



Statute of Westminster Adoption Act 1942 (Commonwealth)

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Reprint note

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Queensland

Statute of Westminster Adoption Act 1942 (Commonwealth)

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Statute of Westminster Adoption Act 1942 (Commonwealth)

An Act to remove doubts as to the validity of certain Commonwealth legislation to obviate delays occurring in its passage, and to effect certain related purposes, by adopting certain sections of the Statute of Westminster 1931, as from the commencement of the war between His Majesty the King and Germany

Preamble

Whereas certain legal difficulties exist which have created doubts and caused delays in relation to certain Commonwealth legislation, and to certain regulations made thereunder, particularly in relation to the legislation enacted, and regulations made, for securing the public safety and defence of the Commonwealth, and for the more effectual prosecution of the war in which His Majesty the King is engaged.

And whereas those legal difficulties will be removed by the adoption by the Parliament of the Commonwealth of sections 2 to 6 of the *Statute of Westminster 1931*, and by making such adoption have effect as from the commencement of the war between His Majesty the King and Germany.

1 Short title

This Act may be cited as the *Statute of Westminster Adoption Act 1942 (Commonwealth)*.

2 Commencement

This Act shall come into operation on the day on which it receives the royal assent.

3 Adoption of Statute of Westminster 1931

Sections 2 to 6 of the Imperial Act entitled the *Statute of Westminster 1931* (which Act is set out in the schedule) are adopted and the adoption shall have effect from 3 September 1939.

Schedule

section 3 of the Act

An Act to give effect to certain resolutions passed by Imperial conferences held in the years 1926 and 1930

Whereas the delegates of His Majesty's Governments in the United Kingdom, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland, at Imperial conferences holden at Westminster in the years of our Lord 1926 and 1930 did concur in making the declarations and resolutions set forth in the reports of the said conferences.

And whereas it is meet and proper to set out by way of preamble to this Act that, inasmuch as the Crown is the symbol of the free association of the members of the British Commonwealth of Nations, and as they are united by a common allegiance to the Crown, it would be in accord with the established constitutional position of all the members of the Commonwealth in relation to one another that any alteration in the law touching the Succession to the Throne or the Royal Style and Titles shall hereafter require the assent as well of the Parliaments of all the Dominions as of the Parliament of the United Kingdom.

And whereas it is in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion.

And whereas it is necessary for the ratifying, confirming and establishing of certain of the said declarations and resolutions of the said conferences that a law be made and enacted in due form by authority of the Parliament of the United Kingdom.

And whereas the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South

Africa, the Irish Free State and Newfoundland have severally requested and consented to the submission of a measure to the Parliament of the United Kingdom for making such provision with regard to the matters aforesaid as is hereafter in this Act contained.

1 Meaning of *Dominion* in this Act

In this Act—

Dominion means any of the following dominions, that is to say, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Irish Free State and Newfoundland.

2 Validity of laws made by Parliament of a Dominion

- (1) The *Colonial Laws Validity Act 1865* shall not apply to any law made after the commencement of this Act by the Parliament of a Dominion.
- (2) No law and no provision of any law made after the commencement of this Act by the Parliament of a Dominion shall be void or inoperative on the ground that it is repugnant to the law of England, or to the provisions of any existing or future Act of Parliament of the United Kingdom, or to any order, rule or regulation made under any such Act, and the powers of the Parliament of a Dominion shall include the power to repeal or amend any such Act, order, rule or regulation in so far as the same is part of the law of the Dominion.

3 Power of Parliament of Dominion to legislate extraterritorially

It is hereby declared and enacted that the Parliament of a Dominion has full power to make laws having extraterritorial operation.

5 Powers of Dominion Parliaments in relation to merchant shipping

Without prejudice to the generality of sections 1 to 3, sections 735 and 736 of the *Merchant Shipping Act 1894*, shall be construed as though reference therein to the legislature of a British possession did not include reference to the Parliament of a Dominion.

6 Powers of Dominion Parliaments in relation to Courts of Admiralty

Without prejudice to the generality of sections 1 to 5, section 4 of the *Colonial Courts of Admiralty Act 1890* (which require certain laws to be reserved for the signification of Her Majesty's pleasure or to contain a suspending clause), and so much of section 7 of that Act as requires the approval of Her Majesty in Council to any rules of court for regulating the practice and procedure of a colonial court of admiralty, shall cease to have effect in any Dominion as from the commencement of this Act.

7 Saving for British North America Acts and application of the Act to Canada

- (1) Nothing in this Act shall be deemed to apply to the repeal, amendment or alteration of the *British North America Acts 1867 to 1930*, or any order, rule or regulation made thereunder.
- (2) The provisions of section 2 shall extend to laws made by any of the Provinces of Canada and to the powers of the legislatures of such Provinces.
- (3) The powers conferred by this Act upon the Parliament of Canada or upon the legislatures of the Provinces shall be restricted to the enactment of laws in relation to matters within the competence of the Parliament of Canada or of any of the legislatures of the Provinces respectively.

8 Saving for Constitution Acts of Australia and New Zealand

Nothing in this Act shall be deemed to confer any power to repeal or alter the Constitution or the Constitution Act of the Commonwealth of Australia or the Constitution Act of the Dominion of New Zealand otherwise than in accordance with the law existing before the commencement of this Act.

9 Saving with respect to States of Australia

- (1) Nothing in this Act shall be deemed to authorise the Parliament of the Commonwealth of Australia to make laws on any matter within the authority of the States of Australia, not being a matter within the authority of the Parliament or Government of the Commonwealth of Australia.

10 Certain sections of Act not to apply to Australia, New Zealand or Newfoundland unless adopted

- (1) None of the following sections, that is to say, sections 2 to 6, shall extend to a Dominion to which this section applies as part of the law of that Dominion unless that section is adopted by the Parliament of the Dominion, and any Act of that Parliament adopting any section of this Act may provide that the adoption shall have effect either from the commencement of this Act or from such later date as is specified in the adopting Act.
- (3) The Dominions to which this section applies are the Commonwealth of Australia, the Dominion of New Zealand and Newfoundland.

11 Meaning of *colony* in future Acts

Notwithstanding anything in the *Interpretation Act 1889*, the expression *colony* shall not, in any Act of the Parliament of the United Kingdom passed after the commencement of this Act, include a Dominion or any province or State forming part of a Dominion.

12 Short title

This Act may be cited as the *Statute of Westminster 1931 (Imperial)*.