

Section 78B (Judiciary Act 1903)



Exact Text — Section 78B (Judiciary Act 1903)^{78B}

Notice to Attorneys-General

(1) Where a cause pending in a court raises a matter arising under the Constitution or involving its interpretation, the court shall not proceed to hear the cause unless the court is satisfied that notice has been given to the Attorneys-General of the Commonwealth and of the States.

(2) The court may make such orders as it thinks fit for the postponement or adjournment of the proceedings pending the giving of the notice or the expiration of any period specified in such notice.”**

LAYMAN’S VERSION — Section 78B

Section 78B is the legal “STOP — CONSTITUTION ALERT” button. Here’s what it means in real Aussie talk: 🖱️ ****If any court case brings up the Constitution —**

the judge **MUST** freeze the case and notify **ALL** the Attorneys-General in Australia.**Not optional. Not “maybe. “Not “if they feel like it.”

The judge MUST hit pause.

Why? ✓ **Because any issue touching the Constitution affects the whole country, NOT just the people in the courtroom.**

So, Section 78B forces the system to say:

“Hold up — before we go any further, tell the Commonwealth and every State. They all have the right to step in.”

🔍 What this really does:

- Stops judges from rushing constitutional cases.
- Makes sure the Commonwealth and all States know what’s happening.
- Gives them a chance to intervene, appear, or make submissions.
- Ensures constitutional matters are handled properly and nationally.

SUMMARY:

Section 78B is the safety switch that stops any court from messing with the Constitution in a back room. If the case touches the Constitution, **the whole country must be told before the case goes anywhere.** No shortcuts. No sneaky decisions. No judge flying solo. It’s Australia’s way of saying: **“The Constitution belongs to ALL Australians —so ALL governments must be notified before any court tries to interpret it.”****