



Norfolk Island Continued Laws Amendment Ordinance 2015

Ordinance No. 2, 2015

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd),
Governor-General of the Commonwealth of Australia, acting with the
advice of the Federal Executive Council, make the following Ordinance.

Dated 17 June 2015

Peter Cosgrove
Governor-General

By His Excellency's Command

Jamie Briggs
Assistant Minister for Infrastructure and Regional Development

OPC61292 - A

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1 Name

This is the *Norfolk Island Continued Laws Amendment Ordinance 2015*.

2 Commencement

- (1) Each provision of this Ordinance specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Ordinance	At the same time as Part 1 of Schedule 1 to the <i>Norfolk Island Legislation Amendment Act 2015</i> commences.	18 June 2015

Note: This table relates only to the provisions of this Ordinance as originally made. It will not be amended to deal with any later amendments of this Ordinance.

- (2) Any information in column 3 of the table is not part of this Ordinance. Information may be inserted in this column, or information in it may be edited, in any published version of this Ordinance.

3 Authority

This Ordinance is made under section 19A of the *Norfolk Island Act 1979*.

4 Schedules

Legislation that is specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Ordinance has effect according to its terms.

5 Interpretation

The *Acts Interpretation Act 1901* does not apply to Schedules 1 and 2.

Note: The *Interpretation Act 1979* (Norfolk Island), as amended by this Ordinance, applies instead (because this Ordinance is an enactment for the purposes of that Act).

Schedule 1—Amendments

Part 1—Amendments

Administration and Probate Act 2006 (Norfolk Island)

1 Subsection 83(3)

Repeal the subsection.

Administrative Review Tribunal Act 1996 (Norfolk Island)

2 After subsection 15(1)

Insert:

- (1A) To avoid doubt, an enactment made before the interim transition time does not contravene subsection (1) merely because of the effect of Schedule 1 to the *Interpretation Act 1979* on the enactment.

Note: At and after the interim transition time, that Schedule has the effect that the Commonwealth Minister may make under an enactment a decision that, before that time, could only be made by a Minister or the Administrator. That Schedule does not prevent such a decision made by the Commonwealth Minister from being reviewable by the Tribunal.

Annual Reports Act 2004 (Norfolk Island)

3 Subsections 5(1) and 6(1)

After “prepare”, insert “and give to the Commonwealth Minister”.

4 Section 7

Repeal the section.

5 Subsection 8(1)

Omit “Minister”, substitute “Commonwealth Minister”.

6 Subsection 8(2)

Repeal the subsection.

7 Paragraph 8(3)(e)

Omit “responsible Minister for the report”, substitute “Commonwealth Minister”.

8 Subsections 8(4) and (5)

Repeal the subsections.

9 Parts 3 and 4

Repeal the Parts.

10 Subsections 14(1) and (2)

Omit “Minister”, substitute “Commonwealth Minister”.

11 Subsection 14(3)

Repeal the subsection.

12 Subsection 15(2)

Omit “, and presentation of the report to the Legislative Assembly, is taken to comply with the requirements of this Act about the preparation and presentation”, substitute “complies with the requirements of this Act about the preparation”.

13 Section 17

Repeal the section.

14 Section 18 (paragraph (c) of the definition of *annual report*)

Omit “report; or”, substitute “report.”.

15 Section 18 (paragraph (d) of the definition of *annual report*)

Repeal the paragraph.

16 Section 18 (definition of *financial year*)

Repeal the definition, substitute:

financial year means a period from 1 July in a year to the following 30 June.

Note: See also subsection 6(3).

17 Section 18 (paragraph (c) of the definition of *public sector agency*)

Omit “agency”, substitute “agency.”.

18 Section 18 (definition of *public sector agency*)

Omit “and includes the Public Service Board.”.

19 Section 18 (definition of *responsible Minister*)

Repeal the definition.

20 Section 18 (definition of *Speaker*)

Repeal the definition.

21 Section 18 (paragraph (a) of the definition of *territory instrumentality*)

After “are”, insert “or were”.

22 Section 18 (paragraph (b) of the definition of *territory instrumentality*)

Omit “an Minister”, substitute “the Commonwealth Minister”.

Bookmakers and Betting Exchange Act 1998 (Norfolk Island)

23 Subsection 4(2)

Omit “within the power of the Legislative Assembly”, substitute “possible”.

24 Subsection 19(4)

Repeal the subsection.

Business Transactions (Administration) Act 2006 (Norfolk Island)

25 Section 2A (heading)

Repeal the heading, substitute:

2A Purpose

26 Subsection 2A(1)

Omit “(1)”.

27 Subsection 2A(2)

Repeal the subsection.

Business Transactions (Levy Imposition) Act 2006 (Norfolk Island)

28 Section 2A

Repeal the section.

Child Welfare Act 2009 (Norfolk Island)

29 Subsection 15(1) (note)

Omit “and see also *Interpretation Act 1979* s. 36”.

30 Subsection 24(2) (note)

Repeal the note.

31 Section 32 (note)

Omit “*Interpretation Act 1979* ss. 23A, 23B and 24”, substitute “sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901* of the Commonwealth applying because of section 8A of the *Interpretation Act 1979*”.

32 Subsections 145(5) and 185(3)

Repeal the subsections.

33 Subsection 195(1)

Omit “(1)”.

34 Subsections 195(2) and 196(3)

Repeal the subsections.

35 Subsection 197(1) (note)

Repeal the note.

36 Dictionary (note 2)

Omit “• disallowable instrument (see s 41A)”.

37 Dictionary (note 3)

Omit “• Minister”.

Companies Act 1985 (Norfolk Island)

38 Section 3

Omit “the legislative powers of the Legislative Assembly permit”,
substitute “possible”.

39 Subsection 608F(3)

Repeal the subsection.

40 Subsection 608H(7)

Omit “Such guidelines are a disallowable instrument for the purposes of section 41A of the *Interpretation Act 1979*”.

41 Subsection 608I(1)

Omit “Such a notification is a disallowable instrument for the purposes of section 41A of the *Interpretation Act 1979*”.

42 Subsection 608I(4)

Omit “Such an exemption is a disallowable instrument for the purposes of section 41A of the *Interpretation Act 1979*”.

Coroners Act 1993 (Norfolk Island)

43 Paragraph 11(1)(m)

Omit “, in accordance with the advice of the Executive Council”.

Court Procedures Act 2007 (Norfolk Island)

44 Subsection 8(2) (note)

Omit “s. 20B”.

45 At the end of subsection 8(4)

Add “for the purposes of section 41A of the *Interpretation Act 1979*”.

46 Subsection 8(4) (note)

Repeal the note.

47 Subsection 10(3) (note)

Omit “the *Interpretation Act 1979*, 23A, 23B and 24”, substitute “sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901* of the Commonwealth applying because of section 8A of the *Interpretation Act 1979*”.

48 Subsection 13(3)

Repeal the subsection.

49 Subsection 51(1) (note 1)

Repeal the note.

50 Subsection 51(1) (note 2)

Omit “2”.

51 Section 54 (note)

Repeal the note.

Crimes (Forensic Procedures) Act 2002 (Norfolk Island)

52 Paragraph (e) of Schedule 1

Omit “Executive Council of Norfolk Island”, substitute “Commonwealth Minister”.

Criminal Code 2007 (Norfolk Island)

53 Subsection 4(1) (note)

Omit “(2)(a)”.

54 Section 323 (note at the end of the definition of sworn statement)

Omit “*Interpretation Act 1979*, s.12 (2)”, substitute “section 2B of the *Acts Interpretation Act 1901* of the Commonwealth, applying because of section 8A of the *Interpretation Act 1979*”.

55 Subsection 381(3)

Repeal the subsection.

56 Section 382 (note)

Repeal the note.

Criminal Procedure Act 2007 (Norfolk Island)

57 Subsection 5(1)

Omit “the legislative power of the Legislative Assembly permits”, substitute “possible”.

58 Subsection 112(1)

Omit “(1)”.

59 Subsections 112(2) and 215(3)

Repeal the subsections.

60 Subsection 216(1) (note)

Repeal the note.

Crown Lands Act 1996 (Norfolk Island)

61 Subsection 6(6)

Repeal the subsection.

Customs Act 1913 (Norfolk Island)

62 Subsection 8N(2)

Omit “section 20E”, substitute “section 28A of the *Acts Interpretation Act 1901* of the Commonwealth applying because of section 8A”.

Disaster and Emergency Management Act 2001 (Norfolk Island)

63 Section 3 (definition of *appointed officer*)

Omit “who does not have the powers under section 10 of this Act”.

64 Subsection 8(7)

Omit “in accordance with”, substitute “for the purposes of”.

65 Subsection 9(3)

Omit “and may not be extended or renewed without a resolution of the Legislative Assembly”, substitute “unless extended”.

66 Paragraph 9(4)(a)

Repeal the paragraph.

67 Section 10

Repeal the section.

68 Subsection 13(4)

Repeal the subsection.

69 Paragraph 17(9)(b)

Repeal the paragraph.

70 Section 18

Repeal the section.

Dogs Registration Regulations 1994 (Norfolk Island)

71 Subregulation 3(1)

Omit “(1)”.

72 Subregulation 3(2)

Repeal the subregulation.

Education Act 1931 (Norfolk Island)

73 Section 21

Omit “Administrator”, substitute “Commonwealth Minister”.

Education Regulations (Norfolk Island)

74 Regulation 20

Omit “Minister” (wherever occurring), substituted “Commonwealth Minister”.

Employment Act 1988 (Norfolk Island)

75 Subsection 43(4)

Omit “It is the intention of the Legislative Assembly that compensation”, substitute “Compensation”.

76 Subsection 65(7)

Omit “and notwithstanding section 36 of the *Interpretation Act 1979*”.

Environment Act 1990 (Norfolk Island)

77 Paragraph 4(1)(b)

Omit “the legislative powers of the Legislative Assembly permit”, substitute “possible”.

78 Subsection 11(2)

Repeal the subsection, substitute:

- (2) The Board consists of 5 persons who are appointed in writing by the Commonwealth Minister (and none of whom are the Commonwealth Minister).

79 Subsection 11(3)

Omit “and in spite of section 36 of the *Interpretation Act 1979*”.

80 Subsections 11(6) and 12(1), (2) and (3)

Omit “executive member”, substitute “Commonwealth Minister”.

81 Subsections 12(4), (5), (6) and (7)

Repeal the subsections, substitute:

- (4) As soon as practicable after a member has resigned, or the appointment of a member has been terminated, the Commonwealth

Minister must appoint another person to be a member under subsection 11(2).

- (5) A person whose appointment is terminated under subsection (2) or (3) is not eligible to be reappointed as a member.

82 Subsection 23(5)

Omit “In spite of section 36 of the *Interpretation Act 1979*, an”, substitute “An”.

83 Subsection 26(1)

Omit “or executive member” (first occurring).

84 Subsection 26(1)

Omit “or executive member may propose to the Legislative Assembly”, substitute “may propose to the Commonwealth Minister”.

85 Subsection 26(2)

Repeal the subsection, substitute:

- (2) If the Commonwealth Minister is satisfied (because of a proposal by the Board under subsection (1) or on his or her own initiative) that it is appropriate that an environmental impact statement be prepared in relation to an application, he or she may determine:
- (a) that such a statement be prepared; and
 - (b) by whom, and at whose expense, the statement is to be prepared; and
 - (c) the matters to be dealt with in the statement; and
 - (d) the period within which the statement is to be prepared, and the procedure (including the procedure for public consultation) to be followed in the preparation of the statement.

86 Subsection 26(3)

Omit “Legislative Assembly approves a proposal”, substitute “Commonwealth Minister determines”.

87 Subsection 29(4)

Omit “Where the Legislative Assembly has resolved under section 26 to approve a proposal that an environmental impact statement be prepared in relation to an application, the Assembly may, by resolution,”, substitute “If the Commonwealth Minister has determined under section 26 that an environmental impact statement be prepared in relation to an application, he or she may”.

88 Subsection 29(5)

Repeal the subsection.

89 Section 150

Repeal the section, substitute:

150 Making and amendment of Code by regulations

Subject to section 151, the regulations may:

- (a) prescribe the Norfolk Island Planning Code; and
- (b) repeal or alter provisions of, or add new provisions to, the Code.

90 Subsection 151(1)

Omit “Before advising the making of Regulations under section 150, the executive member”, substitute “Before making regulations for the purposes of section 150, the Commonwealth Minister”.

91 Paragraph 151(1)(b)

Omit “executive member’s”, substitute “Commonwealth Minister’s”.

92 Subsections 151(2), (3) and (4)

Repeal the subsections, substitute:

- (2) A failure to comply with subsection (1) does not affect the validity of regulations made for the purposes of section 150.

93 Subsection 152(1)

Omit “the intention of the Legislative Assembly”, substitute “intended”.

94 Subsections 152(2), (3), (4) and (5)

Repeal the subsections, substitute:

- (2) The Commonwealth Minister must conduct a review of the Code in order to give effect to the intention expressed in subsection (1) at intervals of no more than 5 years from the completion of the most recent review under this section (whether that completion occurred before or after the interim transition time).
- (3) A review under subsection (2) is to be started by a notice in the Gazette:
 - (a) announcing the start of the review; and
 - (b) inviting submissions or representations to be made to the Commonwealth Minister on the effectiveness of the Code in achieving the aim specified in subsection (1).
- (4) The Commonwealth Minister must conduct the review in the manner he or she determines.

95 Subsection 153(1)

Omit “Administrator”, substitute “Commonwealth Minister”.

Evidence Act 2004 (Norfolk Island)

96 Subsection 3(3)

After “subject to,”, insert “section 15AB of the *Acts Interpretation Act 1901* of the Commonwealth (applying because of section 8A of the *Interpretation Act 1979*) and”.

97 Paragraph 7(a)

Omit “the legislative power of the Legislative Assembly permits”, substitute “possible”.

Fuel Levy Act 1987 (Norfolk Island)

98 Section 22

Repeal the section.

Gaming Act 1998 (Norfolk Island)

99 Subsection 4(2)

Omit “within the power of the Legislative Assembly”, substitute “possible”.

100 Subsection 18(4)

Repeal the subsection.

Gaming Supervision Act 1998 (Norfolk Island)

101 Paragraph 7(3)(d)

Omit “the Executive Council”, substitute “the Administrator”.

Goods and Services Tax Act 2007 (Norfolk Island)

102 Section 3

Repeal the section.

103 Subsection 4B(1)

Omit “it is the intention of the Legislative Assembly that”.

104 Subsection 4B(3)

Omit “are disallowable instruments and”.

105 Subsection 4C(2)

Omit “disallowable”.

106 Subsection 14(1)

Omit “a disallowable”.

Healthcare Act 1989 (Norfolk Island)

107 Paragraphs 22(2)(b) and (c)

Repeal the paragraphs, substitute:

- (b) 2 persons appointed in writing by the Commonwealth Minister.

108 At the end of section 22

Add:

- (3) The Commonwealth Minister may at any time terminate an appointment under paragraph (2)(b).

Healthcare Levy Act 1990 (Norfolk Island)

109 Subsection 6(3)

Omit “shall so advise the Legislative Assembly at its next following meeting and if approved by resolution the approval shall be notified in the Gazette and become”, substitute “must give notice of the increased amount in the Gazette, the increased amount becomes”.

Heritage Act 2002 (Norfolk Island)

110 Subsection 7(3)

Repeal the subsection.

111 Section 10

Repeal the section.

Immigration Act 1980 (Norfolk Island)

112 Subsection 4(1) (definition of *authorised person*)

Omit “Minister”, substitute “Administrator”.

113 Subsection 4(1) (paragraph (a) of the definition of *officer*)

Omit “Minister”, substitute “Administrator”.

114 Sections 5, 13 and 14

Omit “Minister” (wherever occurring), substitute “Administrator”.

115 Subsection 14A(5)

Repeal the subsection.

116 Sections 15, 16 and 17

Omit “Minister” (wherever occurring), substitute “Administrator”.

117 Paragraph 17A(1)(c)

Repeal the paragraph.

118 Paragraph 17A(1)(d)

Omit “years; or”, substitute “years.”.

119 Paragraph 17A(1)(e)

Repeal the paragraph.

120 Sections 18, 19 and 20

Omit “Minister” (wherever occurring), substitute “Administrator”.

121 Section 21 (heading)

Repeal the heading, substitute:

21 Administrator may fix quota

122 Subsections 21(1) and (3)

Omit “Minister”, substitute “Administrator”.

123 Subsection 21(4)

Repeal the subsection.

124 Sections 21A to 23 and 26 to 28A

Omit “Minister” (wherever occurring), substitute “Administrator”.

125 Subsection 29(1B)

Repeal the subsection.

126 Sections 30 and 31

Omit “Minister” (wherever occurring), substitute “Administrator”.

127 Section 32 (heading)

Repeal the heading, substitute:

32 Consideration of application by Administrator

128 Sections 32 to 33A

Omit “Minister” (wherever occurring), substitute “Administrator”.

129 Section 34

Repeal the section.

130 Sections 35 to 38, 40 and 42 to 45

Omit “Minister” (wherever occurring), substitute “Administrator”.

131 Subsection 46(1)

Repeal the subsection, substitute:

- (1) The Administrator must give the Commonwealth Minister a copy of each deportation order the Administrator makes.

132 Sections 47, 49, 50, 56, 57, 60, 61, 62, 71, 72, 73, 76, 78, 79 and 82

Omit “Minister” (wherever occurring), substitute “Administrator”.

133 Subsection 84(1)

Omit “the Minister” (wherever occurring), substitute “the Administrator”.

134 Subsection 84(1)

Omit “the Administrator”, substitute “the Commonwealth Minister”.

135 Subsection 84(6)

Omit “The Minister”, substitute “The Administrator”.

136 Subsections 84(7) and (8)

Omit “the Minister” (wherever occurring), substitute “the Administrator”.

137 Subsection 85(1)

Omit “the Minister or of”.

138 Subsection 85(2)

Repeal the subsection, substitute:

- (2) Subsections 84(2), (3), (4), (6), (7) and (8) apply in relation to the request as if:
 - (a) the reference in each of those subsections to the Commonwealth Minister were a reference to the Administrator; and
 - (b) the reference in subsections 84(6), (7) and (8) (ignoring paragraph (a) of this subsection) to the Administrator were a reference to the authorised person.

139 Section 88

Omit “Minister”, substitute “Administrator”.

140 Subsection 90(1)

Omit “Administrator”, substitute “Commonwealth Minister”.

Immigration Regulations 1984 (Norfolk Island)

141 Subregulation 5(1)

Omit “Minister”, substitute “Administrator”.

142 Subregulation 5(2)

Omit “ascertained as mentioned in subsection 21(2) of the *Interpretation Act 1979*”, substitute “on which it would have been delivered in the ordinary course of post”.

143 Subregulations 8(1), (2) and (3)

Omit “Minister”, substitute “Administrator”.

144 Regulation 9

Omit “Minister”, substitute “Administrator”.

145 Subparagraph 10(ii)

Omit “Minister responsible for the Healthcare Fund”, substitute “Administrator”.

146 Subparagraph 10(ii)

Omit “Minister” (second occurring), substitute “Administrator”.

147 Schedule 1 (Form 5)

Omit “Minister of the Norfolk Island Government with responsibility for immigration”, substitute “Administrator”.

148 Schedule 1 (Form 5)

Omit “Minister” (second occurring), substitute “Administrator”.

Interpretation Act 1979 (Norfolk Island)

149 Section 3

Repeal the section.

150 Sections 9, 9A, 10, 10A, 10B and 10C

Repeal the sections, substitute:

8A Application of the *Acts Interpretation Act 1901 (Commonwealth)*

- (1) The *Acts Interpretation Act 1901* of the Commonwealth (as in force from time to time) applies in relation to enactments (including this Act) in the same way as it applies in relation to Acts of the Commonwealth, whether the enactments are made before, at or after the interim transition time.

Note: That Act also applies in relation to instruments made under enactments in the same way as it applies in relation to Acts of the Commonwealth, because of section 7 of this Act.

- (2) However, subsection (1) does not apply the following provisions of the *Acts Interpretation Act 1901* of the Commonwealth to enactments:

- (a) the definitions of *Commonwealth, Executive Council, Gazette, justice of the peace, penalty unit, statutory declaration, Territory, Territory of the Commonwealth, Territory under the authority of the Commonwealth, Territory of Australia* and *United Kingdom* in section 2B;
- (b) subsection 15B(1);
- (c) section 21;
- (d) subsection 38(1);
- (e) section 39.

Note: This Act contains provisions that apply to enactments (and instruments made under enactments) instead of those definitions in section 2B of the *Acts Interpretation Act 1901* of the Commonwealth and instead of section 21 of that Act.

- (3) To avoid doubt, section 46AA of the *Acts Interpretation Act 1901* of the Commonwealth (as in force from time to time) applies because of subsection (1) of this section to instruments made under enactments. That section applies as if the reference in that section to an Act included a reference to a law continued in force by

section 16 or 16A of the *Norfolk Island Act 1979* of the Commonwealth.

8B Application of the *Legislative Instruments Act 2003* or the *Legislation Act 2003* (Commonwealth)

(1) This section applies to a legislative instrument (within the meaning of the *Legislative Instruments Act 2003* or *Legislation Act 2003* of the Commonwealth) that is:

- (a) a section 19A Ordinance; or
- (b) an instrument made under an enactment.

Note: On the commencement of Schedule 1 to the *Acts and Instruments (Framework Reform) Act 2015* of the Commonwealth, the *Legislative Instruments Act 2003* of the Commonwealth will become the *Legislation Act 2003* of the Commonwealth.

(2) Section 14 of that Act applies in relation to the instrument:

- (a) as if the reference in that section to an Act included a reference to a law continued in force by section 16 or 16A of the *Norfolk Island Act 1979* of the Commonwealth; and
- (b) if the instrument is made under an enactment—as if the enactment were the enabling legislation for the instrument.

151 Subsection 10D(1)

Repeal the subsection.

152 Subsection 10D(2)

Omit “(2) Without limiting the generality of subsection 10D(1),”, substitute “Without limiting subsection 15AB(1) of the *Acts Interpretation Act 1901* of the Commonwealth (as that section applies because of section 8A of this Act),”.

153 Subsection 10D(2)

After “provision of an enactment”, insert “made before the interim transition time”.

154 Subsection 10D(3)

Repeal the subsection.

155 At the end of section 11

Add:

Schedule 1 Amendments

Part 1 Amendments

- Note 1: Section 12 defines *enactment* differently from the way that expression is defined by subsection 4(1) of the *Norfolk Island Act 1979*.
- Note 2: Section 12 indicates that the meaning of *Administrator* (which is defined by subsection 4(1) of the *Norfolk Island Act 1979*) is affected by Part 2 of Schedule 1 to this Act (about the Commonwealth Minister's role in administration of enactments at and after the interim transition time).
- Note 3: Part 2 of Schedule 1 also affects the operation of many provisions of enactments that use other expressions defined by subsection 4(1) of the *Norfolk Island Act 1979*, such as *Legislative Assembly*.

156 Subsection 12(1)

Repeal the subsection.

157 Subsection 12(2)

After "In an enactment", insert "(including this Act)".

158 Subsection 12(2)

Insert:

Administrator has a meaning affected by Part 2 of Schedule 1 (about the Commonwealth Minister's role in administration of enactments at and after the interim transition time).

159 Subsection 12(2)

Repeal the following definitions:

- (a) definition of *appoint*;
- (b) definition of *calendar year*;
- (c) definition of *contravene*.

160 Subsection 12(2)

Insert:

enactment means:

- (a) a section 19A Ordinance; or
- (b) an Ordinance continued in force by section 16 or 16A (disregarding subsection 16A(4)) of the *Norfolk Island Act 1979* of the Commonwealth, as the Ordinance is in force from time to time; or
- (c) a Legislative Assembly law continued in force by section 16A (disregarding subsection 16A(3)) of that Act, as the law is in force from time to time.

Note: A law made under an Ordinance, or a law made under a Legislative Assembly law, is not an enactment. However, under section 7, this Act applies to such a law as if it were an enactment.

161 Subsection 12(2) (definition of estate)

Repeal the definition.

162 Subsection 12(2)

Insert:

Executive Council has the same meaning as it had in the *Norfolk Island Act 1979* of the Commonwealth immediately before the interim transition time.

163 Subsection 12(2)

Repeal the following definitions:

- (a) definition of *High Court*;
- (b) definition of *Imperial Act*;
- (c) definition of *land*.

164 Subsection 12(2)

Insert:

Minister has a meaning affected by Part 2 of Schedule 1 (about the Commonwealth Minister's role in administration of enactments at and after the interim transition time).

165 Subsection 12(2)

Repeal the following definitions:

- (a) definition of *month*;
- (b) definition of *oath* or *affidavit*;
- (c) definition of *person* or *party*;
- (d) definition of *prescribed*;
- (e) definition of *proclamation*;
- (f) definition of *regulations*;
- (g) definition of *rules of Court*;
- (h) definition of *State*;
- (i) definition of *State Act*.

166 Subsection 12(5)

Repeal the subsection.

167 Subsection 12B(4)

Omit “Minister must, in respect of 1 July 2000 and each subsequent 1 July,”, substitute “Commonwealth Minister must, in respect of 1 July 2015 and each later 1 July,”.

168 Sections 13, 14, 14A, 15, 16, 18, 19, 20, 20A and 20B

Repeal the sections.

169 Subsection 20C(1)

Repeal the subsection.

170 Subsection 20C(2)

Omit “(2) Where a law of the Commonwealth or of a State or Territory”, substitute “If a law of the Commonwealth”.

171 Subsection 20C(3)

Repeal the subsection.

172 Section 20D

Repeal the section.

173 Subsections 20E(1) and (2)

Repeal the subsections.

174 Subsection 20E(3)

Omit “In subsection (1)—”, substitute “In subsection 28A(1) of the *Acts Interpretation Act 1901* of the Commonwealth as it applies because of subsection 8A(1) of this Act.”.

175 Subsection 20E(5)

Omit “this section applies”, substitute “, subsection 28A(1) of the *Acts Interpretation Act 1901* of the Commonwealth (as it applies because of subsection 8A(1) of this Act) and this section apply”.

176 Subsections 21(1) and (2)

Repeal the subsections.

177 Subsection 21(3)

Omit “(3) A document that may be served by post under subsection 21(1)”, substitute “A document that may be served by post under subsection 29(1) of the *Acts Interpretation Act 1901* of the Commonwealth (as it applies because of subsection 8A(1) of this Act)”.

178 Sections 22, 23, 23A, 23B and 24

Repeal the sections.

179 At the end of section 25

Add:

Note: Schedule 1 also affects a provision for the Administrator to approve or disallow the doing of an act or thing.

180 Section 27

Repeal the section.

181 Subsections 28(1), (2) and (3)

Repeal the subsections.

182 Paragraphs 29(1)(a) and (b)

Omit “an Act”, substitute “a Commonwealth Act”.

183 Sections 30, 31, 32, 33, 34, 35, 36 and 36A

Repeal the sections.

184 Subsection 37(1)

Omit “(1)”.

185 Subsections 37(2) and (3)

Repeal the subsections.

186 Section 39A

Repeal the section.

187 Sections 41 and 41A

Repeal the sections, substitute:

41A Disallowable instruments

- (1) This section applies to an instrument (the *key instrument*) that an enactment:
- (a) confers power to make; and
 - (b) expressly provides is a disallowable instrument for the purposes of this section.

- (2) If the key instrument is not a legislative instrument (within the meaning of the *Legislative Instruments Act 2003* or the *Legislation Act 2003* of the Commonwealth) section 12 (commencement of instruments) of that Act, as in force from time to time, applies to the key instrument as if it were a legislative instrument.

Note: On the commencement of Schedule 1 to the *Acts and Instruments (Framework Reform) Act 2015* of the Commonwealth, the *Legislative Instruments Act 2003* of the Commonwealth will become the *Legislation Act 2003* of the Commonwealth.

- (3) A copy of the key instrument must be given to the Commonwealth Minister within 14 days after it is made.
- (4) If a copy of the key instrument is not given to the Commonwealth Minister within 14 days after it is made, the instrument ceases to have effect as if it were repealed by an enactment at the end of 14 days after it is made.
- (5) The Commonwealth Minister may, by notice in the Gazette, disallow the key instrument, or part of it, within 65 days after a copy of the instrument is given to him or her.
- (6) If the key instrument, or part of it, is disallowed, the instrument or part ceases to have effect as if it were repealed by an enactment when it is disallowed.
- (7) If:
- (a) the key instrument, or part of it, ceases to have effect under subsection (4) or (6) at a time (the *cessation time*); and
 - (b) before the cessation time, the key instrument or part amended or repealed another instrument, or part of another instrument, (the *earlier instrument*) that was in force immediately before the amendment or repeal;
- the earlier instrument (as in force immediately before the amendment or repeal) revives at the cessation time as if the key instrument had not been made. This has effect despite

subsections (4) and (6) of this section and subsection 7(1) and paragraph 7(2)(a) of the *Acts Interpretation Act 1901* of the Commonwealth as applying because of section 8A of this Act.

- (8) Another instrument that is, or contains one or more provisions that are, the same in substance as the key instrument or a provision of the key instrument must not be made, without the agreement of the Commonwealth Minister, during the period:
- (a) starting when the key instrument is made; and
 - (b) ending:
 - (i) if the key instrument ceases to have effect at a time under subsection (4)—at that time; or
 - (ii) if a copy of the key instrument is given to the Commonwealth Minister under subsection (3) and neither the key instrument nor any part of it is disallowed—65 days after the copy is given to the Commonwealth Minister; or
 - (iii) if the key instrument or part of it is disallowed—6 months after the disallowance.
- (9) An instrument made in contravention of subsection (8) has no effect.

188 Subsection 42(5)

Omit “Minister”, substitute “Commonwealth Minister”.

189 After section 42

Insert:

43 Administration of enactments at and after the interim transition time

Schedule 1 has effect, despite:

- (a) enactments other than:
 - (i) this Act; and
 - (ii) a section 19A Ordinance; and
- (b) section 8 of this Act.

190 Schedule

Repeal the Schedule, substitute:

Schedule 1—Administration of enactments at and after the interim transition time

Note: See section 43.

Part 1—Introduction

1 Object of this Schedule

The main object of this Schedule is to provide for the administration of enactments (other than section 19A Ordinances) at or after the interim transition time by certain persons other than those mentioned in the enactments immediately before that time, to take account of amendments made by the *Norfolk Island Legislation Amendment Act 2015* of the Commonwealth affecting the institutions and machinery of government of Norfolk Island.

2 Definitions

In this Schedule:

Minister has the same meaning as it had in this Act as in force immediately before the interim transition time.

3 This Schedule does not apply to section 19A Ordinances

This Schedule does not affect a section 19A Ordinance.

4 This Schedule does not apply in relation to section 8A of this Act

To avoid doubt, this Schedule does not affect provisions of the *Acts Interpretation Act 1901* of the Commonwealth as they apply in relation to enactments because of section 8A of this Act.

Part 2—Commonwealth Minister’s roles

Division 1—Commonwealth Minister’s roles

Subdivision A—General rule

5 Roles belonging to a Minister or the Administrator before the interim transition time

- (1) For the operation of an enactment at or after the interim transition time, a reference in an enactment to either of the following is taken to be a reference to the Commonwealth Minister:
 - (a) a Minister (however described, and whether identified by a specific title or not);
 - (b) the Administrator.

Note: Section 5 of the *Interpretation (Amendment) Act 2012* deems references in enactments to executive members to be references to Ministers, so this clause operates in relation to references to executive members too.

- (2) Subclause (1) has effect subject to Subdivision B.
- (3) Subclause (1) does not apply (of its own force or because of section 7 of this Act) to:
 - (a) the *Education Act 1931*; or
 - (b) the *Education Regulations*; or
 - (c) the *Immigration Act 1980*; or
 - (d) the *Immigration Regulations 1984*; or
 - (e) the *Social Services Act 1980*; or
 - (f) the *Social Services Regulations*.
- (4) To avoid doubt, subclause (1) applies in relation to an enactment even if the enactment contains one or more references to the Commonwealth Minister (whether or not any of those references were included in the enactment before, at or after the interim transition time).

Transitional—things done before the interim transition time

- (5) If, under an enactment as affected by subclause (1), the exercise of a power, or the performance of the function or duty, by the Commonwealth Minister at or after the interim transition time is

affected by the doing of anything before that time, the enactment has effect as if anything that was done by or in relation to a Minister or the Administrator before that time had been done by or in relation to the Commonwealth Minister.

Note: For example, if:

- (a) the enactment provides (apart from subclause (1)) that the Minister may issue a licence if a person applies to the Minister for it; and
- (b) an application was made to the Minister before the interim transition time but no decision was made by that time about issuing a licence;

the Commonwealth Minister may issue the licence after that time as if the application had been made to the Commonwealth Minister.

- (6) This clause does not affect the validity at or after the interim transition time of anything done before that time by a Minister or the Administrator.

Note: For example, a licence validly issued by a Minister under an enactment before the interim transition time continues to be valid for the purposes of the enactment at and after that time.

Subdivision B—Exceptions to general rule, and other special rules

6 Modification of prerequisites for Commonwealth Minister to take action under clause 5

- (1) This clause applies if:
 - (a) an enactment is expressed (ignoring subclause 5(1)) to make:
 - (i) a recommendation (however described) about a matter; or
 - (ii) an approval (however described) of a matter;by an authority established or appointed by or under an enactment, a prerequisite for a Minister or the Administrator to exercise a power or perform a function or duty; and
 - (b) the Commonwealth Minister has that power, function or duty because of subclause 5(1).
- (2) The Commonwealth Minister may exercise the power or perform the function or duty without receiving or following the authority's recommendation about the matter or approval of the matter.

7 Money to be paid or given to the Administration instead of a Minister

If an enactment is expressed (ignoring subclause 5(1)) to require or permit an amount to be paid (however described) or given (however described) to a Minister or the Administrator, the enactment has effect as if it required or permitted (as the case requires) the amount to be paid or given to the Administration.

Note: Some examples of such enactments are ones that (ignoring subclause 5(1)) say that a fee is payable to a Minister or that an application is to be made to a Minister and accompanied by a fee.

8 Commonwealth Minister not required to interact with himself or herself

- (1) The Commonwealth Minister need not comply with a requirement that:
- (a) is imposed on the Commonwealth Minister by an enactment (as affected by subclause 5(1) or otherwise); and
 - (b) because of that subclause, is a requirement for the Commonwealth Minister to do something in relation to the Commonwealth Minister:
 - (i) before taking another action; or
 - (ii) in the process of taking another action; or
 - (iii) after taking another action.

Note: Some examples of a requirement to which this clause applies are if an enactment (ignoring subclause 5(1)) says:

- (a) the Administrator may do something on the advice of a Minister; or
- (b) the Administrator must give the Minister or the Commonwealth Minister notice of a decision or action the Administrator has taken.

- (2) To avoid doubt, if the Commonwealth Minister takes the other action, its validity is not affected merely because the Commonwealth Minister did not or does not comply with the requirement.

Note: This also applies to action by a delegate of the Commonwealth Minister.

9 Special rules relating to the Legislative Assembly

Requirements relating to the Legislative Assembly that need not be complied with

- (1) A person or body need not comply with a requirement imposed by an enactment on the person or body to do either of the following:
- (a) give (however described) a thing to the Legislative Assembly, a committee of the Legislative Assembly or an officer or member of the Legislative Assembly;
 - (b) act consistently (however described) with a resolution or recommendation of the Legislative Assembly.

Failure to comply with the requirement does not affect the validity of any act.

Note 1: Enactments may use various verbs to express requirements to give something to the Legislative Assembly, a committee of the Legislative Assembly, or an officer or member of the Legislative Assembly. Some examples of such verbs are giving, furnishing, laying before, presenting to, tabling, notifying, advising and providing.

Note 2: Enactments may express in various ways a requirement for a person or body to act consistently with a resolution or recommendation of the Legislative Assembly. For example enactments may refer to a person or body doing something in accordance with a resolution of the Assembly, on the recommendation of the Assembly or on an address from the Assembly.

Acts valid despite absence of action relating to the Legislative Assembly

- (2) Despite an enactment providing for a thing to be done by or in relation to the Legislative Assembly:
- (a) before a power can be exercised, or a function or duty performed, by an authority other than the Assembly; or
 - (b) in connection with the exercise of a power, or the performance of a function or duty, by such an authority;
- the power may be exercised, or the function or duty performed, by the authority even though that thing has not been done, or is not done, by or in relation to the Legislative Assembly.

Division 2—Delegation of Commonwealth Minister’s role

10 Delegation by Commonwealth Minister

- (1) The Commonwealth Minister may, by signed writing, delegate to one or more of the following any or all of the powers, functions and duties the Commonwealth Minister has under one or more enactments because of subclause 5(1), or because of one or more amendments of an enactment made by the *Norfolk Island Continued Laws Amendment Ordinance 2015*:
- (a) the Administrator;
 - (b) the Executive Director;
 - (c) an employee of the Administration;
 - (d) a person who holds, or performs the duties of, an office under an enactment;
 - (e) an employee of a body corporate established by or under an enactment.

Subdelegation

- (2) If the Commonwealth Minister allows it in writing, a person to whom a power, function or duty has been delegated under subclause (1) may, by signed writing, further delegate the power, function or duty to a person described in paragraph (1)(a), (b), (c), (d) or (e).

Transitional—conversion of delegations in force before the interim transition time

- (3) A delegation in force immediately before the interim transition time by a Minister or the Administrator of a power, function or duty under an enactment that continues in force after that time has effect as if it were a delegation made under subclause (1). This does not prevent the Commonwealth Minister from amending or revoking the delegation.

11 Directions to delegates

Compliance with Commonwealth Minister’s directions

- (1) A person to whom a power, function or duty has been delegated under clause 10 must comply with any written directions of the Commonwealth Minister under this clause.

- (2) The Commonwealth Minister may give a written direction of a general or specific nature as to the exercise of a power, or performance of a function or duty, that has been delegated under clause 10.
- (3) The Commonwealth Minister may, by written notice given to a person to whom a power, function or duty has been delegated under clause 10, direct that:
 - (a) before the person exercises the power or performs the function or duty, the person must notify the Commonwealth Minister of the person's intention to exercise the power or perform the function or duty; and
 - (b) the person must do so at least the specified number of days before exercising the power or performing the function or duty.

12 Thing done under delegation taken to have been done by Commonwealth Minister

- (1) This clause applies if a power, function or duty of the Commonwealth Minister under an enactment has been delegated to a person under clause 10.

Note: Sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901* of the Commonwealth, applying because of section 8A of this Act, contain other rules about delegations.

- (2) If under the enactment (as affected by subclause 5(1), if relevant) the exercise of the power or the performance of the function or duty depends on the Commonwealth Minister's opinion, belief or state of mind, the person may exercise the power or perform the function or duty on the person's opinion, belief or state of mind.
- (3) If the person exercises the power or performs the function or duty, the Commonwealth Minister is taken for the purposes of the enactment (as affected by subclause 5(1), if relevant) to have exercised the power or performed the function or duty.

Land Titles Act 1996 (Norfolk Island)

191 Subsection 55B(3)

Omit "a disallowable", substitute "an".

Land Valuation Act 2012 (Norfolk Island)

192 Subsection 84(3) (note 1)

Repeal the note.

193 Subsection 84(3) (note 2)

Omit “2.”, substitute “Note:”.

Legal Aid Act 1995 (Norfolk Island)

194 Subsection 3(1)

Omit “(1)” (first occurring).

195 Subsection 3(2)

Repeal the subsection.

196 Subsection 14(1)

Omit “(1)”.

197 Subsection 14(2)

Repeal the subsection.

Legal Profession Act 1993 (Norfolk Island)

198 Section 3

Omit “disallowable instrument”.

199 Item 3 of the Schedule

Repeal the item.

Liquor Act 2005 (Norfolk Island)

200 Subsection 4(1) (definition of *public place*)

Omit “way of a disallowable”.

201 Subsection 25(1)

Omit “disallowable”.

202 Subparagraph 45(1)(aa)(iii)

Omit “disallowable”.

Marine Safety Act 2013 (Norfolk Island)

203 Section 109

Omit “the legislative power of the Legislative Assembly permits”,
substitute “possible”.

204 Paragraph 110(2)(c)

Repeal the paragraph.

Mediation Act 2005 (Norfolk Island)

205 Subsection 4(2)

Repeal the subsection.

Norfolk Island Broadcasting Regulations 2002 (Norfolk Island)

206 Schedule 1 (Form 2)

Omit “, and the resolution of the Legislative Assembly passed on”.

Norfolk Island Hospital Act 1985 (Norfolk Island)

207 Subsection 4(1)

Omit “(1)”.

208 Subsection 4(2)

Repeal the subsection.

209 At the end of subsection 47(5)

Add “for the purposes of section 41A of the *Interpretation Act 1979*”.

Official Survey Act 1978 (Norfolk Island)

210 Subsection 3(4) (note)

Omit “*Interpretation Act 1979* sections 23A, 23B and 24”, substitute “sections 34AA, 34AB and 34A of the *Acts Interpretation Act 1901* of the Commonwealth, applying because of section 8A of the *Interpretation Act 1979*”.

Ombudsman Act 2012 (Norfolk Island)

211 Subsection 3(1) (subparagraph (a)(i) of the definition of *prescribed authority*)

After “are”, insert “or were”.

Planning Act 2002 (Norfolk Island)

212 Section 6 (definition of *approved plan*)

Repeal the definition, substitute:

approved plan means a draft plan that the Minister has approved under section 12 (including any alteration so approved).

213 Section 6 (definition of *approved scheme*)

Repeal the definition, substitute:

approved scheme means a draft development contribution scheme that the Minister has approved under section 67 (including any alteration so approved).

214 Section 6 (definition of *development contribution scheme*)

Omit “section 69”, substitute “section 68”.

215 Section 10

Repeal the section.

216 Subsection 11(5)

Repeal the subsection.

217 Section 12

Repeal the section, substitute:

12 Ministerial approval after public consultation

- (1) At least 28 days after the notification of the draft plan under section 11, the Minister may, by notice in the Gazette, approve the draft plan with or without alterations from the draft plan that was notified.
- (2) The notice of approval must specify the date the approved plan commences, which must not be earlier than the date of publication of the notice in the Gazette.
- (3) The notice must also include:
 - (a) for a plan varying the Plan, a statement setting out the aim and intent of the variation; and
 - (b) a statement indicating where and when the Plan is available for inspection.

218 Subsection 13(1)

Repeal the subsection.

219 Subsection 13(2)

Omit “(2) On the date of commencement of the approved plan declared by the Legislative Assembly under subsection 13(1)—”, substitute “On the date of commencement of the approved plan specified under subsection 12(2):”.

220 Section 14

Repeal the section.

221 Subsections 17(2), (3) and (4)

Repeal the subsections, substitute:

- (2) For subsection (1), the prescribed period is 5 years after the end of the last prescribed period under this subsection (as in force before or after the interim transition time).
- (3) The Minister must initiate a review under subsection (1) by causing to be published in the Gazette a notice of the review, inviting

public comment on the effectiveness of the Plan in promoting the objects of this Act under section 3.

- (4) The Minister must conduct a review under subsection (1) in a manner determined by the Minister.

222 Section 67

Repeal the section, substitute:

67 Ministerial approval after public consultation

- (1) At least 28 days after the notification of the draft development contribution scheme under section 66, the Minister may, by notice in the Gazette, approve the draft development contribution scheme with or without alterations from the draft development contribution scheme that was notified.
- (2) The notice of approval must specify the date the approved scheme commences, which must not be earlier than the date of publication of the notice in the Gazette.
- (3) The notice must also include:
- (a) for a draft development contribution scheme varying a development contribution scheme, a statement setting out the aim and intent of the variation; and
 - (b) a statement indicating where and when the development contribution scheme is available for inspection.

223 Subsection 68(1)

Repeal the subsection.

224 Subsection 68(2)

Omit “(2) On the date of commencement of the approved scheme declared by the Legislative Assembly under subsection 68(1)—”, substitute “On the date of commencement of the approved scheme specified under subsection 67(2):”.

225 Section 69

Repeal the section.

226 Subsection 91(2)

Omit “Assembly, on the recommendation of the Minister, may resolve to”, substitute “Minister may, by notice in the Gazette,”.

227 Subsection 91(2)

Omit “resolution” (first occurring), substitute “notice”.

228 Subsection 91(2)

Omit “Such resolution shall be published in the Gazette.”.

229 Subsection 96(1) (paragraph (a) of the definition of *statutory document*)

Omit “section 14”, substitute “section 12”.

230 Subsection 96(1) (paragraph (d) of the definition of *statutory document*)

Omit “section 69”, substitute “section 67”.

Planning Regulations 2004 (Norfolk Island)

231 Regulations 9 and 10

Repeal the regulations.

232 Regulations 37 and 38

Repeal the regulations.

Protection of Movable Cultural Heritage Act 1987 (Norfolk Island)

233 Subsection 9(1)

Omit “Minister on the recommendation of the Legislative Assembly”, substitute “Commonwealth Minister”.

234 Subsection 9(3)

Omit “Minister”, substitute “Commonwealth Minister”.

235 Section 10

Omit “Minister” (wherever occurring), substitute “Commonwealth Minister”.

236 Subsections 11(1), 12(2) and 13(1), (2) and (3)

Omit “Minister”, substitute “Commonwealth Minister”.

237 Paragraph 15(2)(a)

Omit “Minister on the recommendation of the Legislative Assembly”, substitute “Commonwealth Minister”.

238 Paragraph 15(2)(b)

Omit “Minister”, substitute “Commonwealth Minister”.

239 Subsections 16(1) and (2)

Omit “Minister”, substitute “Commonwealth Minister”.

240 Subsection 16(3)

Repeal the subsection, substitute:

- (3) The Commonwealth Minister must refer the application to the Committee for advice on the application.

241 Subsection 16(4)

Omit “Legislative Assembly” (first occurring), substitute “Commonwealth Minister”.

242 Paragraph 16(4)(c)

Omit “the Legislative Assembly, the Minister”, substitute “the Commonwealth Minister”.

243 After subsection 16(4)

Insert:

- (4A) The Commonwealth Minister may, subject to such conditions, if any, as the Commonwealth Minister specifies, grant or refuse to grant a certificate.

244 Subsection 16(5)

Omit “Minister”, substitute “Commonwealth Minister”.

245 Subsection 16(5)

Omit “referred to in paragraph (3)(c)”.

246 Subsection 16(7)

Omit “Legislative Assembly refuses to recommend the grant of a certificate to export a Class A object, the Minister”, substitute “Commonwealth Minister refuses to grant a certificate to export a Class A object, the Commonwealth Minister”.

247 Subsections 17(1), (2), (3), (4) and (6)

Omit “Minister” (wherever occurring), substitute “Commonwealth Minister”.

248 Subsection 17(7)

Repeal the subsection.

249 Subsection 17A(1)

Omit “Minister”, substitute “Commonwealth Minister”.

250 Subsections 17A(4), (5) and (6)

Repeal the subsections, substitute:

- (4) The Commonwealth Minister may, subject to such conditions, if any, as the Commonwealth Minister specifies, grant or refuse to grant a licence.

251 Subsection 17A(7)

Omit “recommended under paragraph (5)(a)”.

252 Subsections 17A(9) and (10)

Repeal the subsections, substitute:

- (9) If the Commonwealth Minister refuses to grant a licence, the Commonwealth Minister must, as soon as practicable after the refusal, cause to be served on the applicant notice in writing of the refusal, setting out the reasons for the refusal.

253 Subsections 18(1) and (3)

Omit “Minister” (wherever occurring), substitute “Commonwealth Minister”.

254 Subsection 18(4)

Repeal the subsection, substitute:

- (4) The Commonwealth Minister must not exercise a power under subsection (1) in relation to a licence except on application in writing by the holder of the licence.

255 Subsections 22(1), 23(1) and (2), 28(2) and 29(1)

Omit “Minister” (wherever occurring), substitute “Commonwealth Minister”.

256 Paragraph 31(b)

Omit “Minister”, substitute “Commonwealth Minister”.

257 Subsections 39(1) and (2) and 40(1)

Omit “Minister” (wherever occurring), substitute “Commonwealth Minister”.

258 Subsection 40(3)

Repeal the subsection.

Provident Account Act 1958 (Norfolk Island)

259 Subsection 4A(5)

After “issue”, insert “written”.

260 Subsection 4A(5A)

Repeal the subsection.

Public Health Act 1996 (Norfolk Island)

261 Subsection 57(4)

Repeal the subsection.

262 Section 58

Repeal the section.

263 Subsections 59(1) and (2)

Repeal the subsections, substitute:

- (1) At least 28 days after notification of the draft Public Health Code under section 57, the Commonwealth Minister may, by instrument,

make the Public Health Code in the form of the notified draft with or without alterations.

- (2) At least 28 days after notification of the draft variation to the Public Health Code under section 57, the Commonwealth Minister may, by instrument, vary the Code in accordance with the notified draft with or without alterations to the notified draft.

Public Moneys Act 1979 (Norfolk Island)

264 Subsection 19A(2)

Repeal the subsection.

265 Subsection 19A(4)

Omit “disallowable”.

266 Subsection 19A(5)

Repeal the subsection.

267 Subparagraphs 19B(a)(i) and (b)(ii)

Omit “by the Legislative Assembly”.

268 Paragraph 19B(c)

Repeal the paragraph.

269 Subsection 21(2)

Repeal the subsection.

270 Subsection 21(3)

Omit “or person”.

271 Subsection 21(4)

Repeal the subsection, substitute:

- (4) An acknowledgement by a bank of the receipt of moneys paid to the bank by an accounting officer is a sufficient receipt for the moneys for the purposes of subsection 21(3).

272 Section 22

Repeal the section.

273 Section 32F

Repeal the section.

Public Reserves Act 1997 (Norfolk Island)

274 Sections 13 and 14

Repeal the sections, substitute:

14 Making

At least 28 days after the notification of the draft plan under section 11, the Commonwealth Minister may make a plan of management in accordance with the draft plan with or without alterations from the draft plan that was notified.

275 Subsections 16(2), (3) and (4)

Repeal the subsections, substitute:

- (2) Sections 11 and 12 apply to the draft variation as if it were a draft plan of management, and sections 14 and 15 apply to the making of a variation as if it were the making of a plan of management.

276 Subsection 50(2)

Omit “36(3) of the *Interpretation Act 1979*”, substitute “33(3) of the *Acts Interpretation Act 1901* of the Commonwealth, applying because of section 8A of the *Interpretation Act 1979*”.

Public Sector Remuneration Tribunal Act 1992 (Norfolk Island)

277 Section 4

Omit “employer”.

278 Subsection 5(3)

Omit “is—”, substitute “is a public sector employee.”.

279 Paragraphs 5(3)(a) and (c)

Repeal the paragraphs.

280 Subsection 5(4)

Omit “and in spite of section 36 of the *Interpretation Act 1979*”.

281 Subsection 5(6)

Repeal the subsection, substitute:

- (6) A person appointed to be the Tribunal is to be taken to have resigned under subsection (5) if the person becomes a public sector employee.

282 Subsection 5(7)

Omit “on an address by the Legislative Assembly praying for the person’s removal”.

283 Subsection 8(1)

Omit “(1)”.

284 Paragraph 8(1)(c)

Repeal the paragraph.

285 Subsection 8(2)

Repeal the subsection.

286 Subsection 13(4)

Omit “must—”, substitute “must ensure that the determination is brought to the notice of each employer that is affected by the determination.”.

287 Paragraphs 13(4)(a) and (b)

Repeal the paragraphs.

288 Section 14

Repeal the section.

289 Item 2 of the Schedule (definition of *disallowable instrument*)

Repeal the definition, substitute:

disallowable instrument means a disallowable instrument for the purposes of section 41A of the *Interpretation Act 1979*.

290 Item 2 of the Schedule (definition of *employer*)

Repeal the definition.

Public Service Act 2014 (Norfolk Island)

291 Subsection 4(1) (paragraph (a) of the definition of *territory instrumentality*)

After “are”, insert “or were”.

292 Section 3 of Schedule 1

Repeal the section.

Removal of Prisoners Act 2004 (Norfolk Island)

293 Subsection 14(3)

Repeal the subsection.

294 Section 15 (note)

Repeal the note.

Sale of Goods (Vienna Convention) Act 1987 (Norfolk Island)

295 Section 4

Omit “the legislative power of the Legislative Assembly permits”, substitute “possible”.

Sale of Tobacco Act 2004 (Norfolk Island)

296 Subsection 14(5)

Repeal the subsection.

297 Subsection 16(5)

Repeal the subsection, substitute:

- (5) A notice under subsection (4) may include conditions to which the exemption is subject.

Social Services Act 1980 (Norfolk Island)

298 Section 3 (definition of *authorised officer*)

Omit “Minister”, substitute “Administrator”.

299 Section 3

Insert:

Chair means the Chair of the Board.

300 Section 3 (definition of *chairman*)

Repeal the definition.

301 Section 3 (definition of *community member*)

Repeal the definition.

302 Section 3 (definition of *income*)

Omit “Minister” (wherever occurring), substitute “Administrator”.

303 Section 3 (definition of *Legislative Assembly member*)

Repeal the definition.

304 Subsections 4(3), (4), (5), (6) and (7)

Repeal the subsections, substitute:

- (3) The members of the Board are to be appointed by the Commonwealth Minister by written instrument.
- (4) A person cannot be appointed as a member of the Board if:
 - (a) he or she is not a resident; or
 - (b) he or she is:
 - (i) the Commonwealth Minister; or
 - (ii) an authorised officer; or
 - (iii) a beneficiary; or
 - (c) his or her spouse is a beneficiary.
- (5) One of the members of the Board is to be appointed by the Commonwealth Minister by written instrument as the Chair of the Board.

305 Sections 5 and 6

Repeal the sections, substitute:

6 Terms of appointments of members of the Board

- (1) A member of the Board holds office for the period specified in the instrument of appointment. The period must not exceed 3 years.
- (2) A member of the Board may resign his or her appointment by giving the Commonwealth Minister a written resignation.
- (3) The resignation takes effect on the day it is received by the Commonwealth Minister or, if a later day is specified in the resignation, on that later day.
- (4) The Commonwealth Minister may at any time terminate the appointment of a member of the Board.
- (5) The Commonwealth Minister must terminate a person's appointment as a member of the Board if:
 - (a) the person becomes a person who cannot be appointed as a member of the Board; or
 - (b) without the Chair's permission, the person fails to attend 3 consecutive meetings of the Board.

306 Subsections 7(1) and (2)

Omit "chairman", substitute "Chair".

307 Section 8

Repeal the section.

308 Subsection 10(1)

Omit "chairman" (wherever occurring), substitute "Chair".

309 Subsection 10(1)

Omit "Minister", substitute "Administrator".

310 Subsections 10(2) and (3)

Omit "chairman", substitute "Chair".

311 Paragraphs 10(4)(a) and (b)

Omit “Legislative Assembly member”, substitute “member appointed by the Commonwealth Minister”.

312 Subsection 10(6)

Omit “chairman”, substitute “Chair”.

313 Subsection 10(7)

Omit “and to the Minister”.

314 Subsections 11(1) and (2)

Omit “Minister” (wherever occurring), substitute “Administrator”.

315 Subsection 11(3)

Repeal the subsection.

316 Subsection 11(4)

Omit “Minister”, substitute “Administrator”.

317 Subsection 13(2)

Omit “chairman or, in his absence, the Minister”, substitute “Chair or, if he or she is absent, the Administrator”.

318 Subsection 14(1)

Omit “(1)”.

319 Subsection 14(1)

Omit “Minister”, substitute “Administrator”.

320 Subsection 14(2)

Repeal the subsection.

321 Sections 15, 17, 18, 19, 21, 23 to 26

Omit “Minister” (wherever occurring), substitute “Administrator”.

322 Subsection 26A(1)

Omit “Minister may from time to time by disallowable”, substitute “Administrator may from time to time by”.

323 Subsection 26A(1)

Omit “Minister” (last occurring), substitute “Administrator”.

324 Subsection 26A(2)

Repeal the subsection.

325 Subsections 26A(4), (5), (8) and (9)

Omit “Minister”, substitute “Administrator”.

326 Sections 27 and 30 to 32

Omit “Minister” (wherever occurring), substitute “Administrator”.

327 Section 33 (heading)

Repeal the heading, substitute:

33 Review of decision by Commonwealth Minister

328 Subsection 33(1)

Omit “Minister”, substitute “Administrator”.

329 Subsections 33(1), (2), (3) and (4)

Omit “Administrator” (wherever occurring), substitute “Commonwealth Minister”.

330 Subsection 33(4)

Omit “Minister”, substitute “Administrator”.

331 Subsections 33(5) and (6)

Omit “Administrator” (wherever occurring), substitute “Commonwealth Minister”.

332 Sections 34 to 39, 41, 42 and 44 to 48

Omit “Minister” (wherever occurring), substitute “Administrator”.

333 Subsection 49(1)

Omit “Administrator”, substitute “Commonwealth Minister”.

334 Paragraph 4(b) of the Schedule

Omit “Minister”, substitute “Administrator”.

Social Services Regulations (Norfolk Island)

335 Subregulation 4(2)

Omit “Minister”, substitute “Administrator”.

Supreme Court Act 1960 (Norfolk Island)

336 At the end of subsection 19(3)

Add “for the purposes of section 41A of the *Interpretation Act 1979*”.

Telecommunications Act 1992 (Norfolk Island)

337 Section 3

Omit “disallowable instrument”.

338 Section 5

Omit “the intention of the Legislative Assembly”, substitute “intended”.

339 Subsections 28(5) and 30(3)

Repeal the subsections.

340 Item 2 of Schedule 1 (definition of *disallowable instrument*)

Repeal the definition.

341 Item 3 of Schedule 1

Repeal the item.

Trees Act 1997 (Norfolk Island)

342 Subsection 11(1)

Omit “(1)”.

343 Subsection 11(2)

Repeal the subsection.

Part 2—Application, saving and transitional provisions

Division 1—General saving and transitional provisions

344 General saving provision

- (1) The amendments made by this Schedule do not affect the validity at or after the interim transition time of anything done before that time.

Example: Applications, appointments and instruments made, and permits granted, before the interim transition time under an enactment amended by this Schedule continue to have effect at and after that time for the purposes of that enactment as amended.

- (2) To avoid doubt, subitem (1) does not prevent the variation or revocation, under an enactment amended by this Schedule, of anything done under the enactment before the interim transition time.
- (3) Subitem (1) has effect subject to Division 2.

345 General transitional provision

If, under an enactment amended by this Schedule to include a reference to the Commonwealth Minister, the exercise of a power, or the performance of the function or duty, by the Commonwealth Minister at or after the interim transition time is affected by the doing of anything before that time, the enactment has effect as if anything that was done by or in relation to a Minister or the Administrator before that time had been done by or in relation to the Commonwealth Minister.

Note: For example, if:

- (a) the enactment used to provide that the Minister may take an action if the Minister has carried out public consultation about the proposed action; and
- (b) the enactment is amended to provide that the Commonwealth Minister may take the action if the Commonwealth Minister has carried out public consultation; and
- (c) the Minister carried out public consultation before the interim transition time but did not take the action before that time;

the Commonwealth Minister may take the action after that time as if the Commonwealth Minister had carried out the public consultation.

Division 2—Specific application, saving and transitional provisions

346 Application of amendments of the *Annual Reports Act 2004*

The amendments of the *Annual Reports Act 2004* (Norfolk Island) made by this Schedule apply to annual reports for the financial year starting on 1 July 2014 and later financial years.

347 Transitional provisions relating to the *Environment Act 1990*

- (1) Despite Division 1 of this Part, the appointment of a person described in paragraph 11(2)(a) of the *Environment Act 1990* (Norfolk Island) (as in force immediately before the interim transition time) as a member of the Board terminates at that time.

Note 1: The Commonwealth Minister may appoint a replacement member: see subsection 11(2) of the *Environment Act 1990* as amended by this Schedule.

Note 2: Under Division 1 of this Part, the persons who were members of the Board under paragraph 11(2)(b) of the *Environment Act 1990* immediately before the interim transition time continue as members.

- (2) If the Legislative Assembly had approved a proposal that an environmental impact statement be prepared in relation to an application, subsections 26(3) and 29(4) of the *Environment Act 1990* (Norfolk Island), as amended by this Schedule, apply in relation to the application as if the Commonwealth Minister had determined that the statement be prepared.

348 Effect of amendment of the *Healthcare Act 1989*

Despite Division 1 of this Part, a person who was a member of the Claims Committee under paragraph 22(2)(b) or (c) of the *Healthcare Act 1989* (Norfolk Island) as in force immediately before the interim transition time ceases to be a member of the Committee at that time.

Note: The Commonwealth Minister may appoint replacement members: see paragraph 22(2)(b) of the *Healthcare Act 1989* as amended by this Schedule.

349 Application of amendments of the *Immigration Act 1980*

- (1) The amendments of subsections 84(1) and 85(1) of the *Immigration Act 1980* (Norfolk Island) made by this Schedule apply to decisions made at or after the interim transition time.

- (2) The amendments of subsections 84(6), (7) and (8) of the *Immigration Act 1980* (Norfolk Island) made by this Schedule apply in relation to the review at or after the transition time of decisions made before, at or after that time.

350 Application and transitional provisions relating to section 41A of the *Interpretation Act 1979*

Application to instruments made at or after interim transition time

- (1) Section 41A of the *Interpretation Act 1979* (Norfolk Island), as amended by this Schedule, applies to instruments made at or after the interim transition time.

Application to instruments made before interim transition time

- (2) That section also applies, with the modifications described in subitem (3), to an instrument (the **old instrument**) that:
- (a) was made before the interim transition time, by an authority that was neither a Minister nor the Administrator, under an enactment that provided the instrument was a disallowable instrument; and
 - (b) either:
 - (i) was (wholly or partly) in force immediately before the interim transition time; or
 - (ii) is to commence (wholly or partly) at or after that time; and
 - (c) either:
 - (i) had not been laid before the Legislative Assembly before the interim transition time; or
 - (ii) had been laid before the Legislative Assembly less than 65 days before the interim transition time and had not been wholly disallowed before that time.
- (3) That section applies as if:
- (a) if the old instrument had not been laid before the Legislative Assembly before the interim transition time—the references in subsections (3) and (4) of that section to 14 days after the instrument is made were references to 14 days after the interim transition time; and
 - (b) if the old instrument had been laid before the Legislative Assembly before the interim transition time:

Schedule 1 Amendments

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- (i) subsections (3) and (4) of that section had not been enacted; and
- (ii) a copy of the old instrument had been given to the Commonwealth Minister at the interim transition time.

351 Effect of amendments of the *Social Services Act 1980*

- (1) Despite Division 1 of this Part, a person who was a member of the Norfolk Island Social Services Board under paragraph 4(3)(a) of the *Social Services Act 1980* (Norfolk Island) as in force immediately before the interim transition time ceases to be a member (and, if relevant, chairman) of the Board at that time.

Note: The Commonwealth Minister may appoint a replacement member and a Chair of the Board: see subsections 4(3) and (5) of the *Social Services Act 1980* as amended by this Schedule.

- (2) The amendments of section 33 of the *Social Services Act 1980* (Norfolk Island) made by this Schedule apply in relation to decisions made at or after the transition time.

Schedule 2—Repeals

Part 1—Repeals of Acts

1 Repeal of Acts

Repeal the following Acts of Norfolk Island:

Legislative Assembly Act 1979

*Legislative Assembly (Register of Members' Interests) Act
2004*

Referendum Act 1964

Part 2—Repeals of regulations

2 Repeal of regulations

Repeal the following regulations of Norfolk Island:

*Legislative Assembly (Register of Members' Interests)
Regulations 2005 (No. 4 of 2005)*

Legislative Assembly Regulations