



Cocos (Keeling) Islands Act 1955

No. 34, 1955

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About this compilation

This compilation

This is a compilation of the *Cocos (Keeling) Islands Act 1955* that shows the text of the law as amended and in force on 18 December 2020 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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An Act to provide for the acceptance of the Cocos or Keeling Islands as a Territory under the Authority of the Commonwealth and to provide for the Government of that Territory

Preamble

WHEREAS the islands named the Cocos or Keeling Islands (being the islands referred to in section 4) are governed and administered as part of the Colony of Singapore, in pursuance of the Singapore Colony Order in Council, 1955, being an Order in Council dated 1 February 1955, made by Her Majesty by virtue and in exercise of the powers vested in Her Majesty by the Imperial Acts entitled the British Settlements Acts, 1887 and 1945, and the Straits Settlements (Repeal) Act, 1946:

AND WHEREAS by the *Cocos (Keeling) Islands (Request and Consent) Act 1954* the Parliament of the Commonwealth requested, and consented to, the enactment by the Parliament of the United Kingdom of an Act enabling the Queen to place the Cocos or Keeling Islands under the authority of the Commonwealth and making provision for matters incidental to the placing of those Islands under that authority:

AND WHEREAS the Government of the Commonwealth has also requested, and consented to, the enactment by the Parliament of the United Kingdom of such an Act:

AND WHEREAS by the Imperial Act entitled the Cocos Islands Act, 1955, it is provided that Her Majesty may, by Order in Council, direct that the Cocos or Keeling Islands shall, on such date as may be specified in the Order, cease to form part of the Colony of Singapore and be placed under the authority of the Commonwealth:

AND WHEREAS by the Constitution it is provided that the Parliament may make laws for the government of any territory placed by the Queen under the authority of and accepted by the Commonwealth:

BE it therefore enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:

Part I—Preliminary

1 Short title

This Act may be cited as the Cocos (Keeling) Islands Act 1955.

2 Commencement

- (1) This Act shall come into operation on a date to be fixed by Proclamation.
- (2) The date so fixed shall be the date on which the Cocos or Keeling Islands cease to form part of the Colony of Singapore and are placed under the authority of the Commonwealth.

4 Interpretation

- (1) In this Act, unless the contrary intention appears:

amended: for when an applied Western Australian law is *amended*, see subsection 8GA(4).

applied Western Australian law means a Western Australian law as in force in the Territory under section 8A.

authority includes a body corporate, or an unincorporated body, established for a public purpose.

constable means:

- (a) a member or special member of the Australian Federal Police; or
- (b) an officer or special officer of the police force of the Territory.

court officer of Western Australia means a person holding, or performing the functions or duties of, any of the following offices:

- (a) any of the following offices in a court of Western Australia:
 - (i) Judge;
 - (ii) Magistrate (however described);
 - (iii) Master;
 - (iv) Registrar (however described);
 - (v) Clerk (however described);
 - (vi) Sheriff (however described);
 - (vii) Bailiff (however described); or
- (b) any of the following offices in the Family Court of Western Australia:
 - (i) Marshal;
 - (ii) Director of Court Counselling;
 - (iii) Collector of Maintenance; or
- (c) the office of Chairman, Deputy Chairman or nominee member of the Workers' Compensation Board of Western Australia; or
- (d) any other office in respect of a court of Western Australia, being an office specified in the regulations.

court of Western Australia means any of the following courts or tribunals:

- (a) the Supreme Court of Western Australia;
- (b) the District Court of Western Australia;
- (c) the Family Court of Western Australia;
- (d) a Court of Petty Sessions of Western Australia;
- (e) a Local Court of Western Australia;
- (f) a coroners' court of Western Australia;
- (g) the Children's Court of Western Australia;

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- (h) the Workers' Compensation Board of Western Australia;
- (i) any other court or tribunal specified in the regulations.

indictment court means a court established by a law of the Territory (whether before or after the commencement of this definition) in which trials on indictment of offences against laws in force in the Territory may be conducted.

jurisdiction includes powers.

laws of the Territory or **laws in force in the Territory** means the laws in force in the Territory as mentioned in section 7A.

Ordinance means an Ordinance made under this Act.

power includes a function or duty, and, in that context, **exercise** means perform.

prison includes a lock-up or other place of lawful detention.

Registrar, in relation to an indictment court, means the registrar, or a deputy registrar, of that court.

Sheriff means the Sheriff, or a Deputy Sheriff, of the Territory.

State includes a Territory other than the Territory.

Supreme Court of the Territory means the Supreme Court established by the *Supreme Court Ordinance 1955* of the Territory.

the Islands means the Cocos or Keeling Islands situated in the Indian Ocean in or about latitude 12°5' south and longitude 96°53' east, including the Northern Island otherwise called North Keeling Island.

the police force of the Territory includes any police force empowered to provide police services under a law in force in the Territory.

the proclaimed date means the date fixed by Proclamation under section 2.

the Territory means the Territory of Cocos (Keeling) Islands.

Western Australian law: see subsection 8A(6).

- (2) In this Act, a reference to an Act is a reference to the whole or a part of that Act, or to the whole or a part of a law made under that Act.

4A Application of the *Criminal Code*

- (1) Chapter 2 of the *Criminal Code* applies to all offences created by this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (2) Chapter 2 of the *Criminal Code* does not apply in relation to, or in relation to matters arising under, a law in force in the Territory because of section 8A.

Part II—Acceptance of the Islands

5 Acceptance of Cocos or Keeling Islands

The Islands are declared to be accepted by the Commonwealth as a Territory under the authority of the Commonwealth and shall be known as the Territory of Cocos (Keeling) Islands.

6 Transfer of rights, liabilities etc. to Commonwealth

- (1) Subject to subsection (3), all property, rights and powers in or in connexion with the Islands, being property, rights and powers which, immediately before the proclaimed date, were held or enjoyed by or on behalf of the Queen in right of the United Kingdom or of the Colony of Singapore, or by or on behalf of the Government of the United Kingdom or of the Colony of Singapore, shall, from and including that date, be deemed to be held or enjoyed by or on behalf of the Commonwealth.
- (2) Subject to subsection (3), all liabilities and obligations incurred before the proclaimed date by or on behalf of the Government of the United Kingdom or the Government of the Colony of Singapore, in or in connexion with the Islands and subsisting immediately before that date shall, from and including that date, be deemed to have been incurred by or on behalf of the Commonwealth.
- (3) Subsections (1) and (2) do not apply to or in relation to:
 - (a) property, rights or powers in, or in connexion with, that part of the Islands known as Direction Island, or liabilities or obligations in respect of property in that part of the Islands;
 - (b) liabilities of the Colony of Singapore in respect of the payment of pensions or retiring allowances; or
 - (c) liabilities relating to public loans.
- (4) In this section, *property* includes immovable property.

7 Extinguishment of certain rights and restrictions under the 1886 Indenture

- (1) The restrictions under the 1886 Indenture relating to dealings in land in the Islands are extinguished.
- (2) All rights and powers reserved to and exercisable by or on behalf of the Queen under the 1886 Indenture are extinguished.
- (3) In this section:

the 1886 Indenture means the Indenture dated 7 July 1886 that was made between Her late Majesty Queen Victoria, the Governor of the Straits Settlements and George Clunies Ross in relation to the Islands.

Part III—Laws and legislative powers

Division 1—Laws of the Territory

7A The laws of the Territory

- (1) On and after 1 July 1992, the laws in force in the Territory from time to time are:
 - (a) Acts as in force from time to time in or in relation to the Territory on and after that day; and
 - (b) Ordinances made on or after that day as in force from time to time; and
 - (c) laws as in force in the Territory in accordance with section 8; and
 - (d) applied Western Australian laws.
- (2) To avoid doubt, subsection (1) does not prevent any other law, including a law of a State, from applying in the Territory of its own force.

8 Operation of existing laws etc.

- (1) A law in force in the Territory immediately before 1 July 1992 is repealed unless it is specified in the Schedule.
- (2) Subject to subsection (3), a law that is specified in the Schedule (including any instruments made under that law) as in force in the Territory immediately before 1 July 1992 continues to be in force in the Territory on and after that day.
- (3) A law specified in the Schedule may be amended or repealed by an Ordinance.
- (4) In this section:

instruments includes regulations, rules and by-laws.

law:

- (a) includes a principle or rule of common law or equity; and
- (b) does not include an Act.

8A Application of Western Australian laws

- (1) Subject to this section, section 8G and Part IVAA, Western Australian laws are in force in the Territory.

Note: A Western Australian law as in force in the Territory under this section is an *applied Western Australian law* (see the definition in subsection 4(1)).

- (2) To the extent that a law is in force in the Territory under subsection (1), it may be incorporated, amended or repealed by an Ordinance or a law made under an Ordinance.
- (3) An Ordinance may suspend the operation in the Territory of a law in force in the Territory under subsection (1) for such period as is specified in the Ordinance.
- (4) To the extent that a law is in force in the Territory under subsection (1), it has no effect so far as it is inconsistent with the Constitution or an Act or Ordinance.
- (5) For the purpose of subsection (4), a law is consistent with the Constitution or an Act or Ordinance if the law is capable of operating concurrently with it.
- (6) A *Western Australian law*:
 - (a) is a law in force in Western Australia from time to time; and
 - (b) includes a principle or rule of common law or equity that is part of the law of Western Australia; and
 - (c) does not include:
 - (i) a Commonwealth Act or a provision of a Commonwealth Act; or
 - (ii) an instrument (however described) made under a Commonwealth Act, or a provision of such an instrument.

8B Minister must table lists of applied Western Australian Acts

- (1) The Minister must cause a list of Acts of the Western Australian Parliament (*WA Acts*) to be prepared and tabled in each House of the Parliament for the following periods:
 - (a) the period of 3 months beginning on 1 July 1992; and
 - (b) each subsequent period of 6 months.
- (2) The list must specify the names of all WA Acts that are wholly or partly in force in the Territory under section 8A on the day specified in the list, and have not been specified in a previous list under this section. The specified day must be not more than 14 days before the day on which the list is to be tabled.
- (3) The list must include WA Acts whose operation has been suspended in accordance with subsection 8A(3).
- (4) The list must be tabled in each House of the Parliament before the end of the period to which the list relates. However, if the House concerned does not sit during any day in the last month of the period, the list may be tabled in that House within the next 15 sitting days of that House.

8C House may terminate application of Western Australian Acts in the Territory

- (1) In this section:

terminate means terminate the operation of a WA Act in the Territory.

WA Act means an Act of the Western Australian Parliament that is specified in a list tabled under section 8B, or part of such an Act.

WA Acts list means a list prepared and tabled in a House of the Parliament under section 8B.

- (2) If:
 - (a) a notice of a motion to terminate a WA Act has been given in a House of the Parliament:

- (i) within 15 sitting days after the tabling in that House of the WA Acts list specifying that WA Act; or
 - (ii) if section 8D applies to that WA Act—within 3 months after that list was tabled; and
 - (b) that House passes a resolution to terminate the WA Act;
- then the WA Act is terminated from the time when the resolution was passed.
- (3) If:
- (a) a notice of a motion to terminate a WA Act has been given in a House of the Parliament:
 - (i) within 15 sitting days after the tabling in that House of the WA Acts list specifying that WA Act; or
 - (ii) if section 8D applies to that WA Act—within 3 months after that list was tabled; and
 - (b) at the expiration of 15 sitting days after the notice was given:
 - (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;
- then the WA Act is terminated from the expiration of that period of 15 sitting days.
- (4) If, before the expiration of 15 sitting days after notice of a motion to terminate a WA Act specified in a WA Acts list has been given in a House of the Parliament (*the notice House*):
- (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:
 - (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;
- subsections (2) and (3) apply as if the WA Acts list had been tabled in the notice House on the first sitting day of that House after the dissolution, expiry or prorogation.

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- (5) The termination of a WA Act under subsection (2) or (3) has the same effect as the repeal of that WA Act, as a law of the Territory, by an Ordinance.
- (6) If:
- (a) a WA Act (*the terminated Act*) is terminated under subsection (2) or (3); and
 - (b) the terminated Act repealed, in whole or in part, another WA Act or any other law that was in force in the Territory immediately before the terminated Act came into force in the Territory under section 8A;
- the termination of the terminated Act has the effect of reviving that other WA Act or law from and including the date of the termination, as if the terminated Act had not come into force in the Territory.
- (7) A notice of a motion, or a resolution, for the purposes of this section may relate to the termination of more than one WA Act.

8D Extension of period for giving notice of motion to terminate WA Act

- (1) This section provides for an extension of time for giving a notice of a motion (*the termination notice*) in a House of the Parliament to terminate one or more WA Acts that are specified in the first WA Acts list that is required by section 8A to be tabled in that House.
- (2) If:
- (a) within 15 sitting days after tabling of the WA Acts list in a House of the Parliament, a notice of a motion is given in that House to extend the period for giving the termination notice in relation to one or more WA Acts specified in the extension notice; and
 - (b) that House passes a resolution to extend the period;
- the termination notice may be given in that House within 3 months after the tabling of the WA Acts list in that House.
- (3) If:

- (a) within 15 sitting days after tabling of the WA Acts list in a House of the Parliament, a notice of a motion (***the extension notice***) is given in that House to extend the period for giving the termination notice in relation to one or more WA Acts specified in the extension notice; and
 - (b) at the expiration of 15 sitting days after the extension notice has been given in that House:
 - (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 termination notice may be given in that House within 3 months after the tabling of the WA Acts list in that House.
- (4) If a notice of a motion (***the extension notice***) is given in a House of the Parliament (***the notice House***) for the purpose of obtaining an extension under subsection (2) or (3) but, before the expiration of 15 sitting days after the extension notice is given:
- (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:
 - (i) the extension 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 following provisions apply:
 - (c) the extension notice is taken to have been given in the notice House on the first sitting day of that House after the dissolution, expiry or prorogation;
 - (d) the termination notice may be given in that House within the first 15 sitting days of that House after the dissolution, expiry or prorogation.
- (5) In this section, ***terminate***, ***WA Act*** and ***WA Acts list*** have the same meanings as in section 8C.

8E Application of Commonwealth Acts

- (1) An Act (whether passed before or after this section's commencement) extends to the Territory of its own force except so far as the Act or another Act expressly provides otherwise.
- (2) Except as provided by this Act, an Ordinance has no effect so far as it purports to affect the application of an Act in or in relation to the Territory.

8G Powers under the applied Western Australian laws

- (1) If, by an applied Western Australian law, a power is vested in:
 - (a) a Minister of Western Australia; or
 - (b) the Governor of Western Australia; or
 - (c) the Governor-in-Council of Western Australia;that power is, in relation to the Territory, vested in the Minister instead of the person or authority mentioned in paragraph (a), (b) or (c) of this subsection.
- (2) If:
 - (a) by an applied Western Australian law, a power is vested in a person (other than a court officer of Western Australia) or an authority (other than a court of Western Australia); and
 - (b) subsection (1) does not apply to that power;the power is, in relation to the Territory, vested in the Minister instead of the person or authority mentioned in paragraph (a) of this subsection.
- (2A) To avoid doubt, a reference in subsection (1) or (2) to a power vested in a person or authority by an applied Western Australian law does not include a reference to a power so vested, whether directly or indirectly, because of an Ordinance made for the purposes of subsection 8A(2).

Note: Under subsection 8A(2), an Ordinance may provide for the incorporation, amendment or repeal of a law in force in the Territory under section 8A.

Delegation etc.

- (3) If a power is vested in the Minister under subsection (1) or (2), the Minister may, in writing:
- (a) direct that the power is also vested in a person or authority;
or
 - (b) delegate the power to a person or authority.
- (4) A direction or delegation under subsection (3) is subject to such conditions as may be specified:
- (a) in the direction or delegation; or
 - (b) in the case of a deemed direction under subsection (5A) or (5B)—in writing, by the Minister.
- (5) A person or authority in whom a power is vested by a direction under paragraph (3)(a) may delegate the power, in writing, to another person or authority:
- (a) if authorised to do so by the direction; or
 - (b) in the case of a deemed direction under subsection (5A) or (5B)—if authorised to do so, in writing, by the Minister.

Deemed vesting of powers—Western Australian persons and authorities exercising powers in Cocos (Keeling) Islands

- (5A) If a power is vested in the Minister under paragraph (1)(a) or subsection (2), the Minister is taken to have directed under paragraph (3)(a) that the power is also vested in another person or authority in the circumstances that:
- (a) the person or authority is subject to an arrangement under section 8H and is:
 - (i) an officer or employee of Western Australia; or
 - (ii) an authority established by or under a Western Australian law; or
 - (iii) an officer or employee of such an authority; and
 - (b) the power corresponds to a power that the person or authority is authorised, under a Western Australian law, to exercise in, or in a part of, Western Australia:

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- (i) whether in the person's or authority's own right; or
- (ii) whether in the capacity of a delegate; or
- (iii) whether in any other way.

Deemed vesting of powers—other persons and authorities exercising powers in Cocos (Keeling) Islands

- (5B) If a power mentioned in column 1 of an item of the following table is vested in the Minister under paragraph (1)(a) or subsection (2), the Minister is taken to have directed under paragraph (3)(a) that the power is also vested in a person or authority mentioned in column 2 of the item.

Deemed vesting of powers—other persons and authorities exercising powers in Cocos (Keeling) Islands		
Item	Column 1	Column 2
1	A power that corresponds to a power vested by a Western Australian law in a police force (however described)	The Australian Federal Police
2	A power that corresponds to a power vested by a Western Australian law in a police officer (however described) holding, occupying or exercising the powers of a particular kind of office or position	A member or special member of the Australian Federal Police holding, occupying or exercising the powers of a corresponding office or position in the Territory
3	A power that corresponds to a power vested by a Western Australian law in a body (a local government body) responsible for local government under such a law	The Cocos (Keeling) Islands Shire
4	A power that corresponds to a power vested by a Western Australian law in a person holding, occupying or exercising the powers of a particular kind of office or position on or with a local government body	A person holding, occupying or exercising the powers of a corresponding office or position on or

Deemed vesting of powers—other persons and authorities exercising powers in Cocos (Keeling) Islands

Item	Column 1	Column 2
		with the Cocos (Keeling) Islands Shire
5	A power that corresponds to a power, vested by a Western Australian law, that is prescribed by an Ordinance for the purposes of this item	A person or authority prescribed by that Ordinance

(6) The Minister may, in writing, direct that subsection (5A) or (5B) does not apply to a specified power.

(7) A direction under subsection (6) may be unconditional or subject to such conditions (if any) as are specified in the direction.

Other matters

(8) An instrument under this section may identify a power by reference to a class of powers.

(9) The validity of the exercise of a power under an applied Western Australian law by a person or authority under this section is unaffected by the failure of the person or authority to hold a qualification required of a person or authority exercising that power under a Western Australian law.

(10) This section does not affect the operation of section 8A in relation to the application in or in relation to the Territory of a law (a **subordinate law**) made under a Western Australian law, whether the subordinate law is made after this section's commencement or not.

(10A) Subject to any direction or delegation made under this section, if a power vested by an applied Western Australian law in a person or authority (the **first mentioned person or authority**) is vested in another person or authority under this section, each reference in any applied Western Australian law to the first mentioned person or authority is taken to include a reference to the other person or authority.

- (11) An instrument under this section is not a legislative instrument.

8GA Applied Western Australian laws—effect of directions or delegations

Scope

- (1) This section applies if:
- (a) the Minister directs, under paragraph 8G(3)(a), that all the powers of a person or authority (the ***first mentioned person or authority***) under an applied Western Australian law are vested in another person or authority; or
 - (b) the Minister delegates to a person or authority, under paragraph 8G(3)(b), all the powers of a person or authority (also the ***first mentioned person or authority***) under an applied Western Australian law; or
 - (c) a person or authority delegates to another person or authority, under subsection 8G(5), all of the powers of a person or authority (also the ***first mentioned person or authority***) under an applied Western Australian law.

Addition of powers

- (2) If:
- (a) the applied Western Australian law is amended to give the first mentioned person or authority one or more additional powers under the law; and
 - (b) the direction or delegation is in force immediately before the amendment takes effect;
- then, on and after the amendment taking effect, the direction or delegation is taken to include the additional powers.

Alteration of powers

- (3) If:
- (a) the applied Western Australian law is amended to alter the scope of one or more of the powers of the first mentioned person or authority under the law; and

(b) the direction or delegation is in force immediately before the amendment takes effect;

then, on and after the amendment taking effect, the direction or delegation is taken to include the powers as altered.

Amendments of applied Western Australian laws

- (4) An applied Western Australian law is **amended** if:
- (a) the applied Western Australian law is amended by an Ordinance; or
 - (b) the corresponding Western Australian law is amended.

8H Arrangements with the Government of Western Australia

- (1) The Commonwealth may enter into arrangements with Western Australia for the effective application and administration of the laws in force in the Territory.
- (2) Without limiting the generality of subsection (1), such an arrangement may provide for the exercise of powers by:
 - (a) an officer or employee of Western Australia; or
 - (b) an authority of Western Australia established under a Western Australian law; or
 - (c) an officer or employee of an authority of Western Australia established under a Western Australian law;in or in relation to the Territory.

8I Savings

- (1) The repeal of a law of the Territory by subsection 8(1) does not:
 - (a) revive anything not in force or existing at the time of the repeal; or
 - (b) affect the previous operation of the law, or anything duly done under or permitted by the law; or
 - (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the law; or

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- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the law; or
 - (e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment.
- (2) In spite of the repeal, the law continues in force for the purposes of:
- (a) the institution or continuation of any investigation or legal proceeding mentioned in paragraph (1)(e); or
 - (b) the enforcement of any remedy mentioned in paragraph (1)(e); or
 - (c) the imposition of any penalty, forfeiture or punishment mentioned in paragraph (1)(e).

Division 2—Legislative powers of the Governor-General

12 Legislative powers of Governor-General

- (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.

13 Laying of Ordinances before the 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.

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(3A) 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.

(4) 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.

(4A) Where:

- (a) an Ordinance (in this subsection referred to as 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.

- (4B) A reference in subsection (4) or (4A) to an Ordinance shall be read as including a reference to a part of an Ordinance, and a reference in subsection (4A) to a law has a corresponding meaning.

13A 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 13(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 13(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.

13B 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;

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Section 13B

- (b) the Ordinance is deemed to have been disallowed under subsection 13(3);
 - (c) the motion has been withdrawn or otherwise disposed of; or
 - (d) subsection 13(3A) has applied in relation to the Ordinance.
- (2) Where:
- (a) because of subsection 13(3A), 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 13(3);
 - (e) the motion has been withdrawn or otherwise disposed of; or
 - (f) subsection 13(3A) 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 13A or 13C.
- (5) In this section:
- Ordinance*** includes a part of an Ordinance.

13C 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 13, 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.

13D 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.
- (1A) In subsection (1), a regulation made under a law in force in the Territory:
 - (a) does not include a regulation of Western Australia as in force in the Territory under section 8A; and
 - (b) includes a regulation made by a person or an authority empowered, under section 8G, to make the regulation under an applied Western Australian law.
- (2) Subsections 13(2) to (4B), inclusive, and sections 13A, 13B and 13C apply in relation to regulations laid before a House of the Parliament as if, in those provisions:

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Section 13D

- (a) references to subsection 13(1) were references to subsection (1) of this section; and
 - (b) references to an Ordinance were references to regulations; and
 - (c) references to a provision of an Ordinance were references to a regulation.
- (3) In this section, *regulations* includes rules and by-laws.

Part IVA—Trials on indictment

15AA Trials on indictment to be by judge and jury

The trial on indictment of an offence against a law in force in the Territory shall be by judge and jury.

15AB Minister may make arrangements with States

The Minister may make arrangements with the government or an authority of a State for the purposes of the effective application of the provisions of this Part relating to sittings of an indictment court in that State in the exercise of its criminal jurisdiction.

15AC Indictment court may sit in a State

- (1) Subject to this section, an indictment court, in the exercise of its criminal jurisdiction, may sit in a State if to do so would not be contrary to the interests of justice.
- (2) An indictment court may, at any time after the presentation of an indictment for an offence against a law in force in the Territory and before the jury has returned its verdict, if it is satisfied that the interests of justice require it, order:
 - (a) if the trial of the offence has not begun—that the trial be held in a State, and at a time and place, specified in the order; and
 - (b) if the trial of the offence has begun—that the trial be discontinued, the jury be discharged and a new trial be held in a State, and at a time and place, specified in the order.
- (3) An indictment court may make an order under subsection (2) at a sittings of the court in the Territory or in a State.
- (4) An indictment court may make an order under subsection (2) at a sittings of the court in a State whether or not the accused is present but, if the accused is not present, the court shall only make the order if:

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- (a) the accused is represented; and
 - (b) the court is satisfied that the accused understands the effect of the order.
- (5) Where an indictment court makes an order under subsection (2), the court may order that:
 - (a) on the warrant of the Registrar, a magistrate of the Territory or such other person as the court directs (being a person who holds an office in relation to the court), the accused be removed to the place specified in the order, and held there, for the purposes of the trial of that person and for any related proceedings; and
 - (b) on the summons of the Registrar, all persons required to attend to give evidence in the trial or proceedings attend at the place specified in the order.
- (6) When exercising its criminal jurisdiction in a State, an indictment court has, and may exercise, all the powers that it would have if it were exercising its criminal jurisdiction in the Territory.
- (7) A power exercised by an indictment court under subsection (6) shall be deemed to have been exercised by the court at a sittings of the court in the Territory.
- (8) Where an indictment court is sitting in a State for the purpose of a trial in that State, the court may, if it is satisfied that the interests of justice require it, order that, for the purpose of viewing a place, or taking evidence from a person, in the Territory, or for a prescribed purpose:
 - (a) the trial be adjourned for such time as the court considers reasonable and necessary, and be continued in the Territory for so long as is necessary for that purpose;
 - (b) on the warrant of the Registrar, a magistrate of the Territory or such other person as the court directs (being a person who holds an office in relation to the court), the accused be returned to the Territory for the purposes of the continuation of the trial and any related proceedings; and

- (c) the jurors empanelled for the trial go to the Territory and remain there for such time as the court directs for the purpose of continuing to attend as jurors in the trial.
- (9) A person who appears as a witness in an indictment court in a trial, or in related proceedings, held wholly or partly in a State, shall be paid by the Commonwealth such fees and allowances as would be payable to the person if the person had appeared as a witness in a trial held in the Territory.
- (10) Where:
- (a) an indictment court, when exercising its criminal jurisdiction in a State, makes an order, issues a warrant or summons or gives a judgment;
 - (b) a person fails to comply with that order, warrant, summons or judgment; and
 - (c) that failure would have constituted an offence against a law in force in the Territory if it had occurred there;
- the person commits an offence against this Act punishable by a penalty that is the same as the penalty for the offence referred to in paragraph (c).

15AD Juries outside the Territory

- (1) In this section:
- jury list* means the roll, list or book, on or in which the names of persons liable to serve as jurors appear.
- (2) Subject to this section and the regulations, the laws in force in a State relating to:
- (a) the qualification of jurors;
 - (b) the preparation of jury lists and jury panels;
 - (c) the summoning, attendance and empanelling of juries;
 - (d) the number of jurors;
 - (e) the right of challenge;
 - (f) the discharge of juries;
 - (g) the disagreement of jurors;

Section 15AD

- (h) the remuneration of jurors; and
 - (j) other matters concerning jurors (other than matters dealt with under section 15AE) after they have been summoned, appointed or sworn;
- that apply for the purposes of the trial of a criminal matter in the Supreme Court of that State sitting at a place in that State, extend and shall be applied, with such changes as are necessary, for the purposes of the trial of a criminal matter in an indictment court when sitting at that place.
- (3) For the purposes of a trial in an indictment court held wholly or partly at a place in a State, the jury list that would be used for the purposes of a criminal trial in the Supreme Court of that State sitting in the same place shall be used as well for the purposes of the trial in the indictment court.
 - (4) The precept for a jury shall be issued by the Registrar, or such other person holding an office in relation to the indictment court as the court directs, and the Sheriff or such other person as the court directs shall prepare the jury panels and summon jurors.
 - (5) The person who has custody of the jury list referred to in subsection (3) in the State where the indictment court is holding a trial shall:
 - (a) give a copy of that list to the person directed by the court to prepare a jury panel; and
 - (b) indicate on that copy the names of the persons who, to his or her knowledge, would not, if summoned at the time the copy is given, be liable to serve as jurors under the law in force in that State.
 - (6) The Commonwealth shall pay such reasonable fee as may be demanded for a copy of a list referred to in paragraph (5)(a).
 - (7) Any remuneration required to be paid to a person who serves, or is summoned to serve, on a jury in a trial in an indictment court held wholly or partly in a State shall be paid by the Commonwealth.

- (8) Where a law applied by this Act for the purposes of a trial in an indictment court requires an act or thing to be done by a person specified in that law, the court may, if it is necessary to do so for the purpose of the effective application of the law, order that a person who holds a specified office in relation to the court do that act or thing, and the law shall be deemed to apply to that person accordingly.
- (9) The regulations may provide that such provisions of a law referred to in subsection (2) as are specified in the regulations do not apply or apply subject to such modifications as are specified in the regulations.

15AE Offences in relation to jurors

- (1) In this section:

juror includes a person whose name is on a jury panel.

- (2) A person who is served with a summons to attend as a juror in a trial in an indictment court held wholly or partly in a State shall not:
- (a) fail to attend in accordance with the summons; or
 - (b) having so attended, withdraw from the presence of the court, without the permission of the Sheriff, before being discharged or excused by a judge of the court or the Sheriff.

Penalty: Imprisonment for 1 month or 2 penalty units.

- (2A) Subsection (2) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter in subsection (2A) (see subsection 13.3(3) of the *Criminal Code*).

- (3) A person shall not personate a person who is a juror with the intention of sitting on a jury.

Penalty: Imprisonment for 6 months or 10 penalty units.

- (4) A person shall not:

Section 15AF

- (a) engage in conduct that results in the corruption of a juror;
- (b) make or promise a payment to a juror, or confer or promise to confer any other benefit on a juror in relation to the person's service as a juror, other than a payment of the ordinary remuneration of the juror's employment; or
- (c) being a juror, accept such a payment or benefit.

Penalty: Imprisonment for 5 years.

- (5) In this section:

engage in conduct means:

- (a) do an act; or
- (b) omit to perform an act.

15AF Removal of accused to State to stand trial

- (1) Where an indictment court makes an order under paragraph 15AC(5)(a) in relation to an accused, the Registrar, a magistrate of the Territory or a person directed by the court under that paragraph, may:
 - (a) by warrant directed to all constables, require them to convey the accused in custody from the Territory to the prison specified in the warrant and to deliver the accused into the custody of the officer for the time being in charge of that prison; and
 - (b) by warrant directed to that officer, require that officer to detain the accused in that prison pursuant to this section.
- (2) A warrant referred to in subsection (1) may be executed by any constable.
- (3) An accused delivered into custody at a prison in a State under a warrant under subsection (1) may, subject to any order of the indictment court, be detained in that prison or any other prison in that State for so long as the accused's detention is necessary for the execution of the order.

- (4) An accused may, while so in custody, be dealt with in the same manner, and is subject to the same laws, as if the warrant issued under subsection (1) had been issued under a law in force in the relevant State relating to holding persons in custody pending the trial of those persons.
- (5) The Commonwealth shall pay to the relevant State the reasonable expenses of maintaining an accused detained in a prison under a warrant under subsection (1).

15AG Accused to be conveyed to court

- (1) Where an accused has been removed to a State under this Act, a judge of an indictment court may order that the accused be conveyed to the court for the purposes of trial in that State, and any related proceedings.
- (2) Where a judge of an indictment court makes an order under subsection (1), the person who has the custody of the accused shall release the accused to a constable to enable the accused to be conveyed to the court in accordance with that order.

15AH Return of accused to Territory

- (1) Where an indictment court makes an order under paragraph 15AC(8)(b), the Registrar, a magistrate of the Territory or a person directed by the Court under that paragraph may, by warrant directed to all constables, require them to convey the accused in custody from the State in which the court made the order to the prison in the Territory specified in the warrant and to deliver the accused into the custody of the officer for the time being in charge of that prison.
- (2) A warrant referred to in subsection (1) may be executed by any constable.

Section 15AI

15AI Person deemed to be prisoner under *Removal of Prisoners (Territories) Act 1923*

Where:

- (a) a person has been tried in relation to an indictable offence against a law in force in the Territory by an indictment court sitting in a State; and
- (b) the person is convicted of that offence and sentenced to imprisonment;

the person shall be deemed:

- (c) to be a prisoner within the meaning of the *Removal of Prisoners (Territories) Act 1923*; and
- (d) to have been removed to that State under that Act;

and the provisions of that Act apply (so far as they are capable of applying) in relation to the person accordingly.

15AJ Person deemed to be criminal lunatic under *Removal of Prisoners (Territories) Act 1923*

Where a person who has been removed to a State under this Act:

- (a) is found to have been insane at the time of the commission of the offence;
- (b) is found or certified, or otherwise lawfully proved, to be unfit, on the ground of insanity, to be tried for the offence; or
- (c) is convicted of an offence and afterwards certified, or otherwise lawfully proved, to be insane;

the person shall be deemed:

- (d) to be a criminal lunatic within the meaning of the *Removal of Prisoners (Territories) Act 1923*; and
- (e) to have been removed to that State under that Act;

and sections 9 and 10A of that Act apply (so far as they are capable of applying) in relation to the person accordingly.

15AK Repatriation of person tried in a State

Where:

- (a) a person has been removed to a State under this Act;
- (b) the trial of the person in an indictment court sitting in that State has concluded; and
- (c) the person is acquitted (other than on the ground of insanity) or is not, after the date on which the trial concludes, required to serve a sentence of imprisonment;

the Commonwealth shall, on application by the person to the Secretary, provide the person with means to enable the person to return to the Territory.

Part IVAA—Conferral of Territory jurisdiction on Western Australian courts etc.

15AAA Definitions

In this Part:

Family Court of Western Australia means the Court established by the *Family Court Act 1975* of Western Australia.

transfer day means the day on which this Part commences.

15AAB Conferral of jurisdiction on Western Australian courts and court officers

- (1) Subject to this Part and any law in force in the Territory, the courts and court officers of Western Australia have jurisdiction (including appellate jurisdiction) in and in relation to the Territory as if the Territory were part of Western Australia.
- (2) Subject to any law in force in the Territory, a court or court officer of Western Australia may, in exercising jurisdiction under this section, sit in the Territory or Western Australia.
- (3) Subject to any law in force in the Territory, the practice and procedure applicable to a court or court officer exercising jurisdiction under this section are to be the practice and procedure as in force from time to time in relation to that court or court officer in Western Australia.

15AAC Transfer of Supreme Court jurisdiction

- (1) This section applies to the jurisdiction vested in or exercisable by the Supreme Court of the Territory or a judge of that Court immediately before the transfer day, except in relation to matters for which:

- (a) proceedings were pending in that Court immediately before that day; or
 - (b) proceedings had been completed in that Court before that day.
- (2) On and after the transfer day, the jurisdiction:
- (a) ceases to be vested in the Supreme Court of the Territory or a Judge of that Court; and
 - (b) is vested in:
 - (i) if the Family Court of Western Australia or a Judge of that Court would, apart from this section, have the jurisdiction under subsection 15AAB(1)—the Family Court of Western Australia or a Judge of that Court (as the case requires); or
 - (ii) if the District Court of Western Australia or a Judge of that Court would, apart from this section, have the jurisdiction under subsection 15AAB(1)—the District Court of Western Australia or a Judge of that Court (as the case requires); or
 - (iii) if the Children’s Court of Western Australia or a Judge of that Court would, apart from this section, have the jurisdiction under subsection 15AAB(1)—the Children’s Court of Western Australia or a Judge of that Court (as the case requires); or
 - (iv) in any other case—the Supreme Court of Western Australia or a Judge of that Court (as the case requires).

15AAD Transfer of pending proceedings

- (1) On and after the transfer day, the parties to proceedings in a matter pending in the Supreme Court of the Territory (***Territory Court***) may apply to that Court to transfer the proceedings to:
- (a) if the proceedings relate only to a matter of a kind that is within the jurisdiction of the Family Court of Western Australia—the Family Court of Western Australia; or

Section 15AAE

- (b) if the proceedings relate only to a matter of a kind that is within the jurisdiction of the District Court of Western Australia—the District Court of Western Australia; or
 - (c) if the proceedings relate only to a matter of a kind that is within the jurisdiction of the Children’s Court of Western Australia—the Children’s Court of Western Australia; or
 - (d) in any other case—the Supreme Court of Western Australia.
- (2) If the Territory Court decides that it is not contrary to the interests of justice to grant the application, the Court is to transfer the proceedings to the relevant Court (*State Court*) and:
- (a) the State Court may hear and determine the proceedings; and
 - (b) all documents filed of record in the Territory Court in the proceedings are to be transmitted to the State Court; and
 - (c) any money lodged with the Territory Court in relation to the proceedings is to be transferred to the State Court and is taken to be money lodged with the State Court in relation to the proceedings; and
 - (d) everything done in or in relation to the proceedings in the Territory Court is taken to have been done in the State Court.

15AAE Application of provisions of this Act to courts of Western Australia

In relation to the exercise of jurisdiction by a court of Western Australia or a Judge or an officer mentioned in this Part, this Act has effect as if:

- (a) a reference in this Act to an indictment court included a reference to the Supreme Court of Western Australia or the District Court of Western Australia; and
- (b) a reference in this Act to a Judge of an indictment court included a reference to a Judge of the Supreme Court of Western Australia or of the District Court of Western Australia; and
- (c) a reference in this Act to the Registrar of an indictment court included a reference to:

- (i) a person who has the powers of the Registrar of the Supreme Court of Western Australia in the application of the *Supreme Court Act 1935* of Western Australia in the Territory; or
- (ii) a person who has the powers of a judge of the District Court of Western Australia in the application of the *District Court of Western Australia Act 1969* of Western Australia in the Territory; and
- (d) a reference in this Act to the Sheriff of an indictment court included a reference to:
 - (i) a person who has the powers of the sheriff of the Supreme Court of Western Australia in the application of the *Supreme Court Act 1935* of Western Australia in the Territory; or
 - (ii) a person who has the powers of the sheriff of the District Court of Western Australia in the application of the *District Court of Western Australia Act 1969* of Western Australia in the Territory; and
- (e) a reference in section 16 to a Territory court included a reference to a Western Australian court exercising jurisdiction in or in relation to the Territory under a law of the Territory; and
- (f) a reference in paragraph 16(c) to a person who holds an office in relation to a Territory court included a reference to a person who has the powers mentioned in that paragraph in relation to the Territory under a law of the Territory.

15AAF Savings—jurisdiction of Supreme Court of the Territory on and after transfer day

Part IVAA of this Act as in force immediately before the transfer day continues in force in relation to any matter in respect of which the Supreme Court of the Territory or a Judge of that Court continues to have jurisdiction on or after that day.

Section 15AAG

15AAG Abolition of Supreme Court of the Territory

The Supreme Court of the Territory is abolished on a day to be fixed by Proclamation, being a day on which no person holds office as a judge of that Court.

15AAH Transitional provisions after abolition of Supreme Court

(1) In this section:

proclaimed day means the day to be fixed by Proclamation under section 15AAG.

State Court means the Court to which proceedings are transferred under subsection (2).

Territory Court means the Supreme Court of the Territory.

- (2) As soon as practicable after no person holds office as a Judge of the Territory Court, the Registrar of the Court must transfer all proceedings in the Court (including completed proceedings) to:
- (a) if the proceedings relate only to a matter of a kind that is within the jurisdiction of the Family Court of Western Australia—the Family Court of Western Australia; or
 - (b) if the proceedings relate only to a matter of a kind that is within the jurisdiction of the District Court of Western Australia—the District Court of Western Australia; or
 - (c) if the proceedings relate only to a matter of a kind that is within the jurisdiction of the Children’s Court of Western Australia—the Children’s Court of Western Australia; or
 - (d) in any other case—the Supreme Court of Western Australia.
- (3) If proceedings are transferred under subsection (2):
- (a) all documents filed of record in the Territory Court in the proceedings are to be transmitted to the State Court; and
 - (b) any money lodged with the Territory Court in relation to the proceedings is to be transferred to the State Court and is taken to be money lodged with the State Court in relation to the proceedings; and

- (c) everything done in or in relation to the proceedings in the Territory Court is taken to have been done in the State Court.
- (4) If proceedings transferred under subsection (2) were not completed before the proclaimed day, the State Court may:
 - (a) hear, or further hear, the proceedings; and
 - (b) determine the proceedings; and
 - (c) have regard to any evidence or argument in the proceedings in the Territory Court.

15AAI References to courts of Territory—transitional

- (1) Unless the contrary intention appears:
 - (a) a reference in any Act to the Supreme Court of the Territory is taken to include a reference to the Supreme Court of Western Australia exercising jurisdiction in or in relation to the Territory under this Act; and
 - (b) a reference in any Act to courts of the Territory is taken to include a reference to courts of Western Australia exercising jurisdiction in or in relation to the Territory under this Act.
- (2) Subsection (1) does not apply to a reference in the *Federal Court of Australia Act 1976*.

Part V—Miscellaneous

15A Appointment of officers

- (1) In spite of the *Public Service Act 1999*, a law of the Territory may make provision for and in relation to the appointment and employment of persons for the purposes of the government of the Territory.
- (3) Nothing in this section shall be deemed to prevent the appointment or employment of persons under the *Public Service Act 1999* in its application to the Territory.

16 Sittings of courts etc.

- (1) Provision may be made by Ordinance for and in relation to:
 - (a) sittings in Australia outside the Territory of a Territory court for the purpose of hearing and determining a matter if the court is satisfied that the hearing of the matter outside the Territory is not contrary to the interests of justice;
 - (b) the establishment and operation at places in Australia outside the Territory of registries of Territory courts; and
 - (c) where a power is conferred or imposed by law on a person who holds an office in relation to a Territory court—the exercise of the power at places in Australia outside the Territory.
- (2) A reference in subsection (1) to a Territory court is a reference to a court having jurisdiction in the Territory.

17 Grant of pardon, remission etc.

- (1) The Governor-General, acting with the advice of the Minister, may, by warrant under the Governor-General's hand, grant to a person convicted by a court of the Territory exercising criminal jurisdiction a pardon, either free or conditional, or a remission or

commutation of sentence, or a respite, for such period as the Governor-General thinks fit, of the execution of sentence, and may remit any fine, penalty or forfeiture imposed or incurred under a law in force in the Territory.

- (2) Where an offence has been committed in the Territory, or where an offence has been committed outside the Territory for which the offender may be tried in the Territory, the Governor-General, acting with the advice of the Minister, may, by warrant under the Governor-General's hand, grant a pardon to an accomplice who gives evidence that leads to the conviction of the principal offender, or of any of the principal offenders.

18 Continuation of Malay customs

The institutions, customs and usages of the Malay residents of the Territory shall, subject to any law in force in the Territory from time to time, be permitted to continue in existence.

18A Exemption from customs duty of goods produced in the Territory

Duties of Customs are not chargeable on goods imported into Australia from the Territory if the goods:

- (a) are the produce or manufacture of the Territory;
- (b) have been shipped in the Territory for export to Australia; and
- (c) are not goods which, if manufactured or produced in Australia, would be subject to a Duty of Excise.

18B Disposal of land

- (1) The application of the *Lands Acquisition Act 1989* in relation to land in the Territory does not prevent or affect the making or operation of a provision of a law of the Territory (including a law made before this section's commencement) under which:

Section 19

- (a) lands in the Territory acquired by or vested in the Commonwealth may be disposed of or otherwise dealt with; or
 - (b) instruments, receipts and other documents in relation to any such lands may be executed; or
 - (c) rights, duties and liabilities in relation to any such lands are or may be acquired, conferred or imposed.
- (2) A law of the Territory mentioned in subsection (1) which provides for the acquisition of land must provide that land is not to be acquired otherwise than on just terms.

19 Audit

The accounts of the Territory are subject to inspection and audit by the Auditor-General for the Commonwealth.

19A Ordinances—incorporation of matters by reference

- (1) Despite subsection 14(2) of the *Legislation Act 2003*, an Ordinance, or a law made under such an Ordinance, may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a provision of a Western Australian law (whether or not the law is an applied Western Australian law), as in force at a particular time or as in force from time to time.
- (2) Subsection (1) applies to a provision of a Western Australian law that is not an Act of the Western Australian Parliament only if the provision is subject to disallowance (however described) in Western Australia.

20 Regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and, in particular:

- (a) prescribing penalties, of imprisonment for a period not exceeding 3 months or a fine not exceeding 15 penalty units, for offences against the regulations; and
- (b) making saving or transitional provisions in relation to the abolition of any court established by a law of the Territory.

Schedule—Laws continuing in force in the Territory on and after 1 July 1992

Section 8

Administration Ordinance 1975

Companies Ordinance (of the Colony of Singapore in its application to the Territory)

Co-operative Societies Ordinance (of the Colony of Singapore in its application to the Territory)

Courts Ordinance (of the Colony of Singapore in its application to the Territory)

Interpretation Ordinance 1955

Migratory Birds Ordinance 1980

Postal Services Ordinance 1979

Quarantine and Prevention of Disease Ordinance (of the Colony of Singapore in its application to the Territory)

Supreme Court Ordinance 1955

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnotes

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Cocos (Keeling) Islands Act 1955	34, 1955	16 June 1955	23 Nov 1955 (s 2 and gaz 1955, p 3665)	
Cocos (Keeling) Islands Act 1956	89, 1956	8 Nov 1956	23 Nov 1955 (s 2)	—
Cocos (Keeling) Islands Act 1958	67, 1958	8 Oct 1958	8 Oct 1958 (s 2)	s 5(2)
Cocos (Keeling) Islands Act 1963	22, 1963	28 May 1963	25 June 1963	s 3
Statute Law Revision (Decimal Currency) Act 1966	93, 1966	29 Oct 1966	Sch 1: 1 Dec 1966 (s 2(1))	—
Statute Law Revision Act 1973	216, 1973	19 Dec 1973	s 9(1), 10 and Sch 1: 31 Dec 1973 (s 2)	s 9(1) and 10
Postal and Telecommunications Commissions (Transitional Provisions) Act 1975	56, 1975	12 June 1975	Sch 2: 12 June 1975 (s 2(2))	—
Cocos (Keeling) Islands Amendment Act 1979	6, 1979	5 Mar 1979	21 Mar 1979 (s 2 and gaz 1979, No S48)	—

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law (Miscellaneous Amendments) Act (No. 1) 1982 as amended by	26, 1982	7 May 1982	s 79: 4 June 1982 (s 2(12))	—
Statute Law (Miscellaneous Amendments) Act (No. 2) 1982	80, 1982	22 Sept 1982	s 263: 4 June 1982 (s 2(11))	—
Statute Law (Miscellaneous Provisions) Act (No. 1) 1983	39, 1983	20 June 1983	s 7(1) and Sch 1: 18 July 1983 (s 2(1))	s 7(1)
Statute Law (Miscellaneous Provisions) Act (No. 1) 1985	65, 1985	5 June 1985	Sch 1: 3 July 1985 (s 2(1))	—
Statute Law (Miscellaneous Provisions) Act (No. 2) 1986	168, 1986	18 Dec 1986	s 5(3) and Sch 1: 18 Dec 1986 (s 2(1))	s 5(3)
Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988	99, 1988	2 Dec 1988	Sch: 2 Dec 1988 (s 2)	—
Arts, Territories and Environment Legislation Amendment Act 1989	60, 1989	19 June 1989	s 17–20: 19 June 1989 (s 2(1))	—

Cocos (Keeling) Islands Act 1955

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Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Territories Law Reform Act 1992	104, 1992	30 June 1992	s 1, 2, 25 and 26: Royal Assent s 9, 10, 19, 21 and 22: 29 June 1993 (gaz 1993, S196) Remainder: 1 July 1992	—
Territories Legislation Amendment Act 1992	211, 1992	24 Dec 1992	s 4: (f) Remainder: Royal Assent	—
Environment, Sport and Territories Legislation Amendment Act 1994	113, 1994	16 Sept 1994	16 Sept 1994	—
Workplace Relations and Other Legislation Amendment Act 1996	60, 1996	25 Nov 1996	Sch 19 (item 13): Royal Assent (g)	s 2(2) and (6) (am. by 77, 1996, Sch 3 [items 1, 2])
as amended by Workplace Relations and Other Legislation Amendment Act (No. 2) 1996	77, 1996	19 Dec 1996	Sch 3 (items 1, 2): (h)	—
Environment, Sport and Territories Legislation Amendment Act 1997	118, 1997	7 July 1997	Sch 1 (items 14–19): 7 July 1997 (s 2(1))	Sch 1 (item 15)
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (items 297, 298): 5 Dec 1999 (gaz 1999, No. S584 and s 2(1), (2))	—
Transport and Regional Services Legislation Amendment (Application of Criminal Code) Act 2001	143, 2001	1 Oct 2001	2 Oct 2001	s. 4

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Statute Law Revision Act 2008	73, 2008	3 July 2008	Sch 4 (items 157–159): 4 July 2008	—
Territories Law Reform Act 2010	139, 2010	10 Dec 2010	Sch 3: 11 Dec 2010	Sch 3 (items 3–5)
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 57, 58): 10 Mar 2016 (s 2(1) item 6)	—
Statute Update Act 2016	61, 2016	23 Sept 2016	Sch 1 (items 92–94): 21 Oct 2016 (s 2(1) item 1)	—
Territories Legislation Amendment Act 2020	154, 2020	17 Dec 2020	Sch 1 (items 27–52, 76): 18 Dec 2020 (s 2(1) item 2)	Sch 1 (item 76)

Name	Registration	Commencement	Application, saving and transitional provisions
Workplace Relations Amendment (Work Choices) (Consequential Amendments) Regulations 2006 (No. 1) (SLI No. 50, 2006)	17 Mar 2006 (F2006L00820)	Sch 46: 27 Mar 2006 (r 2(b))	—

(f) Subsection 2(2) of the *Territories Legislation Amendment Act 1992* provides as follows:

- (2) Section 4 and Schedule 2 commence immediately after the commencement of sections 10 and 19 of the *Territories Law Reform Act 1992*.

Sections 10 and 19 commenced on 29 June 1993 (*see Gazette* 1993, No. S196).

Endnotes

Endnote 3—Legislation history

(g) The *Cocos (Keeling) Islands Act 1955* was amended by Schedule 19 (item 13) only of the *Workplace Relations and Other Legislation Amendment Act 1996*, 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.

(h) The *Workplace Relations and Other Legislation Amendment Act 1996* was amended by Schedule 3 (items 1 and 2) of the *Workplace Relations and Other Legislation Amendment Act (No. 2) 1996*, subsection 2(4) of which provides as follows:

(4) The items of Schedule 3 are taken to have commenced immediately after the *Workplace Relations and Other Legislation Amendment Act 1996* received the Royal Assent.

The *Workplace Relations and Other Legislation Amendment Act 1996* received the Royal Assent on 25 November 1996.

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Preamble	am No. 6, 1979
Part I	
s 3	am No. 67, 1958 rep No. 216, 1973
s 4	am No 6, 1979; No 60, 1989; No 104, 1992; No 211, 1992; No 154, 2020
s 4A	ad No. 143, 2001
Part II	
s 6	am No. 6, 1979; No. 65, 1985
s 7	am No. 6, 1979 rs No. 104, 1992
Part III	
Division 1	
Heading to Part III	rs No. 104, 1992
Div. 1 of Part III	rs No. 104, 1992
s 7A	ad No 104, 1992 am No 154, 2020
s 8	am No. 6, 1979 rs No. 104, 1992
s 8A	ad No 104, 1992 am No 211, 1992; No 154, 2020
ss 8B–8E	ad No. 104, 1992
s 8F	ad No. 104, 1992 am No. 60, 1996 rep SLI 2006 No. 50
s 8G	ad No 104, 1992 am No 211, 1992; No 113, 1994; No 146, 1999 rs No 139, 2010 am No 154, 2020

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
s 8GA.....	ad No 154, 2020
s 8H.....	ad No 104, 1992 am No 139, 2010; No 154, 2020 ed C13
s 8I.....	ad No. 104, 1992
ss 9, 10.....	am No. 6, 1979 rep No. 104, 1992
s 11.....	am No. 216, 1973 rep No. 56, 1975
s 12.....	am No 4, 2016 (md not incorp)
Division 2	
s 13.....	am No. 22, 1963; No. 6, 1979; No. 26, 1982 (as am. by No. 80, 1982); No. 39, 1983; No. 168, 1986; No. 99, 1988
ss 13A–13C.....	ad No. 99, 1988
s 13D.....	ad No 99, 1988 am No 104, 1992; No 154, 2020 rep No. 118, 1997
Part IV.....	rep No. 118, 1997
s 14.....	am No. 67, 1958; No. 6, 1979 rep No. 65, 1985
s 14A.....	ad No. 6, 1979 am No. 104, 1992 rep No. 118, 1997
s 15.....	rs No. 6, 1979 am No. 65, 1985; No. 104, 1992 rep No. 118, 1997
Part IVA	
Part IVA.....	ad No. 60, 1989
s 15AA.....	ad No 60, 1989
s 15AB.....	ad No 60, 1989
s 15AC.....	ad No 60, 1989 am No 4, 2016

Endnote 4—Amendment history

Provision affected	How affected
s 15AD.....	ad No 60, 1989
s 15AE.....	ad No. 60, 1989 am No. 143, 2001; No 61, 2016
ss 15AF–15AK.....	ad No. 60, 1989
Part IVAA	
Part IVAA.....	rs No. 104, 1992
ss 15AAA, 15AAB.....	ad No. 104, 1992 am No. 211, 1992 rs No. 104, 1992 am No. 211, 1992
ss 15AAC, 15AAD.....	ad No. 104, 1992 am No. 211, 1992 rs No. 104, 1992
s 15AAE.....	ad No 104, 1992 am No 118, 1997; No 154, 2020
ss 15AAF–15AAH.....	ad No. 104, 1992
s 15AAI.....	ad No. 104, 1992 am No. 211, 1992
Part V	
s 15A.....	ad No. 67, 1958 am No. 216, 1973; No. 65, 1985; No. 104, 1992; No. 146, 1999
s 16.....	rs No 65, 1985 am No 60, 1989; No 154, 2020
s 17.....	am No. 67, 1958; No. 60, 1989; No. 73, 2008
s 18A.....	ad No. 89, 1956
s 18B.....	ad No. 104, 1992
s 19A.....	ad No 154, 2020
s 20.....	am No. 93, 1966; No. 6, 1979; No. 104, 1992; No 61, 2016
Schedule	
Schedule.....	ad No. 104, 1992 am No. 118, 1997

Cocos (Keeling) Islands Act 1955

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Endnotes

Endnote 5—Editorial changes

Endnote 5—Editorial changes

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

Subsection 8H(2)

Kind of editorial change

Give effect to the misdescribed amendment as intended

Details of editorial change

Schedule 1 item 45 of the *Territories Legislation Amendment Act 2020* instructs to omit “or the performance of functions or duties” from subsection 8H(2).

The words “or the performance of functions or duties” do not appear in subsection 8H(2). However, the words “or performance of functions or duties” do appear.

This compilation was editorially changed to omit the words “or performance of functions or duties” from subsection 8H(2) to give effect to the misdescribed amendment as intended.