

AUSTRALIAN CONSTITUTION

The Australian Constitution is the set of rules by which Australia is run. It came into effect on 1 January 1901, establishing the Commonwealth of Australia. It has been an important document in shaping Australian society ever since.

The Australian Constitution describes the composition, role and powers of the federal Parliament. It sets out how the federal and state parliaments share the power to make laws. It also details the role of the executive government and the High Court and defines certain rights of Australian citizens, such as the right to religious freedom.

Birth certificate of a nation

Before 1901, Australia was not a nation. The continent was shared by six British colonies which were partly self-governing, but subject to the law-making power of the British Parliament. Many colonists began to see the benefits of uniting into a federation. During the 1890s a series of meetings, called conventions, were attended by representatives from each colony. During these conventions, the Constitution was drafted. The Constitution was then put to a vote by the people of the colonies in referendums.



Commonwealth of Australia Constitution Act, 1900:
Original Public Record Copy (1900)

The Constitution was approved in the referendums; however, it also had to be agreed to by the British Parliament and the monarch, Queen Victoria. It was passed as a British Act of Parliament in 1900, called the *Commonwealth of Australia Constitution Act*, which came into effect on 1 January 1901. Western Australia was not a party to the initial agreement but did agree to join the federation before 1 January. The colonies became Australian states and the new federal Parliament of the Commonwealth was formed.

Features

The Australian Constitution is divided into eight chapters and 128 sections. It sets out the basis for Australia's federal system of governance, the key features of which include:

- a federal Parliament and government, responsible for national decision-making and law-making
- a bicameral Parliament, including the Queen (represented by the Governor-General), the Senate and the House of Representatives
- six state governments, responsible for state matters
- power-sharing arrangements between the federal and state parliaments
- the High Court of Australia, which is the final court of appeal. The High Court interprets the Constitution and decides its meaning, as well as settling disputes between the federal and state governments.

The Constitution does not cover all aspects of the governance of Australia. For example, the Prime Minister and the Cabinet are not mentioned in the Constitution. While central to the way government works, the Prime Minister and Cabinet operate by custom and convention, similar to the British system from which they were derived.

The Constitution does not detail many of the rights of the Australian people. Unlike the United States' Constitution, Australia's does not include a bill of rights, such as the right to free speech. In Australia these rights are protected by common law (made by the decisions of the courts) and laws made by Parliament (statute law).

Changing the Australian Constitution

The Australian Constitution can only be changed with the approval of the Australian people. A proposed change must be approved by the Parliament and then be put to Australians in a referendum. All Australian citizens on the electoral roll vote ‘yes’ or ‘no’ to the proposed change. A referendum is only passed if it is approved by a majority of voters in a majority of states, and by a majority of voters across the nation. This is known as a double majority. Territory voters are only counted in the national majority. Since 1901, 19 referendums have proposed 44 changes to the Constitution; only eight changes have been agreed to (see *Referendums and Plebiscites*).

LINKS

PEO website

Closer Look: *The Australian Constitution*

www.peo.gov.au/learning/closer-look/the-australian-constitution.html

Pocket Constitution and double CD set

www.peo.gov.au/products/4/257/Pocket-Constitution.html

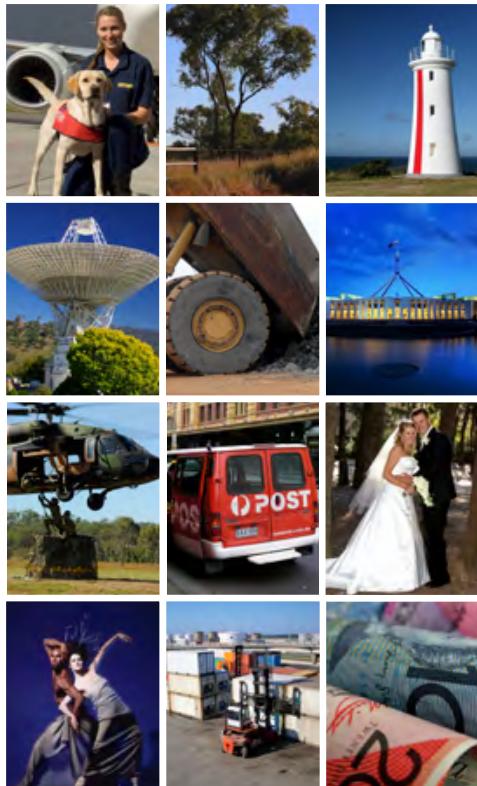
APH website

House of Representatives Infosheet: *The Constitution*

www.tinyurl.com/Infosheet13

The Australian Constitution

www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/Constitution



The Australian Constitution covers many, but not all, aspects of Australian governance