

## **House of Assembly—No 11**

As received from the Legislative Council and read a first time, 22 May 2014

South Australia

# **Succession to the Crown (Request) Bill 2014**

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 *Treason Act 1351* passed by the Parliament of England; and for related purposes.

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## Preamble

- 1 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 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.
  - 3 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 Schedule 1 to this Act.
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### The Parliament of South Australia enacts:

#### Part 1—Preliminary

##### 1—Name of Act

This Act may be cited as the *Succession to the Crown (Request) Act 2014*.

## 2—Commencement

- (1) Subject to this section, this Act comes into operation on the day of assent.
- (2) Section 6 comes into operation on the day and time that section 6 of the Act of the Commonwealth requested by section 5 of this Act commences.
- 5 (3) Section 7 comes into operation on the day and time that section 10 of the Act of the Commonwealth requested by section 5 of this Act commences.
- (4) Schedule 2 comes into operation on the day and time that section 6 of the Act of the Commonwealth requested by section 5 of this Act commences.

## 3—Object of this Act

10 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.

## 4—Relationship with Sovereign not affected

15 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.

## Part 2—Request for Commonwealth legislation

### 5—Request for Commonwealth legislation

20 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 Schedule 1.

## Part 3—General

### 6—Consequential amendment

25 On the coming into operation of Schedule 2, the Act specified in the heading to clause 1 of that Schedule is amended as set out in that clause.

### 7—References to Bill of Rights and Act of Settlement

30 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 the Commonwealth Act the enactment of which is requested under section 5 of this Act.

## Schedule 1—Requested Commonwealth Act

35 An Act to change the law relating to royal succession and royal marriages, and for related purposes.

**Preamble**

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.

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.

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.

**The Parliament of Australia therefore enacts:**

**Part 1—Preliminary**

**1—Short title**

This Act may be cited as the *Succession to the Crown Act 2014*.

**2—Commencement**

- (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.

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.	
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

### 6—Succession to the Crown not to depend on gender

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).

## Part 3—Marriage and succession to the Crown

### 7—Removal of disqualification arising from marriage to a Roman Catholic

- (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.
- (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).

### 8—Disqualification arising from marriage

A person is disqualified from succeeding to the Crown if the person is disqualified by subsection 3(3) of the *Succession to the Crown Act 2013* of the United Kingdom, as in force at the commencement of this section, from succeeding to the Crown in right of the United Kingdom.

### 9—Amendments and repeal relating to marriage and succession to the Crown

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.

## Part 4—Other modifications of parts of the law of the Commonwealth, States and Territories

### 10—References to Bill of Rights and Act of Settlement

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 Crown are to be read as including references to the provisions of this Act.

## 11—Union legislation affected by this Act

So far as they are part of the law of the Commonwealth, a State or a Territory, the following are subject to this Act:

- (a) Article II of the *Union with Scotland Act 1706* of England;
- (b) Article II of the *Union with England Act 1707* of Scotland;
- (c) Article Second of the *Union with Ireland Act 1800* of Great Britain;
- (d) Article Second of the *Act of Union (Ireland) 1800* of Ireland.

## Part 5—Repeal or amendment of this Act

### 12—Repeal or amendment of this Act

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.

## Schedule 1—Further provisions relating to marriage and succession to the Crown

### Part 1—Amendments relating to marriage to a Roman Catholic

#### *Act of Settlement*

##### 1—Preamble

Omit "or marry a papist".

##### 2—Preamble

Omit "or marrying".

##### 3—Section 2

Omit "or shall marry a papist".

#### *Bill of Rights*

##### 4—Section 1

Omit "or by any King or Queene marrying a papist".

##### 5—Section 1

Omit "or shall marry a papist".

##### 6—Section 1

Omit "or marrying".

##### 7—Application of amendments

The amendments made by this Part apply in relation to marriages occurring before the commencement of this Part where the person concerned is alive at that commencement (as well as in relation to marriages occurring after that commencement).

### Part 2—Repeal of the *Royal Marriages Act 1772*

#### 8—The whole of the Act

Repeal the Act.

**9—Validation of some marriages voided by the *Royal Marriages Act 1772***

(1) A marriage that was void under the *Royal Marriages Act 1772* 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:

- 5           (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
- (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
- 10           (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
- (d) no person acted, before the commencement of this item, on the basis that the marriage was void.

(2) Subitem (1) applies for all purposes except those relating to succession to the Crown.

**Schedule 2—Consequential amendment**

15 **1—Amendment of *Treason Act 1351* passed by the Parliament of England**

The Act has effect as if—

- (a) the first reference to eldest son and heir were a reference to eldest child and heir;
- 20           (b) the second reference to eldest son and heir were a reference to eldest son if the heir.