

MS23-000472

Signature Due Date: 09/06/2023

2023 SPRING BID - CROWN REFERENCES AMENDMENT BILL**Assistant Minister to the Prime Minister, we recommend you:**

1. Agree to submit a bid at Attachment B, to request to add the Crown References Amendment Bill with category A status to the 2023 Spring legislation program.

Agreed / Not Agreed

2. Sign the letter to the Hon Mark Dreyfus KC MP, Attorney-General, seeking his agreement in relation to the amendment to the *Acts Interpretation Act 1901*, at Attachment A.

Signed / Not Signed

PATRICK GORMAN

Date:

Comments:**KEY POINTS**

1. There are references to Her Majesty Queen Elizabeth II in various Commonwealth Acts. As a general matter, provisions in the *Acts Interpretation Act 1901* operate so that these references are construed as references to the present Sovereign, His Majesty King Charles III.

s 47C

2. In the meantime, the Department has prepared a legislative bid for your agreement at Attachment B.

3. s 47C

SUPPLEMENTARY INFORMATION

4. The Crown References Amendment Bill does not amend all legislative references to Her Majesty Queen Elizabeth II. As a general matter, provisions in the *Acts Interpretation Act 1901* operate so that these references are construed as references to the present Sovereign, His Majesty King Charles III.
5. The Bill will not amend references in the *Royal Style and Titles Act 1973* or the *Australia Act 1986* as amending these Bills would require each State Parliament's request or concurrence. Furthermore, the Bill does not establish any Commonwealth reGENCY legislation to provide for the Sovereign's functions during the Sovereign's minority, incapacity or absence.

s 47C

Financial Implications

8. Nil

Consultation

PM&C DIVISIONS – Office of Impact Analysis, IRRD

DEPARTMENTS – Treasury, Attorney-General's Department, Office of Parliamentary Counsel, Finance, Veterans' Affairs, Defence, Infrastructure, Transport, Regional Development, Communication and the Arts, Home Affairs, Employment and Workplace Relations

Autumn Field

Assistant Secretary

Legal Policy Branch

26 May 2023

Policy Officer: s 22(1)(a)(ii)

Phone no: s 22(1)(a)(ii)

Circulation

PM&C Secretary; Deputy Secretary, Governance & Corporate Group, Williamson; A/g First Assistant Secretary, Government Division, Rush.; Assistant Secretary, Commonwealth-State Relations, Peisley; First Assistant Secretary, Ministerial Support, Martin.

PMO Chief of Staff; s 22(1)(a)(ii)

Cabinet Secretary

AMO s 22(1)(a)(ii) s 22(1)(a)(ii)

ATTACHMENTS:

ATTACHMENT A LETTER TO ATTORNEY-GENERAL

**ATTACHMENT B LEGISLATIVE BID FOR THE CROWN REFERENCES
AMENDMENT BILL – 2023 SPRING SITTINGS**

ATTACHMENT C s 47C



THE HON PATRICK GORMAN MP
ASSISTANT MINISTER TO THE PRIME MINISTER

Reference: MS23-000472

The Hon Mark Dreyfus KC MP
Attorney-General
Parliament House
CANBERRA ACT 2600

Dear Attorney-General

I am writing to inform you of my proposal to progress the Crown References Amendment Bill (the bill), in the 2023 Spring parliamentary sitting period and seek your approval of amendments to legislation in your portfolio.

Following the accession of His Majesty King Charles III, the bill will update references to Her Majesty Queen Elizabeth II to refer to 'the Sovereign' or a similar reference. The reference to 'the Sovereign', rather than 'the King' will provide flexibility and avoid the need to amend legislation if a Queen ascends the throne in the future. I am seeking policy approval from the Prime Minister for these measures.

The bill will only amend Commonwealth Acts (i.e. primary legislation) and will affect the following Acts in your portfolio:

- *Acts Interpretation Act 1901*
- *Administrative Appeals Tribunal Act 1975*
- *Australian Security Intelligence Organisation Act 1979*
- *Copyright Act 1968*
- *Defence Force Discipline Appeals Act 1955*
- *Director of Public Prosecutions Act 1983*
- *Federal Court of Australia Act 1976*
- *High Court of Australia Act 1979*
- *Judiciary Act 1903*
- *Marriage Act 1961*
- *Parliamentary Counsel Act 1970*
- *Royal Commissions Act 1902*
- *Transfer of Prisoners Act 1983*

The majority of these amendments are minor in nature. I seek your agreement to amend references in these Acts.

I also seek your agreement to a proposed amendment to the *Acts Interpretation Act 1901* to insert a new defined term, being ‘Senior Counsel’ in section 2B, to include ‘King’s Counsel’ and ‘Queen’s Counsel’. The purpose of this amendment is to remove any confusion where Commonwealth Acts and instruments make reference to ‘Queen’s Counsel’, ‘King’s Counsel’ or ‘Senior Counsel’. I am advised that this proposed amendment reflects the current practice at the Commonwealth level which is that Senior Counsel are considered equal in status to King’s Counsel (formerly Queen’s Counsel).

For completeness, I note that the bill will not update the *Royal Style and Titles Act 1973* and the *Australia Act 1986*, the latter of which sits within your portfolio, as amendments to those Acts potentially require the request or concurrence of the State Parliaments. The bill will also not amend provisions that refer to ‘Her Majesty in Council’ or ‘Queen in Council’, which are provisions that limited the ability to appeal matters to the Privy Council (UK) in various circumstances. Those provisions have effectively been superseded with the enactment of the *Australia Act 1986*.

The contact officer in my Department is Ms Autumn Field, Assistant Secretary, Legal Policy Branch, who can be contacted at autumn.field@pmc.gov.au or s 22(1)(a)(ii)

Yours sincerely

PATRICK GORMAN

/ / 2023

SEEKING TEXT APPROVAL - CROWN REFERENCES AMENDMENT BILL

Assistant Minister to the Prime Minister, we recommend you:

1. Sign the letter to the Hon Mark Dreyfus KC MP, the Attorney-General, at Attachment A, seeking agreement to the text of proposed amendments to be made by the Crown References Amendment Bill to legislation within the Attorney-General's portfolio.

Signed / Not Signed

2. Agree to the text of the Crown References Amendment Bill at Attachment B, including amendments to the *Royal Powers Act 1953*.

Agreed / Not Agreed

PATRICK GORMAN

Date:

Comments:

KEY POINTS

1. The Crown References Amendment Bill (the Bill) is proposed to be introduced into the Parliament in the week commencing 16 October 2023. Text approval for the Bill needs to be in place by 13 October 2023 to meet that timeframe.
 - a. The Department of the Prime Minister and Cabinet (PM&C) seeks your agreement, as responsible Minister, to the whole of the Bill (Attachment B), and also specifically to the amendments to the *Royal Powers Act 1953*, which is in the PM&C portfolio.
2.

s 47C

 - a.

s 47C
 - b. PM&C seeks your signature of the letter to the Attorney-General by 9 October 2023. This is because the draft letter asks that the Attorney-General respond by 13 October 2023, to meet legislative approval process timeframes.
 - c. The Attorney-General provided policy approval for the proposed amendments to legislation in his portfolio on 14 June 2023 (MC23-051822 refers).
3. Text approval is also required from other relevant departments or Ministers whose portfolio legislation is affected by the Bill.

- a. PM&C is concurrently seeking text approval from relevant departments. The Department of Finance; the Department of Infrastructure, Transport, Regional Development, Communications and the Arts; the Department of Employment and Workplace Relations, and the Department of Veterans' Affairs have each confirmed text approvals by email.
- b. As at 5 October 2023, the Department of Defence, Department of Home Affairs; and the Department of the Treasury are yet to confirm text approval, however we do not anticipate concerns with the text of the proposed amendments.
- c. A full list of proposed amendments to legislation within each department's portfolio is at Attachment C.

SUPPLEMENTARY INFORMATION

4. The Hon Anthony Albanese MP, Prime Minister, provided policy approval for the measures in the Bill on 18 September 2023 (MS22-001338 refers).
5. The Bill is an omnibus bill to update legislative references to Her Majesty Queen Elizabeth II, such as 'the Queen', 'Her Majesty' or 'Her Majesty Queen Elizabeth II' in various Commonwealth Acts to 'the Sovereign', or similar. The reference to 'the Sovereign' rather than 'the King' will provide flexibility and avoid the need to amend legislation if a Queen ascends the throne in the future.
6. PM&C has been liaising with your Office in relation to supplementary materials for the Bill, including the explanatory memorandum and second reading speech.

s 47C

7. s 47C

Financial Implications

8. Nil

Consultation

DEPARTMENTS – Attorney-General's Department, Department of Defence; Department of Employment and Workplace Relations; Department of Infrastructure, Transport, Regional Development, Communications and the Arts; Department of Finance; Department of Home Affairs; Department of the Treasury; Department of Veterans' Affairs.

Autumn Field

Assistant Secretary
Legal Policy Branch
5 October 2023

Policy Officer: s 22(1)(a)(ii)

Phone no: s 22(1)(a)(ii)

Circulation

PM&C Secretary, *G Davis*; A/g DS, Governance and Corporate Group, *G Martin*; FAS, Government Division, *A Walter*, A/g FAS, Ministerial Support, *A Green*; AS, Legal Policy Branch, *A Field*, A/g AS, Parliamentary and Government Branch, *D Belgrove*.

AMO Chief of Staff; s 22(1)(a)(ii) s 22(1)(a)(ii)

PMO Chief of Staff; s 22(1)(a)(ii)
Department of the Prime Minister and Cabinet

ATTACHMENTS:

ATTACHMENT A DRAFT LETTER

ATTACHMENT B CROWN REFERENCES AMENDMENT BILL

ATTACHMENT C OVERVIEW OF AMENDMENTS BY PORTFOLIO



ASSISTANT MINISTER TO THE PRIME MINISTER
ASSISTANT MINISTER FOR THE PUBLIC SERVICE

The Hon Patrick Gorman MP

Reference: MS23-001028

The Hon Mark Dreyfus KC MP
Attorney-General
Parliament House
CANBERRA ACT 2600

Dear Attorney-General

Thank you for your letter of 14 June 2023 agreeing to my proposal that the Crown References Amendment Bill insert a new defined term, 'Senior Counsel' into the *Acts Interpretation Act 1902*, and amend other Acts within your portfolio to update references to Her Majesty The Queen to refer to 'the Sovereign' or a similar referenced (MC23-051822 refers).

I now write to seek your urgent approval of the text of those amendments. The draft Crown References Amendment Bill is enclosed, and would amend the following Acts:

- *Acts Interpretation Act 1901*
- *Administrative Appeals Tribunal Act 1975*
- *Copyright Act 1968*
- *Defence Force Discipline Appeals Act 1955*
- *Director of Public Prosecutions Act 1983*
- *Federal Court of Australia Act 1976*
- *High Court of Australia Act 1979*
- *Judiciary Act 1903*
- *Marriage Act 1961*
- *Parliamentary Counsel Act 1970*
- *Royal Commissions Act 1902*
- *Transfer of Prisoners Act 1983*

OFFICIAL: Sensitive Legislative secrecy

I would be grateful for your approval of the text of amendments to the Acts listed above by 13 October 2023, to enable the introduction of legislation in the following week. I note proposed amendments to the *Australian Security Intelligence Organisation Act 1979* would not alter the provision of that Act which you administer (section 34JE).

Yours sincerely

PATRICK GORMAN

/ / 2023

OFFICIAL: Sensitive Legislative secrecy

2022-2023

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Crown References Amendment Bill 2023

No. , 2023

(Prime Minister and Cabinet)

**A Bill for an Act to amend legislation so as to
update certain references associated with the
Crown, and for related purposes**

B23ZA194.v22.docx 19/9/2023 10:31 AM

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OPC drafter to complete	
1. Does this Bill need a message? (See H of R Practice, sixth ed, pp. 423-427, and OGC advice.) If yes: <ul style="list-style-type: none">List relevant clauses/items—Prepare message advice (see Drafting Direction 4.9)Give a copy of the message advice to the Legislation area.	No
2. Does this Bill need a notice? (See H of R Standing Order 178 and Drafting Direction 3.2.) If no list relevant clauses/items—	Yes
3. Is there any constitutional reason why this Bill should not be introduced in the Senate? (See Constitution sections 53 and 55 and Drafting Direction 3.2.)	No

A Bill for an Act to amend legislation so as to update certain references associated with the Crown, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act is the *Crown References Amendment Act 2023*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally
2 enacted. It will not be amended to deal with any later amendments of
3 this Act.

4 (2) Any information in column 3 of the table is not part of this Act.
5 Information may be inserted in this column, or information in it
6 may be edited, in any published version of this Act.

7 **3 Schedules**

8 Legislation that is specified in a Schedule to this Act is amended or
9 repealed as set out in the applicable items in the Schedule
10 concerned, and any other item in a Schedule to this Act has effect
11 according to its terms.

Schedule 1—Amendments

Acts Interpretation Act 1901

1 Section 2B

Insert:

Senior Counsel includes:

- (a) if the Sovereign is a King—King’s Counsel; and
- (b) if the Sovereign is a Queen—Queen’s Counsel.

Administrative Appeals Tribunal Act 1975

2 Schedule 2

Omit “Her Majesty Queen Elizabeth the Second, her Heirs and Successors according to law, that I will truly serve Her”, substitute “(insert name of the Sovereign), (insert applicable pronoun, such as ‘His’ or ‘Her’) Heirs and Successors according to law, that I will truly serve (insert applicable pronoun, such as ‘Him’ or ‘Her’)”.

A New Tax System (Goods and Services Tax) Act 1999

3 Paragraph 38-505(1)(a)

Omit “Her Majesty”, substitute “the Sovereign”.

Archives Act 1983

4 Subsection 3(1) (definition of *Royal Commission*)

Omit “the Queen”, substitute “the Sovereign”.

Australian Capital Territory (Self-Government) Act 1988

5 Schedule 1

Omit “Her Majesty Queen Elizabeth, Her” (wherever occurring), substitute “(insert name of the Sovereign), (insert applicable pronoun, such as ‘His’ or ‘Her’)”.

Australian Security Intelligence Organisation Act 1979

6 Subparagraph 34AD(1)(c)(iv)

Omit “a Queen’s Counsel or”.

7 At the end of subsection 34AD(1)

Add:

Note: *Senior Counsel* is given an extended meaning by section 2B of the *Acts Interpretation Act 1901*.

Copyright Act 1968

8 Subsections 211(1) and 220(1)

Omit “Queen’s dominions”, substitute “Sovereign’s dominions”.

9 Schedule

Omit “Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her” (wherever occurring), substitute “(insert name of the Sovereign), (insert applicable pronoun, such as ‘His’ or ‘Her’) Heirs and Successors according to law, that I will well and truly serve (insert applicable pronoun, such as ‘Him’ or ‘Her’)”.

Customs Act 1901

10 Sections 274 and 275

Omit “His Majesty”, substitute “the Sovereign”.

Defence Act 1903

11 Subsection 4(1) (definition of *Service Decoration*)

Omit “Queen’s dominions”, substitute “Sovereign’s dominions”.

12 Subparagraph 124(1)(nc)(i)

Omit “King’s dominions”, substitute “Sovereign’s dominions”.

Defence Force Discipline Act 1982

13 Schedules 4 and 5

Omit “Her Majesty” (wherever occurring), substitute “(insert applicable pronoun, such as ‘His’ or ‘Her’) Majesty”.

Defence Force Discipline Appeals Act 1955

14 Schedule

Omit “Her Majesty Queen Elizabeth the Second, Her heirs and successors according to law, that I will well and truly serve Her” (wherever occurring), substitute “(insert name of the Sovereign), (insert applicable pronoun, such as ‘His’ or ‘Her’) Heirs and Successors according to law, that I will well and truly serve (insert applicable pronoun, such as ‘Him’ or ‘Her’)”.

Defence Service Homes Act 1918

15 Subsection 4(1) (paragraphs (c) and (d) of the definition of Australian Soldier)

Omit “King’s dominions”, substitute “Sovereign’s dominions”.

16 Paragraph 4(2)(a)

Omit “Queen’s dominions” (wherever occurring), substitute “Sovereign’s dominions”.

17 Subsection 4(2B)

Omit “King’s dominions”, substitute “Sovereign’s dominions”.

Defence (Special Undertakings) Act 1952

18 Paragraph 6(a)

Omit “Queen’s dominions”, substitute “Sovereign’s dominions”.

19 Subsection 7(1)

Omit “the Queen”, substitute “the Sovereign”.

20 Section 8

Omit “the Queen”, substitute “the Sovereign”.

Director of Public Prosecutions Act 1983

21 Schedule

Omit “Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law and that I will well and truly serve Her” (wherever occurring), substitute “(insert name of the Sovereign), (insert applicable pronoun, such as ‘His’ or ‘Her’) Heirs and Successors according to law and that I will well and truly serve (insert applicable pronoun, such as ‘Him’ or ‘Her’)”.

Explosives Act 1961

22 Section 8

Omit “Queen’s dominions”, substitute “Sovereign’s dominions”.

Fair Work Act 2009

23 Subparagraph 115(1)(a)(vi)

Omit “Queen’s birthday holiday”, substitute “holiday for the birthday of the Sovereign”.

Federal Court of Australia Act 1976

24 Schedule

Omit “Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her”, substitute “(insert name of the Sovereign), (insert applicable pronoun, such as ‘His’ or ‘Her’) Heirs and Successors according to law, that I will well and truly serve (insert applicable pronoun, such as ‘Him’ or ‘Her’)”.

High Court of Australia Act 1979

25 Paragraph 33(a)

Omit “the Queen”, substitute “the Sovereign”.

26 Schedule

Omit “Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her”, substitute “(insert name of the Sovereign), (insert applicable pronoun, such as ‘His’ or ‘Her’) Heirs and Successors according to law, that I will well and truly serve (insert applicable pronoun, such as ‘Him’ or ‘Her’)”.

Income Tax Assessment Act 1997

27 Subsection 30-50(1) (table item 5.1.2)

Omit “Her Majesty’s dominions”, substitute “the Sovereign’s dominions”.

28 Subsection 30-50(1) (table item 5.1.2)

Omit “Her Majesty’s armed forces”, substitute “the Sovereign’s armed forces”.

Judiciary Act 1903

29 Subsection 69(2)

Omit “the Queen’s”, substitute “the Sovereign’s”.

Marriage Act 1961

30 Subsection 5(1) (definition of overseas country)

Omit “Queen’s dominions”, substitute “Sovereign’s dominions”.

31 Subsection 5(1) (definition of the Queen’s dominions)

Repeal the definition.

32 Subsection 5(1)

Insert:

the Sovereign's dominions includes a British protectorate and a British protected State.

33 Subsection 71(2)

Omit "Queen's dominions", substitute "Sovereign's dominions".

Norfolk Island Act 1979

34 Schedule 4

Omit "Her Majesty Queen Elizabeth, Her heirs and successors according to law, that I will well and truly serve Her" (wherever occurring), substitute "(*insert name of the Sovereign*), (*insert applicable pronoun, such as 'His' or 'Her'*) Heirs and Successors according to law, that I will well and truly serve (*insert applicable pronoun, such as 'Him' or 'Her'*)".

Northern Territory (Self-Government) Act 1978

35 Schedule 2

Omit "Her Majesty Queen Elizabeth, Her" (wherever occurring), substitute "(*insert name of the Sovereign*), (*insert applicable pronoun, such as 'His' or 'Her'*)".

36 Schedule 6

Omit "Lady the Queen" (wherever occurring).

Parliamentary Counsel Act 1970

37 Schedule

Omit "Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law and that I will well and truly serve Her" (wherever occurring), substitute "(*insert name of the Sovereign*), (*insert applicable pronoun, such as 'His' or 'Her'*) Heirs and Successors according to law and that I will well and truly serve (*insert applicable pronoun, such as 'Him' or 'Her'*)".

Royal Commissions Act 1902

38 Section 1A

Omit “the King” (wherever occurring), substitute “the Sovereign”.

39 Paragraph 16(1)(a)

Omit “the King”, substitute “the Sovereign”.

Royal Powers Act 1953

40 Title

Omit “the Queen”, substitute “the Sovereign”.

41 Section 2 (heading)

Omit “the Queen”, substitute “the Sovereign”.

42 Section 2

Omit “the Queen” (wherever occurring), substitute “the Sovereign”.

Superannuation Act 1922

48 Paragraph 147(2)(a)

Omit “King’s dominions”, substitute “Sovereign’s dominions”.

Transfer of Prisoners Act 1983

49 Paragraphs 3(17)(c) and (d)

Omit “the Queen”, substitute “the Sovereign”.

50 Subsections 24(2) and (3)

Omit “the Queen”, substitute “the Sovereign”.

Veterans' Entitlements Act 1986

51 Schedule 4

Omit “Her Majesty Queen Elizabeth the Second, Her heirs and successors according to law, that I will well and truly serve Her” (wherever occurring), substitute “(*insert name of the Sovereign*), (*insert applicable pronoun, such as ‘His’ or ‘Her’*) Heirs and Successors according to law, that I will well and truly serve (*insert applicable pronoun, such as ‘Him’ or ‘Her’*)”.

ATTACHMENT C

OVERVIEW OF PROPOSED AMENDMENTS BY PORTFOLIO

Attorney-General's Department

- *Acts Interpretation Act 1901* – Section 2B (insert definition of ‘Senior Counsel’)
- *Administrative Appeals Tribunal Act 1975* – Schedule 2
- *Copyright Act 1968* – Subsection 211(1), Subsection 220(1), Schedule
- *Defence Force Discipline Appeals Act 1955* – Schedule
- *Director of Public Prosecutions Act 1983* – Schedule
- *Federal Court of Australia Act 1976* – Schedule
- *High Court of Australia Act 1979* – Paragraph 33(a), Schedule
- *Judiciary Act 1903* – Subsection 69(2)
- *Marriage Act 1961* – Subsection 5(1) (definition of ‘overseas country’), Subsection 5(1) (definition of ‘the Queen’s dominions’), Subsection 71(2)
- *Parliamentary Counsel Act 1970* – Schedule
- *Royal Commissions Act 1902* – Section 1A, Paragraph 16(1)(a)
- *Transfer of Prisoners Act 1983* – Paragraph 3(17)(c) and (d), Subsections 24(2) and (3)

Department of Defence

- *Defence Act 1903* - Subsection 4(1) (definition of ‘Service Decoration’), Subparagraph 124(1)(nc)(i)
- *Defence Force Discipline Act 1982* - Schedules 4 and 5
- *Defence (Special Undertakings) Act 1952* - Paragraph 6(a), Subsection 7(1), Section 8
- *Explosives Act 1961* - Section 8

Department of Employment and Workplace Relations

- *Fair Work Act 2009* – Subparagraph 115(1)(a)(vi)

Department of Finance

- *Superannuation Act 1922* – Paragraph 147(2)(a)

Department of Home Affairs

- *Australian Security Intelligence Organisation Act 1979* – Subsection 34AD(1)
- *Customs Act 1901* – Sections 274 and 275

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

- *Archives Act 1983* – Subsection 3(1) (definition of ‘Royal Commission’)
- *Norfolk Island Act 1979* – Schedule 4
- *Northern Territory (Self-Government) Act 1978* – Schedules 2 and 6
- *Australian Capital Territory (Self-Government) Act 1988* – Schedule 1

Department of the Prime Minister and Cabinet

- *Royal Powers Act 1953* – Title, Section 2

Department of the Treasury

- *A New Tax System (Goods and Services Tax) Act 1999* – Paragraph 38-505(1)(a)
- *Income Tax Assessment Act 1997* – Section 30-50(1)

Department of Veterans’ Affairs

- *Defence Service Homes Act 1918* – Subsection 4(1) (definition of ‘Australian Soldier’), Paragraph 4(2)(a), Subsection 4(2B)
- *Veterans’ Entitlements Act 1986* – Schedule 4

LEGISLATION BRIEF S133 – CROWN REFERENCES AMENDMENT BILL

Assistant Minister to the Prime Minister, we recommend you:

1. Approve the Crown References Amendment Bill for introduction into the House of Representatives,
s 47C

Approved / Not Approved

PATRICK GORMAN

Date:

Comments:

KEY POINTS

1. The Crown References Amendment Bill (the Bill) updates legislative references to “Her Majesty”, “The Queen”, and “The King” to “the Sovereign”.
 2. s 47C, s 42
- a. A copy of the Hon Anthony Albanese MP, Prime Minister’s approval referenced in the memorandum has been provided to your office for your information (Attachment B).

SUPPLEMENTARY INFORMATION

1. On 6 October 2023 you approved the Bill and accompanying explanatory memorandum.
 - a. Copies of these documents have been provided to your office for your information (Attachment C and D).
2. We recommend you approve the Bill for introduction into the House of Representatives.
 - a. s 47C
 - b. The Hon Mark Dreyfus KC MP, Attorney-General has provided approval for the text of amendments for matters within his portfolio responsibilities.
 - c. Agreement has been provided by relevant ministers and departments to the text of the proposed amendment to legislation administered in their respective portfolios.
 - d. The Office of Impact Analysis has confirmed that the Impact Analysis requirements have been satisfied.

s 47C

s 47C

Financial Implications

The Financial Impact Statement in the Explanatory Memorandum to the bill indicates that there are no financial implications.

Consultation

PM&C DIVISIONS – Legal Policy Branch; Office of Impact Analysis

s 22(1)(a)(ii)

Senior Adviser

Parliamentary and Government Branch

13 October 2023

Legislation Officer: s 22(1)(a)(ii)

Phone no: s 22(1)(a)(ii)

Policy Officer: s 22(1)(a)(ii)

Phone no: s 22(1)(a)(ii)

Circulation

PM&C Secretary; A/g DS, Governance & Corporate Group, *L Elliston*; ED, Office of Impact Analysis, *J Lange*; FAS, Government Division, *A Walter*; AS, Legal Policy, *A Field*; A/g AS, Parliamentary & Government, *D Belgrove*; A/g HoRs, Parliamentary Liaison Officer, *A Foat*; A/g Senate, Parliamentary Liaison Officer, *M McCormack*

PMO s 22(1)(a)(ii)

AMO s 22(1)(a)(ii) s 22(1)(a)(ii)

ATTACHMENTS:

ATTACHMENT A s 42

ATTACHMENT B SIGNED PM POLICY APPROVAL (18 SEPTEMBER 2023)

ATTACHMENT C BILL

ATTACHMENT D EXPLANATORY MEMORANDUM

UPDATING LEGISLATIVE REFERENCES TO HER MAJESTY QUEEN ELIZABETH II

Prime Minister, we recommend you:

1. Agree to provide policy approval for the measures in the proposed Crown References Amendment Bill, an omnibus bill to update legislative references to Her Majesty Queen Elizabeth II, such as 'the Queen', 'Her Majesty' or 'Her Majesty Queen Elizabeth II' in various Commonwealth Acts to 'the Sovereign', or similar.

Agreed / Not Agreed

2. s 47C, s 47B(a)

Agreed / Not Agreed

ANTHONY ALBANESE

Date:


18/9/23

Comments:

KEY POINTS

1. There are references to Her Majesty Queen Elizabeth II in various Commonwealth Acts. As a general matter, provisions in the *Acts Interpretation Act 1901* operate so that these references are construed as references to the present Sovereign, His Majesty King Charles III.
 - a. However, the Department of the Prime Minister and Cabinet (PM&C) considers there to be benefit in progressing amendments to reflect the accession of a new Sovereign. In particular, the Department recommends updating current references to Her Majesty Queen Elizabeth II to neutral references to 'the Sovereign', or similar. The current framing of the proposed Bill would, where possible, minimise the use of gendered pronouns, such as 'His' or 'Her'.
2. PM&C has worked with the Office of Parliamentary Counsel to identify references and undertake scoping work for necessary amendments (see Attachment A, table of proposed amendments to Commonwealth Acts). PM&C proposes progressing the Crown References Amendment Bill (the Bill) for introduction in the 2023 Spring sitting to amend these references.
 - a. Subject to your agreement, PM&C will work with the Hon Patrick Gorman MP, Assistant Minister to the Prime Minister to progress this Bill.
 - b. PM&C has liaised with the other departments whose portfolio legislation will be affected. No concerns have been raised.
 - c. The Bill does not amend all legislative references to Her Majesty Queen Elizabeth II. For example, it does not make amendments to the *Royal Style and Titles Act 1973* and the *Australia Act 1986*, which likely require the request or concurrence of all state Parliaments.

3. s 47C, s 47B(a), s 42




SUPPLEMENTARY INFORMATION

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4. s 47C



a. s 42



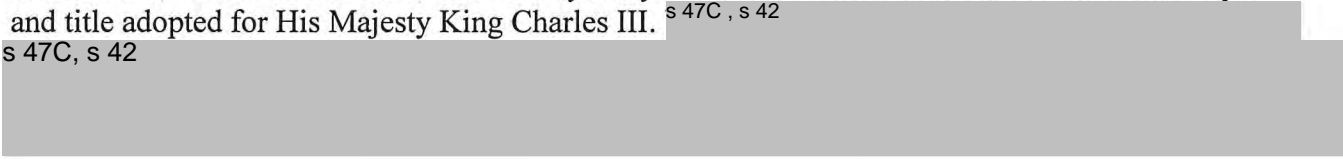
5. s 47C, s 42



Australia Act 1986

6. The *Australia Act 1986* terminated the power for the UK Parliament to legislate with effect in Australia and eliminated any remaining methods of appeal from any Australian court to a British court. The enactment of the Australia Act relied on the states passing enabling Acts as section 15 of the Act provides it can only be amended at the request or with the concurrence of the Parliaments of all the states.

Royal Style and Titles Act 1973

7. The *Royal Style and Titles Act 1973* sets out the official style and title adopted for Her Majesty Queen Elizabeth II, for use in Australia. A new Royal Style and Titles Act would set out the official style and title adopted for His Majesty King Charles III. s 47C, s 42
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Financial Implications

9. Nil

Consultation

PM&C DIVISIONS – Office of Impact Analysis, IRRD

DEPARTMENTS – Treasury, Attorney-General's Department, Office of Parliamentary Counsel, Finance, Veterans' Affairs, Defence, Infrastructure, Transport, Regional Development, Communication and the Arts, Home Affairs, Employment and Workplace Relations

Autumn Field

Assistant Secretary

Legal Policy Branch

7 June 2023

Policy Officer: s 22(1)(a)(ii)

Phone no: s 22(1)(a)(ii)

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PMO Chief of Staff; Chris Owens; s 22(1)(a)(ii)

Cabinet Secretary

AMO s 22(1)(a)(ii) s 22(1)(a)(ii)

ATTACHMENTS:

ATTACHMENT A TABLE OF PROPOSED AMENDMENTS

Attachment C – Summary of Proposed Amendments

Crown References Amendment Bill

Item#	Portfolio	Legislation	Proposed amendment	Sensitivities
1.	Attorney-General's Department	<i>Acts Interpretation Act 1901</i>	<p>Insert the definition of "Senior Counsel" in section 2B, to include "King's Counsel" and "Queen's Counsel".</p> <p>The purpose of this amendment is to remove any confusion where Commonwealth Acts and instruments make reference to "Queen's Counsel", "King's Counsel" or "Senior Counsel".</p>	<div></div>
2.	Attorney-General's Department	<i>Administrative Appeals Tribunal Act 1975</i>	<p>Amend oath or affirmation under Schedule 2 to substitute the name of Her Majesty Queen Elizabeth the Second with a "<i>(insert name of the Sovereign)</i>" and <i>(insert applicable pronoun, such as 'His' or 'Her')</i>".</p> <p>The oath or affirmation is taken by a person appointed or re-appointed as a member of the AAT.</p>	

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3.	Treasury	<i>A New Tax System (Goods and Services Tax) Act 1999</i>	Omit "Her Majesty" and substitute "the Sovereign" in section 38-505(1)(a) which refers to individuals who has served in the Defence Force or in any other armed force of Her Majesty.
4.	Department of Infrastructure, Transport, Regional Development, Communications and the Arts	<i>Archives Act 1983</i>	Amend the definition of <i>Royal Commission</i> in subsection 3(1) to omit "the Queen" and substitute "the Sovereign".
5.	Department of the Prime Minister and Cabinet	<i>Australian Capital Territory (Self Government) Act 1988</i>	Amend oath or affirmation under Schedule 1 to substitute the name of Her Majesty Queen Elizabeth the Second with a " <i>insert name of the Sovereign</i> " and (<i>insert applicable pronoun, such as 'His' or 'Her'</i>)".

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			The oath or affirmation is taken before a member takes his or her seat in the Legislative Assembly for the Australian Capital Territory.	
6.	Attorney-General's Department	<i>Australian Security Intelligence Organisation Act 1979</i>	Omit 'a Queen's Counsel or' in Subparagraph 34AD(1)(c)(iv) which refers to a Queen's Counsel or a Senior Counsel, who may be appointed as a prescribed authority under the Act, by the Attorney-General.	
7.	Home Affairs		Add a note at the end of subsection 34AD(1), that 'Senior Counsel' is given an extended meaning by section 2B of the <i>Acts Interpretation Act 1901</i> .	
8.	Attorney-General's Department	<i>Copyright Act 1968</i>	Omit "Queen's dominions", substitute "Sovereign's dominions" in subsections 211(1) and 220(1). Subsection 211(1) relates to the application of the Act to original works made before the commencement of the Act, for which the author was a qualified person including a person domiciled in any part of the Queen's dominions. Subsection 220 relates to the application of the Act to sound recordings made before the commencement of the Act, for which the	

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		maker was a qualified person including a person domiciled in any part of the Queen's dominions.	
9.		Amend oath or affirmation under the Schedule to substitute the name of Her Majesty Queen Elizabeth the Second with a " <i>(insert name of the Sovereign)</i> and <i>(insert applicable pronoun, such as 'His' or 'Her')</i> ".	
10.	Home Affairs	<i>Customs Act 1901</i> Omit "His Majesty", substitute "the Sovereign" in sections 274 and 275. These sections relate to the reporting and searching of ships and aircrafts holding commission from 'His Majesty or from any foreign State'.	
11.	Defence	<i>Defence Act 1903</i> Omit "Queen's dominions", substitute "Sovereign's dominions" in subsection 4(1), definition of <i>Service Decoration</i> . A Service Decoration may be conferred onto of any armed force of any part of the Queen's dominions.	
12.		Omit "King's dominions", substitute "Sovereign's dominions" in subparagraph 124(1)(nc)(i).	

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			Subparagraph 124(1)(nc)(i) relates to the Governor-General's regulation making powers in relation prohibition of the use of a word, group of letters, object or device which is descriptive or indicative of a part of the Naval Forces, Military Forces or Air Forces of a part of the King's dominions.	
13.	Defence	<i>Defence Force Discipline Act 1982</i>	Amend the oaths and affirmations in Schedules 4 and 5 to omit "Her" (wherever occurring), substitute "(insert applicable pronoun, such as 'His' or 'Her')".	
14.	Attorney-General's Department	<i>Defence Force Discipline Appeals Act 1955</i>	Amend oath or affirmation under the Schedule to substitute the name of Her Majesty Queen Elizabeth the Second with a "(insert name of the Sovereign) and (insert applicable pronoun, such as 'His' or 'Her')".	
			The oath or affirmation is taken by members of the Defence Force Discipline Appeal Tribunal.	

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15.	Department of Veterans' Affairs	<i>Defence Service Homes Act 1918</i>	Omit "King's dominions", substitute "Sovereign's dominions" in the definition of <i>Australian Soldier</i> under subsection 4(1) and paragraphs (c) and (d).
16.			Omit "Queen's dominions" (wherever occurring), substitute "Sovereign's dominions" in paragraph 4(2)(a), which is relation to the definition of <i>Australian Soldier</i> .
17.			Omit "King's dominions", substitute "Sovereign's dominions" in subsection 4(2B) which is relation to the definition of <i>Australian Soldier</i> .
18.			Omit "Queen's dominions", substitute "Sovereign's dominions" in paragraph 6(a) in relation to the declaration of a special defence undertaking to defend Australia or some other part of the Queen's dominions.
19.	Defence	<i>Defence (Special Undertakings) Act 1952</i>	Omit "the Queen", substitute "the Sovereign" in subsection 7(1) in relation to prohibited areas that is a place, whether or not it belongs to or is used for the purposes of the Queen, the Commonwealth or a State.
20.			Omit "the Queen", substitute "the Sovereign" in section 8 in relation to the Minister's ability

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			to declare an area of land or water or an area of land and water to be a prohibited area whether or not it belongs to or is used for the purposes of the Queen, the Commonwealth or a State.	
21.	Attorney-General's Department	<i>Director of Public Prosecutions Act 1983</i>	Amend oath or affirmation under the Schedule to substitute the name of Her Majesty Queen Elizabeth the Second with a " <i>insert name of the Sovereign</i> " and (<i>insert applicable pronoun, such as 'His' or 'Her'</i>). The oath or affirmation is made by the Director of Public Prosecutions or Associate Director of Public Prosecutions before taking his or her office.	
22.	Defence	<i>Explosives Act 1961</i>	Omit "Queen's dominions", substitute "Sovereign's dominions" in section 8 which refers to the meaning of <i>vessel</i> in Part II of the Act, which does not include a vessel belonging to the naval forces of the Queen's dominions.	
23.	Department of Employment and Workplace Relations	<i>Fair Work Act 2009</i>	Omit "Queen's birthday holiday", substitute "holiday for the birthday of the Sovereign" in subparagraph 115(1)(a)(vi) in relation to the meaning of <i>public holidays</i> .	

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24.	Attorney-General's Department	<i>Federal Court of Australia Act 1976</i>	Amend oath or affirmation under the Schedule to substitute the name of Her Majesty Queen Elizabeth the Second with a “ <i>(insert name of the Sovereign)</i> ” and <i>(insert applicable pronoun, such as ‘His’ or ‘Her’)</i> ”. The oath or affirmation is made by a Judge of the Federal Court of Australia before they discharge the duties of their office.
25.	Attorney-General's Department	<i>High Court of Australia Act 1979</i>	Omit “the Queen”, substitute the “Sovereign” in paragraph 33(a) which provides that all writs, commissions and process issued from the High Court shall be in the name of the Queen.
26.			Amend oath or affirmation under the Schedule to substitute the name of Her Majesty Queen Elizabeth the Second with a “ <i>(insert name of the Sovereign)</i> ” and <i>(insert applicable pronoun, such as ‘His’ or ‘Her’)</i> ”. The oath or affirmation is made by a Justice of the High Court before they discharge the duties of their office.
27.	Treasury	<i>Income Tax Assessment Act 1997</i>	Omit “Her Majesty’s dominions”, substitute “the Sovereign’s dominions” in table item 5.1.2 in subsection 30-50(1)

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28.			<p>Omit “Her Majesty’s armed forces”, substitute “the Sovereign’s armed forces” in table item 5.1.2 in subsection 30-50(1).</p> <p>Item 5.1.2 describes a public institution or public fund established and maintained for the comfort, recreation or welfare of members of the armed forces of Her Majesty’s dominions; or any allied or other foreign force serving in association with Her Majesty’s armed forces.</p>
29.	Attorney-General’s Department	<i>Judiciary Act 1903</i>	<p>Omit “the Queen’s”, substitute the “Sovereign’s” in paragraph 69(2) which provides that any appointment under subsection 69(1) is by commission in the Queen’s name. Subsection 69(1) provides that indictable offences shall be prosecuted in the name of the Attorney-General or of such other person as the Governor-General appoints in that behalf.</p>
30.	Attorney-General’s Department	<i>Marriage Act 1961</i>	<p>Omit “Queen’s dominions”, substitute “Sovereign’s dominions” in the definition of <i>overseas country</i> in subsection 5(1).</p>
31.			<p>Repeal the definition of <i>Queen’s dominions</i> in subsection 5(1).</p>
32.			<p>Insert new definition of <i>Sovereign’s dominions</i> which is similar to the previous definition of <i>Queen’s dominions</i> in subsection 5(1).</p>
33.			<p>Omit “Queen’s dominions”, substitute “Sovereign’s dominions” in subsection 71(2)</p>

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			which relates to the circumstances in which the Governor-General's may declare that a part of the Queen's dominions is an overseas country.	
34.	Department of Infrastructure, Transport, Regional Development, Communications and the Arts	<i>Norfolk Island Act 1979</i>	<p>Amend oath or affirmation under Schedule 4 to substitute the name of Her Majesty Queen Elizabeth the Second with a "<i>(insert name of the Sovereign)</i>" and <i>(insert applicable pronoun, such as 'His' or 'Her')</i>".</p> <p>The oath or affirmation is made by a Justice of the High Court before they discharge the duties of their office.</p>	
35.	Department of Infrastructure, Transport, Regional Development, Communications and the Arts	<i>Northern Territory (Self Government) Act 1978</i>	<p>Amend oath or affirmation under Schedule 2 to substitute the name of Her Majesty Queen Elizabeth the Second with a "<i>(insert name of the Sovereign)</i>" and <i>(insert applicable pronoun, such as 'His' or 'Her')</i>".</p> <p>The oath or affirmation is made by a member of the Legislative Assembly before he or she takes their seat.</p> <p>The oath or affirmation is made by the Administrator, and Acting Administrator or a deputy of the Administrator before they enter on the duties of their office.</p>	

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36.			<p>Amend oath or affirmation under Schedule 6 to substitute "Sovereign Lady the Queen" with "<i>(insert Sovereign)</i>".</p> <p>The oath or affirmation is made by the Administrator, and Acting Administrator or a deputy of the Administrator before they enter on the duties of their office.</p>	
37.	Attorney-General's Department	Parliamentary Counsel Act 1970	<p>Amend the oath and affirmation in Schedule to omit "Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law and that I will well and truly serve Her" (wherever occurring), substitute "<i>(insert name of the Sovereign), (insert applicable pronoun, such as 'His' or 'Her') Heirs and Successors according to law, that I will well and truly serve (insert applicable pronoun, such as 'Him' or 'Her')</i>".</p> <p>The oath and affirmation is made by the First Parliamentary Counsel or a Second Parliamentary Counsel before they perform the duties of their office.</p>	s 47C

38.	Attorney-General's Department	<i>Royal Commissions Act 1902</i>	<p>Omit "the King" substitute "the Sovereign" in section 1A. which relates to the power to issue Royal Commission.</p>
39.			<p>Omit "the King", substitute "the Sovereign" in paragraph 16(1)(a) which relates to the evidence of issue of Commission in legal proceedings.</p>
40.	Department of the Prime Minister and Cabinet	<i>Royal Powers Act 1953</i>	<p>Omit "the Queen", substitute "the Sovereign" in the title, which currently states "An Act relating to the exercise by the Queen of Powers under Acts of the Parliament".</p>
41.			<p>Omit "the Queen", substitute "the Sovereign" in section 2 (heading) which currently states "Exercise of statutory powers by the Queen".</p>
42.			<p>Omit "the Queen" (wherever occurring), substitute "the Sovereign" in section 2, which is in relation to the exercise of statutory powers by the Queen.</p>
43.	The Department of Finance	<i>Superannuation Act 1922</i>	<p>Omit "King's dominions", substitute "Sovereign's dominions" in paragraph 147(2)(a) in relation to the meaning of "the Forces" under subsection 147(1).</p>
44.		<i>Transfer of Prisoners Act 1983</i>	<p>Omit "the Queen", substitute "the Sovereign" in paragraphs 3(17)(c) and (d) in relation to a reference to a sentence, order or direction for,</p>

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	Attorney-General's Department		the imprisonment or detention of a person during the pleasure of the Queen.	
45.			Omit "the Queen", substitute "the Sovereign" in Subsections 24(2) and (3) in relation to a reference to a sentence, order or direction for, the imprisonment or detention of a person during the pleasure of the Queen.	
46.	Department of Veterans' Affairs	<i>Veterans' Entitlements Act 1986</i>	Omit "Her Majesty Queen Elizabeth the Second, Her heirs and successors according to law, that I will well and truly serve Her" (wherever occurring), substitute " <i>(insert name of the Sovereign), (insert applicable pronoun, such as 'His' or 'Her') Heirs and Successors according to law, that I will well and truly serve (insert applicable pronoun, such as 'Him' or 'Her')</i> " in the oath and affirmation in Schedule 4. The oath or affirmation is made by members of the Veterans' Review Board, before they discharge the duties of the office.	

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