



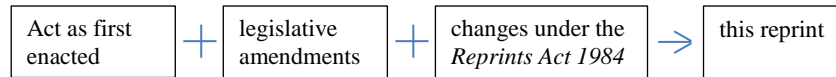
Western Australia

Constitutional Powers (Coastal Waters) Act 1979

Reprint 2: The Act as at 8 May 2015

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, modifying or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).

Notes of this kind may also be at the foot of Schedules or headings.

2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Reprint numbering and date

1. The reprint number (in the footer of each page of the document) shows how many times the Act has been reprinted. For example, numbering a reprint as “Reprint 3” would mean that the reprint was the 3rd reprint since the Act was passed. Reprint numbering was implemented as from 1 January 2003.
2. The information in the reprint is current on the date shown as the date as at which the Act is reprinted. That date is not the date when the reprint was published by the State Law Publisher and it is probably not the date when the most recent amendment had effect.

Western Australia

Constitutional Powers (Coastal Waters) Act 1979

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Western Australia

Reprinted under the
Reprints Act 1984 as
at 8 May 2015

Constitutional Powers (Coastal Waters) Act 1979

An Act to request the Parliament of the Commonwealth to enact an Act to extend the legislative powers of the States in and in relation to Coastal Waters.

Preamble

WHEREAS it has been agreed between the Government of the Commonwealth and the Governments of the States of Australia that the legislative powers of the States in and in relation to Coastal Waters should be extended by an Act of the Parliament of the Commonwealth enacted at the request of the Parliaments of the States in pursuance of paragraph (xxxviii) of section 51 of the Constitution of the Commonwealth of Australia:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows: —

1. Short title

This Act may be cited as the *Constitutional Powers (Coastal Waters) Act 1979*¹.

2. Request for enactment of Commonwealth Act

Parliament requests the enactment by the Parliament of the Commonwealth of an Act in or substantially in the terms set out in the Schedule.

Schedule — Requested Commonwealth Act: *Coastal Waters (State Powers) Act 1979*

[s. 2]

[Heading amended by No. 19 of 2010 s. 4.]

AN ACT

To extend the legislative powers of the States in and in relation to coastal waters.

Preamble

WHEREAS, in pursuance of paragraph (xxxviii) of section 51 of the Constitution of the Commonwealth, the Parliaments of all the States have requested the Parliament of the Commonwealth to enact an Act in, or substantially in, the terms of this Act:

Be it therefore enacted by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

1. Short title

This Act may be cited as the *Coastal Waters (State Powers) Act 1979*.

2. Commencement

This Act shall come into operation on a date to be fixed by Proclamation.

3. Interpretation

(1) In this Act —

adjacent area in respect of the State means, in relation to each State, the area the boundary of which is described under the heading referring to that State in Schedule 2 to the *Petroleum (Submerged Lands) Act 1967*² as in force immediately before the commencement of this Act;

coastal waters of the State means, in relation to each State —

- (a) the part or parts of the territorial sea of Australia that is or are within the adjacent area in respect of the State, other than any part referred to in subsection 4(2); and

Constitutional Powers (Coastal Waters) Act 1979

Schedule Requested Commonwealth Act: Coastal Waters (State Powers) Act 1979

(b) any sea that is on the landward side of any part of the territorial sea of Australia and is within the adjacent area in respect of the State but is not within the limits of the State or of a Territory.

(2) The *Acts Interpretation Act 1901*, in the form in which it was in force, as amended, immediately before the day on which this Act received the Royal Assent, applies to the interpretation of this Act.

4. Extent of territorial sea and coastal waters

(1) For the purposes of this Act, the limits of the territorial sea of Australia shall be the limits existing from time to time, ascertained consistently with the *Seas and Submerged Lands Act 1973* and instruments under that Act and with any agreement (whether made before or after the commencement of this Act) for the time being in force between Australia and another country with respect to the outer limit of a particular part of that territorial sea.

(2) If at any time the breadth of the territorial sea of Australia is determined or declared to be greater than 3 nautical miles, references in this Act to the coastal waters of the State do not include, in relation to any State, any part of the territorial sea of Australia that would not be within the limits of that territorial sea if the breadth of that territorial sea had continued to be 3 nautical miles.

5. Legislative powers of States

The legislative powers exercisable from time to time under the constitution of each State extend to the making of —

(a) all such laws of the State as could be made by virtue of those powers if the coastal waters of the State, as extending from time to time, were within the limits of the State, including laws applying in or in relation to the sea-bed and subsoil beneath, and the airspace above, the coastal waters of the State;

(b) laws of the State having effect in or in relation to waters within the adjacent area in respect of the State but beyond the outer limits of the coastal waters of the State, including laws applying in or in relation to the sea-bed and subsoil beneath,

and the airspace above, the first-mentioned waters, being laws with respect to —

- (i) subterranean mining from land within the limits of the State; or
 - (ii) ports, harbours and other shipping facilities, including installations, and dredging and other works, relating thereto, and other coastal works;
- and
- (c) laws of the State with respect to fisheries in Australian waters beyond the outer limits of the coastal waters of the State, being laws applying to or in relation to those fisheries only to the extent to which those fisheries are, under an arrangement to which the Commonwealth and the State are parties, to be managed in accordance with the laws of the State.

6. International status of territorial sea

Nothing in this Act affects the status of the territorial sea of Australia under international law or the rights and duties of the Commonwealth in relation to ensuring the observance of international law, including the provisions of international agreements binding on the Commonwealth and, in particular, the provisions of the Convention on the Territorial Sea and the Contiguous Zone relating to the right of innocent passage of ships.

7. Savings

Nothing in this Act shall be taken to —

- (a) extend the limits of any State;
- (b) derogate from any power existing, apart from this Act, to make laws of a State having extra-territorial effect; or
- (c) give any force or effect to a provision of a law of a State to the extent of any inconsistency with a law of the Commonwealth or with the Constitution of the Commonwealth of Australia or the Commonwealth of Australia Constitution Act.

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Notes

- ¹ This reprint is a compilation as at 8 May 2015 of the *Constitutional Powers (Coastal Waters) Act 1979* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Constitutional Powers (Coastal Waters) Act 1979</i>	95 of 1979	17 Dec 1979	17 Dec 1979
Reprint of the <i>Constitutional Powers (Coastal Waters) Act 1979</i> as at 2 Aug 2002			
<i>Standardisation of Formatting Act 2010</i> s. 4	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
Reprint 2: The <i>Constitutional Powers (Coastal Waters) Act 1979</i> as at 8 May 2015 (includes amendments listed above)			

- ² Repealed by the *Offshore Petroleum (Repeals and Consequential Amendments) Act 2006* Sch. 1 it. 1 (Cwlth.).

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
adjacent area in respect of the State	Sch. cl. 3(1)
coastal waters of the State	Sch. cl. 3(1)