



Australian Capital Territory

Bill of Rights 1688 1 Will and Mary sess 2 c 2

Republication No 1

Republication date: 5 July 2002

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Bill of Rights 1688* 1 Will and Mary Sess 2 c 2 as in force on 5 July 2002. It includes any commencement, repeal or expiry affecting the republished law and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



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1 Will and Mary sess 2 c 2

Contents

	Page
Preamble	2
1 Suspending power	5
2 Late dispensing power	5
3 Ecclesiastical courts illegal	5
4 Levying money	5
5 Right to petition	5
6 Standing army	5
7 Subjects' arms	5
8 Freedom of election	6
9 Freedom of speech	6
10 Excessive bail	6
11 Juries	6
12 Grants of forfeiture	6

Contents

	Page
13	6
I	6
II	7
III	7
IV	8
V	8
VI	8
VII	9
VIII	10
IX	10
X	11
XI	12
XII	12

Endnotes

1	13
2	13
3	14
4	14



Australian Capital Territory

Bill of Rights 1688

1 Will and Mary sess 2 c 2

An Act declaring the rights and liberties of the subject and settling the succession of the Crown

Whereas the lords spiritual and temporal and commons assembled at Westminster lawfully fully and freely representing all the estates of the people of this realm did upon the thirteenth day of February in the year of our Lord one thousand six hundred and eighty-eight present unto their Majesties then called and known by the names and style of William and Mary Prince and Princess of Orange being present in their proper persons a certain declaration in writing made by the said lords and commons in the words following:

Whereas the late King James the Second by the assistance of divers evil counsellors, judges and ministers employed by him did endeavour to subvert and extirpate the Protestant religion and the laws and liberties of this kingdom.

- 1 By assuming and exercising a power of dispensing with and suspending of laws and execution of laws without consent of Parliament.
- 2 By committing and prosecuting divers worthy prelates for humbly petitioning to be excused from concurring to the said assumed power.
- 3 By issuing and causing to be executed a commission under the great seal for erecting a court called the court of commissioners for ecclesiastical causes.
- 4 By levying money for and to the use of the Crown by pretence of prerogative for other time and in other manner than the same was granted by Parliament.
- 5 By raising and keeping a standing army within this kingdom in time of peace without consent of Parliament and quartering soldiers contrary to law.
- 6 By causing several good subjects being protestants to be disarmed at the same time when papists were both armed and employed contrary to law.
- 7 By violating the freedom of election of members to serve in Parliament.

- 8 By prosecutions in the Court of King's Bench for matters and causes cognizable only in Parliament and by divers other arbitrary and illegal courses.
- 9 And whereas of late years partial, corrupt and unqualified persons have been returned and served on juries in trials and particularly divers jurors in trials for high treason which were not freeholders.
- 10 And excessive bail has been required of persons committed in criminal cases to elude the benefit of the laws made for the liberty of the subjects.
- 11 And excessive fines have been imposed; and illegal and cruel punishments inflicted.
- 12 And several grants and promises made of fines and forfeitures before any conviction or judgment against the persons upon whom the same were to be levied.

All which are utterly and directly contrary to the known laws and statutes and freedom of this realm:

And whereas the said late King James the Second having abdicated, the government and the throne being thereby vacant, his Highness the Prince of Orange (whom it has pleased Almighty God to make the glorious instrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the lords spiritual and temporal and divers principal persons of the commons) cause letters to be written to the lords spiritual and temporal being protestants and other letters to the several counties, cities, universities, boroughs and cinque ports for the choosing of such persons to represent them as were of right to be sent to Parliament to meet and sit at Westminster upon the two and twentieth day of January in this year one thousand six hundred and eighty-eight in order to such an establishment as that their religion, laws and liberties might not again be in danger of being subverted, upon which letters, elections having been accordingly made:

And thereupon the said lords spiritual and temporal and commons pursuant to their respective letters and elections being now assembled in a full and free representative of this nation taking into their most serious

Preamble

consideration the best means for attaining the ends aforesaid do in the first place (as their ancestors in like case have usually done) for the vindicating and asserting their ancient rights and liberties, declare:

1 Suspending power

That the pretended power of suspending of laws or the execution of laws by regal authority without consent of Parliament is illegal.

2 Late dispensing power

That the pretended power of dispensing with laws or the execution of laws by regal authority as it has been assumed and exercised of late is illegal.

3 Ecclesiastical courts illegal

That the commission for erecting the late court of commissioners for ecclesiastical causes and all other commissions and courts of like nature are illegal and pernicious.

4 Levying money

That levying money for or to the use of the Crown by pretence of prerogative without grant of Parliament for longer time or in other manner than the same is or shall be granted is illegal.

5 Right to petition

That it is the right of the subjects to petition the King and all commitments and prosecutions for such petitioning are illegal.

6 Standing army

That the raising or keeping a standing army within the kingdom in time of peace unless it be with consent of Parliament is against law.

7 Subjects' arms

That the subjects which are protestants may have arms for their defence suitable to their conditions and as allowed by law.

8 Freedom of election

That election of members of Parliament ought to be free.

9 Freedom of speech

That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.

10 Excessive bail

That excessive bail ought not to be required nor excessive fines imposed nor cruel and unusual punishments inflicted.

11 Juries

That jurors ought to be duly empannelled and returned.

12 Grants of forfeiture

That all grants and promises of fines and forfeitures of particular persons before conviction are illegal and void.

13 Frequent Parliaments

And that for redress of all grievances and for the amending, strengthening and preserving of the laws, Parliaments ought to be held frequently.

I Undoubted rights and liberties

And they do claim, demand and insist upon all and singular the premises as their undoubted rights and liberties and that no declarations, judgments, doings or proceedings to the prejudice of the people in any of the said premises ought in any wise to be drawn hereafter into consequence or example.

To which demand of their rights they are particularly encouraged by the declaration of his Highness the Prince of Orange as being the only means for obtaining a full redress and remedy therein.

Having therefore an entire confidence that his said Highness the Prince of Orange will perfect the deliverance so far advanced by him and will still preserve them from the violation of their rights which they have here asserted and from all other attempts upon their religion, rights and liberties.

II Tender of crown

The said lords spiritual and temporal and commons assembled at Westminster do resolve that William and Mary Prince and Princess of Orange be and be declared King and Queen of England, France and Ireland and the dominions thereunto belonging to hold the crown and royal dignity of the said kingdoms and dominions to them the said prince and princess during their lives and the life of the survivor of them.

And that the sole and full exercise of the regal power be only in and executed by the said Prince of Orange in the names of the said prince and princess during their joint lives and after their deceases the said crown and royal dignity of the said kingdoms and dominions to be to the heirs of the body of the said princess and for default of such issue to the Princess Anne of Denmark and the heirs of her body and for default of such issue to the heirs of the body of the said Prince of Orange.

And the lords spiritual and temporal and commons do pray the said prince and princess to accept the same accordingly.

III New oaths of allegiance

And that the oaths hereafter mentioned be taken by all persons to whom the oaths of allegiance and supremacy might be required by law instead of them and that the said oaths of allegiance and supremacy be abrogated.

I, A B, do sincerely promise and swear that I will be faithful and bear true allegiance to their Majesties King William and Queen Mary.

So help me God.

I, A B, do swear that I do from my heart abhor, detest and abjure as impious and heretical this damnable doctrine and position that princes excommunicated or deprived by the Pope or any authority of the see of Rome may be deposed or murdered by their subjects or any other whatsoever.

And I do declare that no foreign prince, person, prelate, state or potentate has or ought to have any jurisdiction, power, superiority, pre-eminence or authority, ecclesiastical or spiritual, within this realm.

So help me God.

IV Acceptance of crown

Upon which their said Majesties did accept the crown and royal dignities of the kingdoms of England, France and Ireland and the dominions thereunto belonging according to the resolution and desire of the said lords and commons contained in the said declaration.

V Two houses to sit

And thereupon their Majesties were pleased that the said lords spiritual and temporal and commons being the two Houses of Parliament should continue to sit and with their Majesties' royal concurrence make effectual provision for the settlement of the religion, laws and liberties of this kingdom so that the same for the future might not be in danger again of being subverted, to which the said lords spiritual and temporal and commons did agree and proceed to act accordingly.

VI Subjects' liberties to be allowed

Now in pursuance of the premises the said lords spiritual and temporal and commons in Parliament assembled for the ratifying, confirming and establishing the said declaration and the articles, clauses, matters and things therein contained by the force of a law

made in due form by authority of Parliament do pray that it may be declared and enacted that all and singular the rights and liberties asserted and claimed in the said declaration are the true, ancient and indubitable rights and liberties of the people of this kingdom and so shall be esteemed, allowed, adjudged, deemed and taken to be and that all and every the particulars aforesaid shall be firmly and strictly holden and observed as they are expressed in the said declaration.

And all officers and ministers whatsoever shall serve their Majesties and their successors according to the same in all times to come.

VII William and Mary declared King and Queen

And the said lords spiritual and temporal and commons seriously considering how it hath pleased Almighty God in his marvellous providence and merciful goodness to this nation to provide and preserve their said Majesties' royal persons most happily to reign over us upon the throne of their ancestors for which they render unto him from the bottom of their hearts their humblest thanks and praises do truly, firmly, assuredly and in the sincerity of their hearts think and do hereby recognise, acknowledge and declare that King James the Second having abdicated the government and their Majesties having accepted the crown and royal dignity as aforesaid their said Majesties did become, were, are and of right ought to be by the laws of this realm our sovereign liege lord and lady King and Queen of England, France and Ireland and the dominions thereunto belonging in and to whose princely persons the royal state crown and dignity of the said realms with all honours, styles, titles, regularities, prerogatives, powers, jurisdictions and authorities to the same belonging and appertaining are most fully and rightfully and entirely invested and incorporated, united and annexed.

VIII Limitation of crown

And for preventing all questions and divisions in this realm by reason of any pretended titles to the crown and for preserving a certainty in the succession thereof in and upon which the unity, peace, tranquillity and safety of this nation doth under God wholly consist and depend the said lords spiritual and temporal and commons do beseech their Majesties that it may be enacted, established and declared that the crown and regal government of the said kingdoms and dominions with all and singular the premises thereunto belonging and appertaining shall be and continue to their said Majesties and the survivor of them during their lives and the life of the survivor of them and that the entire, perfect and full exercise of the regal power and government be only in and executed by his Majesty in the names of both their Majesties during their joint lives and after their deceases the said crown and premises shall be and remain to the heirs of the body of her Majesty and for default of such issue to her royal Highness the Princess Anne of Denmark and the heirs of her body and for default of such issue to the heirs of the body of his said Majesty.

And thereunto the said lords spiritual and temporal and commons do in the name of all the people aforesaid most humbly and faithfully submit themselves, their heirs and posterities for ever and do faithfully promise that they will stand to maintain and defend their said Majesties and also the limitation and succession of the crown herein specified and contained to the utmost of their powers with their lives and estates against all persons whatsoever that shall attempt any thing to the contrary.

IX Papists debarred the crown

And whereas it has been found by experience that it is inconsistent with the safety and welfare of this protestant kingdom to be governed by a popish prince or by any King or Queen marrying a papist the said lords spiritual and temporal and commons do further pray that it may be enacted that all and every person and persons

that is, are or shall be reconciled to or shall hold communion with the see or church of Rome and shall profess the popish religion or shall marry a papist shall be excluded and be for ever incapable to inherit, possess or enjoy the crown and government of this realm and Ireland and the dominions thereunto belonging or any part of the same or to have, use or exercise any regal power, authority or jurisdiction within the same.

And in all and every such case or cases the people of these realms shall be and are hereby absolved of their allegiance and the said crown and government shall from time to time descend to and be enjoyed by such person or persons being protestants as should have inherited and enjoyed the same in case the said person or persons so reconciled, holding communion or professing or marrying as aforesaid were naturally dead.

X All Kings etc to take the declaration

And that every King and Queen of this realm who at any time hereafter shall come to and succeed in the imperial crown of this kingdom shall on the first day of the meeting of the first Parliament next after his or her coming to the crown sitting in his or her throne in the House of Peers in the presence of the lords and commons therein assembled or at his or her coronation before such person or persons who shall administer the coronation oath to him or her at the time of his or her taking the said oath (which shall first happen) make, subscribe and audibly repeat the declaration required by law.

But if it shall happen that such King or Queen upon his or her succession to the crown of this realm shall be under the age of twelve years then every such King or Queen shall make, subscribe and audibly repeat the said declaration at his or her coronation or the first day of the meeting of the first Parliament as aforesaid which shall first happen after such King or Queen shall have attained the said age of twelve years.

XI King assent

All which their Majesties are contented and pleased shall be declared, enacted and established by authority of this present Parliament and shall stand, remain and be the law of this realm for ever.

And the same are by their said Majesties by and with the advice and consent of the lords spiritual and temporal and commons in Parliament assembled and by the authority of the same declared, enacted and established accordingly.

XII Non obstantes made void

No dispensation by non obstante of or to any statute or any part thereof shall be allowed but the same shall be held void and of no effect except a dispensation be allowed of in such statute.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	s = section/subsection
LRA = Legislation (Republication) Act 1996	sch = schedule
mod = modified / modification	sdiv = subdivision
No = number	sub = substituted
num = numbered	SL = Subordinate Law
o = order	<u>underlining</u> = whole or part not commenced or to be expired
om = omitted/repealed	

Endnotes

3 Legislation history

3 Legislation history

This Act was originally a UK Act—The Bill of Rights 1688 1 Will and Mary sess 2 c 2 (UK). The Act was renamed as the *Bill of Rights 1688* when it was first republished under the *Legislation Act 2001*.

The Act was in force in NSW immediately before 1 January 1911 (the date of establishment of the ACT) and was continued in force by the *Seat of Government Acceptance Act 1909* (Cwlth), s 6.

Under the *Seat of Government (Administration) Act 1910* (Cwlth), s 4 the Act had effect in the ACT as if it were an ACT law (subject to ordinances made under the *Seat of Government (Administration) Act 1910*).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former UK laws in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

Under the *Interpretation Act 1967* (repealed), s 65 all former UK Acts in force in the ACT immediately before 10 November 1999 (including this Act) became, for all purposes, laws made by the ACT Legislative Assembly. This completed the process of making former UK Acts fully into ACT laws.

Bill of Rights 1688 1 Will and Mary sess 2 c 2

as amended by

Imperial Acts Application Act 1986 No 93 s 5 and sch 3 pt 11

notified 12 January 1987 (Cwlth Gaz 1986 No S1)

s 5 and sch 3 pt 11 commenced 12 January 1987 (s 2 (1))

4 Amendment history

The *Imperial Acts Application Act 1986* (the **1986 Act**), sch 3, pt 11 set out the text of this Act in an amended form and provided for the amended form to apply as the text of the Act in force in the ACT (see 1986 Act, s 5 (1), (4) and (5)).

The division of this Act into numbered paragraphs is in accordance with the text in Statutes at Large.

Section 11 was impliedly amended by 9 Geo 4 c 50, section 62 which repealed the parts of section 11 declaring that jurors who pass on men in trials for high treason ought to be freeholders. The text of section 11 was amended accordingly by the 1986 Act.

Section X required the declaration mentioned in it be taken in accordance with 30 Chas 2 St 2 c 1. That Act was repealed in the UK by 29 and 30 Vic c 19. The declaration to be taken by the Sovereign is now prescribed by the *Accession*

Declaration Act 1910 (UK). Section X was amended by the 1986 Act to reflect these changes in the law of the United Kingdom.

The parts of section XII whose operation was exhausted before 25 July 1828 were omitted by the 1986 Act.

Section XIII was omitted by the 1986 Act because its operation was exhausted before 25 July 1828.

This Act has not been amended since the enactment of the 1986 Act, except under the *Legislation Act 2001*.

Name of Act

am R1 LA

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