

# AUSTRALIAN CAPITAL TERRITORY

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## Imperial Acts (Repeal) Ordinance 1988

No. 94 of 1988

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 15 December 1988

N. M. STEPHEN  
Governor-General

By His Excellency's Command,

CLYDE HOLDING  
Minister of State for the Arts  
and Territories

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An Ordinance to repeal certain Acts of the United Kingdom as part of the law of the Territory and for related purposes

### Short title

1. This Ordinance may be cited as the *Imperial Acts (Repeal) Ordinance 1988*.<sup>1</sup>

### Interpretation

2. (1) In this Ordinance, unless the contrary intention appears—

“applied Imperial Act” means—

(a) an Imperial Act that—

(i) extended to the Territory as part of the law of the Territory of its own force immediately before 3 September 1939; and

(Ord. 8/87)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

- (ii) had not ceased so to extend to the Territory before the commencing date; and
- (b) an Imperial Act, other than an Imperial Act referred to in paragraph (a), that—
  - (i) came into force as part of the law of the Colony of New South Wales—
    - (A) by virtue of the common law upon the foundation of that Colony; or
    - (B) by virtue of section 24 of the Australian Courts Act, 1828 of the United Kingdom;
  - (ii) was in force in New South Wales immediately before 1 January 1911;
  - (iii) was continued in force in the Territory by section 6 of the *Seat of Government Acceptance Act 1909*; and
  - (iv) had not ceased to be in force in the Territory before the commencing date;

“commencing date” means the date of commencement of this Ordinance;

“continued applied Imperial Act” means an applied Imperial Act—

- (a) the citation of which is specified in Schedule 1 or 2 of the *Imperial Acts Application Ordinance 1986*; or
- (b) the citation of which is specified in subsection 4 (1) of that Ordinance, being such an Act that had not ceased to be in force in the Territory before the commencing date by virtue of subsection 4 (2) or (3) of that Ordinance;

“Imperial Act” means—

- (a) a public Act of the Parliament of England included in the public Acts of the Parliament of England from and including the Act 20 Hen. 3 c. 1 (the Statute of Merton), enacted in 1235, to and including the Act 6 Anne c. 34, enacted in 1706;
- (b) a public Act of the Parliament of Great Britain included in the public Acts of the Parliament of Great Britain from and including the Act 6 Anne c. 35, enacted in 1707, to and including the Act 41 Geo. 3 c. 32, enacted in 1800; or

- (c) a public Act of the Parliament of the United Kingdom included in the public Acts of the Parliament of the United Kingdom from and including the Act 41 Geo. 3 c. 1, enacted in 1801, to and including the Act 2 and 3 Geo. 6 c. 80, enacted in 1939.

(2) In this Ordinance, a reference to a part of the law of the Territory shall be read as not including a reference to a part of the law of the Commonwealth in its application in the Territory.

### **Repeal**

3. (1) Subsection (2) applies to applied Imperial Acts other than continued applied Imperial Acts.

(2) Subject to this Ordinance, every applied Imperial Act to which this subsection applies ceases, on the commencing date, to be in force in the Territory as part of the law of the Territory.

### **Repeal, confirmation, etc., of continued applied Imperial Acts**

4. (1) Where a continued applied Imperial Act (in this subsection referred to as the “Principal Act”) has been repealed (whether expressly or by implication), confirmed, revived or perpetuated by another applied Imperial Act, not being a continued applied Imperial Act, that other applied Imperial Act, in so far only as it repealed, confirmed, revived or perpetuated the Principal Act, continues to be in force in the Territory as part of the law of the Territory, notwithstanding subsection 3 (2) of this Ordinance, until the Principal Act ceases so to be in force in the Territory.

(2) Where an applied Imperial Act (in this subsection referred to as the “Principal Act”), being an Act—

- (a) that continues to be in force in the Territory as part of the law of the Territory by virtue of subsection (1); or
- (b) that continues so to be in force by virtue of a prior application of this subsection;

has been repealed (whether expressly or by implication), confirmed, revived or perpetuated by another applied Imperial Act, not being a continued applied Imperial Act, that other applied Imperial Act, in so far only as it repealed, confirmed, revived or perpetuated the Principal Act, continues to be in force in the Territory as part of the law of the Territory, notwithstanding subsection 3 (2) of this Ordinance, until the Principal Act ceases so to be in force in the Territory.

**Amendments of continued applied Imperial Acts**

**5. (1)** Where a continued applied Imperial Act (in this subsection referred to as the “Principal Act”), being an Act that extends to the Territory as part of the law of the Territory either expressly or by necessary intendment, has been amended by another applied Imperial Act that so extends to the Territory, that other applied Imperial Act, in so far only as it amended the Principal Act, continues to be in force in the Territory as part of the law of the Territory, notwithstanding subsection 3 (2) of this Ordinance, until the Principal Act ceases so to be in force in the Territory.

**(2)** Where a continued applied Imperial Act (in this subsection referred to as the “Principal Act”), not being an Act that extends to the Territory as part of the law of the Territory either expressly or by necessary intendment, has been amended by—

- (a) another applied Imperial Act that so extends to the Territory; or
- (b) another applied Imperial Act that does not so extend to the Territory;

that other applied Imperial Act, in so far only as it amends the Principal Act, continues to be in force in the Territory as part of the law of the Territory, notwithstanding subsection 3 (2) of this Ordinance, until the Principal Act ceases so to be in force in the Territory.

**(3)** For the purpose of this section, an Imperial Act shall be taken to amend another Imperial Act if it—

- (a) repeals the other Imperial Act in part;
- (b) omits a part of the other Imperial Act, whether or not it inserts a new provision in place of the part so omitted;
- (c) inserts a new provision in that other Imperial Act; or
- (d) otherwise alters or modifies the operation or effect of that other Imperial Act.

**Imperial Acts extending to the Commonwealth**

**6. (1)** Nothing in this Ordinance affects the operation in the Territory of an Imperial Act that extends to, or has effect in, the Commonwealth as part of the law of the Commonwealth.

**(2)** Without limiting the generality of subsection (1), nothing in this Ordinance affects the operation in the Territory of—

- (a) Imperial Act 63 and 64 Vic. c. 12 (The Constitution of Australia Act, 1900); or
- (b) Imperial Act 22 and 23 Geo. 5 c. 4 (The Statute of Westminster, 1931).

### **Savings**

**7. (1)** The ceasing of an applied Imperial Act or of a part of an applied Imperial Act to be in force in the Territory as part of the law of the Territory by virtue of this Ordinance does not—

- (a) revive anything not in force or existing within the Territory at the time when that Act or that part of that Act so ceased to be in force;
- (b) affect the previous operation of that Act, or of that part of that Act, within the Territory, or anything duly done or suffered under that Act, or that part of that Act, in its application in the Territory;
- (c) affect a right, privilege, obligation or liability acquired, accrued or incurred under that Act, or that part of that Act, in its application in the Territory, or an investigation, legal proceeding or remedy, in respect of such a right, privilege, obligation or liability; or
- (d) affect a penalty, forfeiture or punishment incurred in respect of an offence committed against that Act or that part of that Act, in its application in the Territory, or an investigation, legal proceeding or remedy in respect of such a penalty, forfeiture or punishment;

and such an investigation, legal proceeding or remedy may be instituted, continued or enforced, and such a penalty, forfeiture or punishment may be imposed, as if this Ordinance had not been made.

**(2)** Without limiting the generality of subsection (1), the ceasing of any applied Imperial Act, or of any part of such an Act, to be in force in the Territory as part of the law of the Territory by virtue of this Ordinance does not affect any rule of law or equity in force in the Territory otherwise than by virtue of that Act, or of that part of that Act.

**(3)** Notwithstanding the ceasing of Imperial Act 24 Geo. 2 c. 23 (The Calendar (New Style) Act 1750) to be in force in the Territory, the years (including leap years), months and days shall continue to occur, and be reckoned, in accordance with the Calendar established by that Act.

**Administration**

**8.** An Imperial Act that continues in force in the Territory as part of the law of the Territory by virtue of section 4 or 5 shall, in its application in the Territory as part of the law of the Territory, be administered by the Minister for State who administers the continued applied Imperial Act that it repealed, confirmed, revived, perpetuated or amended, as the case may be.

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**NOTE**

1. Notified in the *Commonwealth of Australia Gazette* on 21 December 1988.