

Annex One: Extracts from the Commonwealth Constitution

Legislative powers of the Parliament.

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:-

- (i.) Trade and commerce with other countries, and among the States:
- (ii.) Taxation; but so as not to discriminate between States or parts of States:
- (iii.) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth:
- (iv.) Borrowing money on the public credit of the Commonwealth:
- (v.) Postal, telegraphic, telephonic, and other like services:
- (vi.) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth:
- (vii.) Lighthouses, lightships, beacons and buoys:
- (viii.) Astronomical and meteorological observations:
- (ix.) Quarantine:
- (x.) Fisheries in Australian waters beyond territorial limits:
- (xi.) Census and statistics:
- (xii.) Currency, coinage, and legal tender:
- (xiii.) Banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money:
- (xiv.) Insurance, other than State insurance; also State insurance extending beyond the limits of the State concerned:
- (xv.) Weights and measures:
- (xvi.) Bills of exchange and promissory notes:
- (xvii.) Bankruptcy and insolvency:
- (xviii.) Copyrights, patents of inventions and designs, and trade marks:
- (xix.) Naturalization and aliens:

(xx.) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth:

(xxi.) Marriage:

(xxii.) Divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants:

(xxiii.) Invalid and old-age pensions:

(Inserted by No. 81, 1946, s. 2.)

(xxiiiA.) The provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorize any form of civil conscription), benefits to students and family allowances:

(xxiv.) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States:

(xxv.) The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States:

(Altered by No. 55, 1967, s. 2.)

(xxvi.) The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws:

(xxvii.) Immigration and emigration:

(xxviii.) The influx of criminals:

(xxix.) External affairs:

(xxx.) The relations of the Commonwealth with the islands of the Pacific:

(xxxi.) The acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws:

(xxxii.) The control of railways with respect to transport for the naval and military purposes of the Commonwealth:

(xxxiii.) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State:

(xxxiv.) Railway construction and extension in any State with the consent of that State:

(xxxv.) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State:

(xxxvi.) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides:

(xxxvii.) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law:

(xxxviii.) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia:

(xxxix.) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any department or officer of the Commonwealth.

Power to define jurisdiction.

77. With respect to any of the matters mentioned in the last two sections the Parliament may make laws-

(i.) Defining the jurisdiction of any federal court other than the High Court:

(ii.) Defining the extent to which the jurisdiction of any federal court shall be exclusive of that which belongs to or is invested in the courts of the States:

(iii.) Investing any court of a State with federal jurisdiction.

Trade within the Commonwealth to be free.

92. On the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.

But notwithstanding anything in this Constitution, goods imported before the imposition of uniform duties of customs into any State, or into any Colony which, whilst the goods remain therein, becomes a State, shall, on thence passing into another State within two years after the imposition of such duties, be liable to any duty chargeable on the importation of such goods into the Commonwealth, less any duty paid in respect of the goods on their importation.

Distribution of surplus.

94. After five years from the imposition of uniform duties of customs, the Parliament may provide, on such basis as it deems fair, for the monthly payment to the several States of all surplus revenue of the Commonwealth.

Financial assistance to States.

96. During a period of ten years after the establishment of the Commonwealth and thereafter until the Parliament otherwise provides, the Parliament may grant financial assistance to any State on such terms and conditions as the Parliament thinks fit.

Agreements with respect to State debts.

(Inserted by No.1.1929, s.2.)

105A.-(1.) The Commonwealth may make agreements with the States with respect to the public debts of the States, including-

- (a) the taking over of such debts by the Commonwealth;
- (b) the management of such debts;
- (c) the payment of interest and the provision and management of sinking funds in respect of such debts;
- (d) the consolidation, renewal, conversion, and redemption of such debts;
- (e) the indemnification of the Commonwealth by the States in respect of debts taken over by the Commonwealth; and
- (f) the borrowing of money by the States or by the Commonwealth, or by the Commonwealth for the States.

(2.) The Parliament may make laws for validating any such agreement made before the commencement of this section.

(3.) The Parliament may make laws for the carrying out by the parties thereto of any such agreement.

(4.) Any such agreement may be varied or rescinded by the parties thereto.

(5.) Every such agreement and any such variation thereof shall be binding upon the Commonwealth and the States parties thereto notwithstanding anything contained in this Constitution or the Constitution of the several States or in any law of the Parliament of the Commonwealth or of any State.

(6.) The powers conferred by this section shall not be construed as being limited in any way by the provisions of section one hundred and five of this Constitution.

Saving of Power of State Parliaments.

107. Every power of the Parliament of a Colony which has become or becomes a State, shall, unless it is by this Constitution exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State, continue as at the establishment of the Commonwealth, or as at the admission or establishment of the State, as the case may be.

Inconsistency of laws.

108. When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

Rights of residents in States

117. A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

