

1 2019

2 The Parliament of the Commonwealth of Australia

3 HOUSE OF REPRESENTATIVES

4 *Presented and read a first time*

5 **Constitution Alteration (Establishment of Republic)**  
6 **Bill 2019**

7 **No. , 2019**

8 (The Hon'ble Youmaton, Member for Canberra)

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

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

26 The Parliament of Australia, with the approval of electors, as required by  
27 the Constitution, enacts:

28 **1 Short Title**

29 This Act may be cited as the *Constitution Alteration*  
30 *(Establishment of Republic) Bill 2018*.

31 **2 Commencement**

- 32 (1) Sections 1, 2 and 3 commence on the day on which this Act receives  
33 the Royal Assent.  
34 (2) Schedules 1 and 2 commence at 3.00pm, by legal time in the Australian  
35 Capital Territory, on 1 January 2020.  
36 (3) Schedule 3 commences on the day on which this Act receives the Royal  
37 Assent.

38 **3 Schedules**

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

40 **Schedule 1 - Amendments to the Constitution relating to**  
41 **the President**

42 **1 Section 59**

43 Repeal the section.

44 **2 Section 60**

45 Repeal the section.

46 **3 Section 61, 62 and 63**

47 Repeal the sections, substitute, in Chapter II:

48 **59 Executive Power**

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

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

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

60 **60 The President**

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

65 If the Prime Minister's motion is seconded by the leader of the Opposition in the  
66 House of Representatives, and affirmed by a two-thirds majority of the total number  
67 of the members of the Senate and the House of Representatives, the named Australian  
68 citizen is chosen as the President.

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

70 (i) the person must be qualified to be, and capable of being chosen as, a  
71 member of the House of Representatives;

72 (ii) the person must not be a member of the Commonwealth Parliament or a  
73 State Parliament or Territory legislature, or a member of a political party.

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

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

79 **61 Term of office and remuneration of President**

80 The term of office of a President begins at the end of the term of office of the  
81 previous President. But if the office of President falls vacant, or the term of office of  
82 the outgoing President ends, before the day on which the incoming President makes  
83 the oath or affirmation of office, the incoming President's term of office begins on the  
84 day after that day.

85 The President holds office for three months but if, at the end of the term, a new  
86 President does not take office, the office of President does not thereby fall vacant and  
87 the outgoing President continues as President until the term of office of the next  
88 President begins.

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

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

91 The President shall receive such remuneration as the Parliament fixes. The  
92 remuneration of a President payable during a term of office shall not be altered during  
93 that term of office.

94 **62 Removal of President**

95 The Prime Minister may, by instrument signed by the Prime Minister, remove the  
96 President with effect immediately.

97 A Prime Minister who removes a President must seek the approval of the House of  
98 Representatives and the Senate in a joint sitting for the removal of the President  
99 within three days after the removal, unless:

100 (i) within that period, the House and/or Senate expires or is dissolved; or

101 (ii) before the removal, the House and/or Senate had expired or been

102 dissolved, but a general election of members of the House had not taken  
103 place.

104 **63 Acting President and deputies**

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

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

112 Until the Parliament otherwise provides, the President may appoint any person, or  
113 any persons jointly or severally, to be the President's deputy or deputies, and in that  
114 capacity to exercise during the pleasure of the President (including while the  
115 President is absent from Australia) such powers and functions of the President as the  
116 President thinks fit to assign to such deputy or deputies.

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

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

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

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

130 **4 At the end of Chapter II**

131 Add, in Chapter II:

132 **70A Continuation of prerogative**

133 Until the Parliament otherwise provides, but subject to this Constitution, any  
134 prerogative enjoyed by the Crown in right of the Commonwealth immediately before  
135 the office of Governor-General ceased to exist shall be enjoyed in like manner by the  
136 Commonwealth and, in particular, any such prerogative enjoyed by the Governor-  
137 General shall be enjoyed by the President.

138 **5 Schedule**

139 Repeal the Schedule; substitute:

140 **Schedule 1 - Oaths and affirmations**

141 **Part 1 - Oath or affirmation of allegiance: Members of**  
142 **Parliament**

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

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

147 **Part 2 - Oath or affirmation of office: President**

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

151 I solemnly and sincerely affirm that I will be loyal to the Commonwealth of Australia  
152 and the Australian people, whose rights and liberties I respect and whose laws I will  
153 uphold, and that I will serve the Australian people according to law without fear or  
154 favour.

155 **Schedule 2 - Consequential amendments of the**  
156 **Constitution**

157 **1 Table of contents**

158 Omit “The Schedule”, substitute:

159 Schedule 1 - Oaths and affirmations

160 Schedule 2 - Transitional provisions for the establishment of the republic

161 **2 Section 1**

162 Omit “Queen”, substitute “President”

163 **3 Sections 2, 3, and 4**

164 Repeal the sections

165 **4 Sections 5, 7, and 15**

166 Omit “Governor-General”, substitute “President”

167 **5 Section 17 (heading)**

168 Add at the end “of the Senate”

169 **6 Section 17**

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

171 **7 Section 17**

172 Omit “Governor-General”, substitute “President of the Commonwealth”

173 **8 Section 18 (heading)**

174 Add at the end “of the Senate”

175 **9 Section 18**

176 After “President”, insert “of the Senate”

177 **10 Section 19**

178 Omit “to the President, or to the Governor-General if there is no President or if the  
179 President”, substitute “to the President of the Senate, or to the President of the  
180 Commonwealth if there is no President of the Senate or if the President of the  
181 Senate”.

182 **11 Section 21**

183 Omit “the President, or if there is no President or if the President is absent from the  
184 Commonwealth the Governor-General”, substitute “the President of the Senate, or if



185 there is no President of the Senate or if the President of the Senate is absent from the  
186 Commonwealth, the President of the Commonwealth”.

187 **12 Section 23**

188 After “President”, insert “of the Senate”

189 **13 Section 28**

190 Omit “Governor-General”, substitute “President”

191 **14 Sections 32 and 33**

192 Omit “Governor-General in Council”, substitute “President in Council”

193 **15 Subsection 34(ii)**

194 Repeal the subsection, substitute:

195 (ii) the person must be an Australian citizen

196 **16 Sections 35, 37, and 42**

197 Omit “Governor-General”, substitute “President”

198 **17 Section 42**

199 Omit “the schedule”, substitute “Schedule 1”

200 **18 Subsection 44(iv)**

201 Repeal the subsection, substitute:

202 (iv) holds any office of profit under the Executive Government of the  
203 Commonwealth, a State or a Territory, or any pension payable, during the  
204 pleasure of the Executive Government of the Commonwealth, out of any of  
205 the revenues of the Commonwealth; or

206 **19 Section 44**

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

208 **20 Section 44**

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

211 **21 Sections 56 and 57**

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

213 **23 Section 58**

214 Repeal the section, substitute:

215                   **58     Assent to Bills**  
216                   When a proposed law passed by both Houses of the Parliament is presented  
217                   to the President for assent, the President shall, according to the President’s  
218                   discretion but subject to this Constitution, assent to the law or withhold  
219                   assent.

220                   *Recommendations by President*  
221                   The President may return to the House in which it originated any proposed  
222                   law so presented, and may transmit therewith any amendments which the  
223                   President may recommend, and the Houses may deal with the  
224                   recommendation.

225   **24     Section 64**

226                   Repeal the section, substitute:

227                   **64     Ministers of State**

228                   The President may appoint officers to administer such departments of State of  
229                   the Commonwealth as the President in Council may establish. Such officers  
230                   shall hold office during the pleasure of the President. They shall be members  
231                   of the Federal Executive Council and shall be the Ministers of State for the  
232                   Commonwealth.

233                   *Ministers to sit in Parliament*

234                   No Minister of State shall hold office unless the person is or becomes a  
235                   senator or a member of the House of Representatives.

236   **25     Section 65**

237                   Omit “Governor-General”, substitute “President”

238   **26     Section 66**

239                   Repeal the section, substitute:

240                   **66     Salaries of Ministers**

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

243   **27     Section 67**

244                   Omit “Governor-General in Council” (wherever occurring), substitute “President in  
245                   Council”

- 246 **28 Section 68**  
247 Omit “the Governor-General as the Queen’s representative”, substitute “the  
248 President”
- 249 **29 Section 69**  
250 Omit “by the Governor-General”
- 251 **30 Section 70 (heading)**  
252 Repeal the heading, substitute:
- 253 **70 Vesting of certain powers**
- 254 **31 At the end of section 70**  
255 Add:
- 256 All powers and functions that were vested under this section in the Governor-General,  
257 or in the Governor-General in Council, immediately before the office of Governor-  
258 General ceased to exist shall vest in the President, or in the President in Council, as  
259 the case requires.
- 260 **32 Section 72**  
261 Omit “Governor-General” (wherever occurring), substitute “President”
- 262 **33 Section 73**  
263 Repeal the last sentence, substitute:
- 264 The conditions of and restrictions on appeals from the Supreme Courts of the several  
265 States to the High Court are as provided by the Parliament from time to time.
- 266 **34 Section 74**  
267 Repeal the section
- 268 **35 Section 83**  
269 Repeal the second sentence
- 270 **36 Section 106A**  
271 Omit “Governor-General”, substitute “President”

272 **37 Section 117**  
273 Omit “A subject of the Queen”, substitute “An Australian citizen”.

274 **38 Section 117**  
275 Omit “a subject of the Queen”, substitute “an Australian citizen”.

276 **39 Section 122**  
277 Omit “by the Queen”.

278 **40 Section 126**  
279 Repeal the section, substitute:

280 **126 Operation of Constitution and laws**

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

284 **126A Definitions**

285 In this Constitution:

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

288 *The Commonwealth* means the Commonwealth of Australia under this  
289 Constitution.

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

292 *The President in Council* means the President acting with the advice of the  
293 Federal Executive Council.

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

296 **41 Section 127**  
297 Omit “Governor-General”, substitute “President”.

298 **42 Section 129**  
299 Omit “Governor-General”, substitute “President”.

- 300 **43 Section 130**  
301 Omit “Governor-General” (wherever occurring), substitute “President”.
- 302 **44 Section 131**  
303 Omit “Governor-General”, substitute “President”.
- 304 **45 Sections 132, 133 and 134**  
305 ` Repeal the sections.
- 306 **46 Section 136**  
307 Omit “Governor-General” (wherever occurring), substitute “President”.
- 308 **47 Section 138**  
309 Omit “Governor-General” (wherever occurring), substitute “President”.
- 310 **48 Section 143**  
311 Omit “Governor-General” (wherever occurring), substitute “President”.
- 312 **41 Section 145**  
313 Omit “Governor-General” (wherever occurring), substitute “President”.
- 314 **42 Section 145**  
315 Omit “the Queen’s”.

316 **Schedule 3 - Transitional provisions**

317 **1 At the end of the Constitution**

318 Add:

319 **Schedule 2—Transitional provisions for the establishment**  
320 **of the republic**

321 **1 The Governor-General**

322 The office of Governor-General ceases to exist at the commencement of Schedules 1  
323 and 2 to the Constitution Alteration (*Establishment of Republic*) 2018.

324 **2 The first President**

325 The first President may be chosen before the office of Governor-General ceases to  
326 exist, as if the provisions of this Constitution relating to the choice of the President  
327 had commenced *when the Constitution Alteration (Establishment of Republic) 2018*  
328 was enacted.

329 The first President's term of office begins on 1 July 2019. The person chosen shall  
330 make and subscribe the President's oath or affirmation of office under section 60 on  
331 or before that day.

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

336 **3 Parliament may make laws during transitional period**

337 Before the office of Governor-General ceases to exist, the Parliament may make laws  
338 that the Parliament could have made after that time because of the enactment of the  
339 Constitution Alteration (*Establishment of Republic*) 2018, and such laws may take  
340 effect before that time.

341 **4 Savings**

342 The alterations of this Constitution made by the Constitution Alteration  
343 (*Establishment of Republic*) 2018 do not affect:

344 (i) the validity or continued effect, after the office of Governor-General  
345 ceases to exist, of anything done before that time under this Constitution or  
346 under the law in force in the Commonwealth; or

347 (ii) the continuity of the Parliament and its proceedings after the office of

348 Governor-General ceases to exist; or

349 (iii) the qualifications of a senator or a member of the House of  
350 Representatives for the remainder of the term of a person who is a senator or  
351 member when the office of Governor-General ceases to exist; or

352 (iv) the continuity of the Executive Government of the Commonwealth,  
353 including in particular the membership and proceedings of the Federal  
354 Executive Council, after the office of Governor-General ceases to exist; or

355 (v) the continuity of courts and their jurisdiction and proceedings after the  
356 office of Governor-General ceases to exist.

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

## 361 5 The States

362 A State of the Commonwealth of Australia shall, by this Constitution, at the moment  
363 the office of Governor-General ceases to exist, shall cease to retain its links with the  
364 Crown

## 365 6 Unified federal system

366 The alterations of this Constitution made by the Constitution *Alteration*  
367 *(Establishment of Republic) 2018* do not affect the continuity of the federal system,  
368 including the unified system of law, under this Constitution.

## 369 7 Amendment of Australia Acts

370 The Commonwealth Parliament may, at the request of a State Parliament, amend  
371 section 7 of the Australia Act 1986, and section 7 of the Australia Act 1986 of the  
372 United Kingdom to the extent that it forms part of the law of the Commonwealth or  
373 that State, to provide that those sections do not apply to the State.

374 Nothing in this clause prevents the amendment of section 7 of the *Australia Act 1986*,  
375 or section 7 of the Australia Act 1986 of the United Kingdom to the extent that it  
376 forms part of the law of the Commonwealth or a State, in accordance with subsection  
377 15(1) of the *Australia Act 1986*.

## 378 8 Constitutional conventions

379 The enactment of the *Constitution Alteration (Establishment of Republic) 2018* does  
380 not prevent the evolution of the constitutional conventions relating to the exercise of  
381 the reserve powers referred to in section 59 of this Constitution.

382

**9 Interpretation**

383

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

384