



THE EXECUTIVE GOVERNMENT OF AUSTRALIA

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CONSTITUTIONAL PROVISIONS

The Constitution states that the executive power of the Commonwealth is vested in the *Queen* and is exercisable by the *Governor-General* as the Queen's representative. However, a realistic understanding of Australia's Executive Government cannot be obtained from the Constitution alone, and in fact a literal reading of the Constitution can be misleading.

THE EXECUTIVE GOVERNMENT IN PRACTICE



In reality, the executive power is possessed by the Prime Minister and Cabinet (senior Ministers). Their power derives:

- constitutionally from their membership of the Federal Executive Council—see below—and status as ‘advisers’ to the Governor-General
- politically, from the people at elections for the House of Representatives
- from convention—that is, custom and tradition.

✓ Neither the Prime Minister nor the Cabinet are mentioned in the Constitution—the framers of the Constitution took their existence for granted, as they did the various conventions of the Westminster system of government inherited from the United Kingdom.

 Table 1 below gives a comparison of the constitutional provisions and the actual practice according to the conventions which have operated in Australia.

Composition of the Ministry

1. Prime Minister

The Prime Minister is the head of the government. They achieve this position by being the elected leader of the party in government (in the case of a coalition government, the major party).

2. Cabinet

The Cabinet, consisting of senior Ministers presided over by the Prime Minister, is the government's pre-eminent policy-making body. Major policy and legislative proposals are decided by the Cabinet. The Prime Minister selects Ministers for Cabinet positions.

3. Ministers

Ministers are selected by the Prime Minister. Legislation currently allows for up to 30 Ministers. About 20 or so senior Ministers administer the major departments and are, usually, members of Cabinet. Other Ministers are responsible for particular areas of administration within a major department, or may be in charge of a small department. Ministers are appointed from both Houses of Parliament, although most (about two thirds) are Members of the House of Representatives.

4. Parliamentary Secretaries

Up to 12 Members and Senators are appointed by the Prime Minister as Parliamentary Secretaries (also referred to as Assistant Ministers) to assist or represent Ministers in their administrative responsibilities.



The role of the Governor-General

The Governor-General performs the ceremonial functions of head of state on behalf of the Queen. While Executive Government powers are exercised by the Governor-General or in the Governor-General's name, such actions are carried out as advised by the Prime Minister and Ministers.

Under the Constitution the Governor-General:

- appoints and dismisses Executive Councillors
- appoints and dismisses Ministers to administer the public service departments and agencies
- appoints judges (the dismissal of judges can only be initiated by the Parliament)
- is the commander in chief of the defence forces
- decides when the Parliament meets (subject to some constitutional requirements), and may prorogue (suspend) or dissolve it
- issues writs for general elections
- initiates government expenditure by recommending appropriations to the Parliament
- converts proposed laws to Acts of Parliament by assenting to legislation that has been passed by both Houses
- may block or propose amendments to any law passed by the two Houses of Parliament.

The Governor-General's reserve powers

In some matters the Constitution gives the Governor-General powers to act independently. These include the power to dissolve the House of Representatives and, in certain situations, both Houses (see Infosheet No. 18 Double dissolution). However, in other than exceptional circumstances, the Governor-General will follow the advice of a Prime Minister who retains the confidence of the House.

The powers that the Governor-General has to act without advice are referred to as 'prerogative' or 'reserve' powers and are not clearly defined in the Constitution. Constitutional experts do not agree on their precise extent or on the nature of the exceptional circumstances in which they may be exercised.



General David Hurley

The Federal Executive Council

The Federal Executive Council is the constitutional mechanism for providing ministerial advice to the Governor-General. It is not a forum for policy debate or deliberation and its proceedings are entirely formal.

All Ministers and Parliamentary Secretaries become members of the Executive Council. They receive the title 'Honourable'. The Council's full membership never meets.

In practice the minimum number of Ministers or Parliamentary Secretaries (that is, two in addition to the person presiding) are rostered to attend. Meetings of the Council are presided over by the Governor-General or a deputy appointed by the Governor-General (usually the Minister with the title Vice President of the Executive Council). The matters dealt with at each meeting are recommendations by Ministers, for the approval of the Governor-General in Council, that something be done—for example, that a regulation be made, a treaty be ratified, or a person be appointed to a position.

While the Executive Council may seem no more than a rubber stamp, the processes involved in bringing matters before the Council ensure that Ministers' actions are properly documented, are legally and constitutionally valid, and are in accordance with government policy.



Opening of the 3rd Session of the 20th Parliament by Her Majesty Queen Elizabeth II on 15 February 1954

The role of the Queen

Australia is a constitutional monarchy. A monarchy is a country where the position of head of state is inherited. A constitutional monarchy is one where the powers of the monarch or sovereign—the King or Queen—are limited by law or convention, and generally exercised only according to the advice of an elected government.

The head of state is a formal, symbolic and ceremonial position, as opposed to the position of head of government, which has the administrative power to govern the country. In some systems of government the head of state and head of government are the same person—for example, in the United States the President has both functions.



Australia's head of state is Queen Elizabeth II. Queen Elizabeth is also Queen of the United Kingdom and several other countries which used to be part of the former British Empire. The Queen's role as Queen of Australia is quite separate from her role as Queen of the United Kingdom. The United Kingdom Government plays no part in the Queen's role as Queen of Australia.

In Australia the powers of the Queen have been delegated by the Australian Constitution to her representative in Australia, the Governor-General. That is, while Australia's head of state is the Queen, the functions of head of state are performed by the Governor-General. The Queen's only necessary constitutional function is to appoint the Governor-General, and in doing this the Queen acts as advised by the Australian Prime Minister. The Constitution gives the Queen the power to disallow an Australian Act of Parliament, but this has never been done and it is extremely unlikely that it would ever be done.

Thank you for attention!

