



# Constitution of the Order of Australia

made under the

*Letters Patent*

## Compilation No. 16

<b>Compilation date:</b>	16 April 2018
<b>Includes amendments up to:</b>	C2018G00297
<b>Registered:</b>	9 May 2018

Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Constitution of the Order of Australia* that shows the text of the law as amended and in force on 16 April 2018 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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### **The Order of Australia**

- 1 (1) The Order of Australia (hereinafter called ‘the Order’) shall consist of a General Division and a Military Division.
- (2) A person appointed to the Order shall be appointed in the General Division or in the Military Division.
- (3) Appointments to the Order shall be as Companion, Officer, or Member.
- (4) There shall be a Medal of the Order called the ‘Medal of the Order of Australia’.
- (5) Every Australian citizen appointed to the Order or awarded the Medal of the Order is a member of the Order, and every other person appointed to the Order or awarded the Medal of the Order is an honorary member of the Order.

### **Officers of and Council for the Order of Australia**

- 2 (1) The Governor-General of the Commonwealth of Australia shall be the Chancellor of the Order.
  - (1A) If the Governor-General is a Knight or a Dame in the General Division, the Governor-General shall be the Principal Knight or Dame in that Division.
  - (1B) If the Governor-General is not a Knight or a Dame in the General Division, the Governor-General shall be the Principal Companion in that Division.
- (2) Where a person ceases to hold office as Governor-General, he or she shall continue to be a member of the Order in the General Division in the class of membership that he or she held immediately before ceasing to hold that office.
- 2A (1) The Governor-General shall have precedence, after the Sovereign, of all other members of the Order.
  - (2) His Royal Highness The Prince Philip, Duke of Edinburgh, shall have precedence in the Order immediately after the Governor-General.
  - (3) His Royal Highness The Prince of Wales shall have precedence in the Order immediately after His Royal Highness The Prince Philip, Duke of Edinburgh.
- 3 The Chancellor is charged with the administration of the Order.
- 4 (1) There shall be a Council for the Order, hereinafter called “the Council” which shall consist of —
  - (a) \*\*\*\*\*
  - (b) the Vice-President of the Federal Executive Council;
  - (c) the person for the time being occupying, or performing the duties of, the office prescribed for the purposes of this paragraph by the Minister responsible for the administration of the Australian honours system or any Minister or member of the Executive Council acting for or on behalf of that Minister; and

- (d) the person for the time being occupying the office of Chief of the Defence Force or, if another office is prescribed for the purpose of this paragraph, the person occupying the office so prescribed; and
  - (e) 16 persons appointed by the Governor-General, of whom:
    - (i) 8 shall be nominated by the Prime Minister; and
    - (ii) one shall be nominated by the State of New South Wales; and
    - (iii) one shall be nominated by the State of Victoria; and
    - (iv) one shall be nominated by the State of Queensland; and
    - (v) one shall be nominated by the State of Western Australia; and
    - (vi) one shall be nominated by the State of South Australia; and
    - (vii) one shall be nominated by the State of Tasmania; and
    - (viii) one shall be nominated by the Northern Territory of Australia; and
    - (ix) one shall be nominated by the Australian Capital Territory.
- (2) A member of the Council referred to in paragraph (1) (e) shall hold office for a period of two years from the date of appointment and is eligible for re-appointment.
- (3) The Governor-General shall:
- (a) on the recommendation of the Prime Minister, appoint one of the members appointed under subparagraph (1) (e) (i) to be Chairman of the Council; and
  - (b) in the event of the Chairman being unavailable to act in the office, appoint another member appointed under subparagraph (1) (e) (i) to act as Chairman of the Council.
- (4) If a member of the Council is absent or unable to act in that capacity, the member may be represented on the Council:
- (a) if the member is the Vice-President of the Federal Executive Council — by another member of the Federal Executive Council under summons chosen, in accordance with arrangements made by the Governor-General, to act in the member's place as a member of the Council; or
  - (b) if the member is a member referred to in paragraph (1) (c) or (d) or subparagraph (1) (e) (ii), (iii), (iv), (v), (vi), (vii), (viii) or (ix) — by a person chosen, in accordance with arrangements made by the Governor-General, to act in the member's place as a member of the Council.
- 5 The Council shall —
- (a) consider the following nominations:
    - (i) nominations of Australian citizens for membership of the Order through appointment to the Order in the General Division or award of the Medal of the Order in the General Division;

- (ii) nominations of permanent residents for honorary membership of the Order through appointment to the Order in the General Division or award of the Medal of the Order in the General Division; and
  - (b) make recommendations to the Governor-General in relation to those nominations; and
  - (c) advise the Governor-General on such other matters concerning the Order as the Governor-General may refer to the Council for consideration.
- 5A (1) 10 members of the Council constitute a quorum for the transaction of the business of the Council.
- (2) In this section, ‘member of the Council’ includes a person chosen to act, under subsection 4 (4), in the place of a member mentioned in paragraph 4 (1) (b), (c), (d) or (e).
- 6 (1) There shall be a Secretary of the Order who shall be appointed by the Governor-General.
- (2) The Secretary shall maintain the records of the Order and of the Council, and shall perform such other functions in respect of the Order as the Governor-General directs.
- 7 The Governor-General may appoint such other officials for the Order as are, in the Governor-General’s sole discretion, considered to be necessary for the purpose.
- 8 A person is not a member of the Order by reason only of that person being a member of the Council or an official of the Order.

### **Appointments and Awards**

- 9 Appointments (including honorary appointments) to the Order and awards of the Medal of the Order shall be made, with the approval of The Sovereign, by Instrument signed by the Governor-General and sealed with the Seal of the Order.
- 10 Nothing in this Constitution limits the right of the Governor-General to exercise all powers and authorities of The Sovereign in respect of the Order.

## **General Division**

### **Eligibility for Appointment**

- 11 (1) Australian citizens including members of the Defence Force, are eligible to be appointed to the Order as members in the General Division.
- (2) Persons other than Australian citizens are eligible to be appointed to the Order as honorary members in the General Division.
- (3) The Medal of the Order in the General Division may be awarded to Australian citizens and other persons.

**Order of Australia — Companions in the General Division**

- 12 (1) Appointments as Companions or honorary Companions in the General Division shall be made for eminent achievement and merit of the highest degree in service to Australia or to humanity at large.
- (2) Notwithstanding subsection (1), a distinguished person who is not an Australian citizen may be appointed an honorary Companion in the General Division where it is desirable that the person be honoured by Australia.

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- 14 The Governor-General may, in any calendar year, appoint to be Companions in the General Division, other than honorary Companions, not more than the number of persons prescribed by Ordinance.

**Order of Australia — Officers in the General Division**

- 15 (1) Appointments as Officers or honorary Officers in the General Division shall be made for distinguished service of a high degree to Australia or to humanity at large.
- (2) Notwithstanding subsection (1), a distinguished person who is not an Australian citizen may be appointed an honorary officer in the General Division where it is desirable that the person be honoured by Australia.

- 16 The Governor-General may, in any calendar year, appoint to be officers in the General Division, other than honorary officers, not more than the number of persons prescribed by Ordinance.

**Order of Australia — Members in the General Division**

- 17 (1) Appointments as Members or honorary Members in the General Division may be made for service in a particular locality or field of activity or to a particular group.
- (2) Notwithstanding subsection (1), a person who is not an Australian citizen may be appointed an honorary Member in the General Division where it is desirable that the person be honoured by Australia.

- 18 The Governor-General may, in any calendar year, appoint to be Members in the General Division, other than honorary Members, not more than the number of persons prescribed by Ordinance.

**Medal of the Order of Australia — Awards in the General Division**

- 18A Awards of the Medal of the Order in the General Division may be made for service worthy of particular recognition.

**Nominations**

- 19 (1) Any person or organisation may submit a nomination mentioned in paragraph 5(a) to the Secretary of the Order for consideration by the Council.

- (2) Upon the recommendation of the Prime Minister, the Governor-General may make persons (other than Australian citizens or permanent residents) honorary members of the Order through appointment to the Order in the General Division or award of the Medal of the Order in the General Division.

## **Military Division**

### **Eligibility for Appointment**

- 20 (1) The following are eligible to be appointed to the order as members in the Military Division:
- (a) members of the Defence Force; and
  - (b) former members of the Defence Force whose Defence Force service has ceased for not more than one year; and
  - (c) other persons determined by the Minister for Defence for the purposes of this paragraph.
- (2) Members of the armed forces of a country other than Australia are eligible to be appointed to the Order as honorary members in the Military Division.
- (3) In any calendar year, the number of appointments, other than honorary appointments, to the Military Division, shall not exceed one-tenth of one per cent of the average number of persons who were members of the Defence Force on each day of the immediately preceding year.
- (4) The Medal of the Order in the Military Division may be awarded to:
- (a) members of the Defence Force; and
  - (b) former members of the Defence Force whose Defence Force service has ceased for not more than one year; and
  - (c) other persons determined by the Minister for Defence for the purposes of this paragraph.

### **Order of Australia — Companions in the Military Division**

- 21 (1) Appointments as Companions or honorary Companions in the Military Division shall be made for eminent service in duties of great responsibility.
- (2) The Governor-General may, in any calendar year, appoint as Companions in the Military Division, other than honorary Companions, a number of persons that is not greater than the number of persons that most closely approximates to five per cent of the total number of persons who may be appointed under subsection 20 (3) to all categories of membership, other than honorary membership, in the Military Division in that year.

### **Order of Australia — Officers in the Military Division**

- 22 (1) Appointments as Officers or honorary Officers in the Military Division shall be made for distinguished service in responsible positions.

- (2) The Governor-General may, in any calendar year, appoint as Officers in the Military Division, other than honorary Officers, a number of persons that is not greater than the number of persons that most closely approximates to twenty per cent of the total number of persons who may be appointed under subsection 20 (3) to all categories of membership, other than honorary membership, in the Military Division in that year.

### **Order of Australia — Members in the Military Division**

- 23 Appointments as Members or honorary Members in the Military Division may be made for exceptional service or performance of duty.

### **Medal of the Order of Australia — Awards in the Military Division**

- 23A Awards of the Medal of the Order in the Military Division may be made for meritorious service or performance of duty.

### **Nominations**

- 24 (1) Upon the recommendation of the Minister for Defence, appointments to the Order as members in the Military Division and awards of the Medal of the Order in the Military Division may be made by the Governor-General.
- (2) Upon the recommendation of the Minister for Defence, appointments to the Order as honorary members in the Military Division may be made by the Governor-General.

### **Termination of Membership in the Order and Cancellation of an Award of the Medal**

- 25 (1) A person does not cease to be a member or honorary member of the Order by reason only of that person ceasing to be eligible to be appointed to the Order or to be awarded the Medal of the Order.
- (2) A person ceases to be a member or honorary member of the Order upon —
- (a) the death of the person;
  - (b) the resignation of the person from the Order in writing, which resignation shall have effect from the day on which it is accepted by the Governor-General;
  - (c) the termination of the appointment of the person to the Order by Ordinance; or
  - (d) the cancellation of the award to the person of the Medal of the Order by Ordinance.
- (3) An appointment that has been terminated, or an award of the Medal of the Order that has been cancelled, may be restored by Ordinance.

### **Insignia**

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- 27 When worn in Australia by an Australian citizen, the insignia of the Order shall be worn in the prescribed manner.
- 28 (1) Except as otherwise provided by Ordinance, the insignia of the Order shall remain the property of the Order.
- (2) Where a person ceases, otherwise than by death, to be a member of the Order, that person shall forthwith return to the Secretary of the Order the insignia of the Order.

### **Seal**

- 29 The Governor-General shall have the custody of the Seal of the Order.

### **Ordinances of the Order**

- 30 The Governor-General may make Ordinances, not inconsistent with this Constitution, prescribing all matters (other than matters that may be prescribed under section 30A) that are required or permitted by this Constitution to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Constitution and, in particular, prescribing matters for:
- (a) the government of the Order;
  - (b) the insignia of the Order;
  - (c) the designations of members of the Order and persons who have been awarded the Medal of the Order; and
  - (d) investitures; and
  - (e) terminations and cancellations.
- 30A The Governor-General may, on the recommendation of the Prime Minister, make Ordinances prescribing the number of persons who may, in any calendar year, be appointed to be Companions, Officers or Members in the General Division (other than honorary Companions, Officers or Members).

### **Definitions**

- 31 In this Constitution:
- Australian citizen* has the meaning given by the *Australian Citizenship Act 2007*.
- permanent resident* has the meaning given by the *Australian Citizenship Act 2007*.

## Endnotes

### Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnotes

### Endnote 3—Legislation history

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### Endnote 3—Legislation history

Name	Registration or gazettal	Commencement	Application, saving and transitional provisions
Letters Patent and Constitution of the Order of Australia	17 Feb 1975 (gaz 1975, No S28)	14 Feb 1975	
Letters Patent and Amendments of the Constitution of the Order of Australia – 1976	2 June 1976 (gaz 1976, No S92)	24 May 1976	—
Letters Patent and Amendments of the Constitution of the Order of Australia – 1981	27 Mar 1981 (gaz 1981, No S53)	14 Mar 1981	—
Letters Patent and Amendments of the Constitution of the Order of Australia – 1986	11 Mar 1986 (gaz 1986, No S101)	3 Mar 1986	—
Letters Patent and Amendments of the Constitution of the Order of Australia – 1988	10 June 1988 (gaz 1988, No S160)	12 Apr 1988	—
Letters Patent and Amendments of the Constitution of the Order of Australia – 1989	16 Feb 1989 (gaz 1989, No S58)	c 1: 16 Feb 1989 c 2: 1 Feb 1989	—
Letters Patent and Amendments of the Constitution of the Order of Australia – 1991	20 Dec 1991 (gaz 1991, No S353)	5 Dec 1991	—
Letters Patent and Amendments of the Constitution of the Order of Australia – 1993	10 Mar 1993 (gaz 1993, No S80)	24 Feb 1993	—
Letters Patent and Amendments of the Constitution of the Order of Australia – 1996	16 Aug 1996 (gaz 1996, No S303)	1 Aug 1996	—
Letters Patent and Amendments of the Constitution of the Order of Australia – 1998	3 Apr 1998 (gaz 1998, No S147)	5 Mar 1998	—
Letters Patent and Amendments of the Constitution of the Order of Australia – 2003	6 June 2003 (gaz 2003, No S197)	30 Apr 2003	—
Letters Patent and Amendments of the Constitution of the Order of Australia – 2014	17 Apr 2014 (C2014G00635)	19 Mar 2014	—
Letters Patent and Amendments of the Constitution of the Order of Australia – 2015	30 Jan 2015 (C2015G00155)	7 Jan 2015	—
Letters Patent and Amendments of the Constitution of the Order of Australia – 2015	13 Apr 2015 (C2015G00523)	10 Mar 2015	—

## Endnote 3—Legislation history

<b>Name</b>	<b>Registration or gazettal</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Letters Patent and Amendments of the Constitution of the Order of Australia – 2015	22 Dec 2015 (C2015G02163)	29 Oct 2015	See Preamble
Letters Patent and Amendments of the Constitution of the Order of Australia – 2016	11 Oct 2016 (C2016G01347)	10 Sept 2016	—
Letters Patent and Amendments of the Constitution of the Order of Australia – 2018	24 Apr 2018 (C2018G00297)	16 Apr 2018	—

## Endnotes

### Endnote 4—Amendment history

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 1 .....	am 1976 No S92; 1986 No S101; 1993 No S80; C2014G00635; C2015G02163
s 2 .....	rs 1976 No S92; 1986 No S101 am 1989 No S58; C2014G00635; C2015G02163
s 2A .....	ad 1986 No S101 am C2015G00155; C2015G02163
s 3A .....	ad 1981 No S53 rep 1986 No S101
s 4 .....	am 1976 No S92; 1986 No S101; 1988 No S160; 1991 No S353; 1996 No S303; 1998 No S147
s 5 .....	am 1976 No S92; C2014G00635; C2015G00523; C2016G01347
s 5A .....	ad 1998 No S147
s 7 .....	rs 1976 No S92
s 8 .....	am 1976 No S92
s 8A .....	ad C2014G00635 rep C2015G00523
s 9 .....	am 1976 No S92; 1986 No S101; 1993 No S80; C2014G00635; C2015G00523
Heading before s 11 .....	am 1976 No S92
s 11 .....	rs 1976 No S92
Heading before s 11A .....	ad 1976 No S92 rep 1986 No S101
s 11A .....	ad 1976 No S92 rep 1986 No S101 ad C2014G00635 rep C2015G02163
s 11B .....	ad 1976 No S92 rep 1986 No S101 ad C2014G00635 rep C2015G02163
s 11C .....	ad 1976 No S92 rep 1986 No S101
Heading before s 12 .....	am 1976 No S92
s 12 .....	am 1976 No S92
s 13 .....	rep 1976 No S92
s 14 .....	am 1976 No S92; 1986 No S101; 2003 No S197; C2016G01347; C2018G00297
Heading before s 15 .....	am 1976 No S92
s 15 .....	am 1976 No S92
s 16 .....	am 1976 No S92; 1986 No S101; 2003 No S197; C2016G01347; C2018G00297
Heading before s 17 .....	am 1976 No S92

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## Endnote 4—Amendment history

<b>Provision affected</b>	<b>How affected</b>
s 17 .....	am 1976 No S92
s 18 .....	am 1976 No S92; 1986 No S101; 2003 No S197; C2016G01347; C2018G00297
Heading before s 18A .....	ad 1976 No S92
s 18A .....	ad 1976 No S92 am 1986 No S101; 1989 No S58
s 19 .....	am 1976 No S92; 1998 No S147; C2014G00635; C2015G00523 rs C2016G01347
s 20 .....	am 1976 No S92; 1998 No S147
Heading before s 23A .....	ad 1976 No S92
s 23A .....	ad 1976 No S92
s 24 .....	am 1976 No S92; 1993 No S80 rs 1998 No S147
Heading before s 25 .....	am 1976 No S92
s 25 .....	am 1976 No S92; 1993 No S80
Heading before s 26 .....	am 1986 No S101
s 26 .....	rs 1976 No S92 am 1986 No S101 rep 1986 No S101
s 28 .....	am 1976 No S92; 1993 No S80
s 30 .....	am 1986 No S101; 1988 No S160; 1998 No S147; C2018G00297
s 30A .....	ad C2018G00297
s 31 .....	ad C2016G01347