

# Executive Powers

## Chapter II - The Executive Government

### 61. Executive power

The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative, and **extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.**

While s 61 vests executive power in the Governor-General as the Queen's representative, the Governor-General exercises almost all power on the advice of government ministers, as Governor-General in council.

Powers of the executive government are divided into four categories:

1. **Prerogative powers** of the Crown (as accorded by the common law)
2. **The nationhood power** (derived from Australia's status as a sovereign nation)
3. Power conferred by Statute (not generally examinable)
4. Capacities of **contracting and spending**

### Source of Executive Power

The power of the executive branch of government is derived from four sources:

1. Section 61 of the Constitution
2. Commonwealth legislation
3. Common law prerogative powers
4. Australia's status as a sovereign nation state

### Limits on Executive Power

[REDACTED]

- [REDACTED]

#### *Plaintiff M68/2015 v Minister for Immigration and Border Protection (2016)*

The nature and scope of federal executive power was considered in *Plaintiff M68/2015 (2016)*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

# Prerogative Power

Prerogative powers refer to discretionary powers of the Crown established by common law

[REDACTED]

The prerogative power can be divided into three categories:

[REDACTED]

## *Cadia Holdings Pty Ltd v New South Wales (2010)*

[REDACTED]

[Redacted]

[Redacted]

*Ruddock v Vadarlis (Tampa Case) (2001)*

[Redacted]

[Redacted]

[Redacted]

[Redacted]