

# Commonwealth of Australia Constitution Act

(63 & 64 VICTORIA, CHAPTER 12)

An Act to constitute the Commonwealth of Australia.

[9th July 1900]

## Preamble.

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:-

## Short title.

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

## Act to extend to the Queen's successors.

2. 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.

## Proclamation of Commonwealth.

3. It shall be lawful for the Queen, with the advice of the Privy Council, to declare by proclamation<sup>1</sup> 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.

## Commencement of Act.

4. 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.

## Operation of the constitution and laws.

5. 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.

Definitions.

6. '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.

Repeal of Federal Council Act.

48 & 49 Vict. c. 60.

7. 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 repealed as to any State by the Parliament of the Commonwealth, or as to any colony not being a State by the Parliament thereof.

Application of Colonial Boundaries Act. 58 & 59

Vict. c. 34.

8. 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.

Constitution.

9. The Constitution of the Commonwealth shall be as follows:-

The Constitution.

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.

\* This text of the Constitution contains all the alterations of the Constitution which have been made up to

1 December 1977. Alterations to the text of the Constitution are indicated below by (i) a marginal note in bold;

(ii) ~~striketrough~~ for deleted text; and (iii) **bold** for inserted text. The Acts by which the Constitution was altered are the **Constitution Alteration (Senate Elections) 1906** (assented to 3 April 1907); the **Constitution Alteration (State Debts) 1909** (assented to 6 August 1910); the **Constitution Alteration (State Debts) 1928** (assented to 13 February 1929); the **Constitution Alteration (Social Services) 1946** (assented to 19 December 1946); the **Constitution Alteration (Aboriginals) 1967** (assented to 10 August 1967); the **Constitution Alteration (Senate Casual Vacancies) 1977** (assented to 29 July 1977); the **Constitution Alteration (Retirement of Judges) 1977** (assented to 29 July 1977); and the **Constitution Alteration (Referendums) 1977** (assented to 29 July 1977).

1) The Proclamation under covering clause 3 was made on 17 September 1900 and is published in **Gazette** 1901, p. 1.

2) Cf. the **Statute of Westminster Adoption Act 1942**

3) 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).