

CONSTITUTIONAL POWERS (NEW SOUTH WALES)  
ACT, 1978, No. 130

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

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Act No. 130, 1978.

An Act to request the Parliament of the Commonwealth to enact  
an Act to remove certain restrictions on the exercise of  
legislative power by the Parliament of New South Wales.  
[Assented to, 21st December, 1978.]

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*Constitutional Powers (New South Wales).*

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**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title.      **1.** This Act may be cited as the "Constitutional Powers (New South Wales) Act, 1978".

Request for  
enactment  
of  
Common-  
wealth Act.      **2.** The Parliament requests the enactment by the Parliament of the Commonwealth of an Act in or substantially in the terms set out in Schedule 1.

Sec. 2.

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SCHEDULE 1.

AN ACT

To remove certain Restrictions on the exercise of Legislative Power by the Parliament of New South Wales.

Preamble      Whereas the Parliament of New South Wales has, by the Constitutional Powers (New South Wales) Act, 1978, of that Parliament, 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:

Short title      **1.** This Act may be cited as the *State Powers (New South Wales) Act* 1979.

Commence-  
ment      **2.** This Act shall come into operation on the day on which it receives the Royal Assent.

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*Constitutional Powers (New South Wales).*

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SCHEDULE 1—*continued.*

3. In this Act—

Interpre-  
tation

“the Colonial Laws Validity Act” means the Act of the Parliament of the United Kingdom known as The Colonial Laws Validity Act, 1865;

“the Parliament of the United Kingdom” includes any Parliament that at any time has or had general power to enact laws having force in England;

“the State” means New South Wales.

4. (1) Notwithstanding sections 2 and 3 of the Colonial Laws Validity Act and any principle or rule of the common law but subject to this section, no law and no provision of any law made after the commencement of this Act by the Parliament of the State shall be void or inoperative on the ground that, or shall be affected in its operation by reason that, it is repugnant to the provisions of any existing or future Act of the Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of the State shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the State.

State laws  
repugnant  
to Imperial  
Acts or law  
of England.

(2) Sub-section (1) of this section does not affect the continued operation of section 3 of the Colonial Laws Validity Act in so far as that section has the effect that a law of the State is not to be or to be deemed to have been void or inoperative on the ground of repugnancy to the law of England other than repugnancy of the kind referred to in sub-section (1) of this section.

(3) Sub-section (1) of this section does not operate so as to give any force or effect to—

(a) a provision of an Act of the Parliament of the State that would abrogate or affect the operation of section 5 of the Colonial Laws Validity Act in so far as that section requires an Act of the Parliament of the State respecting the constitution, powers or procedure of that Parliament to be passed in such manner and form as may from time to time be required by any Act of that Parliament for the time being in force in the State; or

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*Constitutional Powers (New South Wales).*

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SCHEDULE 1—*continued.*

- (b) a provision of an Act of the Parliament of the State that would repeal or amend, or be repugnant to, the Commonwealth of Australia Constitution Act, the Constitution of the Commonwealth or the Act of the Parliament of the United Kingdom known as the Statute of Westminster, 1931.

*In the name and on behalf of Her Majesty I assent to this Act.*

A. R. CUTLER,  
*Governor.*

*Government House,  
Sydney, 21st December, 1978.*

**CONSTITUTIONAL POWERS (NEW SOUTH WALES)  
BILL, 1978**

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**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to request the Parliament of the Commonwealth to enact an Act under which the Parliament of New South Wales will be authorised to legislate repugnantly to any Act of the Parliament of the United Kingdom or to any order, rule or regulation made under any such Act, but not so as—

- (a) to affect the operation of section 5 of The Colonial Laws Validity Act, 1865, of the Parliament of the United Kingdom in so far as that section requires certain Acts of the Parliament of New South Wales to be passed in such manner and form as may from time to time be required by any Act of the Parliament of New South Wales; or
  - (b) to be able to legislate to repeal or amend, or to legislate repugnantly to, the Commonwealth of Australia Constitution Act, the Constitution of the Commonwealth or the Statute of Westminster, 1931
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Act No. 1978  
**CONSTITUTIONAL POWERS (NEW SOUTH WALES)  
BILL, 1978**

No. , 1978.

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**A BILL FOR**

An Act to request the Parliament of the Commonwealth to enact  
an Act to remove certain restrictions on the exercise of  
legislative power by the Parliament of New South Wales.

[Mr F. J. WALKER—6 December, 1978.]

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*Constitutional Powers (New South Wales).*

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Constitutional Powers (New South Wales) Act, 1978". Short title.

**2.** The Parliament requests the enactment by the Parliament of the Commonwealth of an Act in or substantially in the terms set out in Schedule 1. Request for enactment of Commonwealth Act.

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SCHEDULE 1.

Sec. 2.

AN ACT

To remove certain Restrictions on the exercise of Legislative Power by the Parliament of New South Wales.

15 Whereas the Parliament of New South Wales has, by the Constitutional Powers (New South Wales) Act, 1978, of that Parliament, requested the Parliament of the Commonwealth to enact an Act in or substantially in the terms of this Act: Preamble

**BE IT THEREFORE ENACTED** by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

20 **1.** This Act may be cited as the *State Powers (New South Wales) Act* 1979. Short title

**2.** This Act shall come into operation on the day on which it receives the Royal Assent. Commencement



*Constitutional Powers (New South Wales).*SCHEDULE 1—*continued.*

## 3. In this Act—

Interpre-  
tation

5 “the Colonial Laws Validity Act” means the Act of the Parliament of the United Kingdom known as The Colonial Laws Validity Act, 1865;

“the Parliament of the United Kingdom” includes any Parliament that at any time has or had general power to enact laws having force in England;

“the State” means New South Wales.

10 4. (1) Notwithstanding sections 2 and 3 of the Colonial Laws Validity Act and any principle or rule of the common law but subject to this section, no law and no provision of any law made after the commencement of this Act by the Parliament of the State shall be void or inoperative on the ground that, or shall be affected in its operation by reason that, it is  
15 repugnant to the provisions of any existing or future Act of the Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of the State shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the State.

State laws  
repugnant  
to Imperial  
Acts or law  
of England

20 (2) Sub-section (1) of this section does not affect the continued operation of section 3 of the Colonial Laws Validity Act in so far as that section has the effect that a law of the State is not to be or to be deemed to have been void or inoperative on the ground of repugnancy to the law of England other than repugnancy of the kind referred to in sub-section (1)  
25 of this section.

(3) Sub-section (1) of this section does not operate so as to give any force or effect to—

30 (a) a provision of an Act of the Parliament of the State that would abrogate or affect the operation of section 5 of the Colonial Laws Validity Act in so far as that section requires an Act of the Parliament of the State respecting the constitution, powers or procedure of that Parliament to be passed in such manner and form as may from time to time be required by any Act of that Parliament for the time being in force in the State; or

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*Constitutional Powers (New South Wales).*

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SCHEDULE 1—*continued.*

- 5 (b) a provision of an Act of the Parliament of the State that would repeal or amend, or be repugnant to, the Commonwealth of Australia Constitution Act, the Constitution of the Commonwealth or the Act of the Parliament of the United Kingdom known as the Statute of Westminster, 1931.

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BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

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