



Australian Capital Territory

# **Set-off of Debts Act 1735**

## **8 Geo 2 c 24**

**Republication No 1**

Republication date: 10 July 2002

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Set-off of Debts Act 1735* 8 Geo 2 c 24 as in force on 10 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](http://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.



Australian Capital Territory

# Set-off of Debts Act 1735

## 8 Geo 2 c 24

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Australian Capital Territory

## **Set-off of Debts Act 1735**

### **8 Geo 2 c 24**

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An Act to explain and amend an Act passed in the second year of the reign of his present Majesty, intituled, an Act for the relief of debtors with respect to the imprisonment of their persons

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**4 Section in Set-off of Debts Act 1728 relating to mutual debts made perpetual**

Whereas the provision for setting mutual debts one against the other contained in the *Set-off of Debts Act 1728*, section 13 is highly just and reasonable at all times:

the section for setting mutual debts one against the other, shall be and remain in full force for ever.

**5 Exception**

By virtue of section 13, and hereby made perpetual, mutual debts may be set against each other, either by being pleaded in bar, or given in evidence on the general issue, in the way mentioned in the section, notwithstanding that the debts are deemed in law to be of a different nature;

unless in cases where either of the debts shall accrue because of a penalty contained in any bond or specialty;

and in all cases where either the debt for which the action has been or shall be brought, or the debt intended to be set against it has accrued, or shall accrue, by reason of any such penalty, the debt intended to be set off shall be pleaded in bar, in which plea shall be shown how much is truly and justly due on either side;

and in case the plaintiff shall recover in any such action or suit, judgment shall be entered for no more than shall appear to be truly justly due to the plaintiff, after one debt being set against the other.

## 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—(1735) 8 Geo 2 c 24 (UK). The Act was renamed as the *Set-off of Debts Act 1735* 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.

#### **Set-off of Debts Act 1735 8 Geo 2 c 24**

as amended by

#### **Imperial Acts Application Act 1986 No 93 s 5 and sch 3 pt 16**

notified 12 January 1987 (Cwlth Gaz 1986 No S1)

s 5 and sch 3 pt 16 commenced 12 January 1987 (s 2 (1))

### 4 Amendment history

The *Imperial Acts Application Act 1986* (the **1986 Act**), sch 3, pt 16 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)).

Sections 1, 2, 3 and 6 were omitted by the 1986 Act because they were obsolete or their operation exhausted.

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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