



Australian Capital Territory

Colonial Laws Validity Act 1865 28 and 29 Vic c 63

Republication No 1

Republication date: 5 July 2002

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Colonial Laws Validity Act 1865* 28 and 29 Vic c 63 as in force on 5 July 2002. It includes any commencement, repeal or expiry affecting the republished law and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



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Contents

	Page	
1	Definitions for Act	2
2	Colonial laws, when void for repugnancy	2
3	Colonial laws, when not void for repugnancy	3
4	Colonial laws not void for inconsistency with instructions to governors	3
Endnotes		
1	About the endnotes	4
2	Abbreviation key	4
3	Legislation history	5
4	Amendment history	5



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Colonial Laws Validity Act 1865

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An Act to remove doubts about the validity of colonial laws

1 Definitions for Act

colonial law includes laws made for any colony either by its legislature or by Her Majesty in council:

an Act of Parliament, or any provision of it, shall, in construing this Act, be said to extend to any colony when it is made applicable to the colony by the express words or necessary intendment of any Act of Parliament.

colony includes all of Her Majesty's possessions abroad in which there shall exist a legislature except the Channel Islands, the Isle of Man and such Territories as may for the time being be vested in Her Majesty under or by virtue of any Act of Parliament for the government of India.

governor means the officer lawfully administering the government of any colony.

legislature and *colonial legislature* mean the authority, other than the Imperial Parliament or Her Majesty in Council, competent to make laws for any colony.

letters patent means letters patent under the Great Seal of the United Kingdom of Great Britain and Ireland.

representative legislature means any colonial legislature that shall comprise a legislative body of which $\frac{1}{2}$ are elected by inhabitants of the colony.

2 Colonial laws, when void for repugnancy

Any colonial law which is or shall be in any respect repugnant to the provisions of any Act of Parliament extending to the colony to which such law may relate, or repugnant to any order or regulation made under authority of such Act of Parliament, or having in the colony the force and effect of such Act, shall be read subject to such Act, order or regulation, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.

3 Colonial laws, when not void for repugnancy

No colonial law shall be or be deemed to have been void or inoperative on the ground of repugnancy to the law of England, unless the same shall be repugnant to the provisions of some such Act of Parliament, order, or regulation as aforesaid.

4 Colonial laws not void for inconsistency with instructions to governors

No colonial law passed with the concurrence of or assented to by the governor of any colony, or to be hereafter so passed or assented to, shall be, or be deemed to have been, void or inoperative by reason only of any instructions with reference to such law or the subject thereof which may have been given to such governor by or on behalf of Her Majesty, by any instrument other than the letters patent or instrument authorising such governor to concur in passing or to assent to laws for the peace, order, and good government of such colony, even though such instructions may be referred to in such letters patent or lastmentioned instrument.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	s = section/subsection
LRA = Legislation (Republication) Act 1996	sch = schedule
mod = modified / modification	sdiv = subdivision
No = number	sub = substituted
num = numbered	SL = Subordinate Law
o = order	<u>underlining</u> = whole or part not commenced or to be expired
om = omitted/repealed	

3 Legislation history

This Act was originally a UK Act—Colonial Laws Validity Act, 1865 28 and 29 Vic c 63 (UK). The Act was renamed as the *Colonial Laws Validity Act 1865* when it was first republished under the *Legislation Act 2001*

The Act was in force in NSW immediately before 1 January 1911 (the date of establishment of the ACT) and was continued in force by the *Seat of Government Acceptance Act 1909* (Cwlth), s 6.

Under the *Seat of Government (Administration) Act 1910* (Cwlth), s 4 the Act had effect in the ACT as if it were an ACT law (subject to ordinances made under the *Seat of Government (Administration) Act 1910*).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former UK laws in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

Under the *Interpretation Act 1967* (repealed), s 65 all former UK Acts in force in the ACT immediately before 10 November 1999 (including this Act) became, for all purposes, laws made by the ACT Legislative Assembly. This completed the process of making former UK Acts fully into ACT laws.

Colonial Laws Validity Act 1865 28 and 29 Vic c 63

as amended by

Imperial Acts Application Act 1986 No 93 s 5 and sch 3 pt 23

notified 12 January 1987 (Cwlth Gaz 1986 No S1)

s 5 and sch 3 pt 23 commenced 12 January 1987 (s 2 (1))

4 Amendment history

The *Imperial Acts Application Act 1986* (the **1986 Act**), sch 3, pt 23 set out the text of this Act in an amended form and provided for the amended form to apply as the text of the Act in force in the ACT (see 1986 Act, s 5 (1), (4) and (5)).

The Commonwealth Parliament ceased to be bound by this Act after 3 September 1939 under the *Statute of Westminster Adoption Act 1942* (Cwlth). The *Australia Act 1986* (Cwlth), section 3 (1) provides that this Act does not apply to a law made by a State Parliament on or after 3 March 1986. The Act is now only of historical significance.

Sections 5 and 6 were omitted by the 1986 Act because they were inconsistent with other laws of the ACT. They dealt with establishing courts in a colony, amending the constitution of a colony and evidence of making colonial laws.

Section 7 was omitted by the 1986 Act because it related only to South Australia.

This Act has not been amended since the enactment of the 1986 Act, except under the *Legislation Act 2001*.

Name of Act

am R1 LA

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