



# **Seat of Government Acceptance Act 1909**

## **Act No. 23 of 1909 as amended**

This compilation was prepared on 13 November 2000  
taking into account amendments up to Act No. 216 of 1973

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 relating to the Acceptance of the Territory surrendered by the State of New South Wales for the Seat of Government of 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 First Schedule to this Act, for the surrender to and acceptance by the Commonwealth, for the purposes of the seat of government, or the territory (in this Act referred to as the Territory) now being part of the State and described in the Second Schedule to this Act:

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 *Seat of Government Acceptance Act 1909*.

## **2 Commencement** [see Note 2]

This Act shall commence on a day to be fixed by Proclamation, after the Parliament of the State has passed an Act ratifying and confirming the said agreement, and surrendering the Territory to the Commonwealth.

## **3 Ratification of Agreement** [see Note 3]

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

#### **4 Seat of Government**

It is hereby declared and determined that the Seat of Government shall be in the Territory described in the Second Schedule to this Act.

#### **5 Acceptance of Territory** [see Note 4]

- (1) The Governor-General is hereby authorized to declare by Proclamation that, on and from a day to be fixed by the Proclamation (in this Act referred to as the proclaimed day), the Territory described in the Second Schedule to this Act, and surrendered by the State to the Commonwealth, is accepted by the Commonwealth as a Territory.
- (2) The effect of the Proclamation shall be that, on and from the proclaimed day, the Territory shall be accepted by the Commonwealth and be acquired by the Commonwealth for the Seat of Government.
- (3) The Territory shall be known as the Australian Capital Territory.

#### **6 Continuance of laws**

- (1) Subject to this Act, all laws in force in the Territory immediately before the proclaimed day shall, so far as applicable, continue in force until other provision is made.
- (2) Where, by any law of the State in force in the Territory on the proclaimed day, any power or function is vested in the Governor of the State, or in any Authority of the State, that power or function in relation to the Territory shall be vested in and exercised or performed by the Governor-General, or the Authority exercising similar powers and functions under the Commonwealth, as the case requires or as the Governor-General directs:  
Provided that the Governor-General may direct that any such power or function may be exercised or performed on behalf of the Commonwealth by the Authority of the State in which it was previously vested; and while that direction remains in force the Authority of the State shall, in regard to the exercise or performance of that power or function, be deemed to be an Authority of the Commonwealth:

Provided further that, until a date to be fixed by Proclamation, where a Crown grant in fee simple of any land referred to in the next succeeding section is issuable, the grant may be issued by the Governor of the State in the name of the King and under the Seal of the State, and any grant so issued shall vest in the grantee the fee simple in the land subject to the reservations and exceptions contained in the grant, and the land in respect of which the grant is issued shall, until a date to be fixed by Proclamation, be deemed to be under the provisions of the *Real Property Act 1900* of the State in its application to the Territory.

### **7 Continuance of interests in land**

All estates and interests in any land in the Territory which are held by any person from the State immediately before the proclaimed day shall, subject to any law of the Commonwealth, continue to be held from the Commonwealth on the same terms and conditions as they were held from the State.

## The Schedules

### First Schedule [see Note 3]

AGREEMENT made the eighteenth day of October, 1909, 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, for the purposes of the Seat of Government, the territory (hereinafter called the Territory), now being part of the State, described hereunder, namely—

Counties of Murray and Cowley, area about 900 square miles: Commencing on the Goulburn-Cooma Railway at its intersection with the Queanbeyan River at Queanbeyan, and bounded thence by that railway generally southerly to the south-eastern corner of portion 177, Parish of Keewong, County of Murray, by the southern boundaries of that portion and portions 218, 211, 36, and 38 generally westerly to the Murrumbidgee River, by that river downwards to a point east of the south-east corner of portion 68, Parish of Cuppacumbalong, County of Cowley, by a line partly forming the southern boundary of that portion west to the eastern watershed of Gudgenby River; by that watershed and the eastern and southern watersheds of Nass Creek by part of the western watershed of Gudgenby River, generally southerly, westerly, and northerly to the southern watershed of Cotter River, by that watershed and the western watershed of that river, passing through Mount Murray and through Bimberi Trigonometrical Station, generally northerly to Coree Trigonometrical Station; thence by a line bearing north-easterly to One-Tree Trigonometrical Station; thence by the watershed of Molonglo River north-easterly and generally south-easterly to the Goulburn-Cooma Railway aforesaid, and thence by that railway generally south-westerly to the point of commencement.

2. The right of the State or of the residents therein to the use and control of the waters of the Queanbeyan and Molonglo Rivers and their tributaries which



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lie to the east of the Goulburn to Cooma Railway shall be subject and secondary to the use and requirements of the Commonwealth (which are hereby declared to be paramount) for all the purposes of the Territory, and the State shall consent to the construction by the Commonwealth in the State of such works as are necessary for those purposes.

3. The State shall reserve from sale, lease, and occupation (except with the concurrence of the Commonwealth) all Crown lands within the catchment areas of the Queanbeyan and Molonglo Rivers.

4. The State shall not pollute and shall protect from pollution the waters of the Queanbeyan and Molonglo Rivers throughout their whole course above the Territory.

5. The State shall grant to the Commonwealth (so far as the same are not already vested in the Commonwealth) without payment therefor areas of land at Jervis Bay described as follows:

County of St. Vincent, Parish of Bherwerre, area about two square miles: Commencing on the High Water Mark of Jervis Bay at the south-western corner of portion 30 of forty acres and bounded thence on the east by a line bearing south eighty chains, on the south by a line bearing west one hundred and ninety-seven chains, on the west by a line bearing north to the aforesaid High Water Mark, and on all other sides by that High Water Mark bearing generally easterly to the point of commencement.

Eastern Division, Land District of Nowra, County of St. Vincent, Parish of Beecroft, area about five hundred and twenty acres. The Crown lands within the following boundaries: Commencing on the High Water Mark of the South Pacific Ocean at a point bearing north thirty-three degrees fifty minutes east and distant ninety-two chains fifty links from the south-east corner of portion 5 of ten acres and bounded thence generally on the east by that High Water Mark generally northerly to a point due west of the northernmost extremity of the Drum and Drumsticks Islands, thence on the north by a line bearing west to its intersection with a line parallel to and twenty chains in rectangular distance westerly from the High Water Mark aforesaid; thence generally on the west by the aforesaid line parallel to and twenty chains rectangularly distant from the aforesaid High Water Mark bearing generally southerly to a line due west from the point of commencement and thence by a line east to that point.

County of St. Vincent, Parish of Farnham, area one hundred and three acres. The Crown lands within the following boundaries: Commencing

on the High Water Mark of the South Pacific Ocean at a point south twenty-one chains thirty-eight links from a point east ten chains from Farnham Trigonometrical Station and bounded thence on the west by a line north thirty chains fifty-five links, on the north by a line east twenty-eight chains seven links to the High Water Mark of Sussex Haven thence by the High Water Mark of Sussex Haven and the South Pacific Ocean generally southerly and westerly to the point of commencement. Shown on plan Mis. 1399 Sy.

County of St. Vincent, Parish of Bherwerre, containing an area of one hundred and thirty-two acres: The Crown lands within Bowen Island situated in the Pacific Ocean at the mouth of Jervis Bay northerly of Governor Head. Mis. 1276 Sy.

Eastern Division, Land District of Nowra, County of St. Vincent, Parish of Beecroft, area five hundred and thirty-one acres. The Crown lands within the following boundaries: Commencing on the High Water Mark of Jervis Bay at Longnose Point, and bounded thence on the east by that High Water Mark and the right bank of Duck Creek generally northerly to the road leading to Point Perpendicular Light House, thence by that road, generally westerly and north-westerly to the High Water Mark of Jervis Bay at a wharf, and thence generally on the west and south by that High Water Mark southerly and easterly to the point of commencement. Plan Misc. 1393 Sy.

Eastern Division, Land District of Nowra, County of St. Vincent, Parish of Bherwerre, area four hundred and twelve acres. The Crown lands within the following boundaries: Commencing on the High Water Mark of Jervis Bay at the north-eastern corner of portion 21 of forty acres, and bounded thence on the west by the eastern boundary of that portion bearing south no degrees thirty-one minutes west ten chains forty-five links, on the north by part of the southern boundary of that portion bearing north eighty-nine degrees twenty-one minutes west thirteen chains seventy-four links, again on the west by a road one chain wide dividing it from portion 20 of forty acres bearing south no degrees thirty-six minutes west twenty-one chains twenty-six links, again on the north by that road dividing it from portion 20 bearing north eighty-nine degrees fifteen minutes west five chains sixty links, again on the west by that road dividing it from portion 30 of forty acres bearing south no degrees forty-two minutes west twenty chains six links, thence by a line south thirteen chains ninety-two links, on the south-west by a line bearing south sixty-nine degrees twelve minutes east eighteen chains twenty-five links, again on the west by a line, a road one chain wide

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dividing it from portion 31 of two acres and another line in all bearing south no degrees twenty-five minutes west nine chains ninety-seven links again on the south-west by a line and a road one chain wide dividing it from portion 33 of ten acres in all bearing south twenty degrees east twenty-nine chains thirteen links, on the south by a line bearing east twenty-one chains twenty-eight links to the High Water Mark of the South Pacific Ocean, and thence by that High Water Mark, and the High Water Mark of Jervis Bay aforesaid bearing generally northerly and westerly to the point of commencement. Shown on plan catalogued Ms. 1392 Sy. deposited in the Department of Lands, Sydney.

County of St. Vincent, Parish of Beecroft, area four hundred and twenty-four acres. The Crown lands within the following boundaries: Commencing on the High Water Mark of Jervis Bay at the south-west corner of portion 5 of ten acres and bounded thence by that High Water Mark generally north-westerly and northerly to a point bearing north twenty-four degrees thirty minutes west seventy-nine chains five links from the point of commencement thence by a line north four chains on the north by a line east about ninety-two chains ninety-two links to the High Water Mark of the South Pacific Ocean thence by that High Water Mark generally south-westerly to the south-east corner of portion 5 aforesaid, thence by the boundaries of that portion bearing north nine chains sixty-five links west ten chains eight links and south about nine chains thirty links to the point of commencement. Plan Mis. 1394 Sy.

County of St. Vincent, Parish of Nowra, area about one hundred and eighty acres. The Crown lands with the following boundaries: Commencing on the High Water Mark of Jervis Bay at a point bearing north twenty-four degrees thirty minutes west seventy-nine chains five links from the south-west corner of portion 5 of ten acres and bounded thence by a line north four chains on the south by a line east (to its intersection with a line parallel to and twenty chains) rectangularly distant from the aforesaid High Water Mark thence by that line parallel to and twenty chains rectangularly distant from the High Water Mark extending generally westerly to the left bank of Duck Creek by that Creek downwards and the High Water Mark of Jervis Bay aforesaid generally southerly and easterly to the point of commencement.

6. For the purpose of providing access to and from the Territory from and to the sea, the State shall grant to the Commonwealth—
- (a) the right to construct, maintain, and work a railway or other means of communication from the Territory to Jervis Bay, and to procure in New

South Wales timber ballast and other material necessary for such construction by paying such compensation in accordance with the laws of the State as is payable by the State when constructing State railways; and

- (b) the right on terms to be agreed upon, or in default of agreement to be determined by arbitration, to cross over or under, by road or railway, any State railway, and to connect with and run trains over any portion of a State railway.

7. The State shall not claim compensation from the Commonwealth for the value of any right, title, or interest of the State in land of the State required by the Commonwealth for the purposes of the railway constructed by the Commonwealth between the Territory and Jervis Bay.

8. The Commonwealth shall grant to the State on terms to be agreed upon, or in default of agreement to be determined by arbitration, the right to cross over or under by road or railway or to connect with and run trains over the railway constructed by the Commonwealth between the Territory and Jervis Bay.

9. In the event of the Commonwealth constructing a railway within the Territory to its northern boundary, the State shall construct a railway from a point near Yass on the Great Southern Railway to join with the said railway, and the Commonwealth and the State shall grant to each other such reciprocal running rights as may be agreed upon, or as in default of agreement may be determined by arbitration, over such portions of that railway as are owned by each.

10. The State shall grant to the Commonwealth without payment therefor the right to use the waters of the Snowy River, and such other rivers as may be agreed upon or in default of agreement may be determined by arbitration, for the generation of electricity for the purposes of the Territory, and to construct the works necessary for that purpose, and to conduct the electricity so generated to the Territory.

11. The surrender of the Territory to the Commonwealth shall not be deemed to abridge the right of the State or of the residents therein to the reasonable use of the waters of the Murrumbidgee River for conservation or irrigation.

12. When any dispute or matter authorized or directed by this Agreement to be settled by arbitration has arisen, then, unless the parties hereto concur in the appointment of a single arbitrator, the dispute or matter shall be referred for decision to two arbitrators, one to be appointed by the Prime Minister for the time being of the Commonwealth and one by the Premier for the time being of

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the State, and the arbitration shall be subject as nearly as practicable to the laws relating to arbitration in force in the State.

13. 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.

AND WHEREAS doubts have arisen as to the meaning of the provision of the Constitution that such portion of the Territory as shall consist of Crown lands shall be granted to the Commonwealth without any payment therefor, IT IS HEREBY FURTHER AGREED as follows:

14. 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.

15. 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 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 condition precedent (other than the payment of purchase money) to the grant of an estate in fee simple.

## **Second Schedule—Description of the territory**

Counties of Murray and Cowley, area about nine hundred square miles: Commencing on the Goulburn-Cooma Railway at its intersection with the Queanbeyan River at Queanbeyan, and bounded thence by that railway generally southerly to the south-eastern corner of portion 177, Parish Keewong, County of Murray, by the southern boundaries of that portion and portions 218, 211, 36, and 38 generally westerly to the Murrumbidgee River, by that river downwards to a point east of the south-east corner of portion 68, Parish of Cuppacumbalong, County of Cowley, by a line partly forming the southern boundary of that portion west to the eastern watershed of Gudgenby River; by that watershed, and the eastern and southern watersheds of Naas Creek, by part of the western watershed of Gudgenby River, generally southerly, westerly, and northerly to the southern watershed of Cotter River, by that watershed and the western watershed of that river, passing through Mount Murray and through Bimberi Trigonometrical Station, generally northerly to Coree Trigonometrical Station, thence by a line bearing north-easterly to One-Tree Trigonometrical Station, thence by the watershed of Molonglo River north-easterly and generally south-easterly to the Goulburn-Cooma Railway aforesaid, and thence by that railway generally south-westerly to the point of commencement.

**Table of Acts****Notes to the *Seat of Government Acceptance Act 1909*****Note 1**

The *Seat of Government Acceptance Act 1909 (a)* as shown in this compilation comprises Act No. 23, 1909 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 |
|---|-----------------|----------------|---|--|
| <i>Seat of Government Acceptance Act 1909</i>                                   | 23, 1909        | 13 Dec 1909    | 22 Jan 1910 (see <i>Gazette</i> 1910, p. 43)  |  |
| <i>Seat of Government (Administration) Act 1910</i>                             | 25, 1910        | 25 Nov 1910    | 1 Jan 1911                                    | Ss. 3 and 4                                    |
| <i>Judiciary Act 1927</i>   | 9, 1927         | 8 Apr 1927     | 2 Sep 1929 (see <i>Gazette</i> 1929, p. 1854) | S. 7   |
| <i>Seat of Government (Administration) Act 1933</i>                             | 4, 1933         | 30 May 1933    | 30 May 1933                                   | Ss. 4-6 and 8                                  |
| <i>Seat of Government (Administration) Act 1938</i>                             | 12, 1938        | 1 July 1938    | 29 July 1938                                  | —  |
| <i>Australian Capital Territory and Jervis Bay (Lands Acquisition) Act 1955</i> | 70, 1955        | 4 Nov 1955     | 16 Feb 1956 (see <i>Gazette</i> 1956, p. 472) | S. 4(2)  |
| <i>Statute Law Revision Act 1973</i>  | 216, 1973       | 19 Dec 1973    | 31 Dec 1973                                   | Ss. 9(1) and 10                                |

## Act Notes

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- (a) This citation is provided for by the *Amendments Incorporation Act 1905* and the *Acts Citation Act 1976*.

As to the application of some of the sections of this Act to the Jervis Bay Territory, see section 4 of the *Jervis Bay Territory Acceptance Act 1915*.



**Table of Amendments**

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**Table of Amendments**

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

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| Provision affected | How affected                     |
|--------------------|----------------------------------|
| S. 5 .....         | am. No. 12, 1938; No. 216, 1973; |
| S. 6 .....         | am. No. 4, 1933                  |
| S. 8 .....         | rep. No. 9, 1927                 |
| S. 9 .....         | rep. No. 216, 1973               |
| S 10 .....         | rep. No. 70, 1955                |

**Note 2**

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**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, 1909*, (No. 14, 1909), which was assented to on 14 December 1909, and proclaimed to commence on 15 December 1909. See N.S.W. *Gazette* 15 December 1909, p. 6669.

**Note 3**

S. 3 and First Schedule—This agreement was varied by the agreement contained in the Schedule to the *Seat of Government Acceptance Act 1922*, which is published separately.

**Note 4**

S. 5 (1)—The proclaimed day was 1 January 1911; see *Gazette* 1910, p. 1851.