



Western Australia

Succession to the Crown Act 2015

As at 03 Mar 2015

No. 5 of 2015

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Succession to the Crown Act 2015

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Western Australia

Succession to the Crown Act 2015

No. 5 of 2015

An Act —

- **to request the Parliament of the Commonwealth to enact under section 51(xxxviii) of the Constitution of the Commonwealth an Act to change the law relating to royal succession and royal marriages; and**
 - **to also make provision in relation to royal succession and royal marriages,**
- and for related purposes.**

Assented to 3 March 2015]

Preamble

Preamble

- 1 On 28 October 2011, representatives of nations of which Her Majesty is the Sovereign agreed that the rules on succession to, and possession of, the Crown should be changed so as to make succession not depend on gender and to end the disqualification arising from marrying a Roman Catholic.
- 2 The United Kingdom has further proposed to disqualify certain persons from succeeding to the Crown as a result of marriage, to repeal the *Royal Marriages Act 1772* and to validate certain marriages made void by that Act.
- 3 It is expedient to request the Parliament of the Commonwealth to change the law relating to royal succession and royal marriages by legislating under section 51(xxxviii) of the Constitution of the Commonwealth in the terms, or substantially in the terms, set out in Schedule 1.
- 4 It is also expedient for the Parliament of Western Australia to legislate in relation to royal succession and royal marriages.

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Succession to the Crown Act 2015*.

2. Commencement

This Act comes into operation as follows —

- (a) sections 1 and 2 — on the day on which this Act receives the Royal Assent (*assent day*);
- (b) the rest of the Act, other than Parts 3 and 4 — on the day after assent day;
- (c) Part 3 — on a day fixed by proclamation, and —
 - (i) different days may be fixed for different provisions; and
 - (ii) the time at which a provision comes into operation may be fixed;
- (d) Part 4 — on the day and at the time that section 10 of the requested Commonwealth Act comes into operation.

3. Terms used

- (1) In this Part and Part 4 —

requested Commonwealth Act means the Act the enactment of which is requested by section 6.

- (2) In Parts 3 and 4 —

Act of Settlement means the Act of England known by that title;

Bill of Rights means the Act of England known by that title;

Crown means the Crown in all the capacities in respect to which the Parliament of the State has the power to legislate.

4. Object of this Act

The main object of this Act is that the law relating to the effect of gender and marriage on royal succession be changed consistently with changes made to that law in other Australian jurisdictions and in the United Kingdom, so that the Sovereign of Australia is the same person as the Sovereign of the United Kingdom.

5. Relationship with Sovereign not affected

It is not the intention of this Act to affect the relationship between the Sovereign and the State as existing immediately before its enactment or that that relationship be in any way affected by the enactment by the Parliament of the Commonwealth of the requested Commonwealth Act.

Part 2 — Request for Commonwealth legislation

6. Request for Commonwealth legislation

- (1) The Parliament requests the enactment by the Parliament of the Commonwealth of an Act in the terms, or substantially in the terms, set out in Schedule 1.
- (2) Subsection (1) is not affected or limited in any way by any other provision of this Act.

Part 3 — Other provisions

Division 1 — Succession to the Crown not to depend on gender

7. Succession to the Crown not to depend on gender

In determining the succession to the Crown, the gender of a person born after 28 October 2011 (by United Kingdom time) does not give that person, or that person's descendants, precedence over any other person (whenever born).

Division 2 — Marriage and succession to the Crown

8. Removal of disqualification arising from marriage to a Roman Catholic

- (1) A person is not disqualified from succeeding to the Crown or from possessing it as a result of marrying a person of the Roman Catholic faith.
- (2) Subsection (1) applies in relation to marriages occurring before the commencement of this section if the person concerned is alive at that commencement (as well as in relation to marriages occurring after that commencement).

9. Disqualification arising from marriage

A person is disqualified from succeeding to the Crown if the person is disqualified by section 3(3) of the *Succession to the Crown Act 2013* of the United Kingdom, as in force at the commencement of this section, from succeeding to the Crown in right of the United Kingdom.

10. Amendments relating to marriage to a Roman Catholic

- (1) References to an Act in this section are to that Act so far as it is part of the law of the State.

- (2) In the *Act of Settlement*:
 - (a) in the Preamble delete “or marry a papist”;
 - (b) in the Preamble delete “or marrying”;
 - (c) in section 2 delete “or shall marry a papist”.
- (3) In the *Bill of Rights*:
 - (a) in section 1 delete “or by any King or Queene marrying a papist”;
 - (b) in section 1 delete “or shall marry a papist”;
 - (c) in section 1 delete “or marrying”.
- (4) The amendments made by this section apply in relation to marriages occurring before the commencement of this section if the person concerned is alive at that commencement (as well as in relation to marriages occurring after that commencement).

11. *Royal Marriages Act 1772* repealed

The *Royal Marriages Act 1772* of Great Britain, so far as that Act is part of the law of the State, is repealed.

12. *Validation of some marriages voided by the Royal Marriages Act 1772*

- (1) A marriage that was void under the *Royal Marriages Act 1772* of Great Britain, so far as that Act was part of the law of the State before its repeal by section 11, is to be treated as never having been void if —
 - (a) neither party to the marriage was one of the 6 persons next in the line of succession to the Crown at the time of the marriage; and
 - (b) no consent was sought under section 1 of that Act, or notice given under section 2 of that Act, in respect of the marriage; and

- (c) in all the circumstances it was reasonable for the person concerned not to have been aware at the time of the marriage that the Act applied to it; and
 - (d) no person acted, before the commencement of this subsection, on the basis that the marriage was void.
- (2) Subsection (1) applies for all purposes except those relating to succession to the Crown.

Division 3 — Other modifications of parts of the law of the State

13. Union legislation affected by this Act

So far as they are part of the law of the State, the following are subject to this Act —

- (a) Article II of the *Union with Scotland Act 1706* of England;
- (b) Article II of the *Union with England Act 1707* of Scotland;
- (c) Article Second of the *Union with Ireland Act 1800* of Great Britain;
- (d) Article Second of the *Act of Union (Ireland) 1800* of Ireland.

Part 4 — General

14. References to *Bill of Rights* and *Act of Settlement*

References, however expressed, in any law that forms part of the law of the State, to the provisions of the *Bill of Rights* or the *Act of Settlement* relating to succession to, or possession of, the Crown are to be read as including references to the provisions of this Act and of the requested Commonwealth Act.

Schedule 1 — Requested Commonwealth Act

[s. 6]

An Act to change the law relating to royal succession and royal marriages, and for related purposes

Preamble

On 28 October 2011, representatives of nations of which Her Majesty is the Sovereign agreed that the rules on succession to, and possession of, the Crown should be changed so as to make succession not depend on gender and to end the disqualification arising from marrying a Roman Catholic.

The United Kingdom has further proposed to disqualify certain persons from succeeding to the Crown as a result of marriage, to repeal the *Royal Marriages Act 1772* and to validate certain marriages made void by that Act.

For the purposes of paragraph 51(xxxviii) of the Constitution the Parliaments of all the States have requested the Parliament of the Commonwealth of Australia to enact an Act in the terms, or substantially in the terms, of this Act.

The Parliament of Australia therefore enacts:

Part 1 — Preliminary

1 Short title

This Act may be cited as the *Succession to the Crown Act 2015*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information

| Column 1 | Column 2 | Column 3 |
|--|---|--------------|
| Provision(s) | Commencement | Date/Details |
| 1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | |
| 2. Sections 3, 4 and 5 | The day this Act receives the Royal Assent. | |
| 3. Parts 2, 3 and 4 | A time and day, or times and days, to be fixed by Proclamation. | |
| 4. Part 5 | The day this Act receives the Royal Assent. | |
| 5. Schedule 1 | A time and day, or times and days, to be fixed by Proclamation. | |

Note

This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Object of this Act

The main object of this Act is to change the law relating to the effect of gender and marriage on royal succession consistently with changes made to that law in the United Kingdom, so that the Sovereign of Australia is the same person as the Sovereign of the United Kingdom.

4 Relationship with Sovereign not affected

This Act is not intended to affect the relationship between the Sovereign and the Commonwealth, the States and the Territories as existing immediately before its enactment.

5 Definition of *Crown*

In this Act:

Crown means the Crown in all of its capacities.

Part 2 — Succession to the Crown not to depend on gender

6 Succession to the Crown not to depend on gender

In determining the succession to the Crown, the gender of a person born after 28 October 2011 (by United Kingdom time) does not give that person, or that person's descendants, precedence over any other person (whenever born).

Part 3 — Marriage and succession to the Crown

7 Removal of disqualification arising from marriage to a Roman Catholic

- (1) A person is not disqualified from succeeding to the Crown or from possessing it as a result of marrying a person of the Roman Catholic faith.
- (2) Subsection (1) applies in relation to marriages occurring before the commencement of this section if the person concerned is alive at that commencement (as well as in relation to marriages occurring after that commencement).

8 Disqualification arising from marriage

A person is disqualified from succeeding to the Crown if the person is disqualified by subsection 3(3) of the *Succession to the Crown Act 2013* of the United Kingdom, as in force at the commencement of this section, from succeeding to the Crown in right of the United Kingdom.

9 Amendments and repeal relating to marriage and succession to the Crown

Each Act of England or Great Britain that is specified in Schedule 1, so far as that Act is part of the law of the Commonwealth, a State or a Territory, is amended or repealed as set out in the applicable items in Schedule 1, and any other item in Schedule 1 has effect according to its terms.

Part 4 — Other modifications of parts of the law of the Commonwealth, States and Territories

10 References to Bill of Rights and Act of Settlement

References, however expressed, in any law that forms part of the law of the Commonwealth or a Territory, to the provisions of the Bill of Rights or the Act of Settlement relating to succession to, or possession of, the Crown are to be read as including references to the provisions of this Act.

11 Union legislation affected by this Act

So far as they are part of the law of the Commonwealth, a State or a Territory, the following are subject to this Act:

- (a) Article II of the *Union with Scotland Act 1706* of England;
- (b) Article II of the *Union with England Act 1707* of Scotland;
- (c) Article Second of the *Union with Ireland Act 1800* of Great Britain;
- (d) Article Second of the *Act of Union (Ireland) 1800* of Ireland.

Part 5 — Repeal or amendment of this Act

12 Repeal or amendment of this Act

This Act may be expressly or impliedly repealed or amended only by an Act passed at the request or with the concurrence of the Parliaments of all the States.

Schedule 1 — Further provisions relating to marriage and succession to the Crown

Part 1 — Amendments relating to marriage to a Roman Catholic

Act of Settlement

1 Preamble

Omit “or marry a papist”.

2 Preamble

Omit “or marrying”.

3 Section 2

Omit “or shall marry a papist”.

Bill of Rights

4 Section 1

Omit “or by any King or Queene marrying a papist”.

5 Section 1

Omit “or shall marry a papist”.

6 Section 1

Omit “or marrying”.

7 Application of amendments

The amendments made by this Part apply in relation to marriages occurring before the commencement of this Part where the person concerned is alive at that commencement (as

well as in relation to marriages occurring after that commencement).

Part 2 — Repeal of the *Royal Marriages Act 1772*

8 The whole of the Act

Repeal the Act.

9 Validation of some marriages voided by the *Royal Marriages Act 1772*

- (1) A marriage that was void under the *Royal Marriages Act 1772* of Great Britain, so far as that Act was part of the law of the Commonwealth, a State or a Territory, is to be treated as never having been void if:
 - (a) neither party to the marriage was one of the 6 persons next in the line of succession to the Crown at the time of the marriage; and
 - (b) no consent was sought under section 1 of that Act, or notice given under section 2 of that Act, in respect of the marriage; and
 - (c) in all the circumstances it was reasonable for the person concerned not to have been aware at the time of the marriage that the Act applied to it; and
 - (d) no person acted, before the commencement of this item, on the basis that the marriage was void.
- (2) Subitem (1) applies for all purposes except those relating to succession to the Crown.

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Defined terms

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) |
|---------------------------------|---------------------|
| Act of Settlement | 3(2) |
| assent day | 2 |
| Bill of Rights..... | 3(2) |
| Crown | 3(2) |
| requested Commonwealth Act..... | 3(1) |