove or suspend any person appointed, and to appoint another person temporarily in the place of any person so suspended or in place of any sick or absent holder of such office or place:
- Provided that where the power of such person or authority to make any such appointment is only exercisable upon the recommendation or subject to the approval or consent of some other person or authority, such power to make an appointment to act in an office or place or such power of removal shall only be exercisable upon the recommendation or subject to the approval or consent of such other person or authority.

Power to make instrument prescribing penalties

- (5) Where an Act confers a power to make, grant or issue an instrument (including rules, regulations or by-laws) prescribing

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penalties not exceeding a specified amount or imprisonment for a specified period, that limitation on the penalties that may be prescribed does not prevent the instrument from requiring the making of a statutory declaration.

33AA Power to appoint includes power to reappoint

If an Act confers on a person or body a power to make an appointment, the power is taken to include a power of reappointment.

33AB Validity of things done under appointments under Acts

Anything done by or in relation to a person purporting to act under an appointment (including an acting appointment) under an Act is not invalid merely because:

- (a) for any appointment—the occasion for the appointment had not arisen; or
- (b) for any appointment—there was a defect or irregularity in connection with the appointment; or
- (c) for any appointment—the appointment had ceased to have effect; or
- (d) for an acting appointment—the occasion to act had not arisen or had ceased.

33A Acting in offices or positions*Acting appointments*

- (1) Where a provision of an Act (other than subsection 33(4) of this Act) confers on a person or body (in this section called the ***appointer***) a power to appoint a person (in this section called the ***appointee***) to act in a particular office, then, except so far as the Act otherwise provides, the following paragraphs apply in relation to an appointment made under the provision:
 - (a) the appointment may be expressed to have effect only in the circumstances specified in the instrument of appointment;

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- (b) the appointer may:
 - (i) determine the terms and conditions of the appointment, including remuneration and allowances; and
 - (ii) terminate the appointment at any time;
- (ba) where the appointment is to act in a vacant office, the appointee must not continue to act in the office for more than 12 months;
- (c) where the appointee is acting in an office other than a vacant office and the office becomes vacant while the appointee is acting, then, subject to paragraph (a), the appointee may continue so to act until:
 - (i) the appointer otherwise directs;
 - (ii) the vacancy is filled; or
 - (iii) a period of 12 months from the day of the vacancy ends; whichever happens first;
- (d) the appointment ceases to have effect if the appointee resigns in writing delivered to the appointer;
- (e) while the appointee is acting in the office:
 - (i) the appointee has and may exercise all the powers, and shall perform all the functions and duties, of the holder of the office; and
 - (ii) that or any other Act applies in relation to the appointee as if the appointee were the holder of the office.

Acting by operation of law

- (2) If a provision of an Act provides for a person to act in a particular office (without the need for an appointment), then, except so far as the Act otherwise provides, while the person is acting in the office:
 - (a) the person has and may exercise all the powers, and must perform all the functions and duties, of the holder of the office; and
 - (b) the Act or any other Act applies in relation to the person as if the person were the holder of the office.

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- (3) Anything done by or in relation to a person purporting to act in the office mentioned in subsection (2) is not invalid merely because the occasion to act had not arisen or had ceased.

Definition

- (4) In this section:

office includes a position occupied by an APS employee.

33B Participation in meetings by telephone etc.

- (1) This section applies to a body (whether or not incorporated) established by an Act if the Act requires or permits meetings of the members of the body to be held.
- (2) The body may permit its members to participate in a meeting, or all meetings, by:
- (a) telephone; or
 - (b) closed-circuit television; or
 - (c) any other means of communication.
- (3) A member who participates in a meeting under a permission under subsection (2) is taken to be present at the meeting and to form part of any quorum for the meeting.
- (4) The members of a body participating in a meeting for which a permission under subsection (2) is in effect may all participate by a means of communication referred to in that subsection.
- (5) A meeting for which a permission under subsection (2) is in effect may be held at 2 or more places at the same time.

34 Power to hear and determine a matter includes power to receive evidence and examine witnesses etc.

Any court, Judge, justice of the peace, officer, commissioner, arbitrator, or other person authorised by law, or by consent of parties, to hear and determine any matter, shall have authority to

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receive evidence and examine witnesses and to administer an oath or affirmation to all witnesses legally called before them respectively.

34AAA Exercise of powers etc. by holders etc. of offices or positions

If an Act confers a power or function or imposes a duty on a person holding or occupying an office or position as such, then the power may be exercised or the function or duty must be performed by the person for the time being holding or occupying the office or position.

34AAB Minister may authorise others to perform functions or duties or exercise powers on his or her behalf

- (1) A Minister (the *authorising Minister*) who administers (whether alone or jointly with one or more other Ministers) an Act or a provision of an Act may authorise:
 - (a) a Minister who does not administer the Act or provision; or
 - (b) a member of the Executive Council who is not a Minister; to act on behalf of the authorising Minister in the performance of functions or duties, or the exercise of powers, that the authorising Minister may perform or exercise under the Act or provision.
- (2) An authorisation under subsection (1) in relation to an Act or a provision of an Act extends to the performance of functions or duties, or the exercise of powers, that the authorising Minister may perform or exercise under an instrument (including a regulation, rule or Proclamation) having effect under or for the purposes of the Act or provision.
- (3) Subject to subsection (4), an authorisation under subsection (1) may be expressed:
 - (a) to have effect only during a period or periods, or during the existence of a circumstance or circumstances, referred to in the authorisation; or
 - (b) to take effect immediately, or at a time referred to in the authorisation, and afterwards to continue to have effect until

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another person is appointed to the office held by the authorising Minister.

- (4) An authorisation under subsection (1) may be revoked at any time by the authorising Minister.
- (5) An authorisation under subsection (1), and the revocation of such an authorisation, must be in writing.
- (6) This section does not affect the giving, under a power existing apart from this section, of an authorisation to a Minister or other member of the Executive Council to act on behalf of another Minister.

34AA Delegation to persons holding, occupying or performing the duties of an office or position

Where an Act confers power to delegate a function, duty or power, then the power of delegation shall not be construed as being limited to delegating the function, duty or power to a specified person but shall be construed as including a power to delegate the function, duty or power to any person from time to time holding, occupying, or performing the duties of, a specified office or position, even if the office or position does not come into existence until after the delegation is given.

34AB Effect of delegation*General*

- (1) Where an Act confers power on a person or body (in this section called the **authority**) to delegate a function, duty or power:
 - (a) the delegation may be made either generally or as otherwise provided by the instrument of delegation;
 - (b) the powers that may be delegated do not include that power to delegate;
 - (c) a function, duty or power so delegated, when performed or exercised by the delegate, shall, for the purposes of the Act,

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be deemed to have been performed or exercised by the authority;

- (d) a delegation by the authority does not prevent the performance or exercise of a function, duty or power by the authority; and
- (e) if the authority is not a person, section 34A applies as if it were.

Addition of functions, duties or powers

(2) If:

- (a) a person (the *delegator*) or body (also the *delegator*) delegates all the person's or body's functions, duties or powers under an Act, or a provision of an Act, to another person or body; and
- (b) the Act is amended to give the delegator one or more additional functions, duties or powers under the Act or provision; and
- (c) the delegation is in force immediately before the amendment takes effect;

then, on and after the amendment taking effect, the delegation is taken to include the additional functions, duties or powers.

Alteration of functions, duties or powers

(3) If:

- (a) a person or body delegates one or more of the person's or body's functions, duties or powers under an Act, or a provision of an Act, to another person or body; and
- (b) the Act is amended to alter the scope of one or more of those functions, duties or powers under the Act or provision; and
- (c) the delegation is in force immediately before the amendment takes effect;

then, on and after the amendment taking effect, the delegation is taken to include the functions, duties or powers as altered.

34A Exercise of powers and performance of functions or duties that depend upon the opinion etc. of delegates

If:

- (a) under an Act, a person's exercise of a power, or a person's performance of a function or duty, is dependent upon the person's opinion, belief or state of mind in relation to a matter; and
- (b) that power, function or duty has been delegated under that or any other Act;

the delegate may exercise that power, or may perform that function or duty, upon the delegate's opinion, belief or state of mind in relation to that matter.

34B Presentation of papers to the Parliament

- (1) Where, by an Act or a law of a Territory, provision is made requiring or permitting the presentation (however expressed) of a paper to the Parliament or to both Houses, or to each or either House, of the Parliament, it is sufficient compliance with the provision, in relation to a House, if:
 - (a) the paper is presented in that House in accordance with the rules or orders of the House or, if, under the rules or orders of the House, papers are deemed to be presented to the House if they are delivered to the Clerk of the House and recorded in the records of the proceedings of the House, the paper is so delivered and recorded;
 - (b) where the provision provides for a specified person to present the paper or to cause the paper to be presented—that person, or any other person who could by virtue of this Act or of any other Act, or of a law of a Territory, act in the place of that person, makes or causes to be made, as the case may be, the presentation or the delivery of the paper referred to in the last preceding paragraph; and
 - (c) where the provision specifies a period within which the paper is to be presented—the presentation, or the delivery and

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recording, of the paper referred to in paragraph (a) takes place within that period.

(1A) For the purposes of an Act or a law of a Territory that refers to papers presented (however the presentation is described) to the Parliament or to both Houses, or to each or either House, of the Parliament:

- (a) presentation of a paper in a House of the Parliament in accordance with the rules or orders of the House; or
- (b) if, under the rules or orders of a House of the Parliament, papers are to be deemed to be presented to the House if they are delivered to the Clerk of the House and recorded in the records of the proceedings of the House—such a delivery and recording of a paper;

shall be deemed to have been presentation of the paper to that House, as described in that Act or law, effected or caused by the person who so presented or delivered the paper or caused the paper to be so presented or delivered.

(2) In this section, *paper* includes:

- (a) an ordinance, rule, regulation or by-law;
- (b) a report; and
- (c) any other document or instrument whatsoever.

34C Periodic reports

(1) In this section:

periodic report means a regular report relating to:

- (a) the activities, operations, business or affairs of a person; or
- (b) the administration, operation or working of an Act or part of an Act, during a particular period that ends on or after 30 June 1983.

person includes a body corporate, office, commission, authority, committee, tribunal, board, institute, organization or other body however described.

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- (2) Where an Act requires a person to furnish a periodic report to a Minister but does not specify a period within which the report is to be so furnished, that person shall furnish the report to the Minister as soon as practicable after the end of the particular period to which the report relates and, in any event, within 6 months after the end of that particular period.
- (3) Where an Act requires a person to furnish a periodic report to a Minister for presentation to the Parliament but does not specify a period within which the report is to be so presented, that Minister shall cause a copy of the periodic report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which he or she receives the report.
- (4) Where this or any other Act requires a person to furnish a periodic report to a Minister within a specified period and that person is of the opinion that it will not be reasonably possible to comply with the requirement, that person may, within the specified period, apply to the Minister for an extension of the period, and, where he or she does so apply, he or she shall furnish to the Minister a statement in writing explaining why, in that person's opinion, it will not be reasonably possible to comply with the requirement.
- (5) A Minister may, on application under subsection (4), grant such extension as he or she considers reasonable in the circumstances.
- (6) Notwithstanding subsection (2) and the provisions of any other Act, where a Minister grants an extension pursuant to an application under subsection (4):
 - (a) the Minister shall cause to be laid before each House of the Parliament, within 3 sitting days of that House after the day on which he or she grants the extension, a copy of the statement furnished pursuant to subsection (4) in respect of the application together with a statement specifying the extension granted and his or her reasons for granting the extension;
 - (b) the person who made the application shall furnish the periodic report to the Minister within the period as so extended; and

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- (c) the Minister shall cause a copy of the periodic report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which he or she receives the report.
- (7) Where this or any other Act requires a person to furnish a periodic report to a Minister within a specified period or an extension of that period under this section and that person fails to do so:
- (a) that person shall, not later than 14 days after the end of that specified period or extension, as the case may be, furnish to the Minister a statement in writing explaining why the report was not furnished as required; and
 - (b) the Minister shall cause a copy of the statement to be laid before each House of the Parliament within 3 sitting days of that House after the day on which he or she receives the statement.
- (7A) This section applies to the Australian Security Intelligence Organisation, the Australian Signals Directorate and the Office of National Intelligence in the following way:
- (a) subsection (3) does not apply;
 - (b) if an extension is granted under subsection (5), then for the purpose of subsection (6), paragraph (6)(c) is to be disregarded.
- (8) This section does not apply in relation to the Australian Secret Intelligence Service.

Part 8—Distance, time and age

35 Measurement of distance

In the measurement of any distance for the purposes of any Act, that distance shall be measured in a straight line on a horizontal plane.

36 Calculating time

- (1) A period of time referred to in an Act that is of a kind mentioned in column 1 of an item in the following table is to be calculated according to the rule mentioned in column 2 of that item:

Calculating periods of time		
Item	Column 1 If the period of time:	Column 2 then the period of time:
1	is expressed to occur between 2 days	includes both days.
2	is expressed to begin at, on or with a specified day	includes that day.
3	is expressed to continue until a specified day	includes that day.
4	is expressed to end at, on or with a specified day	includes that day.
5	is expressed to begin from a specified day	does not include that day.
6	is expressed to begin after a specified day	does not include that day.
7	is expressed to end before a specified day	does not include that day.

Example 1: If a claim may be made between 1 September and 30 November, a claim may be made on both 1 September and 30 November.

Example 2: If a permission begins on the first day of a financial year, the permission is in force on that day.

Example 3: If a licence continues until 31 March, the licence is valid up to and including 31 March.

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Example 4: If a person's right to make submissions ends on the last day of a financial year, the person may make submissions on that day.

Example 5: If a variation of an agreement is expressed to operate from 30 June, the variation starts to operate on 1 July.

Example 6: If a decision is made on 2 August and a person has 28 days after the day the decision is made to seek a review of the decision, the 28-day period begins on 3 August.

Example 7: If a person must give a notice to another person at any time during the period of 7 days before the day a proceeding starts and the proceeding starts on 8 May, the notice may be given at any time during the 7-day period starting on 1 May and ending on 7 May.

(2) If:

- (a) an Act requires or allows a thing to be done; and
- (b) the last day for doing the thing is a Saturday, a Sunday or a holiday;

then the thing may be done on the next day that is not a Saturday, a Sunday or a holiday.

Example: If a person has until 31 March to make an application and 31 March is a Saturday, the application may be made on Monday 2 April.

(3) In this section:

holiday, in relation to the time for doing a thing, means:

- (a) a day that is a public holiday in the place in which the thing is to be or may be done; and
- (b) if the thing is to be or may be done at a particular office or other place—a day on which the place or office is closed for the whole day.

37 Expressions of time

Where in an Act any reference to time occurs, such time shall, unless it is otherwise specifically stated, be deemed in each State or part of the Commonwealth to mean the legal time in that State or part of the Commonwealth.

37A Attainment of particular age

For the purposes of any Act, the time at which a person attains a particular age expressed in years is the commencement of the relevant anniversary of the date of the birth of that person.

Part 9—Citation of Acts and instruments

38 Reference to Acts

- (1) An Act passed by the Parliament of the Commonwealth may be referred to by the word “Act” alone.
- (2) An Act passed by the Parliament of the United Kingdom may be referred to by the term “Imperial Act”.
- (3) An Act passed by the Parliament of a State may be referred to by the term “State Act”.
- (4) An Act passed by the legislature of a Territory may be referred to by the term “Territory Act”.

39 Numbering of Acts

The Acts passed in each secular year shall be numbered in regular arithmetical series, beginning with the number 1, in the order in which the Governor-General assents thereto or makes known the Sovereign’s assent thereto.

40 Citation of Acts and instruments

Citation of Acts, legislative instruments and notifiable instruments

- (1A) In any Act, instrument or document:
 - (a) an Act may be cited by:
 - (i) the short title of the Act; or
 - (ii) the secular year in which it was passed, and its number;
or
 - (iii) a unique identifier given to the Act in accordance with rules prescribed under the *Legislation Act 2003*; and
 - (b) a legislative instrument or notifiable instrument may be cited by:

- (i) any name the instrument gives itself; or
- (ii) a unique identifier given to the instrument in accordance with rules prescribed under the *Legislation Act 2003*; or
- (iii) if the instrument was numbered under a Commonwealth law—the year it was made and its number, together with a reference (if necessary) to the kind of instrument; or
- (iv) if the instrument was notified or published in the Gazette—the date and (if necessary) number and page of the Gazette in which it was notified or published; or
- (v) the date it was made, together with a reference to the Act or instrument, and (if necessary) provision, under which it was made.

Citation of Imperial Acts, State Acts and Territory Acts

- (1) In any Act, instrument or document:
 - (b) any Imperial Act may be cited by its short title (if any) or in such other manner as is sufficient in an Imperial Act; and
 - (c) any State Act may be cited by a reference to the State by the Parliament whereof the Act was passed, together with such mode of reference as is sufficient in Acts passed by such Parliament; and
 - (d) any Territory Act may be cited by a reference to the Territory by whose legislature the Act was passed, together with such mode of reference as is sufficient in Acts passed by that legislature.
- (2) Any enactment may be cited by reference to the part, section, subsection, or other division of the Act, Imperial Act, State Act or Territory Act, in which the enactment is contained.

40A References to the new corporations and ASIC legislation

- (1) A reference in an Act to:
 - (a) an Act, or regulations or another instrument, that is part of the new corporations legislation or the new ASIC legislation; or

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- (b) a provision, or group of provisions, of such an Act, regulations or other instrument;
- is taken to include a reference to:
- (c) the corresponding part, provision or provisions of the old corporations legislation or the old ASIC legislation; and
- (d) any relevant earlier law.
- (2) Subsection (1) does not apply to:
- (a) a reference in an Act that is part of the new corporations legislation or the new ASIC legislation; or
- (b) a reference in the *Corporations (Repeals, Consequential and Transitional) Act 2001*; or
- (c) a reference that identifies an Act that is part of the new corporations legislation or the new ASIC legislation as an Act to be amended; or
- (d) a reference in a provision that applies an Act that is part of the new corporations legislation or the new ASIC legislation, or a provision or group of provisions, of such an Act to a particular matter (whether with or without modification).
- (3) Subsection (1) has effect:
- (a) subject to an express provision to the contrary in the Act concerned; and
- (b) subject to regulations made for the purposes of subsection (5).
- (4) For the purposes of this section:
- (a) the question whether a part, provision or provisions of the old corporations legislation *corresponds* to a part, provision or provisions of the new corporations legislation is to be determined in the same way as it is determined for the purposes of Part 10.1 of the *Corporations Act 2001*; and
- (b) the question whether a part, provision or provisions of the old ASIC legislation *corresponds* to a part, provision or provisions of the new ASIC legislation is to be determined in the same way as it is determined for the purposes of Part 16

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of the *Australian Securities and Investments Commission Act 2001*.

- (5) The regulations may provide that subsection (1) does not apply in relation to a particular reference, or class of references, in an Act.
- (6) In this section:

new ASIC legislation has the same meanings as in Part 16 of the *Australian Securities and Investments Commission Act 2001*.

new corporations legislation has the same meanings as in Part 10.1 of the *Corporations Act 2001*.

old ASIC legislation has the same meanings as in Part 16 of the *Australian Securities and Investments Commission Act 2001*.

old corporations legislation has the same meanings as in Part 10.1 of the *Corporations Act 2001*.

relevant earlier law, in relation to a provision of the old corporations legislation, or the old ASIC legislation, means a law that was:

- (a) a corresponding previous law (as defined for the purposes of that provision or provisions that included that provision); or
- (b) a relevant previous law (as defined for the purposes of that provision or provisions that included that provision).

Part 10—Instruments not covered by the Legislation Act 2003, and parliamentary resolutions

46 Construction of instruments

- (1) If a provision confers on a person (the *authority*) the power to make an instrument other than a legislative instrument, notifiable instrument or a rule of court, then:
 - (a) this Act applies to any instrument so made as if it were an Act and as if each provision of the instrument were a section of an Act; and
 - (b) expressions used in any instrument so made have the same meaning as in the Act or instrument, as in force from time to time, that authorises the making of the instrument in which the expressions are used; and
 - (c) any instrument so made is to be read and construed subject to the enabling legislation as in force from time to time, and so as not to exceed the power of the authority.
- (2) If any instrument so made would, but for this subsection, be construed as being in excess of the authority's power, it is to be taken to be a valid instrument to the extent to which it is not in excess of that power.
- (3) The amendment of an instrument, other than a legislative instrument or a notifiable instrument, or a rule of court, by an Act does not prevent the instrument, as so amended, from being amended or repealed by the authority.

Note: This provision has a parallel, in relation to legislative instruments and notifiable instruments, in section 13 of the *Legislation Act 2003*.

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46AA Prescribing matters by reference to other instruments

- (1) If legislation authorises or requires provision to be made in relation to any matter in an instrument, other than a legislative instrument, a notifiable instrument or a rule of court, that instrument may make provision in relation to that matter:
- (a) by applying, adopting or incorporating, with or without modification, any of the following, as in force at a particular time or as in force from time to time:
 - (i) the provisions of an Act;
 - (ii) the provisions of a legislative instrument covered by subsection (3);
 - (iii) the provisions of rules of court; or
 - (b) subject to subsection (2), by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or writing as in force or existing at:
 - (i) the time the first-mentioned instrument commences; or
 - (ii) a time before the first-mentioned instrument commences (whether or not the other instrument is still in force, or the other writing still exists, at the time the first-mentioned instrument commences).
- (2) The instrument may not make provision in relation to that matter by applying, adopting or incorporating any matter contained in an instrument or other writing as in force or existing from time to time.
- (3) The following legislative instruments are covered by this subsection:
- (a) disallowable legislative instruments within the meaning of the *Legislation Act 2003*;
 - (b) legislative instruments that were disallowable under this or any other Act at any time before 1 January 2005.

Note 1: Section 4 of the *Legislation Act 2003* defines a **disallowable legislative instrument** as a legislative instrument to which section 42 of that Act applies.

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Note 2: The substantive provisions of the *Legislation Act 2003* commenced on 1 January 2005.

Forms

- (4) If an instrument provides for a form to be used, this section does not apply in relation to the form.

Note: This provision has a parallel, in relation to legislative instruments and notifiable instruments, in section 14 of the *Legislation Act 2003*.

47 Construction of resolutions

Where any resolution is or has been passed by either House of the Parliament in purported pursuance of any Act, then the resolution shall be read and construed subject to the Constitution and to the Act under which it purports to have been passed, to the intent that where the resolution would, but for this section, have been construed as being in excess of authority, it shall nevertheless be a valid resolution to the extent to which it is not in excess of authority.

Part 11—Regulations

51 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Acts Interpretation Act 1901	2, 1901	12 July 1901	12 July 1901	
Acts Interpretation Act 1916	4, 1916	30 May 1916	30 May 1916	—
Acts Interpretation Act 1918	8, 1918	11 June 1918	11 June 1918	—
Acts Interpretation Act 1930	23, 1930	14 Aug 1930	s 3: 27 Oct 1930 (s 3(2) and gaz 1930, p 2093) s 4–6: 14 Aug 1930	—
Acts Interpretation Act 1932	24, 1932	30 May 1932	30 May 1932	—
Acts Interpretation Act 1937	10, 1937	27 Aug 1937	11 Oct 1937 (s 2 and gaz 1937, p 1695)	s 14
Acts Interpretation Act 1941	7, 1941	4 Apr 1941	s 5: 3 Sept 1939 (s 5(2)) Remainder: 4 Apr 1941 (s 2)	—
Defence (Transitional Provisions) Act 1947	78, 1947	11 Dec 1947	s 4(5) and 7: 1 Jan 1948 (s 2(2))	s 4(5)
Acts Interpretation Act 1948	79, 1948	17 Dec 1948	14 Jan 1949	—
Statute Law Revision Act 1950	80, 1950	16 Dec 1950	s 16, 17 and First Sch: 31 Dec 1950 (s 2)	s 16 and 17
Acts Interpretation Act 1957	69, 1957	5 Dec 1957	5 Dec 1957 (s 2)	—
Acts Interpretation Act 1963	19, 1963	28 May 1963	25 June 1963	s 6

Acts Interpretation Act 1901

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Compilation No. 36

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Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Acts Interpretation Act 1964	52, 1964	30 May 1964	27 June 1964	—
Statute Law Revision (Decimal Currency) Act 1966	93, 1966	29 Oct 1966	First Sch: 1 Dec 1966 (s 2(1))	—
Acts Interpretation Act 1973	79, 1973	19 June 1973	s 4(2): 1 July 1973 (gaz 1973, No 79) Remainder: 19 June 1973	—
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	s 9(1), 10 and Sch 1: 31 Dec 1973 (s 2)	s 9(1) and 10
Acts Citation Act 1976	37, 1976	26 May 1976	s 3 and 4: 1 July 1976 (s 2)	—
Acts Interpretation Amendment Act 1976	144, 1976	6 Dec 1976	s 5(2): 1 July 1977 (s 2(2) and gaz 1977, No S122) s 8(3) and (4): 7 Dec 1976 (s 2(1), 8(5) and gaz 1976, No S221) Remainder: 6 Dec 1976 (s 2(1))	s 3(2) and 8(2)–(4)
as amended by				
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 2 (item 138): 1 Jan 1998 (s 2(2))	—
Acts Interpretation Amendment Act 1978	35, 1978	12 June 1978	12 June 1978 (s 2)	—
Acts Interpretation Amendment Act 1980	1, 1980	1 Mar 1980	1 Jan 1980 (s 2)	—
Statute Law Revision Act 1981	61, 1981	12 June 1981	Sch 1: 12 June 1981 (s 2(1))	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law (Miscellaneous Amendments) Act (No. 1) 1982	26, 1982	7 May 1982	s 4: 4 June 1982 (s 2(12))	—
as amended by				
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	s 263: 4 June 1982 (s 2(11))	—
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	s 16: 22 Sept 1982 (s 2(1))	—
Statute Law (Miscellaneous Provisions) Act (No. 1) 1983	39, 1983	20 June 1983	Sch 1: 18 July 1983 (s 2(1))	—
Acts Interpretation Amendment Act 1984	27, 1984	15 May 1984	12 June 1984	s 2, 12(2) and 13(2)
as amended by				
Statute Law (Miscellaneous Provisions) Act (No. 2) 1984	165, 1984	25 Oct 1984	s 2(32): 25 Oct 1984 (s 2(2)) s 6(1): 22 Nov 1984 (s 2(1)) Sch 1: 12 June 1984 (s 2(3))	s 2(32) and 6(1)
Public Service Reform Act 1984	63, 1984	25 June 1984	s 151(9) and Sch 4: 1 July 1984 (s 2(4)) and gaz 1984, No S245)	s 151(9)

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Statute Law (Miscellaneous Provisions) Act (No. 2) 1984	165, 1984	25 Oct 1984	s 2(32): 25 Oct 1984 (s 2(2)) s 6(1): 22 Nov 1984 (s 2(1)) Sch 1: 1 July 1984 (s 2(21)(b))	s 2(32) and 6(1)
Statute Law (Miscellaneous Provisions) Act (No. 1) 1984	72, 1984	25 June 1984	s 5(1) and Sch: 23 July 1984 (s 2(1))	s 5(1)
Statute Law (Miscellaneous Provisions) Act (No. 2) 1985	193, 1985	16 Dec 1985	s 5, 16 and Sch 1: 16 Dec 1985 (s 2(1))	s 5 and 16
Administrative Arrangements Act 1987	92, 1987	18 Sept 1987	s 4–8: 24 July 1987 (s 2(2))	—
Crimes Legislation Amendment Act 1987	120, 1987	16 Dec 1987	s 75(2) and Sch 5: 1 Mar 1989 (s 2(1) and gaz 1989, No S54)	s 75(2)
Statute Law (Miscellaneous Provisions) Act 1987	141, 1987	18 Dec 1987	s 5(1) and Sch 1: 18 Dec 1987 (s 2(1))	s 5(1)
Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988	99, 1988	2 Dec 1988	s 4–7: 2 Dec 1988 (s 2)	—
Law and Justice Legislation Amendment Act 1988	120, 1988	14 Dec 1988	s 4 and 5: 14 Dec 1988 (s 2(1))	—
Crimes Legislation Amendment Act 1989	108, 1989	30 June 1989	s 4: 30 June 1989 (s 2(1))	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Corporations Legislation Amendment Act 1990	110, 1990	18 Dec 1990	s 16: 1 Jan 1991 (s 2(2) and gaz 1990, No S335)	—
Law and Justice Legislation Amendment Act 1990	115, 1990	21 Dec 1990	Sch: 21 Dec 1990 (s 2(1))	—
Law and Justice Legislation Amendment Act 1991	136, 1991	12 Sept 1991	Sch: 10 Oct 1991 (s 2(1))	—
Territories Law Reform Act 1992	104, 1992	30 June 1992	Sch 4: 1 July 1992 (s 2(3))	—
Law and Justice Legislation Amendment Act 1994	84, 1994	23 June 1992	s 3 and 5: 23 June 1992 (s 2(1))	s 3
Evidence (Transitional Provisions and Consequential Amendments) Act 1995	3, 1995	23 Feb 1995	s 14: 23 Feb 1995 (s 2(1)) s 15 and 27: 18 Apr 1995 (s 2(2), (13))	s 14
Audit (Transitional and Miscellaneous) Amendment Act 1997	152, 1997	24 Oct 1997	Sch 2 (items 136, 137): 1 Jan 1998 (s 2(2))	—
Financial Sector Reform (Amendments and Transitional Provisions) Act 1998	54, 1998	29 June 1998	Sch 18 (item 40): 1 July 1998 (s 2(2)(p))	—
Acts Interpretation Amendment Act 1998	125, 1998	21 Dec 1998	21 Dec 1998 (s 2)	Sch 1 (items 2, 5, 7)
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	s 13 and Sch 1 (items 33–40): 5 Dec 1999 (s 2(1), (2))	s 13

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Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Corporate Law Economic Reform Program Act 1999	156, 1999	24 Nov 1999	Sch 12 (items 1, 2, 26, 27): 24 Nov 2000 (s 2(4))	—
Australian Security Intelligence Organisation Legislation Amendment Act 1999	161, 1999	10 Dec 1999	Sch 3 (items 1, 2): 10 Dec 1999 (s 2(2))	—
Federal Magistrates (Consequential Amendments) Act 1999	194, 1999	23 Dec 1999	Sch 2 (items 1, 2): 23 Dec 1999 (s 2(1))	—
Corporations (Repeals, Consequentials and Transitionals) Act 2001	55, 2001	28 June 2001	s 4–14 and Sch 3 (items 9, 10): 15 July 2001 (s 2(1), (3))	s 4–14
Intelligence Services (Consequential Provisions) Act 2001	153, 2001	1 Oct 2001	Sch 3 (item 1): 29 Oct 2001 (s 2)	—
Statute Law Revision Act 2002	63, 2002	3 July 2002	Sch 1 (item 1): 21 Dec 1990 (s 2(1) item 2)	—
Acts Interpretation Amendment (Court Procedures) Act 2003	46, 2003	26 June 2003	7 July 2003 (s 2)	Sch 1 (item 2)
Legislative Instruments Act 2003	139, 2003	17 Dec 2003	Sch 1: 1 Jan 2005 (s 2(1) item 3)	—
Legislative Instruments (Transitional Provisions and Consequential Amendments) Act 2003	140, 2003	17 Dec 2003	s 4 and Sch 1 (items 3–7): 1 Jan 2005 (s 2(1) items 2, 3)	s 4
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	s 4 and Sch 1 (items 1, 70, 496): 22 Feb 2005 (s 2(1) items 1, 2, 10)	s 4 and Sch 1 (item 496)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Acts Interpretation Amendment (Legislative Instruments) Act 2005	133, 2005	15 Nov 2005	Sch 1: 1 Jan 2005 (s 2(1) items 2, 3)	—
Statute Law Revision Act 2008	73, 2008	3 July 2008	Sch 1 (item 2): 1 Jan 2005 (s 2(1) item 3)	—
Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008	134, 2008	4 Dec 2008	Sch 2 (item 1): 4 Dec 2008 (s 2(1) item 3)	—
Evidence Amendment Act 2008	135, 2008	4 Dec 2008	Sch 3 (item 6): 4 Dec 2009 (s 2(1) item 3)	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 1 (items 1–110) and Sch 3 (items 1–9, 11): 27 Dec 2011 (s 2(1) items 2, 12)	Sch 3 (items 1–9, 11)
Privacy Amendment (Enhancing Privacy Protection) Act 2012	197, 2012	12 Dec 2012	Sch 5 (item 1) and Sch 6 (items 15–19): 12 Mar 2014 (s 2(1) items 3, 19) Sch 6 (item 1): 12 Dec 2012 (s 2(1) item 16)	Sch 6 (items 1, 15–19)
Federal Circuit Court of Australia (Consequential Amendments) Act 2013	13, 2013	14 Mar 2013	Sch 1 (items 1, 2): 12 Apr 2013 (s 2(1) item 2)	—
Charities (Consequential Amendments and Transitional Provisions) Act 2013	96, 2013	28 June 2013	Sch 1 (items 1–3): 1 Jan 2014 (s 2(1) item 2)	—
Statute Law Revision Act (No. 1) 2015	5, 2015	25 Feb 2015	Sch 3 (items 212–216): 25 Mar 2015 (s 2(1) item 10)	—

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Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Acts and Instruments (Framework Reform) Act 2015	10, 2015	5 Mar 2015	Sch 1 (items 93–117, 166–179) and Sch 2: 5 Mar 2016 (s 2(1) item 2)	Sch 1 (items 166–179) and Sch 2 (items 4–7)
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 3 (items 1, 6): 5 Mar 2016 (s 2(1) item 8)	Sch 3 (item 6)
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 3 (items 2, 6): 5 Mar 2016 (s 2(1) item 8)	Sch 3 (item 6)
Law and Justice Legislation Amendment (Northern Territory Local Court) Act 2016	26, 2016	23 Mar 2016	Sch 1 (items 3–7, 34, 35): 1 May 2016 (s 2(1) item 2)	Sch 1 (items 34, 35)
Territories Legislation Amendment Act 2016	33, 2016	23 Mar 2016	Sch 5 (items 1, 2, 4–8): 1 July 2016 (s 2(1) item 7)	Sch 5 (items 4–8)
Marriage Amendment (Definition and Religious Freedoms) Act 2017	129, 2017	8 Dec 2017	Sch 3 (items 1–3) and Sch 4: 9 Dec 2017 (s 2(1) item 7)	Sch 3 (item 3) and Sch 4
Intelligence Services Amendment (Establishment of the Australian Signals Directorate) Act 2018	25, 2018	11 Apr 2018	Sch 1 (items 35, 100–108): 1 July 2018 (s 2(1) item 2)	Sch 1 (items 100–108)
Legislation Amendment (Sunsetting Review and Other Measures) Act 2018	78, 2018	24 Aug 2018	Sch 1 (items 1–5) and Sch 2 (items 1–4): 25 Aug 2018 (s 2(1) items 2, 3)	Sch 1 (item 5) and Sch 2 (item 4)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Civil Law and Justice Legislation Amendment Act 2018	130, 2018	25 Oct 2018	Sch 1: 26 Oct 2018 (s 2(1) item 2)	—
Office of National Intelligence (Consequential and Transitional Provisions) Act 2018	156, 2018	10 Dec 2018	Sch 2 (items 1, 2) and Sch 4: 20 Dec 2018 (s 2(1) items 2, 4)	Sch 4

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Endnote 4—Amendment history

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Provision affected	How affected
Part 1	
Part 1 heading.....	ad No 52, 1964 rep No 46, 2011
Part 1 heading.....	ad No 46, 2011
Heading preceding s 1.....	rep No 52, 1964
s 1A.....	ad No 46, 2011 am No 10, 2015; No 130, 2018
s 2.....	rs No 10, 1937 am No 37, 1976 rs No 46, 2011 am No 10, 2015
s 2A.....	ad No 24, 1932 rep No 10, 1937 ad No 52, 1964 rep No 216, 1973 ad No 46, 2011
Part 2	
Part 2.....	ad No 46, 2011
s 2B.....	ad No 46, 2011 am No 197, 2012; No 13, 2013; No 96, 2013; No 10, 2015; No 26, 2016; No 33, 2016; No 129, 2017; No 78, 2018
s 2C.....	ad No 46, 2011
s 2CA.....	ad No 129, 2017
s 2D.....	ad No 46, 2011
s 2E.....	ad No 46, 2011
s 2F.....	ad No 46, 2011
s 2G.....	ad No 46, 2011
s 2H.....	ad No 46, 2011

Endnote 4—Amendment history

Provision affected	How affected
s 2J.....	ad No 46, 2011
s 2K.....	ad No 46, 2011
s 2L.....	ad No 46, 2011
s 2M.....	ad No 78, 2018
Part 3	
Part II heading.....	ad No 52, 1964 rep No 46, 2011
Part 3 heading.....	ad No 46, 2011
Heading preceding s 3.....	rep No 52, 1964
s 3.....	am No 27, 1984; No 141, 1987; No 46, 2011; No 10, 2015
s 3A.....	ad No 46, 2011
s 4.....	rs No 144, 1976 am No 115, 1990; No 63, 2002; No 140, 2003 rs No 46, 2011
s 5.....	am No 10, 1937; No 144, 1976 rep No 46, 2011
s 6.....	am No 46, 2011
Part 4	
Part III heading.....	ad No 52, 1964 rep No 46, 2011
Part 4 heading.....	ad No 46, 2011
Heading preceding s 7.....	rep No 52, 1964
s 7.....	rs No 46, 2011
s 8.....	rep No 46, 2011
s 8A.....	ad No 27, 1984 rep No 46, 2011
s 8B.....	ad No 27, 1984 rep No 46, 2011
s 8C.....	ad No 27, 1984 rep No 46, 2011
s 9.....	rep No 46, 2011

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Endnote 4—Amendment history

Provision affected	How affected
s 10	rs No 37, 1976 am No 46, 2011; No 78, 2018
s 10A.....	ad No 4, 1916 rep No 37, 1976 ad No 27, 1984 am No 46, 2011; No 78, 2018
s 11	rs No 46, 2011
s 11A.....	ad No 46, 2011
s 11B.....	ad No 46, 2011
Part 5	
Part IV heading	ad No 52, 1964 rep No 46, 2011
Part 5 heading	ad No 46, 2011
Heading preceding s 12.....	rep No 52, 1964
s 13	am No 1, 1980 rs No 46, 2011 am No 10, 2015
s 14	rep No 46, 2011
s 14A.....	ad No 141, 1987 rep No 46, 2011
s 14B.....	ad No 141, 1987 rep No 46, 2011
s 15	rep No 46, 2011
s 15A.....	ad No 23, 1930 rs No 10, 1937
s 15AA.....	ad No 61, 1981 am No 27, 1984 rs No 46, 2011
s 15AB.....	ad No 27, 1984
s 15AC.....	ad No 141, 1987
s 15AD.....	ad No 141, 1987

Endnote 4—Amendment history

Provision affected	How affected
	rs No 46, 2011
s 15AE	ad No 133, 2005
	rep No 10, 2015
s 15B	ad No 144, 1976
	am No 46, 2011
s 15C	ad No 27, 1984
	am No 46, 2011
	ed C32
Part V heading	ad No 52, 1964
	rep No 46, 2011
Heading preceding s 16	rep No 52, 1964
s 16	am No 46, 2011
s 16A	ad No 69, 1957
	am No 46, 2011; No 5, 2015
s 16B	ad No 69, 1957
	am No 46, 2011
s 16BA	ad No 26, 2016
s 16C	ad No 79, 1973
	am No 194, 1999; No 46, 2011; No 13, 2013; No 26, 2016
s 17	am No 23, 1930; No 10, 1937; No 80, 1950; No 69, 1957; Nos 79 and 216, 1973; No 144, 1976; No 80, 1982; No 92, 1987; No 104, 1992; No 152, 1997; No 140, 2003; No 8, 2005
	rep No 46, 2011
s 17AA	ad No 146, 1999
	rep No 46, 2011
s 17A	ad No 79, 1973
	am No 144, 1976
s 18	am No 216, 1973
	rep No 46, 2011
s 18A	ad No 144, 1976
	am No 46, 2011

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Provision affected	How affected
s 18B.....	ad No 141, 1987 am No 120, 1988 rs No 152, 1997; No 46, 2011
s 18C.....	ad No 125, 1998 rep No 46, 2011
s 19	am No 8, 1918; No 125, 1998 rs No 10, 2015
s 19A.....	ad No 23, 1930 am No 24, 1932 rs No 10, 1937 am No 7, 1941 rep No 144, 1976 ad No 92, 1987 am No 125, 1998; No 46, 2011 rs No 10, 2015
s 19B.....	ad No 7, 1941 rs No 144, 1976 am No 63, 1984 (as am by No 165, 1984); No 92, 1987; No 146, 1999; No 46, 2011 rs No 10, 2015 ed C30
s 19BA.....	ad No 144, 1976 am No 35, 1978; No 63, 1984 (as am by No 165, 1984); No 92, 1987; No 125, 1998; No 146, 1999; No 73, 2008; No 46, 2011 rep No 10, 2015
s 19BAA	ad No 144, 1976 rep No 10, 2015
s 19BB	ad No 144, 1976 am No 46, 2011 rep No 10, 2015
s 19BC	ad No 144, 1976

Endnote 4—Amendment history

Provision affected	How affected
	am No 35, 1978
	rep No 10, 2015
s 19BD.....	ad No 46, 2011
	rep No 10, 2015
s 19C.....	ad No 78, 1947
	am No 92, 1987; No 146, 1999
	rs No 10, 2015
s 19D.....	ad No 10, 2015
	am No 130, 2018
s 19E.....	ad No 130, 2018
s 20	am No 27, 1984; No 46, 2011
	rs No 10, 2015
s 21	am No 146, 1999; No 46, 2011
s 22	am No 144, 1976; No 39, 1983; No 27, 1984; No 193, 1985; No 115, 1990
	rep No 46, 2011
s 22A.....	ad No 134, 2008
	rep No 46, 2011
s 22B.....	ad No 134, 2008
	rep No 46, 2011
s 22C.....	ad No 134, 2008
	rep No 46, 2011
s 23	rs No 27, 1984
	am No 46, 2011
s 24	am No 7, 1941; No 93, 1966; No 144, 1976; No 27, 1984
	rep No 120, 1987
s 25	rs No 27, 1984
	am No 108, 1989
	rep No 46, 2011
s 25A.....	ad No 27, 1984
s 25B.....	ad No 27, 1984

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Endnote 4—Amendment history

Provision affected	How affected
	am No 136, 1991; No 146, 1999; No 46, 2011
s 25C.....	ad No 27, 1984
	am No 46, 2011
s 25D.....	ad No 27, 1984
s 25E.....	ad No 27, 1984
	rep No 46, 2011
Part 6	
Part VI heading.....	ad No 52, 1964
	rep No 46, 2011
Part 6 heading.....	ad No 46, 2011
Heading preceding s 26.....	rep No 52, 1964
s 26	am No 10, 1937; No 80, 1950; No 216, 1973; No 27, 1984; No 194, 1999
	rep No 46, 2011
s 27	am No 193, 1985; No 120, 1987
	rep No 46, 2011
s 27A.....	ad No 46, 2003
	rep No 46, 2011
s 28	rep No 46, 2011
s 28A.....	ad No 27, 1984
	am No 46, 2011
	ed C32
s 29	am No 3, 1995; No 46, 2011
	ed C32
s 30	am No 10, 1937; No 216, 1973; No 144, 1976
	rep No 120, 1987
s 31	rep No 52, 1964
Part 7	
Part VII heading.....	ad No 52, 1964
	rep No 46, 2011
Part 7 heading.....	ad No 46, 2011

Endnote 4—Amendment history

Provision affected	How affected
s 32	am No 23, 1930 rep No 10, 1937
Heading preceding s 33.....	rep No 52, 1964
s 33	am No 7, 1941; No 27, 1984; No 141, 1987; No 146, 1999; No 46, 2011; No 10, 2015
s 33AA.....	ad No 46, 2011
s 33AB.....	ad No 46, 2011
s 33A.....	ad No 141, 1987 am No 120, 1988; No 115, 1990; No 146, 1999; No 46, 2011
s 33B.....	ad No 136, 1991 am No 46, 2011
s 34	am No 46, 2011 ed C32
s 34AAA.....	ad No 46, 2011
s 34AAB.....	ad No 46, 2011
s 34AA.....	ad No 27, 1984 am No 84, 1994; No 46, 2011
s 34AB.....	ad No 141, 1987 am No 46, 2011
s 34A.....	ad No 78, 1947 am No 72, 1984 rs No 46, 2011
s 34B.....	ad No 19, 1963 am No 52, 1964; No 144, 1976
s 34C.....	ad No 39, 1983 am No 161, 1999; No 153, 2001; No 5, 2015; No 25, 2018; No 156, 2018
Part 8	
Part VIII heading	ad No 52, 1964 rep No 46, 2011
Part 8 heading.....	ad No 46, 2011

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Endnote 4—Amendment history

Provision affected	How affected
Heading preceding s 35.....	rep No 52, 1964
s 35	am No 46, 2011
s 36	am No 79, 1948
	rs No 46, 2011
s 37	am No 46, 2011
s 37A.....	ad No 46, 2011
Part 9	
Part IX heading.....	ad No 52, 1964
	rep No 46, 2011
Part 9 heading.....	ad No 46, 2011
	rs No 10, 2015
Heading preceding s 38.....	rep No 52, 1964
s 38	am No 46, 2011
s 39	am No 144, 1976; No 46, 2011
s 40	am No 19, 1963; No 135, 2008; No 46, 2011; No 10, 2015
s 40A.....	ad No 110, 1990
	am No 54, 1998; No 156, 1999
	rs No 55, 2001
Part X heading	ad No 52, 1964
	rep No 120, 1987
Part X.....	rep No 120, 1987
Heading preceding s 41.....	ad No 10, 1937
	rep No 52, 1964
s 41	ad No 10, 1937
	rep No 120, 1987
s 42	ad No 10, 1937
	am No 144, 1976
	rep No 120, 1987
s 43	ad No 10, 1937
	am No 144, 1976
	rep No 120, 1987

Endnote 4—Amendment history

Provision affected	How affected
s 44	ad No 10, 1937 rep No 120, 1987
s 45	ad No 10, 1937 rep No 120, 1987
s 45A.....	ad No 27, 1984 rep No 120, 1987
s 45B.....	ad No 27, 1984 rep No 120, 1987
Part 10	
Part XI heading	ad No 52, 1964 rs No 140, 2003 rep No 46, 2011
Part 10 heading	ad No 46, 2011 rs No 10, 2015
Heading preceding s 46.....	ad No 10, 1937 rep No 52, 1964
s 46	ad No 10, 1937 am No 27, 1984 (as am by No 165, 1984); No 115, 1990 rs No 140, 2003 am No 133, 2005; No 46, 2011; No 10, 2015
s 46A.....	ad No 141, 1987 am No 99, 1988; No 115, 1990; No 3, 1995 rep No 140, 2003
s 46AA.....	ad No 140, 2003 am No 133, 2005; No 46, 2011; No 10, 2015; No 126, 2015; No 78, 2018
s 46B.....	ad No 140, 2003 am No 139, 2003; No 133, 2005 rep No 10, 2015
s 47	ad No 10, 1937 am No 46, 2011

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Provision affected	How affected
Part 11	
Part XII heading.....	ad No 52, 1964 rep No 46, 2011
Part 11 heading	ad No 46, 2011
Heading preceding s 48.....	ad No 10, 1937 rep No 52, 1964
s 48	ad No 10, 1937 am No 80, 1950; No 19, 1963; No 144, 1976; No 26, 1982 (as am by No 80, 1982); No 141, 1987; No 99, 1988; No 115, 1990 rep No 140, 2003
s 48A.....	ad No 99, 1988 rep No 140, 2003
s 48B.....	ad No 99, 1988 rep No 140, 2003
s 49	ad No 10, 1937 am No 19, 1963; No 144, 1976; No 99, 1988 rep No 140, 2003
s 49A.....	ad No 52, 1964 rep No 140, 2003
s 50	ad No 10, 1937 rep No 140, 2003
s 51	ad No 55, 2001
