

ASHMORE AND CARTIER ISLANDS ACCEPTANCE AMENDMENT ACT 1978

No. 59 of 1978

An Act to amend the *Ashmore and Cartier Islands Acceptance Act 1933* for purposes related to the self-government of the Northern Territory.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth, as follows:

Short title,
&c.

1. (1) This Act may be cited as the *Ashmore and Cartier Islands Acceptance Amendment Act 1978*.¹

(2) The *Ashmore and Cartier Islands Acceptance Act 1933*² is in this Act referred to as the Principal Act.

Commence-
ment

2. This Act shall come into operation on 1 July 1978.

Interpret-
ation

3. Section 3 of the Principal Act is amended by inserting before the definition of “the Islands” the following definitions:

“ ‘Commonwealth law’ means an Act, or regulations made directly under an Act;

‘Ordinance’ means an Ordinance made under this Act;”.

4. Section 6 of the Principal Act is repealed and the following sections are substituted:

Continuance
of laws

“6. (1) Subject to this Act, the laws in force in the Territory immediately before 1 July 1978 (including the principles and rules of common law and equity so in force) continue in force on and after that date.

“(2) In sub-section (1), ‘law’ does not include the *Northern Territory (Administration) Act 1910*, but includes a law made under that Act.

Ordinance
may amend
or repeal
adopted laws

“7. A law in force in the Territory by virtue of section 6 (other than a Commonwealth law) may be amended or repealed by an Ordinance or by a law made under an Ordinance.

Application
of Com-
monwealth
Acts

“8. (1) A Commonwealth law (including a law in force immediately before the commencement of this Act) has effect in and in relation to the Territory, except so far as the context otherwise requires, as if the Territory were an internal Territory.

“(2) An Ordinance shall not be made so as to affect the application of a Commonwealth law of its own force in, or in relation to, the Territory.

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

“(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.

“10. (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, is void and of no effect. Tabling of Ordinances

“(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) that House is dissolved or, being the House of Representatives, 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 sub-sections (3) and (4), be deemed to have been laid before that House on the first sitting day of that House after the dissolution, expiry or prorogation, as the case may be.

“(5) Where an Ordinance or part of an Ordinance is disallowed, or is to be deemed to have been disallowed, under this section, the disallowance has the same effect as a repeal of the Ordinance or part of the

Ordinance, as the case may be, except that, if a provision of the Ordinance or part of the Ordinance amended or repealed a law in force immediately before that provision came into operation, the disallowance revives the previous law from and including the date of the disallowance as if the disallowed provision had not been made.

“(6) If an Ordinance or part of an Ordinance is disallowed, or is to be deemed to have been disallowed, under this section, and an Ordinance containing a provision being the same in substance as a provision that has been so disallowed, or is to be deemed to have been disallowed, is made within 6 months after the date of the disallowance, that provision is void and of no effect, unless—

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

Powers and functions under Northern Territory law

“11. (1) Subject to sub-section (2), where, by any law in force in the Territory by virtue of section 6, 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, the Minister.

“(2) The Governor-General may direct that a power or function vested in a person or authority (not being a court) by a law in force in the Territory by virtue of section 6 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.

Courts of Northern Territory to have jurisdiction in Territory

“12. (1) The courts of the Northern Territory have jurisdiction in and in relation to the Territory.

“(2) In the exercise of its jurisdiction under this section a court of the Northern Territory may sit in the Territory or in the Northern Territory.

“(3) The practice and procedure of a court exercising jurisdiction under this section shall be the practice and procedure in force from time to time in relation to that court in the Northern Territory.

Grant of pardon, remission, &c.

“13. (1) The Governor-General, acting with the advice of the Minister, may, by warrant under his hand, grant to a person convicted by a court exercising criminal jurisdiction in the Territory a pardon, either free or conditional, or a remission or commutation of sentence, or a respite, for such period as he 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 his hand, grant a pardon to any accomplice who gives evidence that leads to the conviction of the principal offender or any of the principal offenders.”.

NOTES

1. Act No. 59, 1978; assented to 22 June 1978.
2. Act No. 60, 1933, as amended. For previous amendments *see* Act No. 11, 1938; and No. 216, 1973.