



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).