

AUSTRALIA ACTS (REQUEST) BILL

EXPLANATORY NOTES

GENERAL OUTLINE

Title of Bill

Australia Acts (Request) Bill

Policy Objectives of the Bill

To assist the Commonwealth to remove restrictions on the States that would otherwise prevent them from severing their links with the Crown.

Reasons for the Bill

If the *Constitution Alteration (Establishment of Republic) Bill 1999* is passed by the Commonwealth Parliament and approved by the people of Australia at a referendum in accordance with s.128 of the Commonwealth Constitution, each State will need to give consideration to whether it should also introduce a republican form of government.

Section 7 of the *Australia Act 1986* (UK) and the *Australia Act 1986* (Cth) (the *Australia Acts*) provide that “Her Majesty’s representative in each State shall be the Governor”. It is proposed to amend s.7 of the *Australia Acts* to ensure that s.7 does not prevent a State from severing its links with the Crown, if it so wishes.

The Commonwealth Parliament has the power to amend an Act of the Parliament of the United Kingdom in so far as that Act is part of the law of Australia. Under s.15(1) of the *Australia Acts* those Acts may be amended by the Commonwealth Parliament at the request or with the concurrence of all State Parliaments, and subject to s.15(3), only in that manner.

The Bill comprises a request to the Commonwealth Parliament under s.15(1) of the *Australia Acts* to amend s.7 of those Acts so that s.7 will not prevent a State from altering its laws relating to the powers and functions of the Queen and the Governor in respect of the State. To be effective, all State Parliaments must make the same request and similar legislation has, or will be, introduced in each of the other States.

Estimated Costs for Government Implementation

There will be no cost for Government implementation.

Consistency with Fundamental Legislative Principles

This Bill is consistent with fundamental legislative principles as outlined in section 4 of the *Legislative Standards Act 1992*.

Consultation

All State Governments have collaborated on the development of the Bill.

NOTES ON CLAUSES

Clause 2 provides that the Act comes into operation on the day after the proposed Commonwealth *Constitution Alteration (Establishment of Republic) Bill 1999* receives Royal Assent. This ensures that the Act will have no operation if the Australian people at the referendum do not approve of the changes proposed in the Commonwealth *Constitution Alteration (Establishment of Republic) Bill 1999*.

Clause 3 provides that the purpose of the Act is to request the Commonwealth Parliament to amend the *Australia Acts* in connection with proposed constitutional arrangements to establish the Commonwealth of Australia as a republic.

Clause 4 requests the Commonwealth Parliament to enact legislation in, or substantially in, the terms set out in the schedule.

The schedule contains the text of an Act of the Commonwealth Parliament to amend s.7 of the *Australia Acts*. The schedule has been drafted in accordance with Commonwealth drafting style.

Section 2 of the requested Commonwealth Act provides that the Act cannot commence before the Commonwealth *Constitution Alteration (Establishment of Republic) Bill 1999* receives Royal Assent. This ensures that the Act will never commence if the republic question is defeated at the referendum.

Section 3 of the requested Commonwealth Act provides for the amendment of the *Australia Act 1986* of the Commonwealth and the *Australia Act 1986* of the Parliament of the United Kingdom. In both cases, two new subsections are added at the end of the existing s.7. Section 7(6) empowers a State Parliament to make a law providing that the preceding subsections do not apply to that State. Section 7(7) provides that when such a law comes into effect, s.7 ceases to apply to the State.