Jervis Bay Territory Acceptance Act 1915

Act No. 19 of 1915 as amended

This compilation was prepared on 18 October 2000
taking into account amendments up to Act No. 28 of 1991

The text of any of those amendments not in force
on that date is appended in the Notes section

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An Act to provide for the Acceptance of certain Territory Surrendered by the State of New South Wales to the Commonwealth

Preamble

WHEREAS the Commonwealth and the State of New South Wales (in this Act referred to as the State) have entered into an agreement, set out in the Schedule to this Act, for the surrender to and acceptance by the Commonwealth of the territory set out in the said agreement: And whereas it is desirable that the said agreement be ratified and confirmed and that the surrender of the territory be accepted by the Commonwealth: Be it therefore enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:

1 Short title [*see* Note 1]

This Act may be cited as the *Jervis Bay Territory Acceptance Act 1915*.

2 Commencement [*see* Notes 1 and 2]

This Act shall commence on a day to be fixed by proclamation, after the Act passed by the Parliament of the State confirming the said agreement and surrendering the territory to the Commonwealth has been proclaimed by the Governor of the State to be in force.

2A Interpretation

In this Act, unless the contrary intention appears:

Act does not include an enactment.

enactment has the same meaning as in the *Australian Capital Territory (Self-Government) Act 1988*.

Ordinance means an Ordinance made under this Act.

Territory means the Jervis Bay Territory.

3 Ratification of agreement

The agreement made between the Commonwealth and the State and set out in the Schedule to this Act is hereby ratified and confirmed.

4 Acceptance of territory

(1) Upon the commencement of this Act, the territory set out in the agreement and surrendered by the State to the Commonwealth shall be and is hereby accepted by the Commonwealth as a territory of the Commonwealth.

(4) The territory so accepted shall be known as the Jervis Bay Territory.

4A Laws of Australian Capital Territory to be in force

(1) Subject to this Act, the laws (including the principles and rules of common law and equity) in force from time to time in the Australian Capital Territory are, so far as they are applicable to the Territory and are not inconsistent with an Ordinance, in force in the Territory as if the Territory formed part of the Australian Capital Territory.

(2) Subsection (1) extends to:

(a) sections 6 and 7 of the *Seat of Government Acceptance Act 1909*; and

(b) the whole of the *Seat of Government (Administration) Act 1910* except sections 9 and 12 of that Act;

but does not extend to any other Act or provision of an Act.

4B Powers and functions under adopted laws

(1) Subject to subsection (2), where, by a law of the Australian Capital Territory in force in the Territory because of section 4A, a power or function is vested in a person or authority (not being a court), that power or function is, in relation to the Territory, vested in, and may be exercised or performed by, that person or authority.

(2) The Governor-General may direct that a power or function vested in a person or authority (not being a court) by a law of the Australian Capital Territory in force in the Territory because of section 4A shall, in relation to the Territory, be vested in, and may be exercised

or performed by, such other person or authority as the Governor-General specifies.

4C Ordinance may amend or repeal adopted laws

A law in force in the Territory because of section 4A may be amended or repealed by an Ordinance or by a law made under an Ordinance.

4D Supreme Court of Australian Capital Territory to have jurisdiction in Territory

(1) Each court of the Australian Capital Territory has jurisdiction in and in relation to the Territory, and the *Australian Capital Territory Supreme Court Act 1933* and the practice and procedure of each such court for the time being in force apply in the Territory as if the Territory formed part of the Australian Capital Territory.

(2) For the purposes of subsection (1), a reference in the *Australian Capital Territory Supreme Court Act 1933* to an Ordinance or enactment is a reference to an Ordinance or enactment, as the case may be, in force under this Act.

4E Supply of water or electricity to persons outside the Territory

The Minister may, on such terms and conditions as are agreed upon, supply water or electricity from the Territory to any person outside the Territory.

4F Ordinances

(1) The Governor-General may make Ordinances for the peace, order and good government of the Territory.

(2) Notice of the making of an Ordinance shall be published in the *Gazette*, and an Ordinance shall, unless the contrary intention appears in the Ordinance, come into operation on the date of publication of the notice.

4G Tabling of Ordinances in Parliament

(1) An Ordinance shall be laid before each House of the Parliament within 15 sitting days of that House after the making of the Ordinance, and, if it is not so laid before each House of the Parliament, ceases to have effect.

(2) If either House of the Parliament, in pursuance of a motion of which notice has been given within 15 sitting days after an Ordinance has been laid before that House, passes a resolution disallowing the Ordinance or a part of the Ordinance, the Ordinance or part so disallowed thereupon ceases to have effect.

(3) If, at the expiration of 15 sitting days after notice of a motion to disallow an Ordinance or part of an Ordinance has been given in a House of the Parliament, being notice given within 15 sitting days after the Ordinance has been laid before that House:

(a) the notice has not been withdrawn and the motion has not been called on; or

(b) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of;

the Ordinance or part, as the case may be, specified in the motion shall thereupon be deemed to have been disallowed.

(4) If, before the expiration of 15 sitting days after notice of a motion to disallow an Ordinance or part of an Ordinance has been given in a House of the Parliament:

(a) the House of Representatives is dissolved or expires, or the Parliament is prorogued; and

(b) at the time of the dissolution, expiry or prorogation, as the case may be:

(i) the notice has not been withdrawn and the motion has not been called on; or

(ii) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of;

the Ordinance shall, for the purposes of subsections (2) and (3), be deemed to have been laid before that first-mentioned House on the first sitting day of that first-mentioned House after the dissolution, expiry or prorogation, as the case may be.

(5) Where an Ordinance is disallowed, or is deemed to have been disallowed, under this section or ceases to have effect by virtue of the operation of subsection (1), the disallowance of the Ordinance or the operation of subsection (1) in relation to the Ordinance, as the case may be, has the same effect as a repeal of the Ordinance.

(6) Where:

(a) an Ordinance (in this subsection called the ***relevant Ordinance***) is disallowed, or is deemed to have been disallowed, under this section or ceases to have effect by virtue of the operation of subsection (1); and

(b) the relevant Ordinance repealed, in whole or in part, another Ordinance or any other law that was in force immediately before the relevant Ordinance came into operation;

the disallowance of the relevant Ordinance or the operation of subsection (1) in relation to the relevant Ordinance, as the case may be, has the effect of reviving that other Ordinance or law, as the case may be, from and including the date of the disallowance or the date on which the relevant Ordinance ceased to have effect by virtue of that operation of subsection (1), as the case may be, as if the relevant Ordinance had not been made.

(7) A reference in subsection (5) or (6) to an Ordinance shall be read as including a reference to a part of an Ordinance and a reference in subsection (6) to a law has a corresponding meaning.

4H Ordinance not to be re-made while required to be tabled

(1) Where an Ordinance (in this section called the ***original Ordinance***) has been made, no Ordinance containing a provision being the same in substance as a provision of the original Ordinance shall be made during the period defined by subsection (2) unless both Houses of the Parliament by resolution approve the making of an Ordinance containing a provision the same in substance as that provision of the original Ordinance.

(2) The period referred to in subsection (1) is the period starting on the day on which the original Ordinance was made and ending at the end of 7 days after:

(a) if the original Ordinance has been laid, in accordance with subsection 4G(1), before both Houses of the Parliament on the same day—that day;

(b) if the original Ordinance has been so laid before both Houses on different days—the later of those days; or

(c) if the original Ordinance has not been so laid before both Houses—the last day on which subsection 4G(1) could have been complied with.

(3) If a provision of an Ordinance is made in contravention of this section, the provision has no effect.

4J Ordinance not to be re-made while subject to disallowance

(1) Where notice of a motion to disallow an Ordinance has been given in a House of the Parliament within 15 sitting days after the Ordinance has been laid before that House, no Ordinance containing a provision being the same in substance as a provision of the first-mentioned Ordinance shall be made unless:

(a) the notice has been withdrawn;

(b) the Ordinance is deemed to have been disallowed under subsection 4G(3);

(c) the motion has been withdrawn or otherwise disposed of; or

(d) subsection 4G(4) has applied in relation to the Ordinance.

(2) Where:

(a) because of subsection 4G(4), an Ordinance is deemed to have been laid before a House of the Parliament on a particular day; and

(b) notice of a motion to disallow the Ordinance has been given in that House within 15 sitting days after that day;

no Ordinance containing a provision being the same in substance as a provision of the first-mentioned Ordinance shall be made unless:

(c) the notice has been withdrawn;

(d) the Ordinance is deemed to have been disallowed under subsection 4G(3);

(e) the motion has been withdrawn or otherwise disposed of; or

(f) subsection 4G(4) has applied again in relation to the Ordinance.

(3) If a provision of an Ordinance is made in contravention of this section, the provision has no effect.

(4) This section does not limit the operation of section 4H or 4K.

(5) In this section:

Ordinance includes a part of an Ordinance.

4K Disallowed Ordinance not to be re-made unless resolution rescinded or House approves

If an Ordinance or a part of an Ordinance is disallowed, or is deemed to have been disallowed, under section 4G, and an Ordinance containing a provision being the same in substance as a provision so disallowed, or deemed to have been disallowed, is made within 6 months after the date of the disallowance, that provision has no effect, unless:

(a) in the case of an Ordinance, or a part of an Ordinance, disallowed by resolution—the resolution has been rescinded by the House of the Parliament by which it was passed; or

(b) in the case of an Ordinance, or a part of an Ordinance, deemed to have been disallowed—the House of the Parliament in which notice of the motion to disallow the Ordinance or part was given has approved, by resolution, the making of a provision the same in substance as the provision deemed to have been disallowed.

4L Regulations, rules and by-laws

(1) All regulations made under an Ordinance shall be laid before each House of the Parliament within 15 sitting days of that House after the day on which the regulations are made and, if they are not so laid before each House of the Parliament, have no effect.

(2) Sections 4G, 4H, 4J and 4K apply in relation to regulations laid before a House of the Parliament as if, in those provisions, references to an Ordinance were references to regulations and references to a provision of an Ordinance were references to a regulation.

(3) In this section:

regulations includes rules and by-laws.

5 Disposal of Crown lands

Subject to the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986*, Crown lands in the territory shall not be sold or disposed of for any estate of freehold.

The Schedule—Surrender to the Commonwealth Of Australia by the State of New South Wales of land at Jervis Bay.

AGREEMENT between the Commonwealth of Australia (hereinafter called the Commonwealth) of the one part and the State of New South Wales (hereinafter called the State) of the other part:

WITNESSETH THAT, subject as hereinafter mentioned to the approval of the Parliaments of the Commonwealth and of the State, it is hereby agreed as follows—

1. The State shall surrender to the Commonwealth, and the Commonwealth shall accept, the territory (hereinafter called the territory), now being part of the State, described hereunder, namely—

All that piece and parcel of land and water situate at Jervis Bay in the Parish of Bherwerre, County of St. Vincent, State of New South Wales, Commonwealth of Australia, area about 18,000 acres, commencing at a point on the high water mark on the left bank of Sussex Inlet at its intersection with the western boundary of portion 12 of 40 acres and bounded thence westerly and north-westerly by that high water mark to the high water mark of St. George's Basin, thence in a general easterly and north-easterly direction by that high water mark to its intersection with the production westerly of the southern boundary of portion 18; thence easterly by a straight line formed by the western production of the southern boundary of portion 18, the boundary itself, and its production easterly to the high water mark of Jervis Bay; thence by a line across the southern part of Jervis Bay bearing north-easterly to a point in the high water mark of Jervis Bay at the northernmost extremity of Bowen Island; thence by the high water mark of Jervis Bay and of the South Pacific Ocean along the eastern boundary of Bowen Island to the southernmost point thereof; thence by a line bearing south-westerly across the passage between Bowen Island and Governor Head to the high water mark of the South Pacific Ocean on the foreshore of the mainland, at the northernmost point of Governor Head; and thence by that high water mark in a general southerly and south-westerly direction to St. George's Head; thence in a general northerly, westerly and south-westerly direction by the high water mark of Wreck Bay to the high water mark on the left bank of Sussex Inlet before mentioned; and thence in a general northerly direction by that high water mark to the commencing point.

2. This Agreement shall not in any way be binding unless and until it is approved by the Parliaments of the Commonwealth and of the State, and legislation is passed enabling the Commonwealth and the State to effect the surrender and acceptance of the territory.

3. The Commonwealth shall account to the State for any purchase money received by the Commonwealth in respect of any grant of an estate in fee simple in the territory—

(a) made by the State before the date of the surrender; or

(b) contracted before that date to be so made, either unconditionally or upon conditions which (except as to the payment of purchase money) have been wholly fulfilled at that date.

4. The State shall make no claim for payment in respect of—

(a) the value of the waste lands of the Crown in the territory; or

(b) the rents and profits, after the date of the surrender, of any land in the territory held from the Crown under any estate less than an estate in fee simple; or

(c) the value of the right, title, estate, or interest of the Crown in reversion or expectancy upon the termination of any such estate as mentioned in the last preceding paragraph; or

(d) the purchase money for the grant by the State of any conditional estate in any land in the territory, in respect of which at the date of the surrender there remains unfulfilled any conditions precedent (other than the payment of purchase money) to the grant of an estate in fee simple.

Signed by the Governor of the State of New South Wales, with the advice and consent of the Executive Council thereof, for and on behalf of that State and sealed with the public seal of that State on the twenty-third day of September 1913.

(L.S.) G. STRICKLAND
Governor of New South Wales.

By Command.

W. A. HOLMAN.

Signed by the Governor-General of the Commonwealth of Australia, with the advice and consent of the Executive Council thereof, for and on behalf of the Commonwealth and sealed with the seal of the Commonwealth on the 4th day of December 1913.

(L.S.) DENMAN

Governor-General.

By Command.

JOSEPH COOK.

Notes to the *Jervis Bay Territory Acceptance Act 1915*

Note 1

The *Jervis Bay Territory Acceptance Act 1915* as shown in this compilation comprises Act No. 19, 1915 amended as indicated in the Tables below.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
Jervis Bay Territory Acceptance Act 1915	19, 1915	12 July 1915	4 Sept 1915 (*see Gazette* 1915, p. 1710)	
Australian Capital Territory and Jervis Bay (Lands Acquisition) Act 1955	70, 1955	4 Nov 1955	16 Feb 1956 (*see Gazette* 1956, p. 472)	S. 7(2)
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	31 Dec 1973	Ss. 9(1) and 10
Aboriginal Land Grant (Jervis Bay Territory) Act 1986	164, 1986	18 Dec 1986	15 Jan 1987	S. 3
A.C.T. Self-Government (Consequential Provisions) Act 1988	109, 1988	6 Dec 1988	S. 32 (in part): 11 May 1989 (*see Gazette* 1989, No. S164) *(a)*	—
Crimes Legislation Amendment Act 1991	28, 1991	4 Mar 1991	S. 74(1): Royal Assent *(b)*	—

Act Notes

(a) The J*ervis Bay Territory Acceptance Act 1915* was amended by section 32 only of the *A.C.T. Self-Government (Consequential Provisions) Act 1988*, subsection 2(3) of which provides as follows:

> (3) The remaining provisions of this Act (including the amendments made by Schedule 5) commence on a day or days to be fixed by Proclamation.

(b) The *Jervis Bay Territory Acceptance Act 1915* was amended by subsection 74(1) only of the *Crimes Legislation Amendment Act 1991*, subsection 2(1) of which provides as follows:

> (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 2A	ad. No. 109, 1988
S. 4	am. No. 216, 1973; No. 109, 1988
Ss. 4A-4C	ad. No. 109, 1988
S. 4D	ad. No. 109, 1988 am. No. 28, 1991
Ss. 4E-4L	ad. No. 109, 1988
S. 5	rs. No. 164, 1986
S. 6	rep. No. 70, 1955

Note 2

Note 2

S. 2—The Act of the Parliament of New South Wales which ratified and confirmed the agreement and surrendered the territory to the Commonwealth is the Seat of Government Surrender Act, 1915 (No. 9, 1915), which was assented to on 20 February 1915 and proclaimed to commence on 21 April 1915. *See* N.S.W. *Gazette*, 21 April 1915, p. 2362.