Government and the law in Australia

Part 3

Government and the law in Australia

From this time forward, under God,*

I pledge my loyalty to Australia and its people,

whose democratic beliefs I share,

whose rights and liberties I respect, and

whose laws I will uphold and obey.

* A person may choose whether or not to use the words 'under God'.
Government and the law in Australia

At the citizenship ceremony, you pledge to uphold and obey the laws of Australia. It is important for you to understand Australia’s system of government, how the laws are made in our parliamentary democracy and how these laws are administered. It is also important to understand how you, as a citizen, will have a say in the running of the country.

How do I have my say?

Voting

In Australia, citizens aged 18 years or over must enrol to vote at federal elections. By voting, you get to have your say in who represents you in parliament. If you are not correctly enrolled, you are not able to vote in an election.

Once you are on the electoral roll, voting is compulsory in Australian federal and state or territory elections. If you do not vote in an election and do not have a good reason for not voting, you will have to pay a fine. Compulsory voting is a way to make sure that the people we elect are really the ones that the majority of the people want.

The Australian Electoral Commission (AEC) is a Commonwealth agency. It conducts federal elections and referendums and maintains the Commonwealth electoral roll. The AEC helps to provide voters with fair and honest elections. The AEC is independent of the government. Political parties or people in government cannot influence the decisions of the AEC. Votes are by secret ballot, so you are free and safe to vote for any candidate. No one else sees who you vote for. You can tell other people who you vote for, but no one can force you to tell them.

Raising matters with your representatives

In Australia, you have the right to raise matters that concern you with your elected representative. Your views may then be taken into consideration by parliament when it is considering new laws or changes to existing laws. For example, if you have a suggestion about how to improve the immigration system, you can make an appointment to discuss it with your local member of parliament. You can also write a letter outlining your views.

In this way, ordinary Australians can have a say in forming the laws and policies of a government.

How did we establish our system of government?

Federation

Before 1901, Australia was made up of six separate, self-governing British colonies.

Within its borders, each colony had its own constitution and its own laws relating to defence, immigration, postage, trade and transport.

People wanted to unite the colonies to form a single Australian nation for a number of reasons. Trade and transport between the colonies was expensive and slow. Enforcing the law across borders was difficult. The separate colonies also had weak systems of defence. More importantly, Australia’s national identity was beginning to form. Sporting teams were representing Australia internationally and a unique Australian culture was developing in popular songs, poems, stories and art.

Uniting the nation was a difficult task, but over a period of time, the idea of one Australian nation became a reality. Australians are proud of the fact that their nation did not emerge through revolution or bloodshed, but by negotiation and referendum.

On 1 January 1901, the colonies were united into a federation of states called the Commonwealth of Australia.
The Australian Constitution established the Parliament of the Commonwealth of Australia, created with a House of Representatives and a Senate. The Constitution also established the High Court of Australia, which has the power to apply and interpret the laws of Australia.

The Australian Constitution can only be changed through a special vote called a referendum.

In a referendum, there needs to be a double majority for the Australian Constitution to be changed. This means that the majority of voters in a majority of states and a majority of voters across the nation must vote for the change.

How is the power of government controlled?

The Australian Constitution divides power between three arms of government. This is to stop one person or one group of people taking over all the power to govern Australia.

**Legislative power**
Parliament has the power to make and change the laws. Parliament is made up of representatives who are elected by the people of Australia.

**Executive power**
Executive power is the power to put the laws into practice. The Executive includes Australian Government ministers and the Governor-General. Each minister is responsible for one or more government departments.

**Judicial power**
Judges have the power to interpret and apply the law. Courts and judges are independent of parliament and government.

These powers are written into the Australian Constitution.

Who is Australia’s Head of State?

Australia’s Head of State is the Queen of Australia, Her Majesty Queen Elizabeth II.

In Australia, the Queen does not have a day-to-day role in government. The Queen appoints the Governor-General as her representative in Australia, on advice from the Australian Prime Minister. The Governor-General acts independently of all political parties.

In each of the states there is a Governor who represents the Queen in a role that is similar to the Governor-General.

**Constitutional monarchy**

Australia is a constitutional monarchy. A constitutional monarchy is a country in which a king or queen is the head of state but has to act in accordance with the constitution.

The Australian system of parliamentary democracy was based on the British system, developed over many centuries. In the Australian system, the leader of the Australian Government is the Prime Minister.
The role of the Governor-General
The Governor-General:

• signs all Bills passed by the Australian Parliament into law (this is called Royal Assent)
• signs regulations
• performs ceremonial duties
• approves the appointment of the Australian Government and its ministers, federal judges and other officials.

The Governor-General also has special powers known as ‘reserve powers’ that can only be used in specific circumstances.

Who are some of Australia’s leaders?
Head of State
The Queen of Australia

Governor-General
The representative of the Head of State in Australia

Governor
The representative of the Head of State in each Australian state

Prime Minister
The leader of the Australian Government

Premier
The leader of a state government

Chief Minister
The leader of a territory government

Government Minister
A member of parliament chosen by a government leader to be responsible for an area of government

Member of Parliament (MP)
An elected representative of the Australian people in the Australian Parliament

Senator
An elected representative of a state or territory in the Australian Parliament

Mayor or Shire President
The leader of a local council

Councillor
An elected member of a local council

How is Australia governed?
Australian Government

The Australian Government is also called the Federal Government or the Commonwealth Government.

The Australian Parliament has two Houses:
• the House of Representatives
• the Senate.

The members of both Houses are directly elected by the Australian people at federal elections. When you vote in a federal election, you usually elect representatives to each House.
The House of Representatives

The House of Representatives is sometimes called the Lower House or the People’s House.

Australia is divided into federal electorates. Australians in each electorate vote for one person to represent them in the House of Representatives. This representative is called a Member of Parliament (MP).

The number of MPs for each state and territory is based on the size of its population. The people of Australia elect a total of 150 members to the House of Representatives.

The important work of the House of Representatives is to consider, debate and vote on proposals for new laws or changes to the laws. Members of the House of Representatives also discuss matters of national importance.

The Senate

The Senate is sometimes called the Upper House, the House of Review or the States’ House.

The states are equally represented in the Senate, regardless of their population size. There are 12 representatives elected from each state. Both mainland territories elect two representatives each. There are 76 representatives elected in total and they are called Senators.

Senators also consider, debate and vote on new laws or changes to the laws. Senators also discuss matters of national importance.

State and territory government

There are six states and two mainland territories in Australia. Each state has its own constitution and its own parliament. State and territory governments are based in their capital cities.

The leader of a state government is the Premier and the leader of a territory government is the Chief Minister.

State governments operate in a similar way to the Australian Government. In each state, a Governor represents the Queen of Australia. In the Northern Territory, an Administrator is appointed by the Governor-General. The role and responsibilities of the Administrator are similar to those of a state Governor.

As with the Australian Government, people vote to elect a representative for their area. These representatives become a member of the state or territory parliament.

Local government

The states and the Northern Territory are divided into local government areas. These may be called cities, shires, towns or municipalities. Each area has its own local council. Councils are responsible for planning and delivering services to their local community. Citizens in each local government area vote to elect their local councillors.
What do the three levels of government do?

The Australian Government is responsible for:

- taxation
- national economic management
- immigration and citizenship
- employment
- postal services and the communications network
- social security (pensions and family support)
- defence
- trade
- airports and air safety
- foreign affairs (relations with other countries).

State and territory governments are responsible for:

- hospitals and health services
- schools
- railways
- roads and road traffic control
- forestry
- police
- public transport.

Local governments (and the Australian Capital Territory Government) are responsible for:

- street signs, traffic controls
- local roads, footpaths, bridges
- drains
- parks, playgrounds, swimming pools, sports grounds
- camping grounds and caravan parks
- food and meat inspection
- noise and animal control
- rubbish collection
- local libraries, halls and community centres
- certain child-care and aged-care issues
- building permits
- social planning
- local environmental issues.

Some responsibilities are shared between the various levels of government. The Council of Australian Government (COAG) has been set up to encourage cooperation between the levels of government.
What role do political parties play in the way Australia is governed?

A political party is a group of people who share similar ideas about how a country should be governed. They work together to have the party’s ideas turned into laws. The main political parties in Australia are the Australian Labor Party, the Liberal Party of Australia, the Nationals and the Australian Greens.

Most members of parliament belong to political parties. Some members of parliament do not belong to any political party. They are called Independents.

In Australia, you are free to join a political party if you choose.

How is the Australian Government formed?

After an election, the political party or coalition of parties with the majority of members in the House of Representatives forms the Australian Government. The leader of this party becomes the leader of the Australian Government, the Prime Minister.

The party or coalition of parties with the second largest number of members in the House of Representatives is known as the Opposition. Its leader is called the Leader of the Opposition.

The Prime Minister chooses MPs or Senators to become ministers. Ministers are responsible for important areas of government (called portfolios), such as employment, Indigenous affairs or the Treasury. Ministers with the most senior portfolios make up the Cabinet, which is the key decision making body of the Australian Government.

How are laws made?

Citizens of Australia elect people to represent them in the Australian Parliament.

The Australian Parliament makes and changes laws to benefit the nation.

A member of the Australian Parliament proposes a new law or a change to the law. This proposal is called a Bill.

The House of Representatives and the Senate consider, debate and vote on whether they agree with the Bill.

If the majority of members in each House of Parliament agrees to the Bill, it goes to the Governor-General.

When the Governor-General signs the Bill, it becomes a law. This is called Royal Assent.

State and territory parliaments make their own laws in a similar way.

How are laws administered?

The courts

The courts in Australia are responsible for interpreting and applying the law. They are independent of the government. The courts decide if a person has broken the law or not and decide the penalty. Every person has the right to be represented by a lawyer in court. Courts can only base their decision on the evidence before them.

Judges and magistrates

The judge or magistrate is the highest authority in the court. Judges and magistrates are independent and no one can tell them what to decide.

Judges and magistrates are appointed by the government, but the government cannot take their jobs away if it disagrees with their decisions.
**Juries**

A court will use a jury in some cases to decide if a person has broken the law.

A jury is a group of ordinary people randomly chosen from the general population. The judge explains the law to the jury. In a criminal trial, if the jury finds a person guilty, the judge decides the penalty.

Under the law, people in Australia are considered innocent until they are found guilty by a court.

**The police**

The police maintain peace and order in the community. It is their job to protect life and property. They are independent of the government. If the police believe that someone has broken the law, they can arrest them and bring them before a court of law. The police may give evidence in court, but the court decides if a person is guilty or not.

The states and the Northern Territory have their own police forces. They deal with crimes under state and territory laws.

Australia also has a national police force called the Australian Federal Police. The Australian Federal Police investigates crimes against federal laws, for example, drug trafficking, crimes against national security and crimes against the environment. The Australian Federal Police is also responsible for general police work in the Australian Capital Territory.

The police and the community have a good relationship in Australia. You can report crimes and seek assistance from your local police.

It is important for you to be familiar with the laws in Australia, because not knowing a law is no excuse for breaking it.

It is a serious crime to bribe a police officer. It is a crime to even offer a bribe to a police officer.

**Criminal offences in Australia**

Some of the most serious crimes include murder, assault, sexual assault, violence against people or property, armed robbery or theft, having sexual relations with children or young people who are aged below the legal age of consent, dangerous driving of a motor car, possession and use of illegal drugs and fraud.

As in other countries, violence towards another person is illegal in Australia and is a very serious crime. This includes violence within the home and within marriage, known as domestic or family violence. Domestic violence includes physical, sexual or psychological abuse or harm, forced sexual relations, forced isolation or economic deprivation.

Carrying weapons such as knives or guns is against the law in Australia. A person who wishes to own a gun, for example, for use on a farm, must first obtain a firearm licence from the police.

**Traffic offences**

Road and traffic rules are controlled by state and territory governments. People can be fined large amounts of money or even sent to prison for breaking traffic laws. To drive a car in Australia, you must have a local driver’s licence and the car must be registered.

Everybody travelling in a car must wear a seatbelt. Babies and young children must be in an approved car seat. Traffic laws relating to speeding and driving after drinking alcohol or taking drugs are very strict. It is also against the law to talk on a hand-held mobile phone while driving.

**In conclusion**

Our democratic institutions have created a peaceful and stable society. We have a rich and unique culture to share. As an Australian citizen, you will become part of our nation’s story and will contribute to our future. Australia welcomes you. Citizenship is our common bond.

In preparation for the citizenship test, try the practice test questions on pages 34 and 35.