

Cambridge University Press  
978-1-107-16653-0 — Emergency Powers in Australia  
H. P. Lee, Michael W. R. Adams, Colin Campbell, Patrick Emerton  
Frontmatter  
[More Information](#)

---

## EMERGENCY POWERS IN AUSTRALIA

SECOND EDITION

Democratic countries, such as Australia, face the dilemma of preserving public and national security without sacrificing fundamental freedoms. In the context where the rule of law is an underlying assumption of the constitutional framework, *Emergency Powers in Australia* provides a succinct analysis of the sorts of emergency which have been experienced in Australia and an evaluation of the legal weapons available to the authorities to cope with these emergencies. It analyses the scope of the defence power to determine the constitutionality of federal legislation to deal with wartime crises and the 'war' on terrorism, the extent of the executive power and its relationship to the prerogative, the deployment of the defence forces in aid of the civil power, the statutory frameworks regulating the responses to civil unrest, and natural disasters. The role of the courts when faced with challenges to the invocation of emergency powers is explained and analysed.

HOONG PHUN (H. P.) LEE held the Sir John Latham Chair of Law at Monash University from 1995-2014, where he had also served as the Deputy Dean and Acting Dean. He is the co-author of *The Australian Judiciary* (2<sup>nd</sup> ed, 2013) and author of *Constitutional Conflicts in Contemporary Malaysia* (2<sup>nd</sup> ed, 2017). Professor Lee's other publications include: *Judiciaries in Comparative Perspective* (2011) (editor) and *Asia-Pacific Judiciaries: Independence, Impartiality and Integrity* (2017) (co-editor). He was awarded the Australian Press Council Medal in 2011. In 2015, he was appointed Emeritus Professor of Law at Monash University.

MICHAEL W. R. ADAMS obtained his Bachelor of Laws degree from Monash University and his Bachelor of Media degree from Adelaide University. Michael most recently acted as a counsel and fellow in the International Justice Program at Human Rights Watch. Previously, Michael was the Associate to the Honourable Justice Pamela Tate of the Court of Appeal of Victoria and a researcher at the Victorian Law Reform Commission. As the Charles B. Bretzfelder Constitutional Law Scholar, he obtained his LLM from Columbia University, where he is currently doing doctoral research.

Cambridge University Press  
978-1-107-16653-0 — Emergency Powers in Australia  
H. P. Lee , Michael W. R. Adams , Colin Campbell , Patrick Emerton  
Frontmatter  
[More Information](#)

---

COLIN CAMPBELL is a Senior Lecturer in the Faculty of Law, Monash University. Colin holds Masters degrees in law from the Universities of Melbourne and Cambridge, and a PhD in law from the University of Cambridge. Formerly a solicitor and a judge's associate, Colin's main research interests lie in the areas of Administrative Law and Anti-discrimination Law. Colin has published articles in leading journals, including the *Cambridge Law Journal*, the *Law Quarterly Review* and the *University of Toronto Law Journal*. He is the co-editor, along with Matthew Groves, of *Australian Charters of Rights a Decade On* (2017).

PATRICK EMERTON is an Associate Professor in the Faculty of Law, Monash University. He researches in constitutional law and theory, just war theory, human rights theory, and anti-terrorism law. His recent work includes contributions to *The Oxford Handbook of the Australian Constitution* (2018) and *The Oxford Handbook of Ethics of War* (2018). In 2010 the *Federal Law Review* awarded him the inaugural Leslie Zines Prize for Excellence in Legal Research.

# EMERGENCY POWERS IN AUSTRALIA

SECOND EDITION

HOONG PHUN (H. P.) LEE

*Emeritus Professor of Law at Monash University*

MICHAEL W. R. ADAMS

*Candidate, Doctor of the Science of Law, Columbia Law School*

COLIN CAMPBELL

*Senior Lecturer, Monash University*

PATRICK EMERTON

*Associate Professor, Monash University*



CAMBRIDGE  
UNIVERSITY PRESS

Cambridge University Press  
978-1-107-16653-0 — Emergency Powers in Australia  
H. P. Lee, Michael W. R. Adams, Colin Campbell, Patrick Emerton  
Frontmatter  
[More Information](#)

CAMBRIDGE  
UNIVERSITY PRESS

University Printing House, Cambridge CB2 8BS, United Kingdom  
One Liberty Plaza, 20th Floor, New York, NY 10006, USA  
477 Williamstown Road, Port Melbourne, VIC 3207, Australia  
314–321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre, New Delhi – 110025, India  
79 Anson Road, #06–04/06, Singapore 079906

Cambridge University Press is part of the University of Cambridge.

It furthers the University's mission by disseminating knowledge in the pursuit of education, learning, and research at the highest international levels of excellence.

[www.cambridge.org](http://www.cambridge.org)

Information on this title: [www.cambridge.org/9781107166530](http://www.cambridge.org/9781107166530)

DOI: 10.1017/9781316711125

© Hoong Phun (H. P.) Lee, Michael Adams, Colin Campbell and Patrick Emerton 2019

This publication is in copyright. Subject to statutory exception and to the provisions of relevant collective licensing agreements, no reproduction of any part may take place without the written permission of Cambridge University Press.

First edition published as *Emergency Powers*, The Law Book Company Limited, 1984  
Second edition 2019

Printed and bound in Great Britain by Clays Ltd, Elcograf S.p.A.

*A catalogue record for this publication is available from the British Library.*

*Library of Congress Cataloging-in-Publication Data*

Names: Lee, H. P., 1947–, author.

Title: Emergency powers in Australia / Hoong Phun (H. P.) Lee, Emeritus Professor of Law at Monash University, Michael W. R. Adams, Candidate, Doctor of the Science of Law, Columbia Law School, Colin Campbell, Senior Lecturer, Monash University, Patrick Emerton, Associate Professor, Monash University.

Description: Second edition. | New York : Cambridge University Press, 2018. | Includes bibliographical references and index.

Identifiers: LCCN 2018021307 | ISBN 9781107166530 (hardback : alk. paper)

Subjects: LCSH: War and emergency powers—Australia.

Classification: LCC KU2232 .E44 2018 | DDC 342.94/062—dc23

LC record available at <https://lcn.loc.gov/2018021307>

ISBN 978-1-107-16653-0 Hardback

Cambridge University Press has no responsibility for the persistence or accuracy of URLs for external or third-party internet websites referred to in this publication and does not guarantee that any content on such websites is, or will remain, accurate or appropriate.

## CONTENTS

<i>Preface</i>	vii
<i>Notes on Authors</i>	x
<i>Table of Cases</i>	xii
<i>Table of Statutes</i>	xviii
<b>1 Introduction</b>	<b>1</b>
<b>2 The Defence Power</b>	<b>17</b>
<b>3 The Executive, the Prerogative and Emergencies</b>	<b>54</b>
<b>4 Maintenance of Public Order</b>	<b>82</b>
<b>5 Public Safety and the War on Terror</b>	<b>136</b>
<b>6 Civil Emergencies and Special Powers Legislation</b>	<b>170</b>
<b>7 Military Aid to the Civil Power</b>	<b>218</b>
<b>8 The Judiciary and Emergency Powers</b>	<b>232</b>
<b>9 Conclusion</b>	<b>261</b>
<i>Index</i>	264

Cambridge University Press  
978-1-107-16653-0 — Emergency Powers in Australia  
H. P. Lee , Michael W. R. Adams , Colin Campbell , Patrick Emerton  
Frontmatter  
[More Information](#)

---

## PREFACE

*A study of emergency powers might seem at first to be an arcane area of constitutional law . . . On the contrary, a study of emergency powers quickly leads us to the bedrock of constitutionalism and conceptual foundations of constitutional theory. It forces us to consider the relationship between law, politics, history and the modern state and to ask whether and in what circumstances liberal constitutionalism is the best way forward.*

– Victor V. Ramraj and Arun K. Thiruvengadam (eds) *Emergency Powers in Asia: Exploring the Limits of Legality* (CUP 2010) 17

Today, the problem of emergency powers is more relevant than ever before. In many countries, where constitutionalism is either very weak or virtually non-existent, states of emergency are a common occurrence; indeed, even in some countries with relatively strong rule of law traditions, the use of emergency powers has become increasingly normalised.

Prior to the 11 September 2001 attacks in the United States (commonly referred to as ‘9/11’), the subject of emergency powers was viewed as an esoteric area of study. Ever since 9/11, interest in the topic in liberal democracies has intensified. Today, there is a mushrooming of scholarship on the ‘war on terror’ and its impact on the state of constitutionalism. In recent times, a number of scholarly books and many articles have been published.<sup>1</sup>

Emergencies can arise in many contexts, ranging from political crises, industrial disputes impacting severely on essential services and commodities, natural disasters, nuclear incidents, terrorism and full-scale war. Apart from the two world wars, Australia has, fortunately, not been

<sup>1</sup> David Dyzenhaus, *The Constitution of Law: Legality in a Time of Emergency* (CUP 2006); Oren Gross and Fionnuala Ni Aolain, *Law in Times of Crisis: Emergency Powers in Theory and Practice* (CUP 2006); Austin Sarat (ed), *Sovereignty, Emergency, Legality* (CUP 2010); Victor V Ramraj (ed), *Emergencies and the Limits of Legality* (CUP 2008); Victor V Ramraj and Arun K Thiruvengadam (eds), *Emergency Powers in Asia: Exploring the Limits of Legality* (CUP 2010).

confronted by the sorts of crises that have, in other countries, posed a threat to constitutional rule. However, in contemporary times, Australia cannot be fully insulated against threats to public safety, particularly in an era darkened by the brutal and cruel attacks of militant terrorists and suicide bombers.

The first edition of this work was published by H. P. Lee in 1984, at a time when the global ‘war on terrorism’ was not in existence. No doubt there had been sporadic terrorist movements and cults, but they were not of the same magnitude as the contemporary threats posed by militant ‘Islamic State’ terrorists. Without an end in sight for the ‘war on terror’, a dilemma is posed for democratic countries. Abnormal powers that are invoked may, over a prolonged period, seep into public consciousness as normal powers. Hence, it is said that ‘Perhaps there is no more foundational question than what a constitutional democracy can do to defend itself when confronted with an emergency that has the potential to undermine the democracy itself.’<sup>2</sup> The true test of the viability of a constitutional and legal system of a democratic country is its ability to respond to emergencies without permanently sacrificing fundamental freedoms.

The Australian Constitution does not contain an entrenched framework of emergency powers, and yet, despite the intrusion of two World Wars, the Australian Constitution remains the instrument underpinning the governance of the Australian nation. This book seeks to canvass the panoply of constitutional and legal powers available to the authorities in Australia to deal with emergency situations, and the reconciliation of these powers with the rule of law which, according to Sir Owen Dixon, forms an underlying assumption of the Constitution.

This second edition is the work of a team of four authors who are individually responsible substantially for the writing of their allocated chapters. H. P. Lee is mainly responsible for Chapters 2 and 7; Michael Adams for Chapters 4 and 6; Colin Campbell for Chapter 8; and Patrick Emerton for Chapter 3. We are also jointly responsible for Chapters 1, 5 and 9, and the overall shape and design of the book.

This book is not a mere updating of the first edition. A number of chapters have been completely reworked and a new chapter in relation to public safety and the war on terror (Chapter 5) has been added. This new chapter incorporates selected materials from Chapter 3 (‘The judiciary as

<sup>2</sup> The Editors, ‘Introduction’ (2004) 2 *I.CON* 207 (Symposium: Emergency Powers and Constitutionalism).



a branch of government’) in H. P. Lee and Enid Campbell, *The Australian Judiciary* (2nd ed, Cambridge University Press, 2013) and chapter 20 (Patrick Emerton and H. P. Lee, ‘Judges and non-judicial functions in Australia’) in H. P. Lee (ed), *Judiciaries in Comparative Perspective* (Cambridge University Press, 2011).

This book would not have seen the light of day without the encouragement and unstinting support of Finola O’Sullivan of Cambridge University Press. We are truly indebted to her and the staff of Cambridge University Press for their wonderful help in editing and publishing the second edition of this book. We are grateful to Matthew O’Neill for his research assistance in relation to Chapters 3 and 8 and Michael Smyth for his research assistance with regard to Chapter 8. We express our gratitude and appreciation to our respective partners (Rose, Jaclyn, Tamara and Natasha) and families for their understanding of the time devoted by us in bringing this book to fruition.

## NOTES ON AUTHORS

H. P. LEE held the Sir John Latham Chair of Law at Monash University from 1995 to 2014, where he had also served as the Deputy Dean and Acting Dean. He is the co-author of *The Australian Judiciary* (2nd ed, Cambridge University Press, 2013) and author of *Constitutional Conflicts in Contemporary Malaysia* (2nd ed, 2017). Professor Lee is the editor of *Judiciaries in Comparative Perspective* (Cambridge University Press, 2011), and the co-editor of *Asia-Pacific Judiciaries: Independence, Impartiality and Integrity* (Cambridge University Press, 2017), *Australian Administrative Law: Fundamentals, Principles and Doctrines* (Cambridge University Press, 2007), and *Australian Constitutional Landmarks* (Cambridge University Press, 2003). He was awarded the Australian Press Council Medal in 2011. In 2015, he was appointed Emeritus Professor of Law at Monash University.

MICHAEL W. R. ADAMS obtained his Bachelor of Laws degree from Monash University, his Bachelor of Media degree from Adelaide University and his LLM from Columbia University, where he is currently doing doctoral research. He has acted as a counsel and public interest and government fellow in Human Rights Watch's International Justice Program, was an associate to the Honourable Justice Pamela Tate of the Victorian Court of Appeal, and was the research and executive assistant to the chair of the Victorian Law Reform Commission, the Honourable Philip Cummins AM. He was a sessional lecturer at Monash University in 2015. Michael has published in leading journals, including the *Journal of International and Comparative Law*, *Asia Pacific Law Review* and *Monash University Law Review*.

COLIN CAMPBELL is a senior lecturer in the Faculty of Law, Monash University. Colin holds Masters degrees in law from the Universities of Melbourne and Cambridge, and a PhD in law from the University of Cambridge. Formerly a solicitor and a judge's associate, Colin's main

Cambridge University Press  
978-1-107-16653-0 — Emergency Powers in Australia  
H. P. Lee, Michael W. R. Adams, Colin Campbell, Patrick Emerton  
Frontmatter  
[More Information](#)

---

## NOTES ON AUTHORS

xi

research interests lie in the areas of Administrative Law and Anti-discrimination Law. Colin has published articles in leading journals, including the *Cambridge Law Journal*, the *Law Quarterly Review* and the *University of Toronto Law Journal*. He is the co-editor, along with Matthew Groves, of *Australian Charters of Rights a Decade On* (2017).

PATRICK EMERTON is Associate Professor in the Faculty of Law, Monash University. He researches in constitutional law and theory, just war theory, human rights theory and anti-terrorism law. His recent work includes contributions to *The Oxford Handbook of the Australian Constitution* and *The Oxford Handbook of Ethics of War*. In 2010 the *Federal Law Review* awarded him the inaugural Leslie Zines Prize for Excellence in Legal Research.

## CASES

- A v. Hayden* (1984) 156 CLR 532 76, 77, 232  
*A v. Secretary of State for the Home Department* [2005] 2 AC 68 142, 249, 263  
*Adelaide Company of Jehovah's Witnesses Inc v. Commonwealth* (1943) 67 CLR 116 50–51  
*Al-Kateb v. Godwin* (2004) 219 CLR 562 64, 155, 203  
*Andrews v. Howell* (1941) 65 CLR 255 30, 38, 50  
*Associated Provincial Picture Houses Ltd v. Wednesbury Corporation* [1948] 1 KB 223 239  
*Attorney-General for the Commonwealth v. Colonial Sugar Refining Co. Ltd.* [1914] AC 237 84  
*Attorney-General of the Commonwealth of Australia v. The Queen* (1957) 95 CLR 529 148  
*Attorney-General (NSW) v. Quin* (1990) 170 CLR 1 248  
*Attorney-General (NSW) v. Trethowan* (1931) 44 CLR 395 180  
*Attorney-General (NT) v. Emmerson* (2014) 253 CLR 393 88, 159  
*Attorney-General (SA) v. Corporation of the City of Adelaide* (2013) 249 CLR 1 102  
*Attorney-General (Vic) v. Commonwealth* (1935) 52 CLR 533 40  
*Attorney-General (Vic); Ex rel Dale v. Commonwealth* (1945) 71 CLR 237 76  
*Austin v. Commonwealth* (2003) 215 CLR 185 204  
*Australian Communist Party v. Commonwealth* (1951) 83 CLR 1 18, 54, 66, 67, 128  
*Australian Woollen Mills v. Commonwealth* (1944) 69 CLR 476 38  
*Aye v. Minister for Immigration and Citizenship* (2010) 187 FCR 449 234, 236
- Bank of NSW v. Commonwealth* (1948) 76 CLR 1 61  
*Barton v. Commonwealth* (1974) 131 CLR 477 56, 57  
*Beatty v. Gillbanks* (1882) 9 QBD 308 89  
*Black v. Corkery* (1988) 33 A Crim R 134 90  
*Bropho v. Western Australia* (1990) 171 CLR 1 90  
*Brown v. Tasmania* [2017] HCA 43 86, 111, 112, 114, 116  
*Burkard v. Oakley* (1918) 25 CLR 422 37  
*Burmah Oil Co Ltd v. Lord Advocate* [1965] AC 75 79  
*Burns v. Ransley* (1949) 79 CLR 101 129, 130–131

## TABLE OF CASES

xiii

- Cadia Holdings Pty Ltd v. New South Wales (2010) 242 CLR 195 57, 59, 60  
 Cantwell v. Connecticut 310 US 296 (1940)  
 Chevron USA Inc v. Natural Resources Defence Council Inc 467 US 837 (1984) 248  
 Chu Kheng Lim v. Minister for Immigration, Local Government and Ethnic Affairs  
 (1992) 176 CLR 1 76, 88, 154  
 Clarke v. Commissioner of Taxation (2009) 240 CLR 272 204  
 Clough v. Leahy (1904) 2 CLR 139 76  
 Clunies-Ross v. The Commonwealth (1984) 155 CLR 193 80  
 Coal Miners' Industrial Union of Workers (WA) v. Amalgamated Collieries of Western  
 Australia Ltd (1960) 104 CLR 437 254  
 Cobb and Co Ltd v. Kropp [1967] 1 AC 141 182  
 Coco v. The Queen (1994) 179 CLR 427 90  
 Coleman v. Power (2004) 220 CLR 1 82, 87, 92, 131  
 Commissioner of Police v. Rintoul [2003] NSWSC 662 96  
 Commissioner of Taxation v. Futuris Corporation Ltd (2008) 237 CLR 146 258  
 Commonwealth v. Australian Commonwealth Shipping Board (1926) 39 CLR 1 40  
 The Commonwealth v. Cigamic Pty Ltd (in liq) (1962) 108 CLR 372 61  
 Commonwealth v. Tasmania (1983) 158 CLR 1 58, 80  
 Condon v. Pompano (2013) 252 CLR 38 88, 118, 161  
 Cooper v. The Queen (1961) 105 CLR 177 131  
 Corporation of the City of Enfield v. Development Assessment Commission (2000) 199  
 CLR 135 248  
 Council of Civil Service Unions v. Minister for the Civil Service [1985] AC 374 233,  
 238, 247  
 CPCF v. Minister for Immigration and Border Protection (2015) 255 CLR 514 78, 78, 253  
 Cunliffe v. Commonwealth (1994) 182 CLR 272 131  
  
 Davis v. Commonwealth (1988) 166 CLR 79 45, 57  
 De Mestre v. Chisholm (1944) 69 CLR 51 38  
 Deputy Commissioner of Taxation (Cth) v. Richard Walter Pty Ltd (1995) 183 CLR  
 168 254  
  
 Fardon v. Attorney-General (2004) 223 CLR 575 162  
 Farey v. Burvett (1916) 21 CLR 433 17, 19, 20, 21–22, 49, 50  
 Federal Commissioner of Taxation v. Official Liquidator of EO Farley Ltd (1940) 63  
 CLR 278 60  
 Ferguson v. Commonwealth (1943) 66 CLR 432 38  
 Ferrando v. Pearce (1918) 25 CLR 241 37  
 Fraser v. County Court of Victoria [2017] VSC 83 93  
  
 Gonzwa v. Commonwealth (1944) 68 CLR 469 38  
 Gratwick v. Johnson (1945) 70 CLR 1 51  
 Grollo v. Palmer (1995) 184 CLR 348 149, 150, 169

- Groves *v.* Commonwealth (1982) 150 CLR 113 79  
 Gypsy Jokers Motorcycle Club Inc. *v.* Commissioner of Police (2008) 234 CLR 532 88, 161
- Habib *v.* Commonwealth of Australia (2010) 183 FCR 62 242  
 Holland *v.* Jones (1917) 23 CLR 149 30  
 Hubbard *v.* Pitt [1976] QB 142 89  
 Huddart Parker and Co Pty Ltd *v.* Moorehead (1908) 8 CLR 330 148
- Illawarra District County Council *v.* Wickham (1959) 101 CLR 467 40  
 In re Debs 158 US 564 (1895) 45, 84  
 International Finance Trust Company Limited *v.* New South Wales Crime Commission (2009) 240 CLR 319  
 IRC *v.* Rossminster Ltd [1980] AC 592 145
- Johanson *v.* Dixon (1979) 143 CLR 376 121  
 Johnston Fear & Kingham & the Offset Printing Co. Pty Ltd *v.* Commonwealth (1943) 67 CLR 314 51, 79, 80  
 JT International SA *v.* Commonwealth (2012) 250 CLR 1 80
- Kable *v.* Director of Public Prosecutions (NSW) (1996) 189 CLR 51 88, 140, 158–159  
 Kamm *v.* State of New South Wales (No 4) [2017] NSWCA 189 167  
 Kerrison *v.* Melbourne City Council (2014) 228 FCR 87 103  
 K-Generation Pty Ltd *v.* Liquor Licensing Court (2009) 237 CLR 501 161  
 Kirk *v.* Industrial Court of New South Wales (2010) 239 CLR 531 88, 161, 162, 257  
 Kruger *v.* Commonwealth (1997) 190 CLR 1 203
- Lange *v.* Australian Broadcasting Corporation (1997) 189 CLR 520 68, 86  
 Levy *v.* Victoria (1997) 189 CLR 579 87, 112  
 Little *v.* Commonwealth (1947) 75 CLR 94 143–144, 145  
 Liversidge *v.* Anderson [1942] AC 206 144–145, 169  
 Lloyd *v.* Wallach (1915) 20 CLR 299 37, 142–143
- Madzimbamuto *v.* Lardner-Burke [1969] 1 AC 645 78, 79  
 Marbury *v.* Madison (1803) 1 Cranch 137 (5 US 87) 248  
 Marchiori *v.* Environment Agency [2002] Eur LR 225 236, 239  
 Marcus Clark & Co Ltd *v.* Commonwealth (1952) 87 CLR 177 33–36  
 Marks *v.* The Commonwealth (1964) 111 CLR 549 79  
 McCloy *v.* New South Wales (2015) 257 CLR 178 69, 86  
 McCulloch *v.* Maryland 4 Wheat. 316 (1819) 22  
 Melbourne Corporation *v.* Barry (1922) 31 CLR 174 85  
 Melbourne Corporation *v.* Commonwealth (1947) 74 CLR 31 171  
 Miller *v.* TCN Channel Nine Pty Ltd (1986) 161 CLR 556 87, 126

## TABLE OF CASES

xv

- Minister for Immigration and Citizenship *v.* Li (2013) 249 CLR 332 239, 240  
 Minister for Immigration and Citizenship *v.* SZMDS (2010) 240 CLR 611 238  
 Minister for Immigration and Multicultural Affairs *v.* Al Khafaji (2004) 219 CLR  
 664 155  
 Minister for Immigration and Multicultural Affairs *v.* Rajamanikkam (2002) 210 CLR  
 222 240  
 Minister of Arts, Heritage and the Environment *v.* Peko Wallsend (1987) 15 FCR  
 274 233  
 Minister of State for the Army *v.* Dalziel (1944) 68 CLR 261 79  
 Momcilovic *v.* The Queen (2011) 245 CLR 1 86, 88  
 Monis *v.* The Queen (2013) 249 CLR 92 69, 87  
 Muldoon *v.* Melbourne City Council (2013) 217 FCR 450 103  
 Mulholland *v.* Australian Electoral Commission (2004) 220 CLR 181 85  
 Murphy *v.* Electoral Commissioner (2016) 90 ALJR 1027 61
- New South Wales *v.* Commonwealth (1915) 20 CLR 54 148  
 New South Wales *v.* Commonwealth [2006] HCA 42 45  
 North Australian Aboriginal Justice Agency Ltd *v.* Northern Territory (2015) 256 CLR  
 569 88, 165  
 North Australian Aboriginal Legal Aid Service Inc *v.* Bradley (2004) 218 CLR 146 165
- O’Flaherty *v.* City of Sydney Council (2013) 210 FCR 484 103  
 O’Flaherty *v.* City of Sydney Council (2014) 221 FCR 382 103
- Pankhurst *v.* Kiernan (1917) 24 CLR 120 37  
 Pape *v.* Federal Commissioner of Taxation (2009) 238 CLR 1 72, 73, 76, 127, 138, 171,  
 175, 245  
 Pirrie *v.* McFarlane (1925) 36 CLR 170  
 Plaintiff M68/2015 *v.* Minister for Immigration and Border Protection (2016) 257 CLR  
 42 56, 58, 71, 76–77  
 Plaintiff S157/2002 *v.* Commonwealth (2003) 211 CLR 476 256, 257  
 Polyukhovich *v.* The Commonwealth (1991) 172 CLR 501 17  
 Potter *v.* Minahan (1908) 7 CLR 277 90
- R *v.* Bow Street Metropolitan Stipendiary Magistrate; Ex parte Pinochet Ugarte (No 1)  
 [2000] 1 AC 61 242  
 R *v.* Commonwealth Court of Conciliation and Arbitration; Ex parte State of Victoria  
 (1942) 66 CLR 488 49, 50  
 R *v.* Commonwealth Court of Conciliation and Arbitration; Ex parte Victoria (sub nom  
 Victoria *v.* Foster) (1944) 68 CLR 485 50  
 R *v.* Commonwealth Rent Controller; Ex parte National Mutual Life Assurance  
 Association of Australasia Ltd (1947) 75 CLR 361 255  
 R *v.* Davey [1899] 2 QB 301 252

- R v. Graham and Burns* (1888) 16 Cox CC 420 90  
*R v. Foster* (1949) 79 CLR 43 38  
*R v. Hegarty; Ex parte City of Salisbury* (1981) 147 CLR 617 149  
*R v. Hickman; ex parte Fox* (1945) 70 CLR 598 254  
*R v. Hughes* (2000) 202 CLR 535 76  
*R v. McCormack* [1981] VR 104 90  
*R v. Murray; Ex parte Proctor* (1949) 77 CLR 387 259  
*R v. Neale* (1839) 173 ER 899 90  
*R v. Kirby; Ex parte Boilermakers' Society of Australia* (1956) 94 CLR 254 148, 175  
*R (on the application of Miller and another) v. Secretary of State for Exiting the European Union* [2017] UKSC 5 56  
*R v. Sharkey* (1949) 79 CLR 121 84, 127, 129, 130–131, 171, 227  
*R v. Toohey; Ex parte Northern Land Council* (1981) 151 CLR 170 61  
*R v. Trade Practices Tribunal, Ex parte Tasmanian Breweries Pty Ltd* (1970) 123 CLR 361 149  
*R v. University of Sydney* (1943) 67 CLR 95 50  
*R v. Vincent* (1839) 173 ER 754 90  
*Re Ditfort; Ex parte Deputy Commissioner of Taxation (NSW)* (1988) 19 FCR 347 247  
*Re Residential Tenancies Tribunal (NSW); Ex parte Defence Housing Authority* (1997) 190 CLR 410 76  
*Reid v. Sindberry* (1944) 68 CLR 504 38  
*Richardson v. Forestry Commission* (1988) 164 CLR 261 19  
*RJR-MacDonald Inc. v. Canada* [1994] 1 SCR 311 112  
*Ruddock v. Vadarlis* (2001) 110 FCR 491 58, 77–78, 247
- Shaw Savill and Albion Co Ltd v. The Commonwealth* (1940) 66 CLR 344 79  
*Sickerdick v. Ashton* (1918) 25 CLR 506 37  
*Somerset v. Stewart* (1772) 98 ER 499 90  
*South Australia v. Commonwealth (First Uniform Tax Case)* (1942) 65 CLR 373 38  
*South Australia v. Totani* (2010) 242 CLR 1 88, 118, 164  
*Spratt v. Hermes* (1965) 114 CLR 226 215  
*Stenhouse v. Coleman* (1944) 69 CLR 457 23–24, 38  
*Sue v. Hill* (1999) 199 CLR 462 55
- Tajjour v. New South Wales* (2014) 254 CLR 508 85, 121  
*Thomas v. Mowbray* [2007] HCA 33; (2007) 233 CLR 307 15, 18, 19, 40–44, 48, 53, 67, 138–139, 145–146, 151–152, 168–169, 262  
*Thompson v. Randwick Municipal Council* (1950) 81 CLR 87 241  
*Totani v. The State of South Australia* [2009] SASC 301 163
- Union Steamship Co of Australia Pty Ltd v. King* (1988) 166 CLR 1 175



## TABLE OF CASES

xvii

- Victoria v. Commonwealth and Hayden (1975) 134 CLR 338 127, 171  
Victorian Chamber of Manufactures v. Commonwealth (1943) 67 CLR 335 38, 50
- Wainohu v. New South Wales (2011) 243 CLR 181 85, 88, 118  
Walker Corporation Pty Ltd v. Sydney Harbour Foreshore Authority (2008) 233 CLR  
259 80
- Waterside Workers' Federation v. J W Alexander (1918) 25 CLR 434 148  
Wenn v. Attorney-General (Victoria) (1948) 77 CLR 84 41  
White v. Redfern (1879) 5 QBD 15 252  
Wilcox Mofflin Ltd. v. New South Wales (1952) 85 CLR 488 126  
Williams v. Commonwealth (No.1) [2012] HCA 23; (2012) 248 CLR 156 57, 69–71  
Williams v. Commonwealth (No.2) [2014] HCA 23; (2014) 252 CLR 416 69, 246  
Wilson v. Minister for Aboriginal and Torres Strait Islander Affairs (1995) 184 CLR  
348 150  
Wotton v. Queensland (2012) 246 CLR 1 87, 102  
Wotton v. State of Queensland (No. 5) [2016] FCA 1457 126, 191

## STATUTES

### Imperial

- Commonwealth of Australia Constitution Act 1900 64, 225  
 s 5:  
 s 9:

### Australia

#### *Commonwealth*

- Aboriginal Land Rights (Northern Territory) Act 1976 216  
 Administrative Decisions (Judicial Review) Act 1977 212  
 Anti-Terrorism Act 2005 [No.2] 132–133  
 sch 7:  
 Appropriation (Nation Building and Jobs) Act (No. 1) 2009 217  
 Appropriation (Nation Building and Jobs) Act (No. 2) 2009 217  
 Australian Radiation Protection and Nuclear Safety Act 1998 201  
 s 63:  
 Australia Act 1986 59, 60, 64–65  
 s 2(1):  
 s 15:  
 Australian Security Intelligence Organisation Act 1979 156–158  
 s 8:  
 s 34AB:  
 s 34D:  
 s 34E:  
 s 34F:  
 s 34G:  
 s 34K:  
 s 34L:  
 s 34S:  
 s 34ZS:  
 Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Act  
 2003 157

## TABLE OF STATUTES

xix

## Biosecurity Act 2015 209–214

- ch 1 pt 3 div 2.
- ch 2 pt 2 div 2.
- ch 2 pt 2 div 5.
- ch 2 pt 3 div 3 subdiv B.
- ch 8.
- ch 8 pt 1.
- s 3:
- s 8:
- s 12:
- s 32(2):
- s 34(1):
- s 34(2):
- s 42(1):
- s 42(2):
- s 71:
- s 72:
- s 74(1):
- s 74(2):
- s 74(3):
- s 74(4):
- s 84:
- s 113(1):
- s 113(3):
- s 113(4):
- s 172:
- s 475(1):
- s 477:
- s 477(1):
- s 477(6):
- s 478:
- s 478(1):
- s 478(6):
- s 540:
- s 544:

## Charter of the United Nations Act 1945 67

- s 15:
- s 18:

## Classification (Publications, Films and Computer Games) Act 1995 216

- pt 10:

## Commonwealth Inscribed Stock Amendment Act 2009 217

Communist Party Dissolution Act 1950 26, 28–29, 35–36, 47, 128

s 4:

s 5:

s 5(1):

s 5(2):

s 6:

s 9:

s 10:

Constitution

s 2:

s 7:

s 12:

s 15:

s 21:

s 24:

s 51:

s 51(i):

s 51(vi):

s 51(ix):

s 51(xxix):

s 51(xxxi):

s 51(xxxii):

s 51(xxxvii):

s 51(xxxix):

s 52:

s 52(ii):

s 53:

s 54:

s 55:

s 56:

s 61:

s 64:

s 68:

s 69:

s 70:

s 81:

s 83:

s 92:

s 96:

s 107:

s 109:

s 114:

## TABLE OF STATUTES

xxi

- s 116:
- s 119:
- s 122:
- Crimes Act 1914 127, 129, 131–133, 135, 153
  - pt IAA, div 4B, subdiv C
    - s 3(1):
    - s 3W:
    - s 3ZQS:
    - s 3ZQT:
    - s 24A(1):
    - s 24B(2):
    - s 24D:
- Crimes (Internationally Protected Persons) Act 1976 229
- Criminal Code 1995 127, 132–135, 141
  - div 105:
    - div 105A:
      - s 80.2:
      - s 80.2(5):
      - s 80.2C(3):
    - s 80.3:
      - s 80.3(2):
    - s 100.1:
    - s 101.1:
    - s 101.4:
    - s 101.6:
    - s 102.1:
    - s 102.5(2):
    - s 102.8:
    - s 105.2:
    - s 105.4:
      - s 105.4(7):
    - s 105.8:
    - s 105.12:
    - s 105.14:
    - s 105.14A:
    - s 105.15:
    - s 105.16:
    - s 105.18:
    - s 105.34:
    - s 105.35:
    - s 105.36:
    - s 105.37:

- Criminal Code 1995 (cont.)  
 s 105.40:  
 s 105.41:  
 s 105A.7(1):  
 s 471.12:  
 Criminal Code Amendment (High Risk Terrorist Offenders) Act 2016 140  
 Defence Act 1903 139, 219, 226–227, 229–231  
 pt IIIA:  
 s 51A:  
 s 51B:  
 s 51B(1)(a):  
 s 51B (2):  
 s 51T:  
 s 51WB:  
 Defence Preparations Act 1951 34  
 Household Stimulus Package Act (No. 2) 217  
 Income Tax Rates Amendment (Temporary Flood and Cyclone Reconstruction Levy)  
 Act 2011 215  
 Liquid Fuel Emergency Act 1984 180  
 pt III:  
 Migration Act 1958 154, 256  
 National Health Security Act 2007 201, 204  
 s 31(1):  
 s 73(1):  
 s 73(2):  
 s 73(4):  
 National Security Act 1939–1940 38, 51, 143  
 National Security Act 1939–1943 38  
 National Security Legislation Amendment Act 2010 135  
 Northern Territory National Emergency Response Act 2007  
 pt 10 div 2:  
 s 18:  
 Northern Territory (Self-Government) Act 1978 216  
 Nuclear Non-Proliferation (Safeguards) Act 1987 201  
 s 63:  
 Parliamentary Precincts Act 1988 93, 96  
 s 4(2):  
 s 4(3):  
 s 5(1):  
 s 5(2):  
 s 6:  
 s 11:

## TABLE OF STATUTES

xxiii

- Public Order (Protection of Persons and Property) Act 1971 90, 91, 93–94, 228–229
- s 4:
  - s 6:
  - s 6(1):
  - s 6(2):
  - s 6(1A):
  - s 6 (3):
  - s 6(1):
  - s 8:
  - s 15(1):
- Surveillance Devices Act 2004 153
- s 12:
  - s 14:
- Tax Bonus for Working Australians Act (No. 2) 2009 217
- Tax Bonus for Working Australians (Consequential Amendments) Act (No. 2) 2009 217
- Tax Laws Amendment (Temporary Flood and Cyclone Reconstruction Levy) Act 2011 215
- Telecommunications (Interception and Access) Act 1979 156
- s 44:
  - s 49:
- Trade Practices Act 1974 133–134
- Racial Discrimination Act 1975 193
- s 9(1):
- Sex Discrimination Act 1984 172
- Unlawful Associations Act 1916 37
- s 4:
- War Precautions Act 1914 21, 142
- War Precautions Act 1914–1915 37
- s 4:

**Australian Capital Territory**

- Crimes Act 1900 104
- pt 9:
- Crimes (Sentencing) Act 2005 117
- pt 3.4:
- Emergencies Act 2004 122, 180, 181, 194
- s 150(3):
  - s 150A:
  - s 150B:
  - s 150C:

## Emergencies Act 2004 (cont.)

s 151:

s 156:

## Environment Protection Act 1997 199, 200

pt 11 div 11.3:

pt 12:

s 105(b):

s 106:

s 107:

s.108:

s 109:

## Fuel Control Act 1979 180

s 11:

## Health Act 1993 116

## Health (Patient Privacy) Amendment Act 2015 116

## Human Rights Act 2004 86, 172

s 30:

## Public Health Act 1997 205–208

s 4:

s 119(1):

s 119(3):

## Radiation Protection Act 2006 202

pt 3 div 3.7:

s 47(2):

## Terrorism (Extraordinary Temporary Powers) Act 2006 137, 140

## Utilities Act 2000 180

pt 9:

*Northern Territory*

## Criminal Code

s 63:

s 63(4):

## Emergency Management Act 2013 122, 180, 181, 184–190, 201

s 4:

s 19:

s 21:

## Essential Goods and Services Act 1981 180

s 5:

## Local Government Act 2008 100

s 33:

## Police Administration Act 1978 216

pt VII div 4:

pt VII div 4AA:



## TABLE OF STATUTES

XXV

Radiation Protection Act 2004	202
s 62:	
Serious Crime Control Act 2009	117
Summary Offences Act 104, 121	
s 47A:	
s 55A:	
s 56(1):	
Terrorism (Emergency Powers) Act	137, 140
Trespass Act 1987	92
s 5:	
s 6:	

*New South Wales*

APEC Meeting (Police Powers) Act 2007	214
Biosecurity Act 2015	209–214
Community Protection Act 1994	159
Constitution Act 1902	59
pt 4:	
s 35B:	
Crimes Act 1900	90, 91, 105, 107, 113, 115, 121, 141
s 35A:	
s 93B:	
s 93C:	
s 93W:	
s 93X:	
s 93Y:	
s 201(1):	
s 545C:	
sch 3 s 3:	
Crimes (Criminal Organisations Control) Act 2012	117, 120
Crimes (High Risk Offenders) Act 2006	167
Crimes (Serious Crime Prevention Orders) Act 2016	120
s 3:	
s 5(1):	
Criminal Assets Recovery Act 1990	120, 161
s 6(2):	
s 10:	
Emergency Powers Act 1949	180
Energy and Utilities Administration Act 1987	180
pt 6:	
Environmental Trust Act 1998	199
s 16:	

Essential Services Act 1988	180
s 10:	
Inclosed Lands, Crimes and Law Enforcement Legislation Amendment (Interference) Act 2016	113, 115
Inclosed Lands Protection Act 1901	113, 115
s 4:	
s 4B:	
Law Enforcement (Powers and Responsibilities) Act 2002	115, 122–126
pt 6A:	
pt 14:	
s 45A:	
s 45B:	
s 87A(1):	
s 87B:	
s 87C:	
s 87D(1):	
s 87F(1):	
s 87G(2):	
s 87G(4):	
s 87I:	
s 87J:	
s 87J(2):	
s 87K(1):	
s 87K(3):	
s 87L:	
s 87M(1):	
s 87MA:	
s 87MB:	
s 87N:	
s 87O:	
s 200:	
s 200(3):	
s 200(4):	
Local Government Act 1993	
s 8(1):	
s 632(1):	
Public Health Act 2010	205–208
s 3(1):	
s 8:	
s 8(1):	
s 8(2):	
s 198(1):	

## TABLE OF STATUTES

xxvii

- Radiation Control Act 1990 202  
 s 19:  
 s 19(1):  
 Road Obstructions (Special Provisions) Act 1979 214  
 State Emergency and Rescue Management Act 1989 122, 180, 181, 193, 194, 201, 207  
 pt 2 div 1 subdiv 2:  
 pt 2 div 1 subdiv 3:  
 s 4(1):  
 s 4(2):  
 s 7:  
 s 18:  
 s 20A:  
 s 33:  
 s 60L:  
 Summary Offences Act 1988 91–92, 95, 108  
 pt 4:  
 s 4:  
 s 4A:  
 s 6:  
 s 11A:  
 s 23:  
 s 23(1):  
 s 24:  
 s 25:  
 Terrorism (High Risk Offenders) Act 2017 140–141, 167  
 pt 2:  
 pt 3:  
 div 1.3:  
 s 7:  
 s 8:  
 s 9:  
 s 10:  
 s 26(6):  
 s 40(1):  
 Terrorism (Police Powers) Act 2002 137, 140

*Queensland*

- Biosecurity Act 2014 209, 258  
 Commonwealth Games Act 1982 214  
 Constitution Act 1867 59  
 pt 3:  
 s 11A:

## Constitution of Queensland 2001 59

ch 3 pt 2:

s 7:

s 12:

s 15:

s 21:

s 29(1):

s 33:

s 110:

## Criminal Code Act 1899 91, 92, 120, 127

sch 1 pt 9A:

sch 1 s 61:

sch 1 s 71:

sch 1 s 199:

sch 1 s 230:

sch 1 s 340(2AA):

## Dangerous Prisoners (Sexual Offenders) Act 2003 162

## Disaster Management Act 2003 122, 180–181, 190–191, 195–196

pt 2:

pt 2 div 1 subdiv 2:

pt 3:

s 13(1):

s 13(2):

s 64:

s 66:

s 67A:

s 69:

s 72:

s 72A:

s 73(1):

s 75:

s 77(1):

## Electricity Act 1994 180

ch 5 pt 2:

## Environmental Protection Act 1994 199–200

ch 9 pt 4:

s 466B(iii):

s 467:

## G20 (Safety and Security) Act 2013 110–111

pt 2 div 1:

pt 4:

s 17:

## TABLE OF STATUTES

xxix

- s 18:
- s 19:
- s 50(2):
- Peaceful Assembly Act 1992 95–96, 108, 111
  - pt 9D div 3
    - s 5(1):
    - s 5(2):
    - s 6(1):
    - s 9:
    - s 12:
    - s 13(1):
- Police Powers and Responsibilities Act 2000 104–105, 107–108, 124
  - pt 5:
    - s 29:
    - s 29(1):
    - s 31(1):
    - s 45:
    - s 46(1):
    - s 47(1):
    - s 48(1):
- Penalties and Sentences Act 1992 117–119
  - pt 9D div 3:
- Public Health Act 2005 205–208
  - ch 8:
    - ch 8 pt 7:
      - s 7:
      - s 319(3):
      - s 322(b):
- Public Safety Preservation Act 1986 122, 124–125, 137, 190–191, 193–194, 201
  - pt 2A:
  - pt 3:
    - s 5:
    - s 8(1):
    - s 8(2):
    - s 8(3):
- Radiation Safety Act 1999 202
  - s 148:
- Serious and Organised Crime Legislation Amendment Act 2016 118
  - s 492:
- State Transport Act 1938 180
  - s 2:

Summary Offences Act 2005 90–92

- s 6:
- s 6(2):
- s 10A(1):
- s 11:

Vicious Lawless Association Disestablishment Act 2013 118

*South Australia*

Constitution Act 1934 59

- pt 3:

Criminal Law Consolidation Act 1935 90–91

- sch 11 s 1:

Emergency Powers Act 1974 180

Emergency Management Act 2004 122, 180–181, 195–197, 201, 206

- pt 1A:

- pt 2:

- pt 3:

- s 3:

- s 4(2):

- s 14:

- s 21:

- s 22:

- s 23:

- s 24:

- s 25(1):

- s 25(2):

Environment Protection Act 1997 199–200

- pt 10 div 2:

- s 93(3)

- s 99(3):

- s 103J(5):

Essential Services Act 1981 180

- s 3:

Liquor Licensing Act 1997 161

- s 28A:

Mental Health Act 2009 208

Motor Fuel Rationing (Temporary Provisions) Act 1977 214

Motor Fuel (Temporary Restriction) Act 1980 214

Public Assemblies Act 1972 96–97

- s 3:

- s 4(6):

- s 5(1):

## TABLE OF STATUTES

xxxi

- s 5(2):
  - s 6:
  - s 6(2):
  - Radiation Protection and Control Act 1982 202
    - s 42:
  - Serious and Organised Crime (Control) Act 2008 117, 163–164
  - South Australian Public Health Act 2011 205–207
    - pt 2:
    - pt 10:
    - pt 11:
    - s 75:
    - s 77(1)(b):
    - s 87(1):
    - s 87(2):
    - s 88:
    - s 88(2):
    - s 90(3):
  - Statutes Amendment (Public Health Incidents and Emergencies) Act 2009 205
  - Summary Offences Act 1953 91–93, 104, 121, 124
    - s 6:
    - s 6A:
    - s 7:
    - s 13:
    - s 17A:
    - s 17AB:
    - s 18:
    - s 18A:
    - s 18A(2):
    - s 18A(3):
    - s 58:
    - s 72B:
    - s 72B(3):
  - Terrorism (Police Powers) Act 2005 137
- Tasmania*
- Constitution Act 1934 59
    - pt II:
  - Criminal Code Act 1924 90–91, 127
    - s 6:
    - s 34:
    - s 73:
    - s 73(1)(b):

Criminal Code Act 1924 (cont.)

s 75:

s 80:

Electricity Supply Industry Act 1995 180

pt 6:

Emergency Management Act 2006 122, 180–181, 197–198, 201

pt 3:

sch 1 s 1:

sch 1 s 1(1):

sch 1 s 1(4):

s 3:

s 4:

s 7:

s 10:

s 10(1):

s 40(2):

s 40(4):

s 40(5):

s 40(6):

s 40(2):

s 42:

s 44:

Environmental Management and Pollution Control Act 1994 199

s 74E:

s 74F:

Mineral Resources Development Act 1995 113

Police Offences Act 1935 91–92, 98–99, 104–105, 120

pt 2 div 1A:

pt 2 div IIIA:

s 3:

s 6:

s 7:

s 12:

s 13:

s 15B:

s 34B:

s 49AA:

s 49AB(1):

s 49AB(2):

s 49AB(4):

s 49AB(5):

s 49AB(8):



## TABLE OF STATUTES

xxxiii

Police Powers (Public Safety) Act 2005	137
Public Health Act 1997	205
pt 2 div 2:	
s 14(1):	
s 16:	
s 16(2):	
s 15(1)(a):	
Radiation Protection Act 2005	202
s 64:	
Reproductive Health (Access to Terminations) Act 2013	116
Traffic Act 1925	99
s 3:	
Workplaces (Protection from Protesters) Act 2014	111–114
s 3:	
s 4(2):	
s 5(1):	
s 6:	
s 6(1):	
s 6(2):	
s 6(3):	
s 6(4):	
s 6(5):	
s 7:	
s 7(1):	
s 7(2):	
s 7(3):	
s 8(1):	
s 11(1):	
s 11(6):	
s 13:	
s 14:	
s 18(1):	
s 18(2):	
s 18(5):	
s 18(6):	
s 18(7):	
s 18(8):	

*Victoria*

Administrative Law Act 1978	
s 8:	
Beer Prices Regulation (Temporary Provisions) Act 1983	214

- Constitution Act 1975 59  
 pt I:  
 s 6(1):  
 Charter of Human Rights and Responsibilities 2006 86, 172  
 s 7(2):  
 s 15(3):  
 s 32:  
 s 38(1):  
 Control of Weapons Act 1990 124  
 s 3:  
 s 10:  
 s 10(7):  
 Crimes Act 1958 90–91  
 div 2C:  
 s 195G:  
 s 195I:  
 s 320:  
 Crimes Legislation Amendment (Public Order) Act 2017 91, 100  
 s 8:  
 Criminal Organisations Control Act 2012 120  
 pt 5A:  
 Electricity Industry Act 2000 180  
 pt 6:  
 Emergency Management Act 1986 180, 184–186, 195, 201  
 s 4:  
 s 23(1A):  
 s 23(1):  
 s 23(7):  
 s 24(1):  
 s 24(2):  
 s 24(3):  
 s 36A:  
 Emergency Management Act 2013 122, 180–181, 184–190, 194, 201  
 pt 2:  
 pt 4:  
 s 3:  
 s 12:  
 s 32:  
 s 37(1):  
 s 39(1):  
 s 40(b):  
 s 45:

## TABLE OF STATUTES

XXXV

- s 45(2)(b):
- s 53:
- s 55A(2):
- Environment Protection Act 1970 199–200
  - s 30A:
- Essential Services Act 1958 180, 183–184, 186
  - s 3:
  - s 3(1):
  - s 4:
  - s 4(1):
  - s 5(1):
  - s 11:
  - s 12:
  - s 13:
  - s 14:
  - s 15:
- Fire Services Commissioner Act 2010 186, 188
  - s 3:
- Fuel Prices Regulation Act 1981 214
- Fuel Emergency Act 1977 184
  - s 3:
- Local Government Act 1989 99
  - s 3E(1):
  - s 111(1):
- Plant Biosecurity Act 2010
- Public Health and Wellbeing Amendment (Safe Access Zones) Act 2015 209
- Public Health and Wellbeing Act 2008 116, 205–208, 236, 249
  - pt 9A:
  - pt 10 div 3:
  - s 9:
  - s 10:
  - s 167(2)(a):
  - s 185B:
  - s 185D:
  - s 198(1):
  - s 198(7):
  - s 198(8):
  - s 200(1):
- Public Safety Preservation Act 1928 180
- Public Safety Preservation Act 1958 180, 183–184, 189
  - s 3(1):
  - s 3(2):

## Public Safety Preservation Act 1958 (cont.)

s 4(a):

s 4(b):

s 5:

s 9:

## Radiation Act 2005 202

pt 8:

s 96(1):

## Sentencing Act 1991 91

s 10AA(8):

## Summary Offences Act 1966 91–93, 104–105, 107–108

pt 1 div 1A:

s 4(e):

s 5:

s 6(1):

s 6(3):

s 6(4):

s 6(5):

s 9:

s 17:

s 17(2):

s 51:

s 52(1A):

## Summary Offences Amendment (Move-on Laws) Act 2015 108

## Summary Offences and Sentencing Amendment Act 2014 108

## State Disasters Act 1983 185

s 4:

## Terrorism (Community Protection) Act 2003 137, 140

pt 3A:

## Unlawful Assemblies and Processions Act 1958 90, 94

s 5:

## Vagrancy Act 1966 121

s 6(1):

## Vital State Industries (Works and Services) Act 1992 180

s 4:

s 5:

s 6:

s 7:

s 8:

*Western Australia*

## Biosecurity and Agriculture Management Act 2007 209

pt 2 div 7:

## TABLE OF STATUTES

xxxvii

- Commonwealth Heads of Government Meeting (Special Powers) Act 2011 214
- Constitution Act 1889 59
- pt IIIA:
  - s 50(1):
- Corruption and Crime Commission Act 2003 161
- s 76(2):
- Criminal Code Act Compilation Act 1913 90–92, 127
- s 63:
  - s 65:
  - s 67:
  - s 70A:
  - s 74A:
  - s 75A:
  - s 172:
- Criminal Investigation Act 2006 104–105, 107, 124–125
- s 27:
  - s 27(3):
  - s 68:
  - s 68(1):
- Criminal Organisations Control Act 2012 117
- Emergency Management Act 2005 122, 180–181, 194–195, 201
- pt 2 div 1:
  - pt 2 div 2:
  - s 3:
  - s 9(b):
  - s 18:
  - s 50:
  - s 56
  - s 56(2):
  - s 70:
- Environmental Protection Act 1986 199
- pt 5 div 4:
- Essential Foodstuffs and Commodities Act 1979 214
- Fuel, Energy and Power Resources Act 1972 180
- pt III:
- Police Act 1892 83
- s 34:
- Public Health Act 2016 205–208, 258
- pt 12:
  - s 3:
  - s 167(2):
  - s 168(b):
  - s 183:

xxxviii

## TABLE OF STATUTES

Public Health Act 2016 (cont.)

s 184:

s 185:

Public Order in Streets Act 1984 97–98

s 4(1):

s 4(3):

s 4(4):

s 5(3):

s 5(4):

s 6:

s 7(1):

s 7(2):

s 9:

s 9(1):

s 9(2):

s 9(3):

s 9(4):

s 10:

Radiation Safety Act 1975 202

s 55:

Terrorism (Extraordinary Powers) Act 2005 137

**South Africa**

Constitution of the Republic of South Africa (1996) 63

s 37:

s 37(2)(b):

**United Kingdom**

Act of Settlement 1701 56

Australia Act 1986 59, 60, 64–65

s 2(1):

s 15:

Bill of Rights 1688/89 56

Civil Contingencies Act 2004 177–181, 191

pt 1:

pt 2:

s 5:

s 19:

s 20:

s 21:

s 22:

## TABLE OF STATUTES

xxxix

s 22(1):	
s 22(2):	
s 22(3):	
s 24(3):	
s 27:	
Defence of the Realm Act 1914	177
Emergency Powers Act 1920	176–177, 180, 183
s 1:	
s 2(1):	
s 2(3):	
s 2(4):	
Emergency Powers (Defence) Act 1939	144
Habeas Corpus Suspension Act 1817	82
Public Health Act 1875	252
Serious Crimes Act 2007	119

**United States**

U.S. Constitution	
Art. IV, s 4:	
17th Amendment	

Cambridge University Press  
978-1-107-16653-0 — Emergency Powers in Australia  
H. P. Lee , Michael W. R. Adams , Colin Campbell , Patrick Emerton  
Frontmatter  
[More Information](#)

---