NORFOLK ISLAND.

**No. 29 of 1957.**

An Act to provide for the Government of Norfolk Island.

[Assented to 30th May, 1957.]

**Preamble.**

WHEREAS Norfolk Island was, by the *Norfolk Island Act* 1913, declared to be accepted by the Commonwealth as a Territory under the authority of the Commonwealth:

And whereas Norfolk Island has been governed by the Commonwealth under the provisions of that Act or of that Act as amended:

And whereas it is desirable to make other provision for the Government of Norfolk Island:

Be it therefore enacted by the Queen’s Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Part I.—Preliminary.

**Short title.**

**1.** This Act may be cited as the *Norfolk Island Act* 1957.

**Commencement.**

**2.** This Act shall come into operation on a date to be fixed by Proclamation.

**Repeal and saving.**

**3.**—(1.) The *Norfolk Island Act* 1913 and the *Norfolk Island Act* 1935 are repealed.

(2.) The provisions of sub-sections (11.), (12.) and (13.) of section eight of the *Norfolk Island Act* 1913–1957 shall continue to apply in relation to Ordinances made under that Act.

**Parts.**

**4.** This Act is divided into Parts, as follows:—

Part I.—Preliminary (Sections 1–5).

Part II.—Administration (Sections 6–10).

Part III.—The Norfolk Island Council (Section 11).

Part IV.—Legislation.

Division 1.—Laws (Sections 12–14).

Division 2.—Legislative Powers of the Governor-General (Sections 15–17).

Part V.—The Judicial System (Sections 18–24).

Part VI.—Miscellaneous (Sections 25–32).

**Definitions.**

**5.** In this Act, unless the contrary intention appears—

“Acting Administrator” means a person appointed under section nine of this Act to act in the office of Administrator;

“Ordinance” means an Ordinance made under, or continued in force by, this Act;

“prescribed” means prescribed by this Act or by Ordinance;

“the Administrator” means the Administrator of the Territory appointed under this Act, and includes a person acting as Administrator under section nine of this Act;

“the Council” means the Norfolk Island Council established under this Act;

“the judge” means the judge of the Supreme Court, and includes an acting judge of that Court;

“the Supreme Court” means the Supreme Court of Norfolk Island established by this Act;

“the Territory” means Norfolk Island.

Part II.—Administration.

**Office of Administrator.**

**6.** There shall be an Administrator of the Territory, who shall administer the government of the Territory on behalf of the Commonwealth.

**Appointment of Administrator.**

**7.** The Administrator shall be appointed by the Governor-General by Commission under the Great Seal of the Commonwealth and shall hold office during the pleasure of the Governor-General.

**Functions of Administrator.**

**8.** The Administrator shall exercise all powers and perform all functions that belong to his office in accordance with the tenor of his Commission and in accordance with such instructions as are given to him by the Minister.

**Acting Administrator.**

**9.**—(1.) The Governor–General may, by Commission under the Great Seal of the Commonwealth, appoint a person to act in the office of Administrator, and to administer the government of the Territory, during any vacancy in the office of Administrator, or when the Administrator is absent from the Territory or unable by reason of illness or incapacity to perform his duties, and a person so appointed, while he is so administering the government of the Territory, shall have and may exercise and perform all the powers and functions of the Administrator.

(2.) The exercise of the powers and the performance of the functions of the Administrator, by virtue of this section, by a person during the absence of the Administrator from the Territory does not affect the exercise of any power or the performance of any function by the Administrator himself.

**Oath to be taken by Administrator.**

**10.**—(1.) The Administrator and an Acting Administrator shall, before entering on the duties of his office, make and subscribe an oath or affirmation in the form in the First Schedule to this Act.

(2.) An oath or affirmation under the last preceding sub-section shall be made before the Governor-General, a judge of a Federal Court or the judge or an acting judge of the Supreme Court.

Part III.—The Norfolk Island Council.

**Norfolk Island Council.**

**11.**—(1.) There shall be a council for the Territory, to be known as the Norfolk Island Council.

(2.) The Council shall be constituted as provided by Ordinance and shall have such powers and functions as are conferred on it by this Act or by Ordinances made in accordance with this section.

(3.) Provision may be made by Ordinance for and in relation to the incorporation of the Council.

(4.) Ordinances may—

(*a*)authorize the Council—

(i) to exercise powers and perform functions;

(ii) to carry on a business undertaking; and

(iii) to make by-laws having the force of law,

in relation to all or any of the matters specified in the Second Schedule to this Act;

(*b*) authorize the Council to raise revenue by levying rates and imposing fees and charges, and to expend the moneys of the Council for the purposes of the Council, including payment of the remuneration and allowances of members of the Council;

(*c*) make provision for the enforcement of by-laws made by the Council and the punishment of persons committing offences against those by-laws; and

(*d*)prescribe matters necessary or convenient to be prescribed in relation to things done or to be done by the Council under the authority of an Ordinance made in accordance with any of the preceding paragraphs of this sub-section.

(5.) The Council may consider, and tender advice to the Administrator concerning, any matter affecting the peace, order and good government of the Territory.

(6.) Any such matter may be brought before the Council by a member of the Council or, with the permission of the Chairman of the Council, by any other person or institution.

Part IV.—Legislation.

*Division* 1.—*Laws.*

**Continuance of existing laws.**

**12.**—(1.) Notwithstanding the repeal of the Acts specified in sub-section (1.) of section three of this Act, but subject to this Act, all other laws in force immediately before the commencement of this Act in or in relation to the Territory shall continue in force.

(2.) In this section, “laws” includes Ordinances made under, and laws continued in force by, an Act repealed by sub-section (1.) of section three of this Act and laws made under such an Ordinance or law.

**Amendment and repeal of existing laws.**

**13.**—(1.) Subject to this Act, a law continued in force by the last preceding section may be amended or repealed by an Ordinance or by a law made under an Ordinance.

(2.) A law continued in force by the last preceding section, being an Ordinance or being a Law made by the Governor of the State of New South Wales before the commencement of the *Norfolk Island Act* 1913, may not be amended or repealed by a law made under an Ordinance unless the contrary intention appears in that Ordinance.

**Application of Commonwealth Acts.**

**14.**—(1.) An Act or a provision of an Act (whether passed before or after the commencement of this Act) is not, except as otherwise provided by that Act or by any other Act, in force as such in the Territory, unless expressed to extend to the Territory.

(2.) An Ordinance shall not be made so as to affect the application of its own force in, or in relation to, the Territory of an Act or a provision of an Act.

*Division* 2.—*Legislative Powers of the Governor-General.*

**Ordinances.**

**15.**—(1.) Subject to this Act, the Governor-General may make Ordinances for the peace, order and good government of the Territory.

(2.) Notice of the making of every Ordinance made under this section shall be published in the *Norfolk Island Government Gazette,* and an Ordinance shall, unless the contrary intention appears in the Ordinance, come into operation on the date of publication of the notice.

(3.) This section does not authorize the making of an Ordinance imposing a penalty in respect of an act or omission occurring before the date of publication of notice of the making of the Ordinance in the *Norfolk Island Government Gazette.*

**Consideration of Ordinances by the Council.**

**16.**—(1.) Subject to sub-section (4.) of this section, a copy of every proposed Ordinance shall be furnished by the Minister, through the Administrator, to the Council for its consideration.

(2.) The Council may, if it thinks fit, make representations in writing in relation to the proposed Ordinance to the Administrator, and the Administrator shall forthwith forward the representations to the Minister, together with such written observations (if any) as he thinks fit to make in relation to the representations.

(3.) Where a copy of a proposed Ordinance has been furnished to the Council and—

(*a*) the Minister has received representations of the Council in relation to the proposed Ordinance and has considered those representations and any observations of the Administrator; or

(*b*) a period of not less than thirty days has elapsed from the date on which the copy of the proposed Ordinance was furnished to the Council and the Minister has not received any such representations,

the proposed Ordinance, or that Ordinance amended in such manner as the Governor-General thinks fit, may be made by the Governor-General.

(4.) Where it appears to the Governor-General—

(*a*) that an Ordinance should, on account of urgency, be made without the proposed Ordinance being first submitted to the Council or before the expiration of a period of thirty days from the date on which a copy of the proposed Ordinance has been furnished to the Council; or

(*b*) that, for any other special reason, an Ordinance should be made without the proposed Ordinance being first submitted to the Council,

the Ordinance may be made accordingly, and in that case a copy of the Ordinance shall be furnished by the Minister, through the Administrator, to the Council after it has been made.

(5.) Where a copy of an Ordinance is furnished to the Council in accordance with the last preceding sub-section, the Council may, if it thinks fit, make representations in writing in relation to the Ordinance to the Administrator, and the Administrator shall forthwith forward the representations to the Minister, together with such written observations (if any) as he thinks fit to make in relation to the representations and those representations and observations shall be taken into consideration by the Minister.

**Tabling of Ordinances in Parliament.**

**17.**—(1.) An Ordinance shall be laid before each House of the Parliament within fifteen sitting days of that House after the making of the Ordinance, and, if it is not so laid before each House of the Parliament, shall be void and of no effect.

(2.) If either House of the Parliament passes a resolution (of which notice has been given at any time within fifteen sitting days after the Ordinance has been laid before that House) disallowing an Ordinance or a part of an Ordinance, the Ordinance or part so disallowed thereupon ceases to have effect.

(3.) If, at the expiration of fifteen sitting days after notice of a resolution to disallow an Ordinance or part of an Ordinance has been given in either House of the Parliament in accordance with the last preceding sub-section, the resolution has not been withdrawn or otherwise disposed of, the Ordinance or part, as the case may be, shall thereupon be deemed to have been disallowed.

(4.) Where an Ordinance or part of an Ordinance is disallowed, or is deemed to have been disallowed, under this section, the disallowance has the same effect as a repeal of the Ordinance or part of the Ordinance, as the case may be, except that, if a provision of the Ordinance or part of the Ordinance amended or repealed a law in force immediately before that provision came into operation, the disallowance revives the previous law from and including the date of the disallowance as if the disallowed provision had not been made.

(5.) If an Ordinance or part of an Ordinance is disallowed, or is deemed to have been disallowed, under this section, and an Ordinance containing a provision being the same in substance as a provision so disallowed, or deemed to have been disallowed, is made within six months after the date of the disallowance, that provision is void and of no effect, unless—

(*a*) in the case of an Ordinance, or part of an Ordinance, disallowed by resolution—the resolution has been rescinded by the House of the Parliament by which it was passed; or

(*b*) in the case of an Ordinance, or part of an Ordinance, deemed to have been disallowed—the House of the Parliament in which notice of the resolution to

disallow that Ordinance or part was given approves, by resolution, the making of a provision the same in substance as the provision deemed to have been disallowed.

Part V.—The Judicial System.

**Constitution of Supreme Court.**

**18.**—(1.) There shall be a Supreme Court of the Territory, which shall be known as the Supreme Court of Norfolk Island.

(2.) The Supreme Court shall consist of a judge appointed in accordance with this Act.

(3.) The Supreme Court is a Superior Court of Record.

(4.) The jurisdiction of the Supreme Court may be exercised—

(*a*) by the judge sitting in court; and

(*b*) to the extent and in the cases provided by or under Ordinance, by the judge sitting in chambers.

**Appointment and tenure of office of judge.**

**19.**—(1.) The judge—

(*a*) shall be appointed by the Governor-General by Commission under the Great Seal of the Commonwealth;

(*b*) may be removed from office by the Governor-General on the ground of proved misbehaviour or incapacity, but shall not otherwise be removed from office; and

(*c*) except in the case of an acting judge, shall, subject to this section, cease to hold office upon reaching the age of sixty-five years.

(2.) The judge shall, before proceeding to discharge the duties of his office, take before a Justice of the High Court or a Judge of the Supreme Court of a State an oath or affirmation in the form in the First Schedule to this Act.

(3.) The remuneration of the judge shall not be diminished during his continuance in office.

**Acting judge.**

**20.**—(1.) The Governor-General may appoint a person (being a person who is qualified to be the judge) to be an acting judge of the Supreme Court—

(*a*) while the judge is absent on leave or is for any other reason unable for the time being to discharge the duties of his office; or

(*b*) until the appointment of a new judge when the judge has died or has otherwise ceased to hold office.

(2.) Where the Governor-General considers that the business of the Supreme Court requires the temporary appointment of an acting judge in addition to the judge, he may appoint a person (being a person who is qualified to be the judge) to be an acting judge during a period specified by the Governor-General.

(3.) An acting judge has the jurisdiction and powers of, and may exercise all the authorities which are vested in, or may be exercised by, the judge.

(4.) At any time when there is an acting judge appointed in accordance with sub-section (2.) of this section, the jurisdiction of the Supreme Court may be exercised at the same time by the judge and the acting judge.

(5.) The appointment of a person to be an acting judge during the absence, or inability to act, of the judge shall not be determined by the death or resignation of that judge, but shall, unless the Governor-General otherwise directs, continue, subject to this section, until a new judge is appointed.

(6.) An acting judge who holds office by virtue of paragraph (*b*)of sub-section (1.), or of sub-section (5.), of this section shall not so hold office for a period longer than twelve months.

**Qualifications of judge.**

**21.** A person shall not be appointed to be the judge unless—

(*a*)he is or has been a judge of a Federal Court or of the Supreme Court of a State or Territory of the Commonwealth; or

(*b*) he is a barrister or solicitor of the High Court or of the Supreme Court of a State or Territory of the Commonwealth of not less than five years’ standing.

**Jurisdiction of the Supreme Court.**

**22.** Subject to regulations referred to in paragraph (*a*)of section thirty-two of this Act, the jurisdiction, practice and procedure of the Supreme Court shall be as provided by or under Ordinance.

**Establishment of other judicial tribunals.**

**23.** Courts and tribunals for the Territory may be established by or under Ordinance.

**Appeals to the High Court.**

**24.**—(1.) The High Court has jurisdiction, with such exceptions and subject to such conditions as are provided by Ordinance, to hear and determine appeals from all judgments, decrees, orders and sentences of the Supreme Court.

(2.) It may be provided by Ordinance that an appeal to the High Court may be by case stated, with the legal argument, if any, attached to the case in writing, and that it shall not be necessary in any such case for the parties to appear either personally or by counsel.

(3.) Nothing in this Act affects any right of appeal to the High Court, any jurisdiction of the High Court to give leave to appeal to the High Court or any jurisdiction of the High Court to hear and determine any appeal, from any judgment, decree, order or sentence of any court or judge given, made or pronounced before the commencement of this Act.

Part VI.—Miscellaneous.

**Officers.**

**25.** Provision may be made by Ordinance for and in relation to the appointment and employment of such persons as are necessary for the purposes of this Act and for the proper government of the Territory.

**Grants of land.**

**26.** The Minister, or a person authorized by him, may, in accordance with law, make grants or other dispositions of Crown land in the Territory.

**Grant of pardon, remission, &c.**

**27.**—(1.) The Governor-General, acting with the advice of the Minister, by warrant under his hand, may grant to a person convicted by a court of the Territory exercising criminal jurisdiction a pardon, either free or conditional, or a remission or commutation of sentence, or a respite, for such period as he thinks fit, of the execution of sentence, and may remit any fines, penalties and forfeitures imposed or incurred under a law in force in the Territory.

(2.) Without limiting the powers of the Governor-General under the last preceding sub-section, provision may be made by Ordinance for the remission, for good conduct, of part of the sentence of a person serving a sentence of imprisonment in the Territory.

(3.) Where an offence has been committed in the Territory’ or where an offence has been committed outside the Territory for which the offender may be tried in the Territory, the Governor-General, acting with the advice of the Minister, may, by warrant under his hand, grant a pardon to an accomplice who gives evidence that leads to the conviction of the principal offender, or of any of the principal offenders.

**Audit.**

**28.** The accounts of the Territory shall be subject to inspection and audit by the Auditor-General for the Commonwealth.

**Customs duty on certain goods.**

**29.** Duties of Customs are not chargeable on goods imported into Australia from the Territory if the goods—

(*a*) are the produce or manufacture of the Territory;

(*b*) have been shipped in the Territory for export to Australia; and

(*c*) are not goods which, if manufactured or produced in Australia, would be subject to a Duty of Excise.

**References to the Court of Norfolk Island.**

**30.** A reference in a law of the Commonwealth to the Court of Norfolk Island sitting in its Full Jurisdiction shall, after the commencement of this Act, be read as including a reference to the Supreme Court.

**Application of certain provisions of Crimes Act.**

**31.** Sections thirty-five to forty (inclusive) and section fifty of the *Crimes Act* 1914–1955 apply in relation to proceedings in the Supreme Court, being proceedings of that Court sitting, in accordance with the regulations, in a State or Territory of the Commonwealth other than Norfolk Island, as if the Supreme Court were a court of a Territory being a part of the Commonwealth.

**Regulations.**

**32.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular—

(*a*) making provision for and in relation to sittings of the Supreme Court in a State or Territory of the Commonwealth other than Norfolk Island for the purpose of hearing and determining a matter, otherwise than in the exercise of its criminal jurisdiction, if the judge is satisfied that the hearing of the matter outside the Territory is not contrary to the interests of justice; and

(*b*) prescribing penalties, not exceeding a fine of Fifty pounds or imprisonment for three months, for offences against the regulations.

THE SCHEDULES.

FIRST SCHEDULE. Sections 10 and 19.

Oath.

I, , do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her in the office of and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will:

So help me God !

Affirmation.

I, , do solemnly and sincerely promise and declare that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her in the office of and that I will do right to all manner of people according to law, without fear or favour, affection or ill-will.

SECOND SCHEDULE. Section 11.

Matters in relation to which Ordinances may be made in accordance with Section 11.

Roads, footpaths and bridges.

Drainage.

Sewerage and sanitation.

Disposal of garbage and trade waste.

Recreation areas.

Commons and pasturage on commons.

Livestock.

Pounds.

Pests and noxious weeds.

Cemeteries.

Forests.

Electricity supply.

Water supply.

Lighterage.

Places of public entertainment.

Public halls.

Promotion of tourism.

Guest houses.

Omnibuses and taxis.

Sale and distribution of foodstuffs and beverages other than alcoholic beverages.

Repair or demolition of dangerous buildings.

New buildings and the alteration of buildings.

Advertising hoardings.

Fire brigades, fires and the prevention of fire.

Hospitals, homes and institutions.

Road traffic.

Street lighting.

Prevention and suppression of nuisances.

Trading hours.

Street stalls.