

COCOS (KEELING) ISLANDS.

No. 34 of 1955.

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.

[Assented to 16th June, 1955.]

Preamble.

WHEREAS the islands named the Cocos or Keeling Islands (being the islands referred to in section four of this Act) 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 the first day of February, One thousand nine hundred and fifty-five, 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. This Act may be cited as the *Cocos (Keeling) Islands Act 1955*. Short title.
- 2.—(1.) This Act shall come into operation on a date to be fixed by Proclamation. Commencement.
 (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.
3. This Act is divided into Parts, as follows :— Parts.
 - Part I.—Preliminary (Sections 1-4).
 - Part II.—Acceptance of the Islands (Sections 5-7).
 - Part III.—Legislation.
 - Division 1.—Laws (Sections 8-11).
 - Division 2.—Legislative Powers of the Governor-General (Sections 12-13).
 - Part IV.—Application of Australian Citizenship to Certain Residents of the Territory (Sections 14-15).
 - Part V.—Miscellaneous (Sections 16-20).

Definitions.

4. In this Act, unless the contrary intention appears—

“ Ordinance ” means an Ordinance made under this Act ;

“ the Islands ” means the Cocos or Keeling Islands situated in the Indian Ocean in or about latitude twelve degrees five minutes south and longitude ninety-six degrees fifty-three minutes east, including the Northern Island otherwise called North Keeling Island ;

“ the proclaimed date ” means the date fixed by Proclamation under section two of this Act ;

“ the Territory ” means the Territory of Cocos (Keeling) Islands

PART II.—ACCEPTANCE OF THE ISLANDS.

Acceptance of
Cocos or
Keeling Islands.

5. 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.

Transfer of
rights,
liabilities,
&c., to
Commonwealth.

6.—(1.) Subject to sub-section (3.) of this section, 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 the next succeeding sub-section, 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.) The preceding provisions of this section 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.

Exercise of
rights and
powers under
Indenture of
7th July, 1836.

7. All rights and powers vested in the Queen, or in the Governor of the Colony of Singapore, as successor to the Governor of the Straits Settlements, on behalf of the Queen, under the Indenture dated the seventh day of July, One thousand eight hundred and eighty-six, and made between Her late Majesty Queen Victoria, the Governor of the Straits Settlements and George Clunies Ross are, from and including the proclaimed date, exercisable on behalf of the Queen by the Governor-General of the Commonwealth or by such authority or person as the Governor-General appoints.

PART III.—LEGISLATION.

Division 1.—Laws.

8.—(1.) Subject to this Act and to any other Act extending to the Territory (whether passed before or after the proclaimed date), all laws in force immediately before the proclaimed date in the Islands shall continue in force in the Territory by virtue of this Act and not otherwise.

Continuance
of existing
laws.

(2.) Subject to this Act and to Ordinances made under this Act, where, by a law continued in force by this section, a power or function is conferred on—

- (a) the Governor of the Colony of Singapore ;
- (b) the Governor of that Colony in Council ; or
- (c) any other person or authority,

that power or function may be exercised or performed by—

- (d) the Minister ;
- (e) the Governor-General ; or
- (f) such person or authority as the Minister directs,

respectively.

(3.) The Minister may, by instrument in writing, delegate to a person or authority, in relation to a matter or class of matters or to a part of the Territory, a power or function conferred on him by the last preceding sub-section, so that the delegated power or function may be exercised by the delegate with respect to the matter or class of matters, or with respect to the part of the Territory, specified in the instrument of delegation.

(4.) A delegation under the last preceding sub-section is revocable at will and does not prevent the exercise of a power or function by the Minister.

9. A law continued in force by the last preceding section may be amended or repealed by an Ordinance or by a law made under an Ordinance.

Amendment
and repeal of
existing laws.

10.—(1.) Subject to the next succeeding section, an Act or a provision of an Act (whether passed before or after the proclaimed date) is not, except as otherwise provided by that Act or by another Act, in force, as such, in the Territory unless expressed to extend to the Territory.

Application of
Commonwealth
Acts.

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

11.—(1.) Subject to this section—

- (a) the *Post and Telegraph Act* 1901–1950, the *Post and Telegraph Rates Act* 1902–1951 and the *Post and Telegraph Rates (Defence Forces) Act* 1939–1940 extend to the Territory ; and

- (b) for the purposes of those Acts, the Territory shall be deemed to be within the Commonwealth and to be part of the State of Western Australia.

Application of
Post and
Telegraph Acts.

(2.) Notwithstanding anything contained in the last preceding sub-section, the Overseas Telecommunications Commission (Australia) may exercise and perform, in and in relation to the Territory, the powers, functions and duties conferred on it by the *Overseas Telecommunications Act 1946-1952* in respect of the establishment, maintenance and operation of overseas telecommunication services, as if the Acts specified in the last preceding sub-section did not extend to the Territory.

(3.) In this section, "overseas telecommunication services" has the same meaning as in the *Overseas Telecommunications Act 1946-1952*.

Division 2.—Legislative Powers of the Governor-General.

Legislative
powers of
Governor-
General.

12.—(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.

Tabling of
Ordinances in
Parliament.

13.—(1.) An Ordinance shall be laid before each House of the Parliament within fifteen sitting days of that House after the making of the Ordinance, and, if it is not so laid before each House of the Parliament, shall be void and of no effect.

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

(3.) If, at the expiration of fifteen sitting days after notice of a resolution to disallow an Ordinance or part of an Ordinance has been given in either House of the Parliament in accordance with the last preceding sub-section, the resolution has not been withdrawn or otherwise disposed of, the Ordinance or part, as the case may be, shall thereupon be deemed to have been disallowed.

(4.) Where an Ordinance or part of an Ordinance is disallowed, or is 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.

(5.) If an Ordinance or part of an Ordinance is disallowed, or is deemed to have been disallowed, under this section, 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 six 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, deemed to have been disallowed—the House of the Parliament in which notice of the resolution to disallow that Ordinance or part was given approves, by resolution, the making of a provision the same in substance as the provision deemed to have been disallowed.

PART IV.—APPLICATION OF AUSTRALIAN CITIZENSHIP TO CERTAIN RESIDENTS OF THE TERRITORY.

14.—(1.) A person (not being an Australian citizen) who, immediately before the proclaimed date, was a British subject ordinarily resident in the Islands may make, in the prescribed manner and within the prescribed time, a declaration that he wishes to become an Australian citizen.

Right of certain residents to elect to become Australian citizens.

(2.) Upon the registration, as prescribed, of a declaration made by a person under the last preceding sub-section, that person shall be deemed to have become an Australian citizen upon the proclaimed date.

(3.) The registration of a declaration made by a person under sub-section (1.) of this section does not operate so as to render unlawful anything done before the date of the registration that would have been lawful if the declaration had not been made and registered.

15. For the purposes of the last preceding section, a person shall be deemed to have been ordinarily resident in the Islands immediately before the proclaimed date if, immediately before that date—

Meaning of "ordinarily resident".

- (a) he had his home in the Islands ; or
- (b) the Islands were the place of his permanent abode notwithstanding that he was temporarily absent from them,

but a person shall be deemed not to have been so resident if, immediately before that date, he was resident in the Islands for a special or temporary purpose only.

PART V.—MISCELLANEOUS.

16. It may be provided by Ordinance—

- (a) that the High Court has jurisdiction, with such exceptions and subject to such conditions (if any) as are provided by Ordinance, to hear and determine appeals from judgments, decrees, orders and sentences of courts having jurisdiction in the Territory ; and

Ordinances may provide for appeal to High Court.

(b) that such an appeal may be by case stated, with the legal argument (if any) attached to the case in writing, and that it shall not be necessary for the parties to appear either personally or by counsel.

Grant of pardon or remission or respite of sentence to offenders.

17. The Governor-General 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.

Continuation of Malay customs.

18. 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.

Audit.

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

Regulations.

20. 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, for prescribing penalties, not exceeding a fine of Fifty pounds or imprisonment for three months, for offences against the regulations.