The Australian Constitution is the set of rules by which Australia is run. The first three chapters of the Constitution define three largely separate groups — the Parliament, the Executive and the Judiciary — and the roles they play in Australian governance. The power to make and manage federal law is divided between these three groups. This division is based on the principle of the ‘separation of powers’.

Under this principle, the power to govern should be distributed between the Parliament, the Executive and the Judiciary to avoid one group having all the power. Each group should work within defined areas of responsibility so that each keeps a check on the actions of the others.

**Separation of roles**

<table>
<thead>
<tr>
<th>POWER</th>
<th>ROLE</th>
<th>COMPOSITION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parliament</td>
<td>The Parliament makes and amends the law</td>
<td>The Parliament (also referred to as the Legislature) is made up of the Queen (represented by the Governor-General), the Senate and the House of Representatives</td>
</tr>
<tr>
<td>Executive</td>
<td>The Executive puts the law into action</td>
<td>The Executive is made up of the Queen (represented by the Governor-General), Prime Minister and ministers</td>
</tr>
<tr>
<td>Judiciary</td>
<td>The Judiciary makes judgements about the law</td>
<td>The Judiciary is made up of the High Court and other federal courts</td>
</tr>
</tbody>
</table>

**Separation of Powers**

- **Parliament**: Power to make and change law.
- **Executive**: Power to put law into action.
- **Judiciary**: Power to make judgements on law.
Exceptions to the principle

Australia does not have a complete separation of powers because some of the roles of the Parliament, the Executive and the Judiciary overlap. For example, the Prime Minister and ministers are part of the Executive and the Parliament. High Court judges, the Prime Minister and ministers are officially appointed by the Governor-General, who is part of the Parliament and the Executive.

The role of the Governor-General

Section 61 of the Constitution states that ‘the executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen’s representative’. This means that the Governor-General has been given certain powers to act on behalf of the Queen. However, the role of the Governor-General is not just defined by the Constitution, but also by custom and tradition.

While executive power is exercised by the Governor-General, in reality this is normally done on the advice of the Prime Minister and ministers, who have day-to-day responsibility for governing Australia. The Governor-General does not have the authority to make decisions on behalf of the government, but has a role in both the government and the Parliament (see Governor-General).

Responsible government

The separation of powers works together with another principle known as responsible government, to guide the way law is made and managed. Responsible government means that a party, or coalition of parties, must maintain the support of the majority of members of the House of Representatives in order to remain in government. This provides another check on the Executive, ensuring they remain accountable to the Parliament and do not abuse their power.

History

The origins of the principle of the separation of powers can be traced back as far as ancient Greece. It was made popular much later by French philosopher Charles de Montesquieu in 1748 in his work *L’Esprit des Lois (the Spirit of the Laws)*. He wrote that a nation’s freedom depended on the three powers of governance—legislative, executive and judicial—each having their own separate institution. This principle has been widely used in the development of many democracies since that time.