

1998-99

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

## **Constitution Alteration (Establishment of Republic) 1999**

**No.     , 1999**

*(Attorney-General)*

**A Bill for an Act to alter the Constitution to  
establish the Commonwealth of Australia as a  
republic with a President chosen by a two-thirds  
majority of the members of the Commonwealth  
Parliament**



---

## Contents

1	Short title .....	1
2	Commencement .....	2
3	Schedules .....	2
<b>Schedule 1—Amendments of the Constitution relating to the President</b>		3
<b>Schedule 2—Consequential amendments of the Constitution</b>		8
<b>Schedule 3—Transitional provisions</b>		14



1 **A Bill for an Act to alter the Constitution to**  
2 **establish the Commonwealth of Australia as a**  
3 **republic with a President chosen by a two-thirds**  
4 **majority of the members of the Commonwealth**  
5 **Parliament**

6 The Parliament of Australia, with the approval of the  
7 electors, as required by the Constitution, enacts:

8 **1 Short title**

9 This Act may be cited as the *Constitution Alteration*  
10 *(Establishment of Republic) 1999*.

---

1     **2 Commencement**

2             (1) Sections 1, 2 and 3 commence on the day on which this Act  
3             receives the Royal Assent.

4             (2) Schedules 1 and 2 commence at 3.00 pm, by legal time in the  
5             Australian Capital Territory, on 1 January 2001.

6             (3) Schedule 3 commences on the day on which this Act receives the  
7             Royal Assent.

8     **3 Schedules**

10            The Constitution is altered as set out in the Schedules.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32

## **Schedule 1—Amendments of the Constitution relating to the President**

### **1 Section 59**

Repeal the section.

### **2 Section 60**

Repeal the section.

### **3 Sections 61, 62 and 63**

Repeal the sections, substitute, in Chapter II:

#### **59 Executive power**

The executive power of the Commonwealth is vested in the President, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth. The President shall be the head of state of the Commonwealth.

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

The President shall act on the advice of the Federal Executive Council, the Prime Minister or another Minister of State; but the President may exercise a power that was a reserve power of the Governor-General in accordance with the constitutional conventions relating to the exercise of that power.

#### **60 The President**

After considering the report of a committee established and operating as the Parliament provides to invite and consider nominations for appointment as President, the Prime Minister may, in a joint sitting of the members of the Senate and the House of Representatives, move that a named Australian citizen be chosen as the President.

1                   If the Prime Minister's motion is seconded by the leader of the  
2                   Opposition in the House of Representatives, and affirmed by a  
3                   two-thirds majority of the total number of the members of the  
4                   Senate and the House of Representatives, the named Australian  
5                   citizen is chosen as the President.

6                   The qualifications of a person who may be chosen as President  
7                   shall be as follows:

- 8                   (i) the person must be qualified to be, and capable of being  
9                   chosen as, a member of the House of Representatives;  
10                  (ii) the person must not be a member of the Commonwealth  
11                  Parliament or a State Parliament or Territory legislature, or a  
12                  member of a political party.

13                  The actions of a person otherwise duly chosen as President under  
14                  this section are not invalidated only because the person was not  
15                  qualified to be chosen as President.

16                  Each person chosen as President shall, before the term of office  
17                  begins, make and subscribe before a Justice of the High Court an  
18                  oath or affirmation of office in the form set forth in Schedule 1 to  
19                  this Constitution.

20                  **61 Term of office and remuneration of President**

21                  The term of office of a President begins at the end of the term of  
22                  office of the previous President. But if the office of President falls  
23                  vacant, or the term of office of the outgoing President ends, before  
24                  the day on which the incoming President makes the oath or  
25                  affirmation of office, the incoming President's term of office  
26                  begins on the day after that day.

27                  The President holds office for five years but if, at the end of the  
28                  term, a new President does not take office, the office of President  
29                  does not thereby fall vacant and the outgoing President continues  
30                  as President until the term of office of the next President begins.

31                  A person may serve more than one term as President.

32                  The President may resign by signed notice delivered to the Prime  
33                  Minister.



1 The President shall receive such remuneration as the Parliament  
2 fixes. The remuneration of a President payable during a term of  
3 office shall not be altered during that term of office.

4 **62 Removal of President**

5 The Prime Minister may, by instrument signed by the Prime  
6 Minister, remove the President with effect immediately.

7 A Prime Minister who removes a President must seek the approval  
8 of the House of Representatives for the removal of the President  
9 within thirty days after the removal, unless:

- 10 (i) within that period, the House expires or is dissolved; or  
11 (ii) before the removal, the House had expired or been dissolved,  
12 but a general election of members of the House had not taken  
13 place.

14 The failure of the House of Representatives to approve the removal  
15 of the President does not operate to reinstate the President who was  
16 removed.

17 **63 Acting President and deputies**

18 Until the Parliament otherwise provides, the longest-serving State  
19 Governor available shall act as President if the office of President  
20 falls vacant. A State Governor is not available if the Governor has  
21 been removed (as acting President) by the current Prime Minister  
22 under section 62.

23 Until the Parliament otherwise provides, the Prime Minister may  
24 appoint the longest-serving State Governor available to act as  
25 President for any period, or part of a period, during which the  
26 President is incapacitated.

27 The provisions of this Constitution relating to the President, other  
28 than sections 60 and 61, extend and apply to any person acting as  
29 President.

30 Until the Parliament otherwise provides, the President may appoint  
31 any person, or any persons jointly or severally, to be the  
32 President's deputy or deputies, and in that capacity to exercise  
33 during the pleasure of the President (including while the President

1 is absent from Australia) such powers and functions of the  
2 President as the President thinks fit to assign to such deputy or  
3 deputies.

4 The appointment of such deputy or deputies shall not affect the  
5 exercise by the President personally (including while the President  
6 is absent from Australia) of any power or function.

7 A person shall not exercise powers or functions as the acting  
8 President unless, in respect of that occasion of acting as President,  
9 the person has made and subscribed, before a Justice of the High  
10 Court, the President's oath or affirmation of office in the form set  
11 forth in Schedule 1 to this Constitution.

12 A person shall not exercise powers or functions as the President's  
13 deputy unless, since being appointed as the President's deputy, the  
14 person has made and subscribed, before a Justice of the High  
15 Court, the President's oath or affirmation of office in the form set  
16 forth in Schedule 1 to this Constitution.

17 An acting President, or a person exercising powers or functions as  
18 the President's deputy, shall receive such allowances as the  
19 Parliament fixes.

#### 20 **4 At the end of Chapter II**

21 Add, in Chapter II:

#### 22 **70A Continuation of prerogative**

23 Until the Parliament otherwise provides, but subject to this  
24 Constitution, any prerogative enjoyed by the Crown in right of the  
25 Commonwealth immediately before the office of  
26 Governor-General ceased to exist shall be enjoyed in like manner  
27 by the Commonwealth and, in particular, any such prerogative  
28 enjoyed by the Governor-General shall be enjoyed by the  
29 President.

#### 30 **5 Schedule**

31 Repeal the Schedule, substitute:

1 **Schedule 1—Oaths and affirmations**

2 **Part 1—Oath or affirmation of allegiance:**  
3 **Members of Parliament**  
4

5 Under God I swear that I will be loyal to the Commonwealth of  
6 Australia and the Australian people, whose laws I will uphold.

7 I solemnly and sincerely affirm that I will be loyal to the  
8 Commonwealth of Australia and the Australian people, whose laws  
9 I will uphold.

10 **Part 2—Oath or affirmation of office: President**  
11

12 Under God I swear that I will be loyal to the Commonwealth of  
13 Australia and the Australian people, whose rights and liberties I  
14 respect and whose laws I will uphold, and that I will serve the  
15 Australian people according to law without fear or favour.

16 I solemnly and sincerely affirm that I will be loyal to the  
17 Commonwealth of Australia and the Australian people, whose  
18 rights and liberties I respect and whose laws I will uphold, and that  
19 I will serve the Australian people according to law without fear or  
20 favour.

1  
2 **Schedule 2—Consequential amendments of**  
3 **the Constitution**  
4

5 **1 Table of contents**

6 Omit “The Schedule”, substitute:

7 Schedule 1—Oaths and affirmations

8 Schedule 2—Transitional provisions for the establishment of the  
9 republic

10 **2 Section 1**

11 Omit “Queen”, substitute “President”.

12 **3 Sections 2, 3 and 4**

13 Repeal the sections.

14 **4 Sections 5, 7 and 15**

15 Omit “Governor-General”, substitute “President”.

16 **5 Section 17 (heading)**

17 Add at the end “of the Senate”.

18 **6 Section 17**

19 After “President” (second, third and fourth occurring), insert “of the  
20 Senate”.

21 **7 Section 17**

22 Omit “Governor-General”, substitute “President of the  
23 Commonwealth”.

24 **8 Section 18 (heading)**

25 Add at the end “of the Senate”.

26 **9 Section 18**

27 After “President”, insert “of the Senate”.

28 **10 Section 19**

1 Omit “to the President, or to the Governor-General if there is no  
2 President or if the President”, substitute “to the President of the Senate,  
3 or to the President of the Commonwealth if there is no President of the  
4 Senate or if the President of the Senate”.

5 **11 Section 21**

6 Omit “the President, or if there is no President or if the President is  
7 absent from the Commonwealth the Governor-General”, substitute “the  
8 President of the Senate, or if there is no President of the Senate or if the  
9 President of the Senate is absent from the Commonwealth, the President  
10 of the Commonwealth”.

11 **12 Section 23**

12 After “President”, insert “of the Senate”.

13 **13 Section 28**

14 Omit “Governor-General”, substitute “President”.

15 **14 Sections 32 and 33**

16 Omit “Governor-General in Council”, substitute “President in Council”.

17 **15 Subsection 34(ii)**

18 Repeal the subsection, substitute:

19 (ii) the person must be an Australian citizen.

20 **16 Sections 35, 37 and 42**

21 Omit “Governor-General”, substitute “President”.

22 **17 Section 42**

23 Omit “the schedule”, substitute “Schedule 1”.

24 **18 Subsection 44(iv)**

25 Repeal the subsection, substitute:

26 (iv) holds any office of profit under the Executive Government of  
27 the Commonwealth, a State or a Territory, or any pension  
28 payable, during the pleasure of the Executive Government of  
29 the Commonwealth, out of any of the revenues of the  
30 Commonwealth; or

1 **19 Section 44**

2 Omit “Queen’s” (first and second occurring).

3 **20 Section 44**

4 Omit “or to the receipt of pay, half pay, or a pension, by any person as  
5 an officer or member of the Queen’s navy or army,”.

6 **21 Sections 56 and 57**

7 Omit “Governor-General” (wherever occurring), substitute “President”.

8 **22 Section 57**

9 Omit “for the Queen’s assent”, substitute “for assent”.

10 **23 Section 58**

11 Repeal the section, substitute:

12 **58 Assent to Bills**

13 When a proposed law passed by both Houses of the Parliament is  
14 presented to the President for assent, the President shall, according  
15 to the President’s discretion but subject to this Constitution, assent  
16 to the law or withhold assent.

17 *Recommendations by President*

18 The President may return to the House in which it originated any  
19 proposed law so presented, and may transmit therewith any  
20 amendments which the President may recommend, and the Houses  
21 may deal with the recommendation.

22 **24 Section 64**

23 Repeal the section, substitute:

24 **64 Ministers of State**

25 The President may appoint officers to administer such departments  
26 of State of the Commonwealth as the President in Council may  
27 establish. Such officers shall hold office during the pleasure of the  
28 President. They shall be members of the Federal Executive Council  
29 and shall be the Ministers of State for the Commonwealth.

1 *Ministers to sit in Parliament*

2 No Minister of State shall hold office for a longer period than three  
3 months unless the person is or becomes a senator or a member of  
4 the House of Representatives.

5 **25 Section 65**

6 Omit “Governor-General”, substitute “President”.

7 **26 Section 66**

8 Repeal the section, substitute:

9 **66 Salaries of Ministers**

10 There shall be payable out of the Consolidated Revenue Fund, for  
11 the salaries of the Ministers of State, such annual sum as is fixed  
12 by the Parliament.

13 **27 Section 67**

14 Omit “Governor-General in Council” (wherever occurring), substitute  
15 “President in Council”.

16 **28 Section 68**

17 Omit “the Governor-General as the Queen’s representative”, substitute  
18 “the President”.

19 **29 Section 69**

20 Omit “by the Governor-General”.

21 **30 Section 70 (heading)**

22 Repeal the heading, substitute:

23 **70 Vesting of certain powers**

24 **31 At the end of section 70**

25 Add:

26 All powers and functions that were vested under this section in the  
27 Governor-General, or in the Governor-General in Council,  
28 immediately before the office of Governor-General ceased to exist

1 shall vest in the President, or in the President in Council, as the  
2 case requires.

3 **32 Section 72**

4 Omit “Governor-General” (wherever occurring), substitute “President”.

5 **33 Section 73**

6 Repeal the last sentence, substitute:

7 The conditions of and restrictions on appeals from the Supreme  
8 Courts of the several States to the High Court are as provided by  
9 the Parliament from time to time.

10 **34 Section 74**

11 Repeal the section.

12 **35 Section 83**

13 Repeal the second sentence.

14 **36 Subsection 85(i)**

15 Repeal the subsection, substitute:

16 (i) all property of the State of any kind, used exclusively in  
17 connexion with the department, shall become vested in the  
18 Commonwealth;

19 **37 Section 103**

20 Omit “Governor-General in Council” (wherever occurring), substitute  
21 “President in Council”.

22 **38 Section 117**

23 Omit “A subject of the Queen”, substitute “An Australian citizen”.

24 **39 Section 117**

25 Omit “a subject of the Queen”, substitute “an Australian citizen”.

26 **40 Section 122**

27 Omit “by the Queen”.

28 **41 Section 126**



1 Repeal the section, substitute:

2 **126 Operation of Constitution and laws**

3 This Constitution, and all laws made under it by the Parliament,  
4 shall be binding on the courts, judges, and people of every State  
5 and of every part of the Commonwealth, notwithstanding anything  
6 in the laws of any State.

7 **127 Definitions**

8 In this Constitution:

9 *Australian citizen* means a person who is an Australian citizen  
10 according to the laws made by the Parliament.

11 *The Commonwealth* means the Commonwealth of Australia under  
12 this Constitution.

13 *The original States* means New South Wales, Queensland,  
14 Tasmania, Victoria, Western Australia and South Australia.

15 *The President in Council* means the President acting with the  
16 advice of the Federal Executive Council.

17 *The States* means the original States, and such territories as may be  
18 admitted into or established by the Commonwealth as States.

19 **42 Section 128**

20 Omit “Governor-General” (wherever occurring), substitute “President”.

21 **43 Section 128**

22 Omit “the Queen’s”.

1  
2  
3

## **Schedule 3—Transitional provisions**

4  
5

### **1 At the end of the Constitution**

Add:

6  
7  
8  
9

## **Schedule 2—Transitional provisions for the establishment of the republic**

10

### **1 The Governor-General**

11  
12  
13

The office of Governor-General ceases to exist at the commencement of Schedules 1 and 2 to the *Constitution Alteration (Establishment of Republic) 1999*.

14

### **2 The first President**

15  
16  
17  
18  
19

The first President may be chosen before the office of Governor-General ceases to exist, as if the provisions of this Constitution relating to the choice of the President had commenced when the *Constitution Alteration (Establishment of Republic) 1999* was enacted.

20  
21  
22

The first President's term of office begins on 1 January 2001. The person chosen shall make and subscribe the President's oath or affirmation of office under section 60 on or before that day.

23  
24  
25  
26

But if no person is chosen as the first President before that day, the first President's term of office begins on the day after the person chosen makes the oath or affirmation. Until that term begins, a person shall act as President in accordance with section 63.

27

### **3 Parliament may make laws during transitional period**

28  
29  
30  
31  
32

Before the office of Governor-General ceases to exist, the Parliament may make laws that the Parliament could have made after that time because of the enactment of the *Constitution Alteration (Establishment of Republic) 1999*, and such laws may take effect before that time.

---

#### 4 Savings

The alterations of this Constitution made by the *Constitution Alteration (Establishment of Republic) 1999* do not affect:

- (i) the validity or continued effect, after the office of Governor-General ceases to exist, of anything done before that time under this Constitution or under the law in force in the Commonwealth; or
- (ii) the continuity of the Parliament and its proceedings after the office of Governor-General ceases to exist; or
- (iii) the qualifications of a senator or a member of the House of Representatives for the remainder of the term of a person who is a senator or member when the office of Governor-General ceases to exist; or
- (iv) the continuity of the Executive Government of the Commonwealth, including in particular the membership and proceedings of the Federal Executive Council, after the office of Governor-General ceases to exist; or
- (v) the continuity of courts and their jurisdiction and proceedings after the office of Governor-General ceases to exist.

After the office of Governor-General ceases to exist, anything done before that time for the purposes of a provision of this Constitution by the Governor-General, or by the Governor-General in Council, has effect as if it had been done by the President, or by the President in Council, as the case requires.

#### 5 The States

A State that has not altered its laws to sever its links with the Crown by the time the office of Governor-General ceases to exist retains its links with the Crown until it has so altered its laws.

#### 6 Unified federal system

The alterations of this Constitution made by the *Constitution Alteration (Establishment of Republic) 1999* do not affect the continuity of the federal system, including the unified system of law, under this Constitution.

1 **7 Amendment of Australia Acts**

2 The Commonwealth Parliament may, at the request of a State  
3 Parliament, amend section 7 of the *Australia Act 1986*, and section  
4 7 of the Australia Act 1986 of the United Kingdom to the extent  
5 that it forms part of the law of the Commonwealth or that State, to  
6 provide that those sections do not apply to the State.

7 Nothing in this clause prevents the amendment of section 7 of the  
8 *Australia Act 1986*, or section 7 of the Australia Act 1986 of the  
9 United Kingdom to the extent that it forms part of the law of the  
10 Commonwealth or a State, in accordance with subsection 15(1) of  
11 the *Australia Act 1986*.

12 **8 Constitutional conventions**

13 The enactment of the *Constitution Alteration (Establishment of*  
14 *Republic) 1999* does not prevent the evolution of the constitutional  
15 conventions relating to the exercise of the reserve powers referred  
16 to in section 59 of this Constitution.

17 **9 Interpretation**

18 The reference to the Crown in clause 5 of this Schedule shall  
19 extend to the Queen's heirs and successors in the sovereignty of  
20 the United Kingdom.