



## ***Letters Patent***

# ***Relating to the Office of Governor-General of the Commonwealth of Australia***

ELIZABETH THE SECOND, by the Grace of God **Queen of Australia** and Her other Realms and Territories, Head of the Commonwealth

Greeting:

WHEREAS, by the Constitution of the Commonwealth of Australia, certain powers, functions and authorities are vested in a Governor-General appointed by The Queen to be Her Majesty's representative in the Commonwealth:

AND WHEREAS, by Letters Patent dated 21 August 1984, as amended, provision was made in relation to the office of Governor-General:

AND WHEREAS, by section 4 of the Constitution of the Commonwealth, the provisions of the Constitution relating to the Governor-General extend and apply to the Governor-General for the time being, or such person as The Queen may appoint to administer the Government of the Commonwealth:

AND WHEREAS We are desirous of revising the provisions relating to the office of Governor-General and for persons appointed to administer the Government of the Commonwealth:

NOW THEREFORE, by these Letters Patent under Our Sign Manual and the Great Seal of Australia –

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- I. We revoke the Letters Patent dated 21 August 1984, as amended.
- II. We declare that –
- (a) the appointment of a person to the office of Governor-General shall be during Our pleasure by Commission under Our Sign Manual and the Great Seal of Australia; and
  - (b) before assuming office, a person appointed to be Governor-General shall take the Oath or Affirmation of Allegiance and the Oath or Affirmation of Office in the presence of the Chief Justice or another Justice of the High Court of Australia.
- III. We declare that –
- (a) the appointment of a person to administer the Government of the Commonwealth under section 4 of the Constitution of the Commonwealth shall be during Our pleasure by Commission under Our Sign Manual and the Great Seal of Australia;
  - (b) the powers, functions and authorities of the Governor-General shall, subject to this Clause, vest in any person so appointed from time to time by Us to administer the Government of the Commonwealth only in the event of the absence out of Australia, or the death, incapacity or removal of the Governor-General for the time being, or in the event of the Governor-General having absented himself or herself temporarily from office for any reason;
  - (c) a person so appointed shall not assume the administration of the Government of the Commonwealth –
    - (i) in the event of the absence of the Governor-General out of Australia - except at the request of the Governor-General or the Prime Minister of the Commonwealth;
    - (ii) in the event of the absence of the Governor-General out of Australia and of the death, incapacity or absence out of Australia of the Prime Minister of the Commonwealth - except at the request of the Governor-General, the Deputy Prime Minister or the next most senior Minister of State for the Commonwealth who is in Australia and available to make such a request;
    - (iii) in the event of the death, incapacity or removal of the Governor-General, or in the event of the Governor-General having absented himself or herself temporarily from office for any reason - except at the request of the Prime Minister of the Commonwealth; or

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- (iv) in the event of the death, incapacity or removal of the Governor-General, or in the event of the Governor-General having absented himself or herself temporarily from office for any reason, and of the death, incapacity or absence out of Australia of the Prime Minister of the Commonwealth - except at the request of the Deputy Prime Minister or the next most Senior Minister of State for the Commonwealth who is in Australia and available to make such a request;
  - (d) a person so appointed shall not assume the administration of the Government of the Commonwealth unless he or she has taken on that occasion or has previously taken the Oath or Affirmation of Allegiance and the Oath or Affirmation of Office in the presence of the Chief Justice or another Justice of the High Court of Australia;
  - (e) a person so appointed shall cease to exercise and perform the powers, functions and authorities of the Governor-General vested in him or her when a successor to the Governor-General has taken the prescribed oaths or affirmations and has entered upon the duties of his or her office, or the incapacity or absence out of Australia of the Governor-General for the time being has ceased, or the Governor-General has ceased to absent himself or herself from office, as the case may be; and
  - (f) for the purposes of this clause, a reference to absence out of Australia is a reference to absence out of Australia in a geographical sense but does not include absence out of Australia for the purpose of visiting a Territory that is under the administration of the Commonwealth of Australia.

IV. In pursuance of section 126 of the Constitution of the Commonwealth of Australia –

- (a) We authorise the Governor-General for the time being, by instrument in writing, to appoint any person, or any persons jointly or severally, to be his or her deputy or deputies within any part of the Commonwealth, to exercise in that capacity, during the Governor-General's pleasure, such powers and functions of the Governor-General as he or she thinks fit to assign to that person or those persons or them by the instrument, but subject to the limitations expressed in this clause; and
- (b) We declare that a person who is so appointed to be deputy of the Governor-General shall not exercise a power or function of the Governor-General assigned to him or her on any occasion –
  - (i) except in accordance with the instrument of appointment;
  - (ii) except at the request of the Governor-General or the person for the time being administering the Government of the Commonwealth that he or she exercise that power or function on that occasion; and

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- (iii) unless he or she has taken on that occasion or has previously taken the Oath or Affirmation of Allegiance in the presence of the Governor-General, the Chief Justice or another Justice of the High Court of Australia or the Chief Judge or another Judge of the Federal Court of Australia or of the Supreme Court of a State or Territory of the Commonwealth.

V. For the purposes of these Letters Patent –

- (a) a reference to the Oath or Affirmation of Allegiance is a reference to the Oath or Affirmation in accordance with the form set out in the Schedule to the Constitution of the Commonwealth of Australia; and
- (b) a reference to the Oath or Affirmation of Office is a reference to an Oath or Affirmation swearing or affirming well and truly to serve Us, Our heirs and successors according to law in the particular office and to do right to all manner of people after the laws and usages of the Commonwealth of Australia, without fear or favour, affection or illwill.

VI. We direct that these Letters Patent, each Commission appointing a Governor-General or person to administer the Government of the Commonwealth of Australia and each instrument of appointment of a deputy of the Governor-General shall be published in the official gazette of the Commonwealth of Australia.

VII. We further direct that these Letters Patent shall take effect without affecting the efficacy of any Commission or appointment given or made before the date hereof or of anything done in pursuance of any such Commission or appointment, or of any oath or affirmation taken before that date for the purpose of any such Commission or appointment.

VIII. We reserve full power from time to time to revoke, alter or amend these Letters Patent as We think fit.

Given at Our Court

at Balmoral Castle

on 21 August 2008

(L.S.)

By Her Majesty's Command,

Kevin Rudd

*Prime Minister*