



Constitutional Powers (Coastal Waters) Act 1980

Reprinted as in force on 9 September 1994

Reprint No. 1*

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the Office of the Queensland Parliamentary Counsel
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* Minor differences in presentation between this reprint and another reprint with the same number are due to the conversion to new styles. The content has not changed.

Information about this reprint

This Act is reprinted as at 9 September 1994.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have been made to—

- use standard punctuation consistent with current legislative drafting practice (s 27)
- use conjunctives and disjunctives consistent with current legislative drafting practice (s 28)
- relocate marginal or cite notes (s 34)
- use aspects of format and printing style consistent with current legislative drafting practice (s 35)
- omit the enacting words (s 42A).

This page is specific to this reprint. A table of reprints is included in the endnotes.

Also see endnotes for information about when provisions commenced.

Spelling

The spelling of certain words or phrases may be inconsistent with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’).



Queensland

Constitutional Powers (Coastal Waters) Act 1980

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Constitutional Powers (Coastal Waters) Act 1980

[reprinted as in force on 9 September 1994]

An Act to request the Parliament of the Commonwealth to enact an Act to extend the legislative powers of the States in and in relation to coastal waters

WHEREAS it has been agreed between the Government of the Commonwealth and the Governments of the States of Australia that the legislative powers of the States in and in relation to coastal waters should be extended by an Act of the Parliament of the Commonwealth enacted at the request of the Parliaments of the States in pursuance of section 51(xxxviii) of the Constitution of the Commonwealth of Australia.

1 Short title

This Act may be cited as the *Constitutional Powers (Coastal Waters) Act 1980*.

2 Request for enactment of Commonwealth Act

The Parliament requests the enactment by the Parliament of the Commonwealth of an Act in, or substantially in, the terms set out in the Schedule.

Schedule An Act

To extend the legislative powers of the States in and in relation to coastal waters

WHEREAS, in pursuance of paragraph (xxxviii) of section 51 of the Constitution of the Commonwealth, the Parliaments of all the States have requested the Parliament of the Commonwealth to enact an Act in, or substantially in, the terms of this Act:

Be it therefore enacted by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

- 1 This Act may be cited as the *Coastal Waters (State Powers) Act 1980*.
- 2 This Act shall come into operation on a date to be fixed by proclamation.
- 3 (1) In this Act—

adjacent area in respect of the State means, in relation to each State, the area the boundary of which is described under the heading referring to that State in Schedule 2 to the *Petroleum (Submerged Lands) Act 1967* as in force immediately before the commencement of this Act.

coastal waters of the State means, in relation to each State—

 - (a) the part or parts of the territorial sea of Australia that is or are within the adjacent area in respect of the State, other than any part referred to in subsection 4(2); and
 - (b) any sea that is on the landward side of any part of the territorial sea of Australia and is within the adjacent area in respect of the State but is not within the limits of the State or of a Territory.

- (2) The *Acts Interpretation Act 1901*, in the form in which it was in force, as amended, immediately before the day on which this Act received the Royal Assent, applies to the interpretation of this Act.
- 4 (1) For the purposes of this Act, the limits of the territorial sea of Australia shall be the limits existing from time to time, ascertained consistently with the *Seas and Submerged Lands Act 1973* and instruments under that Act and with any agreement (whether made before or after the commencement of this Act) for the time being in force between Australia and another country with respect to the outer limit of a particular part of that territorial sea.
- (2) If at any time the breadth of the territorial sea of Australia is determined or declared to be greater than 3 nautical miles, references in this Act to the coastal waters of the State do not include, in relation to any State, any part of the territorial sea of Australia that would not be within the limits of that territorial sea if the breadth of that territorial sea had continued to be 3 nautical miles.
- 5 The legislative powers exercisable from time to time under the constitution of each State extend to the making of—
- (a) all such laws of the State as could be made by virtue of those powers if the coastal waters of the State, as extending from time to time, were within the limits of the State, including laws applying in or in relation to the seabed and subsoil beneath, and the airspace above, the coastal waters of the State; and
- (b) laws of the State having effect in or in relation to waters within the adjacent area in respect of the State but beyond the outer limits of the coastal waters of the State, including laws applying in or in relation to the seabed and subsoil beneath, and the airspace above, the first mentioned waters, being laws with respect to—
- (i) subterranean mining from land within the limits of the State; or

Schedule

- (ii) ports, harbours and other shipping facilities, including installations, and dredging and other works, relating thereto, and other coastal works; and
 - (c) laws of the State with respect to fisheries in Australian waters beyond the outer limits of the coastal waters of the State, being laws applying to or in relation to those fisheries only to the extent to which those fisheries are, under an arrangement to which the Commonwealth and the State are parties, to be managed in accordance with the laws of the State.

- 6 Nothing in this Act affects the status of the territorial sea of Australia under international law or the rights and duties of the Commonwealth in relation to ensuring the observance of international law, including the provisions of international agreements binding on the Commonwealth and, in particular, the provisions of the Convention on the Territorial Sea and the Contiguous Zone relating to the right of innocent passage of ships.

- 7 Nothing in this Act shall be taken to—
 - (a) extend the limits of any State; or
 - (b) derogate from any power existing, apart from this Act, to make laws of a State having extraterritorial effect; or
 - (c) give any force or effect to a provision of a law of a State to the extent of any inconsistency with a law of the Commonwealth or with the Constitution of the Commonwealth of Australia or the Commonwealth of Australia Constitution Act.

Endnotes

1 Index to endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Constitutional Powers (Coastal Waters) Act 1980 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	24 March 1980	9 September 1994

5 List of legislation

Constitutional Powers (Coastal Waters) Act 1980 No. 1

date of assent 24 March 1980

commenced on date of assent

6 Historical context

This Act is part of a series of Acts giving effect to an offshore constitutional settlement between the States and the Commonwealth. All States passed Acts asking the Commonwealth Parliament to legislate in, or substantially in, the terms set out in the Schedule to this Act. The Commonwealth Parliament responded by passing the Coastal Waters (State Powers) Act 1980.