

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Territories, Local Government and Major Projects

NORFOLK ISLAND LEGISLATION AMENDMENT ACT 2015

NORFOLK ISLAND LEGISLATION AMENDMENT ACT TRANSITIONAL RULE (APPROVED PHARMACISTS) 2016

Authority

The *Norfolk Island Legislation Amendment Act Transitional Rule (Approved Pharmacists) 2016* (Transitional Rule) is made under item 357 of Schedule 2 to the *Norfolk Island Legislation Amendment Act 2015* (Amendment Act).

Purpose and operation

The purpose of the Transitional Rule is to deem particular pharmacists on Norfolk Island as ‘approved pharmacists’ for the purposes of section 90 of the *National Health Act 1953* (NH Act). The effect of this is that Pharmaceutical Benefits Scheme medicines will be available on Norfolk Island to eligible Norfolk Island residents from 1 July 2016.

The Amendment Act implements the Norfolk Island reforms and, as a result, legislation implementing Australian taxation, social security, immigration, biosecurity, customs and some health arrangements (including the Pharmaceutical Benefits Scheme), will extend to Norfolk Island from 1 July 2016.

The *Territories Legislation Amendment Act 2016* includes amendments to the *Norfolk Island Act 1979* (NI Act) and the *Acts Interpretation Act 1901* (AI Act). Amendments to the NI Act extend the application of Commonwealth laws to Norfolk Island; and amendments to the AI Act expand the definition of ‘Australia’ and ‘Commonwealth’ to include Norfolk Island. The effect of these amendments is that Commonwealth legislation supporting health and aged care programs will apply to Norfolk Island from 1 July 2016.

There are currently two community pharmacies operating on Norfolk Island. From 1 July 2016, each of the pharmacists operating the community pharmacies will be recognised as an approved pharmacist for the purposes of section 90 of the NH Act. Approval under section 90 of the NH Act will enable the pharmacists to supply and claim medicines in accordance with the Pharmaceutical Benefits Scheme.

This Transitional Rule comes into effect immediately after Part 1 of Schedule 2 of the Amendment Act. Part 1 of Schedule 2 of the Amendment Act commences on 1 July 2016.

Details of this Transitional Rule are set out in the [Attachment](#).

Consultation

Consultation regarding this approach has been undertaken with the Department of Health and the Department of Human Services. Ongoing liaison has also been undertaken with the two pharmacists who will become approved under section 90 of the NH Act from 1 July 2016. Consultation with the current Norfolk Island Hospital Enterprise pharmacist regarding the new arrangements was also conducted. Broader public consultation was not undertaken because the Transitional Rule is largely machinery in nature to give effect to the arrangements introduced by the Amendment Act.

This Transitional Rule is a legislative instrument for the purposes of the *Legislation Act 2003*.

***DETAILS OF THE NORFOLK ISLAND LEGISLATION AMENDMENT ACT
TRANSITIONAL RULE (APPROVED PHARMACISTS) 2016***

PART 1 - Preliminary

Section 1 – Name of Transitional Rule

This section provides that the name of the Transitional Rule is the *Norfolk Island Legislation Amendment Act Transitional Rule (Approved Pharmacists) 2016* (the Transitional Rule).

Section 2 – Commencement

This section provides that the Transitional Rule commences immediately after Part 1 of Schedule 2 of the *Norfolk Island Legislation Amendment Act 2015* (Amendment Act). Schedule 2, Part 1 commences on 1 July 2016.

Section 3 – Authority

This section provides that the Transitional Rule is made under item 357 of Schedule 2 of the Amendment Act.

PART 2 – Transitional rule

Section 4 – Approved pharmacists on Norfolk Island

This section sets out the circumstances in which a pharmacist will be taken to be an approved pharmacist approved by the Secretary under section 90 of the *National Health Act 1953* (NH Act) for the purposes of supplying pharmaceutical benefits from particular premises on Norfolk Island.

From 1 July 2016, a person who immediately before the commencement of the Transitional Rule was a registered pharmaceutical chemist under the *Pharmacy Act 1956* of Norfolk Island and carried on, or controlled the carrying on of, the business of a pharmaceutical chemist (a pharmacy), at a particular premises on Norfolk Island will be deemed to be approved under section 90 of the NH Act.

The Transitional Rule explicitly excludes a registered pharmaceutical chemist on Norfolk Island who, immediately before the commencement of the Transitional Rule carried on, or controlled the carrying on of, the business of a pharmaceutical chemist at hospital premises.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

NORFOLK ISLAND LEGISLATION AMENDMENT ACT TRANSITIONAL RULE (APPROVED PHARMACISTS) 2016

The *Norfolk Island Legislation Amendment Act Transitional Rule (Approved Pharmacists) 2016* (Transitional Rule) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The Transitional Rule is made under item 357 of Schedule 2 the *Norfolk Island Legislation Amendment Act 2015* to deem the existing community pharmacists on Norfolk Island as approved to supply pharmaceutical benefits under section 90 of the *National Health Act 1953* (NH Act) from 1 July 2016. The Transitional Rule will require a pharmacist to be registered as a pharmaceutical chemist under the *Pharmacy Act 1956* of Norfolk Island and operating a pharmacy business at premises (other than a hospital) immediately before the 1 July 2016 start date in order for the pharmacist to be an approved pharmacist for the purposes of section 90 of the NH Act.

Human rights implications

The Transitional Rule engages Articles 2 and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The Transitional Rule assists in the progressive realisation by all appropriate means of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The Pharmaceutical Benefits Scheme (PBS) is a benefit scheme which assists with providing access for people to subsidised medicines. This is a positive step towards attaining the highest standard of health for all Australians. Efficient operational arrangements for the PBS support effective administration of the scheme.

Conclusion

This Transitional Rule is compatible with human rights as it advances the protection of human rights.

**The Hon Paul Fletcher MP, Minister for Territories, Local Government and Major
Projects**