



New South Wales

Succession to the Crown (Request) Bill 2013

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to facilitate the law relating to the effect of gender and marriage on royal succession being changed uniformly across Australia and 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. In Australia, all States have agreed to request the Parliament of the Commonwealth of Australia to enact legislation (the *proposed Commonwealth Act*) to give effect to the proposed changes in Australia under section 51 (xxxviii) of the Constitution of the Commonwealth.

The proposed changes are as follows:

- (a) to provide that royal succession is not dependent on gender, and so allow an older daughter to precede a younger son in the line of succession (for all Royal births occurring after midnight on 28 October 2011, being the date that the 16 Realms of which Her Majesty is Sovereign agreed to the change),
- (b) to remove statutory restrictions under which anyone who marries a Roman Catholic loses their place in the line of succession,

- (c) to repeal the *Royal Marriages Act 1772* of the United Kingdom which (with some exceptions) makes void the marriages of any descendants of King George II who fail to obtain the Monarch's permission prior to marriage (and to provide instead that the first 6 people in the line of succession require the permission of the Monarch to marry and that they and their descendants are removed from their place in the line of succession if they marry without that permission).

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed NSW Act.

Clause 2 provides for the commencement of the proposed NSW Act (except sections 6 and 7) on the date of assent. Sections 6 and 7 commence at the time the relevant corresponding provisions of the proposed Commonwealth Act commence.

Clause 3 sets out the object of the proposed NSW Act.

Clause 4 provides that it is not the intention of the proposed NSW Act to affect the relationship between the Sovereign and the State as existing immediately before the enactment of the proposed NSW Act, or that that relationship be affected by the enactment of the proposed Commonwealth Act.

Part 2 Request for Commonwealth legislation

Clause 5 requests the Parliament of the Commonwealth to enact the proposed Commonwealth Act.

Part 3 General

Clause 6 makes consequential amendments to the NSW *Imperial Acts Application Act 1969*.

Clause 7 provides that references to the Bill of Rights or the Act of Settlement relating to the succession to, or possession of, the Crown are to be read as including references to the proposed NSW Act and the proposed Commonwealth Act.

Appendix Succession to the Crown Act 2013 of the Commonwealth

The proposed Commonwealth Act is contained in the **Appendix**. The proposed Commonwealth Act makes the following provisions:

Succession to the Crown not to depend on gender

Clause 6 provides that, in determining the succession to the Crown, the gender of a person born after 28 October 2011 (United Kingdom time) does not give that person,

or that person's descendants, precedence over any other person (whenever born). This change allows an older daughter to precede a younger son in the line of succession for all Royal births occurring after that date (being the date of the CHOGM meeting in Western Australia where the 16 Realms of which Her Majesty is the Sovereign agreed to the change).

Marriage and succession to the Crown—removal of disqualification arising from marriage to a Roman Catholic

Clause 7 removes the disqualification from succeeding to or possessing the Crown as a result of marrying a person of the Roman Catholic faith. The removal of the disqualification applies in relation to marriages occurring before the commencement of the clause if the person concerned is alive at that commencement.

Part 1 of Schedule 1 makes amendments to the *Act of Settlement* and the *Bill of Rights* (so far as they are part of the law of the Commonwealth, a State or a Territory) consequent on the removal of this disqualification.

Marriage and succession to the Crown—consent of Sovereign required for certain Royal marriages

Clause 8 disqualifies a person from succeeding to the Crown if they are disqualified from succeeding to the Crown under section 3 of the *Succession to the Crown Act 2013* of the United Kingdom. That section provides that the first 6 people in the line of succession must obtain the consent of the Sovereign before marrying. The effect of failing to obtain that consent is that the person and their descendants from the marriage are disqualified from succeeding to the Crown.

Further provisions relating to marriage and succession to the Crown

Part 2 of Schedule 1 repeals the *Royal Marriages Act 1772* of Great Britain (so far as that Act is part of the law of the Commonwealth, a State or a Territory). That Act (with some exceptions) made void the marriages of any descendants of King George II who failed to obtain the Monarch's permission prior to marriage.

Part 2 also validates certain marriages that were voided by the *Royal Marriages Act 1772* (including where neither party to the marriage was one of the first 6 people in the line of succession, it was reasonable for the person concerned not to have been aware at the time of the marriage that that Act applied to it and no person acted on the basis that the marriage was void before the commencement of the relevant provision in the proposed Commonwealth Act).



New South Wales

Succession to the Crown (Request) Bill 2013

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New South Wales

Succession to the Crown (Request) Bill 2013

No. , 2013

A Bill for

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; to amend the *Imperial Acts Application Act 1969*; and for related purposes.

Preamble	1
(a) 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 3 4 5
(b) The United Kingdom has further proposed to disqualify certain persons from succeeding to the Crown as a result of marriage, to repeal the <i>Royal Marriages Act 1772</i> and to validate certain marriages made void by that Act.	6 7 8
(c) 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 the Appendix to this Act.	9 10 11 12
The Legislature of New South Wales therefore enacts:	13
Part 1 Preliminary	14
1 Name of Act	15
This Act is the <i>Succession to the Crown (Request) Act 2013</i> .	16
2 Commencement	17
(1) This Act (except sections 6 and 7) commences on the date of assent to this Act.	18 19
(2) Section 6 commences on the day and time that section 6 of the Act of the Commonwealth requested by section 5 of this Act commences.	20 21
(3) Section 7 commences on the day and time that section 10 of the Act of the Commonwealth requested by section 5 of this Act commences.	22 23
3 Object of this Act	24
The main object of this Act is to facilitate the law relating to the effect of gender and marriage on royal succession being changed uniformly across Australia and 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.	25 26 27 28 29
4 Relationship with Sovereign not affected	30
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 Act requested by section 5.	31 32 33 34

Part 2 Request for Commonwealth legislation

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5 Request for Commonwealth legislation

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The Parliament of the State requests the enactment by the Parliament of the Commonwealth of an Act in the terms, or substantially in the terms, set out in the Appendix to this Act.

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Clause 6 Succession to the Crown (Request) Bill 2013

Part 3 General

Part 3	General	1
6	Amendment of Imperial Acts Application Act 1969 No 30	2
(1)	Second Schedule, Part 1 Constitutional enactments	3
	Omit the entry relating to <i>The Royal Marriages Act 1772</i> .	4
(2)	Second Schedule, Part 2 Criminal law—treason: piracy	5
	Insert at the end of the second column of the entry relating to <i>The Treason Act 1351</i> :	6
	<i>Succession to the Crown Act 2013</i> (United Kingdom).	7
7	References to Bill of Rights and Act of Settlement	8
	References, however expressed, in any law that is part of the law of the State, to the provisions of the Bill of Rights or the Act of Settlement relating to the succession to, or possession of, the Crown are to be read as including references to the provisions of this Act and of the <i>Succession to the Crown Act 2013</i> of the Commonwealth.	9
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Appendix Succession to the Crown Act 2013 of the Commonwealth 1
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An Act to change the law relating to royal succession and royal marriages, and for related purposes. 3
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Preamble 5

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. 6
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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. 10
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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. 13
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The Parliament of Australia therefore enacts: 16

Part 1 Preliminary 17

1 Short title 18

This Act may be cited as the *Succession to the Crown Act 2013*. 19

2 Commencement 20

- (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. 21
22
23
24

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.	

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
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	1
		2
6	Succession to the Crown not to depend on gender	3
	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).	4 5 6 7
Part 3	Marriage and succession to the Crown	8
7	Removal of disqualification arising from marriage to a Roman Catholic	9
(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.	10 11 12
(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).	13 14 15 16
8	Disqualification arising from marriage	17
	A person is disqualified from succeeding to the Crown if the person is disqualified by subsection 3(3) of the <i>Succession to the Crown Act 2013</i> of the United Kingdom, as in force at the commencement of this section, from succeeding to the Crown in right of the United Kingdom.	18 19 20 21
9	Amendments and repeal relating to marriage and succession to the Crown	22
	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.	23 24 25 26 27 28
Part 4	Other modifications of parts of the law of the Commonwealth, States and Territories	29
		30
10	References to Bill of Rights and Act of Settlement	31
	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	32 33 34

Crown are to be read as including references to the provisions of this Act.	1 2
11 Union legislation affected by this Act	3
So far as they are part of the law of the Commonwealth, a State or a Territory, the following are subject to this Act:	4 5
(a) Article II of the <i>Union with Scotland Act 1706</i> of England;	6
(b) Article II of the <i>Union with England Act 1707</i> of Scotland;	7
(c) Article Second of the <i>Union with Ireland Act 1800</i> of Great Britain;	8 9
(d) Article Second of the <i>Act of Union (Ireland) 1800</i> of Ireland.	10
Part 5 Repeal or amendment of this Act	11
12 Repeal or amendment of this Act	12
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.	13 14 15

Schedule 1	Further provisions relating to marriage and succession to the Crown	1
		2
Part 1	Amendments relating to marriage to a Roman Catholic	3
		4
	<i>Act of Settlement</i>	5
1	Preamble	6
	Omit “or marry a papist”.	7
2	Preamble	8
	Omit “or marrying”.	9
3	Section 2	10
	Omit “or shall marry a papist”.	11
	<i>Bill of Rights</i>	12
4	Section 1	13
	Omit “or by any King or Queene marrying a papist”.	14
5	Section 1	15
	Omit “or shall marry a papist”.	16
6	Section 1	17
	Omit “or marrying”.	18
7	Application of amendments	19
	The amendments made by this Part apply in relation to marriages occurring before the commencement of this Part if the person concerned is alive at that commencement (as well as in relation to marriages occurring after that commencement).	20 21 22 23
Part 2	Repeal of the Royal Marriages Act 1772	24
8	The whole of the Act	25
	Repeal the Act.	26

9	Validation of some marriages voided by the <i>Royal Marriages Act 1772</i>	1
(1)	A marriage that was void under the <i>Royal Marriages Act 1772</i> 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:	2
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(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	5
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(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	7
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(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	9
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(d)	no person acted, before the commencement of this item, on the basis that the marriage was void.	12
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(2)	Subitem (1) applies for all purposes except those relating to succession to the Crown.	14
		15