Australian Capital Territory

Petition of Right 1627
3 Chas 1 c 1

Republication No 1

Republication date: 11 July 2002

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Petition of Right 1627* 3 Chas 1 c 1, including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes), as in force on 11 July 2002. It also includes any amendment, repeal or expiry affecting the republished law.

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.

When preparing the authorised version of this republication amendments were 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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The Petition exhibited to His Majesty by the lords spiritual and temporal and commons in this present Parliament assembled concerning divers rights and liberties of the subject: with the Kings Majesty's royal answer thereunto in full Parliament.

To the King's most excellent Majesty.

Humbly shew unto our Sovereign lord the King the lords spiritual and temporal and commons in Parliament assembled that:

1 Reciting that by 34 Edw 1 St 4 c 1, by authority of Parliament holden 25 Edw 3, and by other laws of this realm, the King's subjects should not be taxed but by consent in Parliament

Whereas it is declared and enacted by a Statute made in the time of the reign of King Edward the First commonly called *Statutum*

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de Tallagio non concedendo, that no tallage or aid should be laid or levied by the King or his heirs in this realm without the good will and assent of the archbishops, bishops, earls, barons, knights, burgesses and other the freemen of the commons of this realm, and by authority of Parliament holden in the five and twentieth year of the reign of King Edward the Third, it is declared and enacted, that from thenceforth no person should be compelled to make any loans to the King against his will because such loans were against reason and the franchise of the land, and by other laws of this realm it is provided, that none should be charged by any charge or imposition called a benevolence nor by such like charge by which the statutes before mentioned and other the good laws and statutes of this realm your subjects have inherited this freedom that they should not be compelled to contribute to any tax, tillage, aid or other like charge not set by common consent in Parliament.

2 And that commissions have of late issued on which proceedings have been had contrary to law

Yet nevertheless of late divers commissions directed to sundry commissioners in several counties with instructions have issued, by means whereof your people have been in divers places assembled and required to lend certain sums of money unto your Majesty, and many of them upon their refusal so to do have had an oath administered unto them not warrantable by the laws or statutes of this realm and have been constrained to become bound to make appearance and give attendance before your privy council and in other places; and others of them have been therefore imprisoned, confined and sundry other ways molested and disquieted and divers other charges have been laid and levied upon your people in several counties by lord lieutenants, deputy lieutenants, commissioners for musters, justices of peace and others by command or direction from your Majesty or your privy council against the laws and free customs of the realm.

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3 Reciting 9 Hen MC c 29

And where also by the Statute called the Great Charter of the liberties of England, it is declared and enacted, that no freeman may be taken or imprisioned or be disseised of his freehold or liberties or his free customs or be outlawed or exiled or in any manner destroyed, but by the lawful judgment of his peers or by the law of the land.

4 Reciting 28 Edw 3 c 3

And in the eight and twentieth year of the reign of King Edward the Third it was declared and enacted by authority of Parliament, that no man of what estate or condition that he be, should be put out of his land or tenements nor taken nor imprisoned nor disherited nor put to death without being brought to answer by due process of law.

5 And that divers subjects have been imprisoned without cause shown or cause of detainer certified

Nevertheless against the tenor of the said statutes and other the good laws and statutes of your realm to that end provided, divers of your subjects have of late been imprisoned without any cause shown:

And when for their deliverance they were brought before your justices by your Majesty's writs of habeas corpus there to undergo and receive as the court should order, and their keepers commanded to certify the causes of their detainer, no cause was certified, but that they were detained by your Majesty's special command signified by the lords of your privy council and yet were returned back to several prisons without being charged with anything to which they might make answer according to the law.

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6 And that soldiers have been dispersed in divers counties, and inhabitants compelled to receive them

And whereas of late great companies of soldiers and mariners have been dispersed into divers counties of the realm, and the inhabitants against their wills have been compelled to receive them into their houses, and there to suffer them to sojourn against the laws and customs of this realm and to the great grievance and vexation of the people.

7 Reciting 25 Edw 3, and that commissions have issued under the great seal for proceedings according to martial law

And whereas also by authority of Parliament in the five and twentieth year of the reign of King Edward the Third it is declared and enacted that no man should be forejudged of life or limb against the form of the Great Charter and the law of the land, and by the said Great Charter, and other the laws and statutes of this your realm no man ought to be adjudged to death but by the laws established in this your realm, either by the customs of the same realm or by Acts of Parliament.

And whereas no offender of what kind soever is exempted from the proceedings to be used and punishments to be inflicted by the laws and statutes of this your realm, nevertheless of late time divers commissions under your Majesty's great seal have issued forth, by which certain persons have been assigned and appointed commissioners with power and authority to proceed within the land according to the justice of martial law against such soldiers or mariners or other dissolute persons joining with them as should commit any murder, robbery, felony, mutiny or other outrage or misdemeanour whatsoever, and by such summary course and order as is agreeable to martial law and as is used in armies in time of war to proceed to the trial and condemnation of such offenders, and them to cause to be executed and put to death according to the law martial.

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By pretext whereof some of your Majesty's subjects have been by some of the said commissioners put to death, when and where, if by the laws and statutes of the land they had deserved death, by the same laws and statutes also they might, and by no other ought to, have been judged and executed.

And also sundry grievous offenders by colour thereof claiming an exemption have escaped the punishment due to them by the laws and statutes of this your realm, by reason that divers of your officers and ministers of justice have unjustly refused or forborne to proceed against such offenders according to the same laws and statutes upon pretence that the said offenders were punishable only by martial law and by authority of such commissions as aforesaid. Which commissions and all other of like nature are wholly and directly contrary to the said laws and statutes of this your realm.

8 The Petition

They do therefore humbly pray your most excellent Majesty, that no man hereafter be compelled to make or yield any gift loan benevolence tax or such like charge without common consent by Act of Parliament, and that none be called to make answer or take such oath or to give attendance or be confined or otherwise molested or disquieted concerning the same or for refusal thereof.

And that no freeman in any such manner as is before mentioned be imprisioned or detained.

And that your Majesty would be pleased to remove the said soldiers and mariners and that your people may not be so burdened in time to come.

And that the aforesaid commissions for proceeding by martial law may be revoked and annulled.

And that hereafter no commissions of like nature may issue forth to any person or persons whatsoever to be executed as

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aforesaid, lest by colour of them any of your Majesty's subjects be destroyed or put to death contrary to the laws and franchise of the land.

All which they most humbly pray of your most excellent Majesty as their rights and liberties according to the laws and statutes of this realm, and that your Majesty would also vouchsafe to declare that the awards, doings and proceedings to the prejudice of your people in any of the premises shall not be drawn hereafter into consequence or example.

And that your Majesty would be also graciously pleased for the further comfort and safety of your people to declare your royal will and pleasure, that in the things aforesaid all your officers and ministers shall serve you according to the laws and statutes of this realm as they care for the honour of your Majesty and the prosperity of this Kingdom.

Qua Quidem petitione lecta & plenius intellecta per dictum dominum regem taliter est responsum in pleno parliamento videlicet

R° Soit droit fait come est desire[1]

[1] This petition, having been read and fully comprehended by the Lord King, the reply in full parliament is this, namely:
R(eply) It may be made law as it is desired.

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

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3 Legislation history

This Act was originally a UK Act—The Petition of Right (1627) 3 Chas 1 c 1 (UK). The Act was renamed as the *Petition of Right 1627* 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.

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as amended by

Imperial Acts Application Act 1986 A1986-93 s 5 and sch 3 pt 10
notified 12 January 1987 (Cwlth Gaz 1986 No S1)
s 5 and sch 3 pt 10 commenced 12 January 1987 (s 2 (1))

4 Amendment history

The *Imperial Acts Application Act 1986* (the ***1986 Act***), sch 3, pt 10 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)).

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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