

The Australian Constitution

Chapter Summaries



Chapter 1. The Parliament

Parts 1 and 2 state that:

- The Queen, the Senate and the House of Representatives make up the Parliament.
- The Governor-General carries out the functions of the Queen on her behalf.
- There must be at least one parliamentary session in a year.
- Unless changed by the Parliament, six representatives from each state will sit in the Senate. (In practice, there are twelve senators from each state and two from each territory - this is different from what's stated in the Constitution).
- A senator's term is six years.
- One third of senators need to be present for the Senate to be able to vote or make decisions (this is called a quorum).

Question to pose:

- According to the Constitution, the annual salary of the Governor-General is to be 10,000 pounds. Do you think is still the case? (the Constitution allows for Parliament to change the Governor-General's salary. The current annual salary of the Governor-General is \$425,000).
- Why are there more senators representing each state than the number outlined in the Australian Constitution?

Parts 3, 4 and 5 state that:

- The people of the Commonwealth elect the members of the House of Representatives.
- There will be roughly twice the number of members in the House of Representatives as there are in the Senate.
- The number of representatives in each state is proportionate to the population of that state.
- The term of members of the House of Representatives is three years.
- The original rules for people to qualify to be a member of the House of Representatives included:
 - Must be a man
 - Must be 21 years old
 - Must be entitled to vote
 - Must have been a resident within the Commonwealth for the past three years
 - Must be a subject of the Queen

The Australian Constitution - Chapter Summaries

- One member of the House of Representatives shall be chosen as Speaker of the House.
- One third of representatives of the House need to be present for the House of Representatives to be able to vote or make a decision (this is called a quorum).
- The Speaker of the House shall not usually vote, except to break a tie.
- A member of either House will be disqualified if they:
 - Are a citizen of another country
 - Are serving a criminal sentence of one year or longer
 - Have been charged with treason
 - Stand to personally financially profit from government business

Questions to pose:

- Why is it important that the people elect members of the House of Representatives and the Senate?
- What do the original rules about qualifying to be a Member of Parliament say about how women were considered in 1901?

Chapter 2. The Executive Government

- The Federal Executive Council works in an advisory role to the Governor-General.
- The Governor-General has the role of Commander in Chief of the naval and military forces.

Chapter 3. The Judiciary

- The age limit of a High Court Judge is 70.
- If unsatisfied with a court ruling, a person can lodge an appeal to a higher court. The highest court in Australia is the High Court.
- The High Court can interpret the law and settle disputes about the Constitution.
- If a person is charged with an offence they have the right to a trial by jury in the state where the offence was committed.

Questions to pose:

- Is it fair that a judge in the High Court should have to retire due to age? Why/why not?
- Why is it important for a person to be tried in front of a jury?

Chapter 4. Finance and Trade

- The Commonwealth can't create laws or regulations on trade, commerce, or revenue that give preference to one Australian state over another Australian state.

Chapter 5. The States

- When State laws are inconsistent with Commonwealth laws, the law of the Commonwealth will prevail.
- Each state cannot create their own military or naval forces without consent from the Parliament of the Commonwealth.
- The Commonwealth cannot establish any one religion or dictate how religions are practiced/observed. A person's religion cannot be a criterion for employment in the public service.



The Australian Constitution - Chapter Summaries

Chapter 6. New States

- A new state can be created if a portion of the territory within the state is separated, or if two states wish to merge, as long as approval is given by the parliaments of the affected states.

Chapter 7. Miscellaneous

- The seat of Government (the place where the Government meets) shall be chosen by the Parliament.
- Before it was decided that the seat of Government would be in Canberra, the Constitution stated that the seat should be in the State of New South Wales, more than one hundred miles from Sydney.
- The Parliament sat in Melbourne in the time between when the Australian Government was first formed and when it was decided that the Government should sit in Canberra.

Chapter 8. Alteration of the Constitution

- The Australian Constitution can be changed. The process to be followed is:
 - First, a proposed change must be approved as a bill by the federal Parliament.
 - Approved bills are then sent to the Governor-General, who issues a writ (or command) for a referendum to occur.
 - A national ballot on a question to change the Australian Constitution - a referendum - is held. This is how the Parliament asks each Australian on the electoral roll what they think.
 - If a majority of people in a majority of states and a majority of people across the nation as a whole vote 'yes' (called a double majority), the Constitution will change. If not, the Constitution remains unchanged.

Questions to pose:

- What are the strengths of the process for changing the Constitution?
- What are the limitations of the process?



Go to [https://www.aph.gov.au/About Parliament/Senate/Powers_practice_n_procedures/Constitution](https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/Constitution) to find the Australian Constitution.