

CONSTITUTION ACT 1867 QLD

53 Certain measures to be supported by referendum

(1) A Bill that expressly or impliedly provides for the abolition of or alteration in the office of Governor or that expressly or impliedly in any way affects any of the following sections of this Act namely-- sections 1, 2, 2A, 11A, 11B; and this section 53 shall not be presented for assent by or in the name of the Queen unless it has first been approved by the electors in accordance with this section and a Bill so assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

(2) On a day not sooner than two months after the passage through the Legislative Assembly of a Bill of a kind referred to in subsection (1) the question for the approval or otherwise of the Bill shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly according to the provisions of the Elections Act 1915-1973 and of any Act amending the same or of any Act in substitution therefor.

CONSTITUTION ACT 1902 NSW

7A Referendum for Bills with respect to Legislative Council and certain other matters

- (1) The Legislative Council shall not be abolished or dissolved, nor shall:*
- (a) its powers be altered,*
 - (b) section 11A, Division 2 of Part 3 (sections 22G, 22H, 22I and 22J excepted), the Sixth Schedule or this section be expressly or impliedly repealed or amended,*
 - (c) any provision with respect to the persons capable of being elected or of sitting and voting as Members of either House of Parliament be enacted, or*
 - (d) any provision with respect to the circumstances in which the seat of a Member of either House of Parliament becomes vacant be enacted, except in the manner provided by this section.*
- (2) A Bill for any purpose within subsection (1) shall not be presented to the Governor for His Majesty's assent until the Bill has been approved by the electors in accordance with this section.***

7B Referendum for Bills with respect to Legislative Assembly and certain other matters

- (1) A Bill that:*
- (a) expressly or impliedly repeals or amends section 11B, 26, 27, 28 or 29, Part 9, the Seventh Schedule or this section, or***
 - (b) contains any provision to reduce or extend, or to authorise the reduction or extension of, the duration of any Legislative Assembly or to alter the date required to be named for the taking of the poll in the writs for a general election,*
- shall not be presented to the Governor for Her Majesty's assent until the Bill has been approved by the electors in accordance with this section.***

CONSTITUTION ACT 1889 WESTERN AUSTRALIA
SECTION 73.2

(2) A Bill that —

(a) expressly or impliedly provides for the abolition of *or alteration in the office of Governor*; or

(b) expressly or impliedly provides for the abolition of the Legislative Council or of the Legislative Assembly; or

(c) expressly or impliedly provides that the Legislative Council or the Legislative Assembly shall be composed of members other than members chosen directly by the people; or

(d) expressly or impliedly provides for a reduction in the numbers of the members of the Legislative Council or of the Legislative Assembly; or

(e) expressly or impliedly *in any way affects* any of the following sections of this Act, namely — *sections 2, 3, 4, 50, 51 and 73, shall not be presented for assent by or in the name of the Queen unless* —

(f) the second and third readings of the Bill shall have been passed with the concurrence of an *absolute majority* of the whole number of the members for the time being of the Legislative Council and the Legislative Assembly, respectively; and

(g) the Bill has also *prior to such presentation been approved by the electors* in accordance with this section,

and a Bill assented to consequent upon its presentation in contravention of this subsection shall be of no effect as an Act.

COMMONWEALTH CONSTITUTION ACT 1900

SECTION 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.

COMMONWEALTH OF AUSTRALIA CONSTITUTION ACT

128. Mode of altering the Constitution

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.***

AUSTRALIA ACT 1986 - SECT 6

Manner and form of making certain State laws

*Notwithstanding sections 2 and 3(2) above, a law made after the commencement of this Act by the Parliament of a State respecting the constitution, powers or procedure of the Parliament of the State shall be of no force or effect unless it is made in such **manner and form** as may from time to time be required by a law made by that Parliament, whether made before or after the commencement of this Act.*

“Treason consists of a Breach of duty of Allegiance which the Subject owes to the Sovereign and which binds him at all times and in all places”

[Rex v Casement 1917, 1 KB 98 at 114]

**Acts Amendment and Repeal
(Courts and Legal Practice) Act 2003
(No. 65 of 2003)**

Part 8 — Amendments about the Crown

121. *Bail Act 1982* amended

(1) The amendments in this section are to the *Bail Act 1982**.

[* 27 August 1999.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 27 and Acts Nos. 6 and 27 of 2002.]

(2) Section 3(1) is amended by deleting the definition of "prosecutor" and inserting instead —

" "prosecutor" includes —

(a) in the case of an offence charged in a complaint, the complainant;

(b) in the case of an offence charged in an indictment, the State or the Commonwealth, as the case may be;

(3) Each of the provisions in the Table to this subsection is amended by deleting "Crown" in each place where it occurs and in each case inserting instead —

" State ".

Table

s. 19(2)(b)	s. 58(1)
s. 49(1)	s. 58(2)
s. 49(3)	s. 59 (2 places)
s. 57(1)	Schedule 1 Part D cl. 1(2)(e)
s. 57(3)	

(4) Section 63 is amended by deleting "Crown" and inserting instead —

" State or the Commonwealth ".

122. *Children's Court of Western Australia Act 1988* amended

(1) The amendments in this section are to the *Children's Court of Western Australia Act 1988**.

[* 25 August 2000.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 51 and Act No. 27 of 2002.]

(2) Section 19B(4)(b) is amended by deleting "Crown" and inserting instead —

" State ".

(3) Section 19E is amended by deleting "the Crown in the right of".

(4) Section 32(2)(a)(i) is amended by deleting "Crown" and inserting instead —

" State ".

(5) Section 32(4) is amended in the definition of "public authority" by deleting "the Crown in right of".

(6) Schedule 1 is amended by deleting "our Sovereign Lady Queen Elizabeth the Second, Her Heirs and Successors" in the 2 places where it occurs and in each place inserting instead —

" the State of Western Australia ".

123. *The Criminal Code* amended

(1) The amendments in this section are to *The Criminal Code**.

[* 9 February 2001 as the Schedule to the *Criminal Code* appearing as Appendix B to the *Criminal Code Compilation Act 1913*.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 89 and Acts Nos. 3, 6, 8 and 27 of 2002.]

(2) Each of the provisions in the Table to this subsection is amended by deleting "Crown" in each place where it occurs and in each case inserting instead —

" prosecutor ".

Table

s. 577 (2 places)	s. 632A
s. 616(1)	s. 646
s. 617A	s. 651A(5)
s. 618(3)	

(3) Section 581 is amended by deleting "Crown" in the 2 places where it occurs and in each place inserting instead —

" State ".

(4) Section 584(14) is amended by deleting "Her Majesty" and inserting instead —

" the State ".

(5) Section 609 is amended by deleting "Crown" and inserting instead —

" State or the Commonwealth ".

(6) Section 628 is amended as follows:

(a) by deleting "Crown" in the first and third places where it occurs and in each place inserting instead —

" prosecutor ";

(b) in paragraph (2) by deleting "Crown" and inserting instead —

" State or the Commonwealth, as the case may be, ".

(7) Section 633 is amended by deleting "Crown" and inserting instead —

" State or the Commonwealth, as the case may be, ".

(8) Section 637 is amended by deleting "counsel for the Crown" in the 4 places where it occurs and in each place inserting instead —

" prosecutor ".

(9) Section 693A(4) is amended by deleting "Crown" and inserting instead —

" State ".

(10) Section 701(2) is amended by deleting "for the Crown thereon".

(11) Section 720 is amended by deleting "Queen" and inserting instead —

" State ".

(12) Section 729(3) is amended by deleting "Crown" in the 3 places where it occurs and in each place inserting instead —

" prosecution ".

(13) Section 746A(1) is amended as follows:

(a) by deleting "prosecution" and inserting instead —

" State ";

(b) by deleting "Crown" and inserting instead —

" State ".

(14) Section 746A(4) is amended by deleting "Crown" and inserting instead —

" State ".

124. Director of Public Prosecutions Act 1991 amended

(1) The amendments in this section are to the *Director of Public Prosecutions Act 1991**.

[* 1 June 2001.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 100 and Act No. 27 of 2002.]

(2) Section 10(1)(a) is amended by deleting "Crown" and inserting instead —

" State ".

125. District Court of Western Australia Act 1969 amended

(1) The amendments in this section are to the *District Court of Western Australia Act 1969**.

[* 19 January 2001.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 103 and Act No. 23 of 2002.]

(2) Section 6 is amended as follows:

(a) in the definition of "action" by deleting "by the Crown";

(b) in the definition of "cause" by deleting "by the Crown".

(3) Section 10(1) is amended by deleting "in Her Majesty's name" and inserting instead

—
" under the Public Seal of the State ".

(4) Section 11(1) is amended by deleting "Her Majesty" and inserting instead —

" the Governor ".

(5) Section 18A(1) is amended by deleting "in Her Majesty's name" and inserting instead

—
" under the Public Seal of the State ".

(6) Section 18A(3) is amended by deleting "in Her Majesty's name" and inserting instead

—
" under the Public Seal of the State ".

(7) Section 24(1) is amended by deleting "in Her Majesty's name" and inserting instead

—
" under the Public Seal of the State ".

(8) The Schedule is amended by deleting "our Sovereign Lady Queen Elizabeth the Second Her Heirs and Successors" in the 2 places where it occurs and in each place inserting instead —

" the State of Western Australia ".

126. *Family Court Act 1997* amended

(1) The amendments in this section are to the *Family Court Act 1997**.

[* *Act 40 of 1997.*

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 124 and Acts Nos. 3 and 25 of 2002.]

(2) Schedule 1 item 1 is amended by deleting "Her Majesty Queen Elizabeth the Second, Her heirs and successors" in each place where it occurs and in each place inserting instead —

" the State of Western Australia ".

127. *Juries Act 1957* amended

(1) The amendments in this section are to the *Juries Act 1957**.

[* 3 July 2000.]

(2) Section 38(1) is amended by deleting "those prosecuting for the Crown" and inserting instead —

" the prosecution ".

(3) Section 52(1) is amended by deleting "Crown" and inserting instead —

" prosecution ".

128. *Justices Act 1902* amended

(1) The amendments in this section are to the *Justices Act 1902**.

[* 8 October 2001.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 193 and Act No. 27 of 2002.]

(2) Section 154A(1) is amended by deleting "Crown" in the 2 places where it occurs and in each place inserting instead —

" State ".

(3) Section 154A(3) is amended by deleting "Crown" and inserting instead —

" State ".

(4) Section 206D is amended by deleting "Crown" and inserting instead —

" State ".

129. Local Courts Act 1904 amended

(1) The amendments in this section are to the *Local Courts Act 1904**.

[* 12 January 2001.]

(2) Section 3 is amended in the definition of "Minister" by deleting "Crown" and inserting instead —

" State ".

130. Supreme Court Act 1935 amended

(1) The amendments in this section are to the *Supreme Court Act 1935**.

[* 9 February 2001.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 370 and Act No. 23 of 2002.]

(2) Section 4 is amended as follows:

(a) in the definition of "Action" by deleting "by the Crown";

(b) in the definition of "Cause" by deleting "by the Crown".

(3) Section 9(1) is amended by deleting "Her Majesty" and inserting instead —

" the Governor ".

(4) Section 15(1) is amended by deleting "Royal Arms" and inserting instead —

" armorial bearings of the State ".

(5) Section 37(2) is repealed and the following subsection is inserted instead —

"

(2) Nothing in this section shall alter the practice in proceedings in relation to the prerogative and criminal jurisdiction of the Court.

".

(6) Section 50(1) is amended by deleting "by the Crown".

(7) Section 51(1) is amended by deleting "by the Crown".

(8) Section 56(1) is amended by deleting "by the Crown".

(9) Section 119 is amended by deleting "to Her Majesty or any of her subjects, or other persons entitled in like manner as subjects".

(10) Section 154(1) is amended by deleting "Her Majesty's" and inserting instead —
" The ".

(11) Section 154(3), (4), (5) and (6) are each amended by deleting "Crown" in each place where it occurs and in each place inserting instead —

" State ".

(12) The Second Schedule is amended by deleting "our Sovereign Lady Queen Elizabeth the Second, Her Heirs and successors" and inserting instead —

" the State of Western Australia ".

AA201

ACTS AMENDMENT AND REPEAL (COURTS AND LEGAL - PRACTICE) ACT 2003
65 of 2003

PROCLAMATION

WESTERN AUSTRALIA	} By His Excellency Lieutenant General John Murray Sanderson, Companion of the Order of Australia, Governor of the State of Western Australia.
John Sanderson, Governor.	
[L.S.]	

I, the Governor, acting under section 2 of the *Acts Amendment and Repeal (Courts and Legal Practice) Act 2003*, and with the advice and consent of the Executive Council, fix 1 January 2004 as the day on which that Act comes into operation.

Given under my hand and the Public Seal of the State on 23 December 2003.

By Command of the Governor,

J. A. MCGINTY, Attorney General.

GOD SAVE THE QUEEN !

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