

Commonwealth Places (Administration of Laws) Act 1970 No 80

[1970-80]



New South Wales

Status Information

Currency of version

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Authorisation

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Commonwealth Places (Administration of Laws) Act 1970 No 80



New South Wales

An Act relating to the administration of laws of the Commonwealth and of the State of New South Wales in Commonwealth places; and for purposes connected therewith.

1 Name of Act

This Act may be cited as the *Commonwealth Places (Administration of Laws) Act 1970*.

2 Commencement

This Act shall commence upon a day to be fixed by the Governor and notified by proclamation published in the Gazette.

3 Definitions

In this Act, except in so far as the context or subject-matter otherwise indicates or requires:

Authority means:

- (a) the Governor, a Minister or a member of the Executive Council of the State,
- (b) a court of the State,
- (c) a person who holds office as a member of a court of the State,
- (d) a body created by or under a law of the State, and
- (e) an officer or employee of the State or of a body referred to in paragraph (d) of this definition.

Commonwealth place means a place (not being the seat of Government) whether within or without the State with respect to which the Parliament of the Commonwealth, by virtue of section 52 of the Constitution of the Commonwealth of Australia, has, subject to that Constitution, exclusive power to make laws for the peace, order, and good government of the Commonwealth.

the applied provisions means the provisions of the laws of the State that apply or are

to be deemed to have applied in or in relation to Commonwealth places by virtue of the Commonwealth Act.

the Commonwealth Act means the *Commonwealth Places (Application of Laws) Act 1970* of the Commonwealth and, if that Act is amended, that Act as amended.

the laws of the State means the laws in force in the State, whether written or unwritten and as in force for the time being, and instruments made or having effect under those laws but does not include a law of the Commonwealth, whether written or unwritten, or an instrument made or having effect under such a law and **law of the State** has a corresponding meaning.

the State means the State of New South Wales.

4 Arrangements with the Commonwealth

- (1) Where, under a law of the State, provision is made for or in relation to the exercise or performance of a power duty or function by an Authority of the State and under the applied provisions, provision is made for or in relation to the exercise or performance of a like power duty or function, the Governor may make an arrangement with the Governor-General of the Commonwealth for the exercise or performance of that power duty or function under the applied provisions by an Authority of the State in and in relation to Commonwealth places as provided in the arrangement.
- (2) The Governor may make an arrangement with the Governor-General with respect to any matter necessary or convenient for the purpose of carrying out or giving effect to the Commonwealth Act in or in relation to the State.
- (3) An arrangement under this section may contain such incidental or supplementary provisions as the Governor and the Governor-General think necessary.
- (4) The Governor may arrange with the Governor-General for the variation or revocation of any arrangement in force under this section.

5 Authorities may act under Commonwealth Law

Notwithstanding the provisions of any law of the State, an Authority may:

- (a) exercise or perform the powers or functions that the Authority is empowered to exercise or perform under the Commonwealth Act, and
- (b) act in any office or capacity in accordance with the provisions of an arrangement in force under section 4,

in addition to carrying out the Authority's duties under the laws of the State.

6 Causes of action

Where an act or omission gives, or gave, to a person a cause of action under a law of the

State and also gives, or gave, to that person a cause of action under a part of the applied provisions to which that law corresponds and the cause of action under the applied provisions has been extinguished the cause of action under that law is also extinguished.

7 Validation of certain acts

Where an Authority or a person has done, in or in relation to a Commonwealth place, an act in the purported exercise or performance of a power duty or function under a part of the applied provisions that is inapplicable and that act could have been done by that Authority or person in the exercise or performance of a power duty or function under a law of the State that corresponds to that part, that act shall be deemed to have been done by that Authority or person in the exercise or performance of the power duty or function under that law.

8 Double jeopardy

- (1) Where an act or omission constitutes an offence under both a law of the State and a part of the applied provisions and the offender has been punished for the offence under that part of the applied provisions, the offender shall not be liable to be punished for the offence under that law.
- (2) Any reference in the laws of the State to a conviction, punishment, penalty or forfeiture under a law of the State shall be deemed to include a reference to a conviction, punishment, penalty or forfeiture under that part of the applied provisions that corresponds to that law.

9 Form of instruments

In so far as an instrument or other writing that relates to an act, matter or thing that has a connection with a place in the State that is a Commonwealth place refers to a provision as part of the applied provisions and that provision does not have effect in or in relation to that act, matter or thing, that reference has effect as if it were a reference to the law of the State that corresponds to that provision.

10 Objection not allowable where two offences charged

Objection shall not be allowed in any proceedings in which an offence is alleged against a law of the State by reason only that in the proceedings an offence is also alleged against a part of the applied provision to which that law corresponds.

11 Continuance of proceedings where place is not a Commonwealth place

Where a person is charged with an offence against a provision as a part of the applied provisions and the court before which that person is charged is satisfied:

- (a) that that provision is not a part of the applied provisions, and
- (b) a law of the State corresponds to that provision,

the proceedings shall be continued as though that person had been charged with an offence against the law of the State that corresponds to that provision.

12 Proceedings on certain appeals

Where, on an appeal from a judgment, decree, order or sentence in proceedings under a provision as part of the applied provisions a court is satisfied that:

- (a) that provision was not a part of the applied provisions, and
- (b) a law of the State corresponds to that provision,

the court shall deal with the appeal as though the proceedings in relation to which the appeal was brought had been brought under that law and the judgment, decree, order or sentence had been given or made in proceedings so brought.

13 Certificates as to ownership of land

(1) A certificate in writing given by an authorized person:

- (a) as to the ownership of land, or of an estate or interest in land, specified in the certificate, on a date or during a period so specified, or
- (b) as to the existence and ownership, on a date or during a period specified in the certificate, of a right so specified in respect of land so specified,

is, in proceedings under or purporting to be under, the law of the State in which any question arises whether a place is a Commonwealth place, evidence of the matters stated in the certificate.

(2) For the purposes of subsection (1) a writing purporting to be a certificate referred to in that subsection shall, unless the contrary is proved, be deemed to be such a certificate and to have been duly given.

(3) In this section **authorized person** has the same meaning as in section 17 of the Commonwealth Act.

14 Savings

(1) Where, upon a place becoming or having become a Commonwealth place, a law of the State ceases or ceased to have effect in or in relation to that place:

- (a) the previous operation of that law or anything duly done or suffered under that law is not affected,
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under that law is not affected,
- (c) any penalty, forfeiture or punishment incurred in respect of an offence committed against that law is not affected,

- (d) any investigation, legal proceeding or remedy in respect of any right, privilege, obligation, liability, penalty, forfeiture or punishment referred to in paragraph (b) or (c) is not affected, and
 - (e) any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the law had not so ceased to have effect.
- (2) Subject to subsection (3), when a place ceases or has ceased to be a Commonwealth place at a particular time the laws of the State in force at that particular time apply or shall be deemed to have applied in or in relation to that place as if those laws had come into operation at that particular time and every Act, whether passed before or after the commencement of this Act, and every instrument made or having effect under any such Act, shall be read and construed as if it provided expressly that it was intended to so apply or to have so applied.
- (3) When a place ceases or has ceased to be a Commonwealth place at a particular time all persons things and circumstances appointed or created by or under the applied provisions in or in relation to that place or existing or continuing under the applied provisions in or in relation to that place immediately before the applied provisions cease or ceased to have effect in or in relation to that place by reason of that place ceasing or having ceased to be a Commonwealth place shall under and subject to the laws of the State continue or shall be deemed to have continued to have the same status operation and effect as they respectively would have had if they had been appointed or created or existed or continued under the laws of the State.

15 (Repealed)