



Ashmore and Cartier Islands Acceptance Act 1933

Act No. 60 of 1933 as amended

This compilation was prepared on 13 November 2000
taking into account amendments up to Act No. 99 of 1988

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

Prepared by the Office of Legislative Drafting,
Attorney-General's Department, Canberra

Contents

1	Short title [see Note 1]	1
2	Commencement [see Note 1]	1
3	Interpretation	2
4	Proclamation by Governor-General fixing date on which Order in Council shall come into operation [see Note 2]	2
5	Acceptance of Ashmore Islands and Cartier Island	2
6	Application of Northern Territory laws	2
7	Ordinance may amend or repeal adopted laws	2
8	Application of Commonwealth Acts	3
9	Ordinances	3
10	Tabling of Ordinances	3
10A	Ordinance not to be re-made while required to be tabled	5
10B	Ordinance not to be re-made while subject to disallowance	5
10C	Disallowed Ordinance not to be re-made unless resolution rescinded or House approves	6
10D	Regulations, rules and by-laws	7
11	Powers and functions under adopted laws	7
11A	Arrangements with Northern Territory	8
12	Courts of Northern Territory to have jurisdiction in Territory	8
13	Grant of pardon, remission etc.	8
	Notes	11

An Act to provide for the acceptance of Ashmore Islands and Cartier Island as a Territory under the authority of the Commonwealth, and for the Government thereof

WHEREAS the islands named the Ashmore Islands and known as Middle, East and West Islands, and also the island named Cartier Island, being islands situated in the Indian Ocean off the North-West Coast of Australia, are islands over which His Majesty the King has sovereign rights:

AND WHEREAS by an Order in Council dated the twenty-third day of July, One thousand nine hundred and thirty-one made by His Majesty by virtue and in exercise of the power in that behalf in His Majesty vested, it was ordered that the said Ashmore Islands and Cartier Island should be placed under the authority of the Commonwealth of Australia and that the order should come into operation on such date, after legislation had been passed by the Parliament providing for the acceptance of the said islands and the government thereof, as might be fixed by Proclamation by the Governor-General of the Commonwealth of Australia:

AND WHEREAS the Parliament of the Commonwealth is willing that the Ashmore Islands and Cartier Island should be placed under the authority of, and be accepted as a Territory by, 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 King under the Authority of and 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 *Ashmore and Cartier Islands Acceptance Act 1933*.

2 Commencement [see Note 1]

This Act shall commence on a date to be fixed by proclamation.

3 Interpretation

In this Act, unless the contrary intention appears:

Ordinance means an Ordinance made under this Act.

the Islands means the Ashmore Islands and Cartier Island.

the Territory means the Territory of Ashmore and Cartier Islands.

4 Proclamation by Governor-General fixing date on which Order in Council shall come into operation [see Note 2]

The Governor-General may by proclamation fix a date for the coming into operation of the above-recited Order in Council dated the twenty-third day of July One thousand nine hundred and thirty-one by which the Islands are placed under the authority of the Commonwealth of Australia.

5 Acceptance of Ashmore Islands and Cartier Island

The Islands are by this Act declared to be accepted by the Commonwealth as a Territory under the authority of the Commonwealth, under the name of the Territory of Ashmore and Cartier Islands.

6 Application of Northern Territory laws

- (1) Subject to this Act, a law of the Northern Territory as in force from time to time (including a law made before the commencement of this section) is, so far as applicable, in force in the Territory.
- (2) In subsection (1), *law*:
 - (a) includes a principle or rule of common law or equity; and
 - (b) does not include an Act.

7 Ordinance may amend or repeal adopted laws

A law in force in the Territory by virtue of section 6 may be amended or repealed by an Ordinance or by a law made under an Ordinance.

8 Application of Commonwealth Acts

- (1) An Act or a provision of an Act (whether passed before or after the commencement of this section) is in force as such in the Territory except as otherwise provided by that Act or by another Act.
- (2) An Ordinance shall not be made so far as it affects the application of an Act of its own force in or in relation to the Territory.

9 Ordinances

- (1) The Governor-General may make Ordinances for the peace, order and good government of the Territory.
- (2) Notice of the making of an Ordinance shall be published in the *Gazette*, and an Ordinance shall, unless the contrary intention appears in the Ordinance, come into operation on the date of publication of the notice.

10 Tabling of Ordinances

- (1) An Ordinance shall be laid before each House of the Parliament within 15 sitting days of that House after the making of the Ordinance and, if it is not so laid before each House of the Parliament, ceases to have effect.
- (2) If either House of the Parliament, in pursuance of a motion of which notice has been given within 15 sitting days after an Ordinance has been laid before that House, passes a resolution disallowing the Ordinance or a part of the Ordinance, the Ordinance or part so disallowed thereupon ceases to have effect.
- (3) If, at the expiration of 15 sitting days after notice of a motion to disallow an Ordinance or part of an Ordinance has been given in a House of the Parliament, being notice given within 15 sitting days after the Ordinance has been laid before that House:
 - (a) the notice has not been withdrawn and the motion has not been called on; or
 - (b) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of;the Ordinance or part, as the case may be, specified in the motion shall thereupon be deemed to have been disallowed.

- (4) If, before the expiration of 15 sitting days after notice of a motion to disallow an Ordinance or part of an Ordinance has been given in a House of the Parliament:
- (a) the House of Representatives is dissolved or expires, or the Parliament is prorogued; and
 - (b) at the time of the dissolution, expiry or prorogation, as the case may be:
 - (i) the notice has not been withdrawn and the motion has not been called on; or
 - (ii) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of;
- the Ordinance shall, for the purposes of subsections (3) and (4), be deemed to have been laid before that first-mentioned House on the first sitting day of that first-mentioned House after the dissolution, expiry or prorogation, as the case may be.
- (5) Where an Ordinance is disallowed, or is deemed to have been disallowed, under this section or ceases to have effect by virtue of the operation of subsection (1), the disallowance of the Ordinance or the operation of subsection (1) in relation to the Ordinance, as the case may be, has the same effect as a repeal of the Ordinance.
- (5A) 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.

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

10A 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 10(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 10(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.

10B Ordinance not to be re-made while subject to disallowance

- (1) Where notice of a motion to disallow an Ordinance has been given in a House of the Parliament within 15 sitting days after the Ordinance has been laid before that House, no Ordinance containing a provision being the same in substance as a provision of the first-mentioned Ordinance shall be made unless:
- (a) the notice has been withdrawn;
 - (b) the Ordinance is deemed to have been disallowed under subsection 10(3);
 - (c) the motion has been withdrawn or otherwise disposed of; or

- (d) subsection 10(4) has applied in relation to the Ordinance.
- (2) Where:
- (a) because of subsection 10(4), an Ordinance is deemed to have been laid before a House of the Parliament on a particular day; and
 - (b) notice of a motion to disallow the Ordinance has been given in that House within 15 sitting days after that day;
- no Ordinance containing a provision being the same in substance as a provision of the first-mentioned Ordinance shall be made unless:
- (c) the notice has been withdrawn;
 - (d) the Ordinance is deemed to have been disallowed under subsection 10(3);
 - (e) the motion has been withdrawn or otherwise disposed of; or
 - (f) subsection 10(4) has applied again in relation to the Ordinance.
- (3) If a provision of an Ordinance is made in contravention of this section, the provision has no effect.
- (4) This section does not limit the operation of section 10A or 10C.
- (5) In this section:

Ordinance includes a part of an Ordinance.

10C 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 10, 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.

10D Regulations, rules and by-laws

- (1) All regulations made under an Ordinance shall be laid before each House of the Parliament within 15 sitting days of that House after the day on which the regulations are made and, if they are not so laid before each House of the Parliament, have no effect.
- (2) Subsections 10(2) to (5B), inclusive, and sections 10A, 10B and 10C apply in relation to regulations laid before a House of the Parliament as if, in those provisions, references to an Ordinance were references to regulations and references to a provision of an Ordinance were references to a regulation.
- (3) In this section, *regulations* includes rules and by-laws.

11 Powers and functions under adopted laws

- (1) Subject to subsection (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 Minister 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 Minister specifies.
- (3) The Minister may, either generally or as otherwise provided by the instrument of delegation, by instrument in writing, delegate to a person any or all of the Minister's powers under this section, other than this power of delegation.
- (4) A power so delegated, when exercised by the delegate, shall, for the purposes of this section, be deemed to have been exercised by the Minister.

- (5) A delegation of a power under this section does not prevent the exercise of the power by the Minister.
- (6) The Minister may appoint, on such terms as to remuneration and otherwise as are determined by the Minister, such persons as the Minister considers necessary to exercise powers and perform functions under this section.

11A Arrangements with Northern Territory

The Minister may make arrangements with the appropriate Ministers of the Northern Territory for the exercise of powers and the performance of functions in and in relation to the Territory under laws in force in the Territory by officers and employees of the Government of the Northern Territory and of authorities of the Northern Territory.

12 Courts of Northern Territory to have jurisdiction in Territory

- (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.

13 Grant of pardon, remission etc.

- (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 or in relation to 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.

Table of Acts**Notes to the *Ashmore and Cartier Islands Acceptance Act 1933*****Note 1**

The *Ashmore and Cartier Islands Acceptance Act 1933* as shown in this compilation comprises Act No. 69, 1933 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>Ashmore and Cartier Islands Acceptance Act 1933</i>	60, 1933	15 Dec 1938	3 May 1934 (see <i>Gazette</i> 1934, p. 667)	—
<i>Ashmore and Cartier Islands Acceptance Act 1938</i>	11, 1938	1 July 1938	29 July 1938	—
<i>Statute Law Revision Act 1973</i>	216, 1973	19 Dec 1973	31 Dec 1973	—
<i>Ashmore and Cartier Islands Acceptance Amendment Act 1978</i>	59, 1978	22 June 1978	1 July 1978	—
<i>Statute Law (Miscellaneous Amendments) Act (No. 1) 1982</i>	26, 1982	7 May 1982	Part V (ss. 52, 53): 4 June 1982 (a)	—
as amended by <i>Statute Law (Miscellaneous Amendments) Act (No. 2) 1982</i>	80, 1982	22 Sept 1982	Part LXXI (ss. 262, 263): (b)	—
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1983</i>	39, 1983	20 June 1983	S. 3: 18 July 1983 (c)	—
<i>Ashmore and Cartier Islands Acceptance Amendment Act 1985</i>	202, 1985	16 Dec 1985	1 Oct 1989 (see <i>Gazette</i> 1989, No. S306)	—
<i>Statute Law (Miscellaneous Provisions) Act (No. 2) 1986</i>	168, 1986	18 Dec 1986	S. 3: Royal Assent (d)	S. 5(3)

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Statutory Instruments (Tabling and Disallowance) Legislation Amendment Act 1988</i>	99, 1988	2 Dec 1988	2 Dec 1988	—

- (a) The *Ashmore and Cartier Islands Acceptance Act 1933* was amended by Part V (sections 52 and 53) only of the *Statute Law (Miscellaneous Amendments) Act (No. 1) 1982*, subsection 2(12) of which provides as follows:
- (12) The remaining provisions of this Act shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent.
- (b) The *Statute Law (Miscellaneous Amendments) Act (No. 1) 1982* was amended by Part LXXI (sections 262 and 263) only of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982*, subsection 2(11) of which provides as follows:
- (11) Parts XLIX and LXXI shall be deemed to have come into operation on 4 June 1982.
- (c) The *Ashmore and Cartier Islands Acceptance Act 1933* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1983*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (d) The *Ashmore and Cartier Islands Acceptance Act 1933* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 2) 1986*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the day on which it receives the Royal Assent.

Table of Amendments**Table of Amendments**

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

Provision affected	How affected
S. 3.....	am. No. 59, 1978; No. 202, 1985
S. 6.....	rs. No. 11, 1938 am. No. 216, 1973 rs. No. 59, 1978; No. 202, 1985
S. 7.....	rep. No. 11, 1938 ad. No. 59, 1978 am. No. 202, 1985
S. 8.....	rep. No. 11, 1938 ad. No. 59, 1978 rs. No. 202, 1985
S. 9.....	ad. No. 59, 1978
S. 10.....	ad. No. 59, 1978 am. No. 26, 1982 (as am. by No. 80, 1982); No. 39, 1983; No.168, 1986; No. 99, 1988
Ss. 10A-10D.....	ad. No. 99, 1988
S. 11.....	ad. No. 59, 1978 am. No. 202, 1985
S. 11A	ad. No. 202, 1985
S. 12.....	ad. No. 59, 1978
S. 13.....	ad. No. 59, 1978 am. No. 202, 1985

Note 2

Note 2

Section 4—The date fixed was 10 May 1934 (*see Gazette 1934, p. 761*).