



This infosheet provides information about the national government, its structure and its roles. The Commonwealth of Australia is a federation of six states and two self-governing territories. The Commonwealth is governed by a national or central government, usually called the Federal Government, Commonwealth Government or Australian Government. Canberra in the Australian Capital Territory has been the seat of the Federal Government since 1927.

It is recommended that this infosheet be read with Infosheet No. 13 *The Constitution* and Infosheet No. 19 *The House, government and opposition*.

State and territory governments are based on the same principle of parliamentary government as the Federal Government. The states and the territories have their own constitutions, parliaments, governments and laws.



The Australian Coat of Arms signifies the national unity of Australia and is a sign of its identity and authority

### The separation of powers

There are three widely recognised powers of government:

1. the legislative power to make laws;
2. the executive power to carry out and enforce the laws; and
3. the judicial power to interpret laws and to judge whether they apply in individual cases.

The principle of the separation of powers is that, in order to prevent oppressive government, the three powers of government should be held by separate bodies—the Legislature, the Executive and the Judiciary—which can act as checks and balances on each other. In practice, this separation of powers can be more complicated, particularly when there is an overlap between members of the Legislature and Executive.

### The Parliament

The Constitution gives the Parliament the legislative power of the Commonwealth—the power to make laws.

The Parliament consists of the King (represented by the Governor-General) and two Houses: the House of Representatives and the Senate.

The Parliament passes legislation. Proposed laws (bills) have to be agreed to by both Houses of Parliament to become law. The two Houses have equal powers, except that there are restrictions on the power of the Senate to introduce or directly amend some kinds of financial legislation. Once a bill has been agreed to by both houses, the Governor-General assents to it, making it law. Infosheet No. 7 *Making laws* describes the parliamentary processes for the passage of legislation.

Other roles of the Parliament include:

- authorising the Executive Government (often simply called the government or the Executive) to spend public money by agreeing to government proposals for expenditure and taxation
- scrutinising the administrative actions of the government
- serving as a forum for the debate of public policy.

### Parliamentary government

The system of government Australia operates under can be described as both parliamentary government and responsible government.

'Parliamentary government' means that the Executive Government comes from within the Parliament. In a parliamentary government the legislative and executive functions overlap, as the members of the Executive Government—the Ministers—are drawn from the Parliament. In the Australian system, there are still checks and balances in place to ensure the separation of powers between the Executive and the Legislature.

'Responsible government' means that the Executive Government is responsible to the Parliament. This is the central feature of a Westminster-style government following the United Kingdom model—in contrast to other systems of government where the Executive is quite separate and not directly answerable to the Legislature (for example, in the United States of America).

Infosheet No. 19 *The House, government and opposition* gives more detail on the relationship between the Parliament and the Executive Government.

## Forming government

After a general election the political party (or coalition of parties) with the support of a majority of members in the House of Representatives becomes the governing party and its leader becomes the Prime Minister.

The composition of the House also determines who will form the official opposition. The party (or coalition of parties) which has the most non-government Members in the House of Representatives becomes the opposition party and its leader becomes the Leader of the Opposition.

The opposition has the officially recognised function (established by convention) of opposing the government. The opposition is an essential part of Australia's democratic system of government and provides for the checks and balances required to ensure the separation of powers between the Executive and Legislature.

Members of the Executive Government (ministers) are subject to the scrutiny of other members of the Parliament, led by the opposition. In addition, the Executive does not necessarily control both Houses of the Parliament.

While the government has, by definition, the support of a majority of members in the House of Representatives, the system of voting used for Senate elections gives greater opportunity to minority parties and independents, and the government often does not have majority support in the Senate.

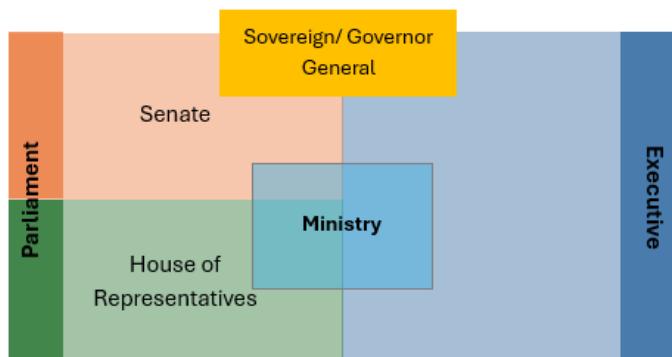


Diagram showing the overlap between Parliament and the Executive Government in the Australian system as established by the Constitution.

## The Executive Government

### Constitutional provisions

Under the Constitution, the executive power of the Commonwealth is vested in the sovereign and is exercisable by the Governor-General as their representative.

### The Executive Government in practice

In reality, the executive power is possessed by the Prime Minister and the senior ministers who make up the cabinet. Their power is derived:

- constitutionally from their membership of the Federal Executive Council—see below—and status as 'advisers' to the Governor-General
- politically from the people at elections for the House of Representatives
- from convention—that is, custom and tradition.

Neither the Prime Minister nor the Cabinet are mentioned in the Constitution—the framers of the Constitution took their existence for granted.

Table 1 below gives a comparison of the constitutional provisions and the actual practice according to the conventions which have operated in Australia.

### Composition of the ministry

Legislation currently allows for up to 30 ministers and up to 12 parliamentary secretaries (also referred to as assistant ministers). Ministers and parliamentary secretaries are appointed from both Houses of Parliament, although most ministers (about two thirds) are members of the House of Representatives. Together, they comprise the ministry. See Infosheet No. 19 *The House, government and opposition* for more information on the roles of the members of the Executive Government.

The Cabinet consists of the Prime Minister and about 20 or so senior ministers. It is the government's pre-eminent policy-making body, and decides all major government policy and legislative proposals.

### The Federal Executive Council

The Federal Executive Council is the constitutional mechanism for providing ministerial advice to the Governor-General. It is not a forum for policy debate or deliberation and its proceedings are entirely formal.

All Ministers and Parliamentary Secretaries become members of the Executive Council. They receive the title 'Honourable'.

The Council's full membership never meets. In practice the minimum number of ministers or parliamentary secretaries (that is, two in addition to the person presiding) are rostered to attend. Meetings of the Council are presided over by the Governor-General or a deputy appointed by the Governor-General (usually the minister with the title Vice-President of the Executive Council).

The matters dealt with at each meeting are recommendations by ministers that something be done—for example, that a regulation be made, a treaty be ratified or a person be appointed to a position.

While the Executive Council may seem no more than a rubber stamp, the processes involved in bringing matters before the Council ensure that ministers' actions are properly documented, are legally and constitutionally valid and are in accordance with government policy.

### The role of the Governor-General

The Governor-General performs the ceremonial functions of head of state on behalf of the King. As a result, they play an important role in both the Parliament (Legislature) and Executive Government.

Executive Government powers are exercised by the Governor-General or in the Governor-General's name; in practice such actions are carried out as advised by the Prime Minister and Ministers.



The Governor-General swearing in the 31st Prime Minister

Under the Constitution the Governor-General:

- decides when the Parliament meets (subject to some constitutional requirements), and may prorogue (suspend) or dissolve it
- issues writs for general elections

- initiates government expenditure by recommending appropriations to the Parliament
- assents to proposed laws that have been passed by both Houses—this makes them Acts of Parliament
- may block or propose amendments to any law passed by the two Houses of Parliament
- appoints and dismisses Executive Councillors
- appoints and dismisses ministers to administer public service departments and agencies
- appoints judges (the dismissal of judges can only be initiated by the Parliament)
- is the commander in chief of the defence forces

The Governor-General also has executive powers under many Acts of Parliament—including the power to proclaim legislation (that is, bring it into effect) and to make regulations and other kinds of delegated legislation (that is, legislative powers that the Parliament has delegated to the Executive Government). Most of the executive actions taken by the Governor-General are of this kind. In practice, these functions are exercised as advised by the Prime Minister and ministers except when reserve powers are involved.

### *The Governor-General's reserve powers*

In some matters the Constitution gives the Governor-General powers to act independently. These include the power to dissolve the House of Representatives and, in certain situations, both Houses (see Infosheet No. 18 *Double dissolution*).

Other than in exceptional circumstances, the Governor-General will follow the advice of a Prime Minister who retains the confidence of the House when exercising these powers.

The powers that the Governor-General has to act without advice are referred to as 'prerogative' or 'reserve' powers and are not clearly defined in the Constitution.

Constitutional experts do not agree on their precise extent or on the nature of the exceptional circumstances in which they may be exercised.



Their Majesties, King Charles III and Queen Camilla, visiting Parliament House in October 2024

## The role of the King

Australia is a constitutional monarchy. A monarchy is a country where the position of head of state is inherited. A constitutional monarchy is one where the powers of the monarch or sovereign—the King or Queen—are limited by law or convention, and generally exercised only according to the advice of an elected government.

The head of state is a formal, symbolic and ceremonial position, as opposed to the position of head of government, which has the administrative power to govern the country. In some systems of government the head of state and head of government are the same person (for example, in the United States the President has both functions).

Australia's head of state is King Charles III. King Charles is also King of the United Kingdom and several other former colonies of the British Empire. The King's role as King of Australia is separate from his role as King of the United Kingdom.

In Australia the powers of the King have been delegated by the Australian Constitution to his representative in Australia, the Governor-General. That is, while Australia's head of state is the King, the functions of head of state are performed by the Governor-General.

The King's only necessary constitutional function is to appoint the Governor-General, and in doing this the King acts as advised by the Australian Prime Minister. The Constitution gives the King the power to disallow an Australian Act of Parliament, but this has never been done and it is extremely unlikely that it would ever be done.

## The Judiciary

The Constitution vests the judicial power of the Commonwealth—the power to interpret laws and to judge whether they apply in individual cases—in the High Court and other federal courts. The High Court is established by the Constitution. Other federal courts are created by legislation of the Parliament.

Judges are appointed by the Governor-General acting on the advice of the Prime Minister and Cabinet. Judges can only be removed from office by the Governor-General following a request from both Houses of Parliament on the ground of proved misbehaviour or incapacity.

One of the major functions of the High Court is to interpret the Constitution. The High Court may rule a law to be unconstitutional—that is, beyond the power of the Parliament to make—and therefore of no effect.

Legislation made or proposed by the Parliament is subject to the ruling of the High Court. The independence of the Judiciary (that is, the ability to interpret the Constitution and make rulings without undue influence from the Parliament or the Executive Government) is essential to the separation of powers and the functioning of the Australian political system.



The High Court of Australia

## For more information

*House of Representatives Practice*, 7th edn, Department of the House of Representatives, Canberra, 2018, pp. 1–41, 43–83.

About the House website: [www.aph.gov.au/athnews](http://www.aph.gov.au/athnews).

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## Table 1—The Executive Government of Australia

	How achieved	Formal appointment pursuant to Constitution	Constitutional functions	Conventions applying/functions in practice
<b>Sovereign</b>	Inherited.		<p>Head of Executive Government and one of constituent parts of the Parliament, but these functions are delegated to the Governor-General.</p> <p>Appoints the Governor-General.</p> <p>May disallow an Act of Parliament (but this has never been done).</p>	<p>Head of State.</p> <p>Only necessary personal function is to appoint the Governor-General.</p> <p>May on occasion perform acts normally carried out by the Governor-General, such as opening a session of Parliament or assenting to an Act of Parliament.</p> <p>Acts as advised by the Prime Minister.</p>
<b>Governor-General</b>	Selected by the Prime Minister.	By the sovereign, as their representative in Australia.	Represents the sovereign as head of Executive Government and one of constituent parts of the Parliament. In most matters must act as advised by the Federal Executive Council.	Performs functions of Head of State. Normally acts as advised by the Prime Minister and ministers. Has reserve powers to act independently in emergencies. The extent of these and the way they should be exercised are not agreed on.
<b>Prime Minister</b>	Leader of the party which has the support of the most members of the House of Representatives. Is elected leader through internal party processes.	<p>By the Governor-General as a Minister of State.</p> <p>By the Governor-General as a member of the Federal Executive Council.</p>	<p>As for ministers.</p> <p>The position of Prime Minister is not recognised by the Constitution.</p>	<p>The Governor-General commissions the leader of the party (or coalition) with the largest number of members of the House of Representatives to form a government.</p> <p>The Prime Minister chairs Cabinet and is in practice the Head of the Executive Government.</p>
<b>Ministers</b>	Selected by the Prime Minister from members of the House of Representatives and senators from the party or coalition of parties in government. The Prime Minister's selection may be constrained by internal party processes.	<p>By the Governor-General as Ministers of State.</p> <p>By the Governor-General as members of the Federal Executive Council.</p> <p>(Ministers must be appointed to the Federal Executive Council. Ministers must be members of the House of Representatives or senators, or become so within three months of appointment).</p>	<p>As ministers, to administer departments of state.</p> <p>As Executive Councillors, to advise the Governor-General.</p> <p>The Cabinet is not recognised by the Constitution.</p>	<p>Senior ministers are in charge of larger or more important departments and are normally members of the Cabinet.</p> <p>Junior ministers may be in charge of a small department, or assist another minister in the administration of a larger department.</p> <p>The Cabinet is, in practice, the heart of the Executive Government. All major policy and legislative proposals are decided by the Cabinet.</p>
<b>Parliamentary secretaries (also referred to as assistant ministers)</b>	As for ministers.	As for ministers (parliamentary secretaries are a designated class of ministers).	As for ministers.	Parliamentary secretaries assist ministers in the administration of their departments.
<b>Executive Councillors</b>	As for ministers.	By the Governor-General (there is no constitutional restriction on who should be appointed).	To advise the Governor-General.	Only ministers and parliamentary secretaries are appointed (generally for life). Only Executive Councillors who are members of the current Government advise the Governor-General.