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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

ASHMORE AND CARTIER ISLANDS

ACCEPTANCE AMENDMENT BILL 1985

EXPLANATORY MEMORANDUM

(Circulated by Minister for Territories, the Hon. Gordon Scholes M.P.)

ASHMORE AND CARTIER ISLANDS ACCEPTANCE

AMENDMENT BILL 1985

OUTLINE

The Ashmore and Cartier Islands Acceptance Amendment Bill 1985 will apply in the Territory of Ashmore and Cartier Islands the law in force in the Northern Territory from time to time, thereby providing for the automatic up-dating of the laws in force in the Territory of Ashmore and Cartier Islands. The law currently applying in that Territory is the law in force in the Northern Territory as at 1 July 1978.

The Bill will also empower the Minister administering the Ashmore and Cartier Islands Acceptance Act 1933 to appoint persons to all non-judicial offices under the laws of the Territory, and to make arrangements with the appropriate Ministers of the Northern Territory for the exercise of powers and functions under Territory laws by officers and employees of Government of the Northern Territory, and of authorities of the Northern Territory.

The Bill will effect a number of formal and technical amendments.

The Bill has no financial impact.

Clause 1 : Short title

This clause provides for the citation of the Bill, and identifies the Ashmore and Cartier Islands Acceptance Act 1933 as the Principal Act being amended by the Bill.

Clause 2 : Commencement

Clause 2 provides that the Bill shall come into effect on a day to be fixed by Proclamation.

Clause 3 : Interpretation

Clause 3 omits the definition of "Commonwealth law" from section 3 of the Principal Act. The definition will no longer be required following the removal of all other references in the Principal Act to "Commonwealth laws" by the amendments contained in clauses 4 and 6 of the Bill.

Clause 4 : Application of Northern Territory Laws

Clause 4 of the Bill repeals the existing section 6 of the Principal Act which applies in the Territory of Ashmore and Cartier Islands the laws in force in the Northern Territory immediately before 1 July 1978.

The Clause substitutes a new sub-section 6(1) of the Principal Act which will provide that, subject to the other provisions of the Principal Act, the laws of the Northern Territory as in force from time to time (including any laws made before the commencement of proposed section 6) shall be, so far as applicable, in force in the Territory.

Clause 4 also substitutes a new sub-section 6(2) which will provide that a reference to "law" in proposed sub-section 6(1) includes a principle or rule of common law or equity, but does not include a Commonwealth Act.

Clause 5 : Ordinance may amend or repeal adopted laws

This Clause omits from section 7 of the Principal Act the words "other than a Commonwealth law". The words are no longer necessary following the amendments which it is proposed should be made to the Principal Act by Clauses 4 and 6 of the Bill.

Clause 6 : Application of Commonwealth Acts

This Clause effects a drafting change to the existing section 8 of the Principal Act, which is intended to clarify the question of which Acts are in force in the Territory.

The Clause repeals the existing section 8 of the Principal Act, and substitutes a new section 8. Proposed sub-section 8(1) will provide that an Act or a provision of an Act (whether passed before or after the commencement of the proposed section 8) shall be in force as such in the Territory, except as otherwise provided by that Act or by another Act.

Proposed sub-section 8(2) will provide that 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.

Clause 7 : Powers and functions under adopted laws

Clause 7 provides for the performance of functions and the exercise of powers under the laws applied in the Territory by the proposed sub-section 6(1) which will be substituted by Clause 4 of the Bill.

The clause omits existing sub-section 11(2) and adds sub-sections 11(2), (3), (4), (5) and (6).

The proposed sub-section 11(2) will provide 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 proposed 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.

Proposed sub-section 11(3) will empower the Minister, either generally or as otherwise provided by the instrument of delegation, by instrument in writing, to delegate to a person any or all of his powers under section 11 other than the power of delegation.

Proposed sub-section 11(4) will provide that an exercise of a power delegated under proposed sub-section 11(3) should, for the purposes of the proposed section 11, be deemed to be an exercise of the power by the Minister.

Proposed sub-section 11(5) will provide that a delegation of a power under proposed section 11 will not prevent the exercise of the power by the Minister.

Proposed sub-section 11(6) will empower the Minister to appoint, on such conditions as to remuneration or otherwise as may be determined by the Minister, such persons as the Minister considers necessary to exercise powers and perform functions under the proposed section 11.

Clause 8 : Arrangements with Northern Territory

Clause 8 inserts a new section 11A into the Principal Act. The new section will empower the Minister to 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.

Clause 9 : Grant of pardon, remission, &c

This clause effects a drafting change.





