



Ministers of State Amendment Act 2023

No. 104, 2023

**An Act to amend the *Ministers of State Act 1952*,
and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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Ministers of State Amendment Act 2023

No. 104, 2023

An Act to amend the *Ministers of State Act 1952*, and for related purposes

[Assented to 28 November 2023]

The Parliament of Australia enacts:

1 Short title

This Act is the *Ministers of State Amendment Act 2023*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with

column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	29 November 2023

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Ministers of State Act 1952

1 Title

Repeal the title, substitute:

An Act to provide for matters relating to Ministers of State and Executive Councillors, and for related purposes

2 After section 4

Insert:

5 Notification of certain matters relating to Executive Councillors

Choosing, summoning and swearing of an Executive Councillor

- (1) If the Governor-General has chosen, summoned and sworn an Executive Councillor as a member of the Federal Executive Council under section 62 of the Constitution, the Official Secretary to the Governor-General must by notifiable instrument:
 - (a) notify that the Executive Councillor has been so chosen, summoned and sworn; and
 - (b) specify:
 - (i) the name of the Executive Councillor; and
 - (ii) the day (the *swearing day*) on which the Executive Councillor was so chosen, summoned and sworn.
- (2) The notifiable instrument under subsection (1):
 - (a) must be made as soon as practicable after the swearing day; and
 - (b) may comprise a copy of the instrument (the *section 62 instrument*) made by the Governor-General notifying that the Governor-General has chosen, summoned and sworn the Executive Councillor as a member of the Federal Executive Council under section 62 of the Constitution.

- (3) The validity of a section 62 instrument is not affected by any failure to comply with subsections (1) and (2).

Revocation of Executive Councillor's membership of the Federal Executive Council

- (4) If the Governor-General revokes an Executive Councillor's membership of the Federal Executive Council, the Official Secretary to the Governor-General must by notifiable instrument:
- (a) notify that the Executive Councillor's membership of the Federal Executive Council has been revoked by the Governor-General; and
 - (b) specify:
 - (i) the name of the former Executive Councillor; and
 - (ii) the day (the **revocation day**) on which the revocation occurred.
- (5) The notifiable instrument under subsection (4):
- (a) must be made as soon as practicable after the revocation day; and
 - (b) may comprise a copy of the instrument (the **section 62 revocation instrument**) made by the Governor-General revoking the Executive Councillor's membership of the Federal Executive Council.
- (6) The validity of a section 62 revocation instrument is not affected by any failure to comply with subsections (4) and (5).

6 Notification of appointment of officer to administer a department of State of the Commonwealth etc.

Appointment of an officer to administer a department of State of the Commonwealth

- (1) If the Governor-General appoints an officer to administer a department of State of the Commonwealth under section 64 of the Constitution, the Official Secretary to the Governor-General must by notifiable instrument:
- (a) notify that the officer has been so appointed by the Governor-General; and

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- (b) specify:
- (i) the name of the officer; and
 - (ii) the name of the department of State of the Commonwealth; and
 - (iii) the day (the **appointment day**) on which the officer was so appointed.
- (2) The notifiable instrument under subsection (1):
- (a) must be made as soon as practicable after the appointment day; and
 - (b) may comprise a copy of the instrument (the **section 64 instrument**) made by the Governor-General appointing the officer to administer the department of State of the Commonwealth under section 64 of the Constitution.
- (3) The validity of a section 64 instrument is not affected by any failure to comply with subsections (1) and (2).

Revocation of appointment of an officer to administer a department of State of the Commonwealth

- (4) If the Governor-General revokes an appointment made under section 64 of the Constitution that an officer administer a department of State of the Commonwealth, the Official Secretary to the Governor-General must by notifiable instrument:
- (a) notify that the appointment of the officer has been revoked by the Governor-General; and
 - (b) specify:
 - (i) the name of the officer; and
 - (ii) the name of the department of State of the Commonwealth; and
 - (iii) the day (the **revocation day**) on which the revocation occurred.
- (5) The notifiable instrument under subsection (4):
- (a) must be made as soon as practicable after the revocation day; and
 - (b) may comprise a copy of the instrument (the **section 64 revocation instrument**) revoking the appointment of the

officer to administer the department of State of the Commonwealth under section 64 of the Constitution.

- (6) The validity of a section 64 revocation instrument is not affected by any failure to comply with subsections (4) and (5).

6A Notification of direction that Minister of State holds an office etc.

Direction that a Minister of State holds an office

- (1) If the Governor-General directs that a Minister of State holds an office under section 65 of the Constitution, the Official Secretary to the Governor-General must by notifiable instrument:
- (a) notify that the Governor-General has directed that the Minister of State holds the office; and
 - (b) specify:
 - (i) the name of the Minister of State; and
 - (ii) the name of the office; and
 - (iii) the day (the ***direction day***) on which the Governor-General so directed.
- (2) The notifiable instrument under subsection (1):
- (a) must be made as soon as practicable after the direction day; and
 - (b) may comprise a copy of the instrument (the ***section 65 instrument***) made by the Governor-General directing that a Minister of State holds an office under section 65 of the Constitution.
- (3) The validity of a section 65 instrument is not affected by any failure to comply with subsections (1) and (2).

Revocation of direction that a Minister of State holds an office

- (4) If the Governor-General revokes a direction made under section 65 of the Constitution that a Minister of State holds an office, the Official Secretary to the Governor-General must by notifiable instrument:
- (a) notify that the direction that the Minister of State holds the office has been revoked by the Governor-General; and
 - (b) specify:

- (i) the name of the Minister of State; and
 - (ii) the name of the former office; and
 - (iii) the day (the **revocation day**) on which the revocation occurred.
- (5) The notifiable instrument under subsection (4):
- (a) must be made as soon as practicable after the revocation day; and
 - (b) may comprise a copy of the instrument (the **section 65 revocation instrument**) made by the Governor-General revoking the direction that the Minister of State holds an office under section 65 of the Constitution.
- (6) The validity of a section 65 revocation instrument is not affected by any failure to comply with subsections (4) and (5).

3 Application provision

Sections 5, 6 and 6A of the *Ministers of State Act 1952*, as inserted by this Schedule, apply in relation to an exercise of power by the Governor-General that occurs after the commencement of this item.

*[Minister's second reading speech made in—
House of Representatives on 1 December 2022
Senate on 19 June 2023]*

(145/22)
