1958 No. 1515

The Christmas Island (Transfer to Australia) Order in Council, 1958

Made - - - -	11*th September*, 1958
Laid before Parliament	12*th September*, 1958
Coming into Operation,	
Section 11 - -	13*th September*, 1958
Remainder - -	1*st October*, 1958

At the Court at Balmoral, the 11th day of September, 1958

Present,

The Queen's Most Excellent Majesty in Council

Whereas by the Christmas Island Act, 1958(a), it is provided that Her Majesty may by Order in Council direct that Christmas Island (hereinafter referred to as " the Island ") shall on such date as may be specified in the Order be placed under the authority of the Commonwealth of Australia and that Her Majesty may by Order in Council make provision for purposes connected therewith and specified in the said Act:

And Whereas it is provided by section one hundred and twenty-two of the Constitution of the Commonwealth of Australia that the Parliament of the Commonwealth of Australia may make laws for the government of any territory placed by the Queen under the authority of and accepted by the Commonwealth:

And Whereas by the Christmas Island Act 1958(b), the Parliament of the Commonwealth of Australia has provided for the acceptance of Christmas Island as a Territory under the authority of the Commonwealth and for the government of that Territory:

And Whereas it is expedient that the Island should be placed under the authority of the Commonwealth of Australia with effect from a specified date and that provision should be made for purposes connected therewith as aforesaid:

Now, therefore, Her Majesty, by virtue and in exercise of the powers conferred upon Her by the Christmas Island Act, 1958(a), the Straits Settlements (Repeal) Act, 1946(c), and the British Settlements Acts, 1887 and 1945(d), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and commencement

1.—(1) This Order may be cited as the Christmas Island (Transfer to Australia) Order in Council, 1958.

(2) Save as otherwise herein provided, this Order shall come into operation on the first day of October, 1958 (hereinafter referred to as " the appointed day ").

(a) 6 & 7 Eliz. 2. c. 25.
(b) No. 41 of 1958.
(c) 9 & 10 Geo. 6. c. 37.
(d) 50 & 51 Vict. c. 54 and 9 & 10 Geo. 6. c. 7.

Interpretation

2. The Interpretation Act, 1889(**a**), shall apply for the purposes of interpreting this Order as it applies for the purpose of interpreting an Act of Parliament.

Placing the Island under the authority of the Commonwealth of Australia

3. With effect from the appointed day, the Island shall be placed under the authority of the Commonwealth of Australia.

Transfer of rights and liabilities

4.—(1) All property, rights and powers in or in connection with the Island, being property, rights and powers which immediately before the appointed day were held or enjoyed by or on behalf of Her Majesty in right of the United Kingdom or of the Colony of Christmas Island or by or on behalf of the Government of the United Kingdom or the Government of Christmas Island shall, from and including that day, be deemed to be held or enjoyed by or on behalf of the Commonwealth of Australia.

(2) All liabilities and obligations incurred before the appointed day by or on behalf of the Government of the United Kingdom or of the Colony of Singapore or of the Colony of Christmas Island in or in connection with the Island and subsisting immediately before that day shall, from and including that day, be deemed to have been incurred by or on behalf of the Commonwealth of Australia:

Provided that this subsection shall not apply to any liabilities or obligations of the Government of the United Kingdom or of the Colony of Singapore for or in respect of—

(*a*) the servicing or repayment of any public loans raised by the Government of the Colony of Singapore; and

(*b*) the payment of any pensions or retiring allowances in respect of service in Christmas Island; and

(*c*) the repayment of any deposits with the Christmas Island branch of the Singapore Post Office Savings Bank and any interest on such deposits; and

(*d*) the meeting of deficiencies in the assets of the Central Provident Fund of the Colony of Singapore required by the Central Provident Fund Ordinance(**b**) of that Colony to be met out of the general revenues of that Colony.

(3) In this section, "property" includes movable and immovable property.

Pending proceedings

5. Any criminal or civil proceedings, including appeals, pending on the appointed day in the Supreme Court of Singapore or in the Court of Criminal Appeal of Singapore by virtue of any jurisdiction of the said Courts within the Island shall be carried on and concluded in like manner as nearly as may be as if this Order had not been made.

(**a**) 52 & 53 Vict. c. 63. (**b**) Laws of Singapore (Rev. Ed. 1955), Cap. 150.

Appeals to the Privy Council

6. Nothing in this Order shall affect or prejudice any appeal or petition to Her Majesty in Council in relation to any proceedings commenced prior to the appointed day in the Supreme Court of Singapore or in the Court of Criminal Appeal of Singapore by virtue of any jurisdiction of the said Courts within the Island.

Validity of previous acts

7. Nothing in this Order shall affect the validity or future operation of any lawful act done by any person or authority in or in connection with the Island prior to the appointed day.

Operation of section 13 *of the Christmas Island Order,* 1957

8. If any offender shall have been condemned to suffer death by the sentence of a court having jurisdiction in respect of the Island and immediately prior to the appointed day either the Judge who presided at the trial shall not have submitted his report of the case of such offender to the Secretary of State or, if such a report has been submitted, Her Majesty's pleasure in regard to such sentence shall not have been communicated to the Administrator, the provisions of subsection (2) of section 13 of the Christmas Island Order in Council, 1957(a), shall continue to apply to the case of such offender on and after the appointed day as if this Order had not been made. In such case, Her Majesty's pleasure shall be communicated as soon as may be to the appropriate authorities through a Secretary of State.

Operation of section 14 *of the Christmas Island Order,* 1957

9. Where, by reason of a warrant under the hand of the Administrator issued under section 14 of the Christmas Island Order in Council, 1957, any person has been removed to, and on the appointed day is detained in, the Island of Singapore, such person shall continue to be accommodated or dealt with under the law of Singapore in force for the time being according to the tenor of the warrant.

Amendments to the laws of Singapore

10. The amendments to the laws of the Colony of Singapore specified in the Schedule hereto shall take effect in the Colony of Singapore on the appointed day.

Publication

11.—(1) This Order shall be published in the Official Gazettes of the Colony of Singapore and of the Colony of Christmas Island.

(2) This section shall come into operation on the day after the day on which this Order shall have been laid before both Houses of Parliament in the United Kingdom.

W. G. Agnew.

SCHEDULE Section 10.

1. The proviso to section 67 of the Courts Ordinance(b) is repealed.

2. The Adjacent Territories Prisoners Ordinance(c), as amended by the First Schedule to the Christmas Island Order in Council, 1957, is further amended by:—

(*a*) the substitution in the Long Title of the words "the Colonies of North Borneo and Sarawak and in the Territory of Christmas Island"

(a) S.I. 1957/2166 (1957 II, p. 2281). (b) Laws of Singapore (Rev. Ed. 1955), Cap. 3. (c) Laws of Singapore (Rev. Ed. 1955), Cap. 91.

for the words " the Colonies of North Borneo, Sarawak and Christmas Island ";

(*b*) the substitution of the words " the Territory of Christmas Island " for the words " the Colony of Christmas Island " in the definition of " Adjacent Territory " in section 2;

(*c*) the addition in section 2 of the following new definition:—

" ' The Government of an Adjacent Territory ' includes, in relation to the Territory of Christmas Island, the appropriate competent authority in respect of that Territory."; and

(*d*) the deletion from subsection (2) of section 6 of the words " or of the Administrator of Christmas Island " and the insertion therein of the words " or of the appropriate competent authority in respect of the Territory of Christmas Island " after the words " the State of Brunei ".

3. The Leprosy Ordinance(a), as amended by the First Schedule to the Christmas Island Order in Council, 1957, is further amended by:—

(*a*) the deletion in subsection (1) of section 12 of the words " or of the Colony of Christmas Island " and the substitution therefor of the words " or the appropriate competent authority in respect of the Territory of Christmas Island "; and

(*b*) the deletion in the proviso to section 13 of the word " Colony " and the substitution therefor of the word " Territory ".

4. The Mental Disorders and Treatment Ordinance(b), as amended by the First Schedule to the Christmas Island Order in Council, 1957, is further amended by:—

(*a*) the deletion in subsection (1) of section 49 of the words " the Colony of Christmas Island " and the insertion of the words " or the appropriate competent authority in respect of the Territory of Christmas Island " after the words " the State of Brunei ";

(*b*) the addition at the end of subsection (3) of section 49 of the following words:—

" In the case of a person from the Territory of Christmas Island, the certificate in Form K may be signed by any duly qualified medical practitioner and the reference to the ' said Government ' in paragraph (*b*) of this subsection shall be construed as a reference to ' the appropriate competent authority in respect of the Territory of Christmas Island ' "; and

(*c*) the repeal of section 67 and the marginal note thereto.

5. The Labour Ordinance(c) is amended by:—

(*a*) the deletion from section 12 of the words " or to Christmas Island from any other part of the Colony "; and

(*b*) the repeal of subsection (2) of section 129.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The purpose of this Order is to place Christmas Island under the authority of the Commonwealth of Australia with effect from 1st October, 1958. This transfer of authority from the United Kingdom Government necessitates the enactment of certain transitional and consequential provisions contained in sections 4 to 11 and the Schedule.

(a) Laws of Singapore (Rev. Ed. 1955), Cap. 144.
(b) Laws of Singapore (Rev. Ed. 1955), Cap. 145. (c) Ord. 40 of 1955.