

EXPLANATORY STATEMENT

Ordinance No. 5, 2016

Subject - *Norfolk Island Act 1979*

Norfolk Island Continued Laws Amendment (2016 Measures No. 2) Ordinance 2016

The *Norfolk Island Act 1979* (the Act) provides for the Government of the Territory of Norfolk Island. It defines the roles, responsibilities and powers of the Governor-General, the responsible Commonwealth Minister, the Administrator of Norfolk Island, and the Executive Director of Norfolk Island.

Section 19A of the Act provides that the Governor-General may make Ordinances for the peace, order and good government of the Territory of Norfolk Island.

The *Norfolk Island Continued Laws Amendment (2016 Measures No. 2) Ordinance 2016* (the Ordinance) is made under section 19A of the Act.

The Ordinance amends the *Norfolk Island Continued Laws Ordinance 2015* (the Principal Ordinance) to amend and repeal a number of Norfolk Island enactments. The Ordinance also inserts a new rule-making power in the Principal Ordinance, as well as savings and transitional provisions for some enactments.

The purpose of the Ordinance is to:

- Update the Norfolk Island employment framework to enable the transition to the *Fair Work Act 2009* from 1 July 2016.
- Provide for the transition of the Norfolk Island Hospital Enterprise to the Norfolk Island Health and Residential Aged Care Service, including new governance arrangements to facilitate the management of the Service by a NSW local health district.
- Enhance health practitioner registration requirements to align with the Health Practitioner Regulation National Law.
- Suspend the business transactions levy for certain business transfers until 30 June 2017 to support the transition of businesses to the federal taxation system.
- Strengthen oversight of the Norfolk Island Gaming Authority.
- Link jury service on Norfolk Island to those enrolled on the local government residential roll.
- Preserve restrictions for the importation of liquor to the extent possible.
- Remove market restrictions for telecommunications services on Norfolk Island.
- Improve the administration of Norfolk Island laws.

A Statement of Compatibility with Human Rights is set out at [Attachment A](#).

The Australian Government Department of Employment and the Fair Work Ombudsman undertook consultation with employers on the amendments relating to employment.

The remaining amendments relate to the standardisation and improved administration of enactments. Many are consequential to the amendments contained in the *Norfolk Island Legislation Amendment Act 2015* and the *Territories Legislation Amendment Act 2016*. As they are machinery in nature, consultation was not undertaken on these changes.

The Ordinance is a legislative instrument for the purpose of the *Legislation Act 2003*.

Schedule 1 amendments relating to employment commences on 1 July 2016

Schedule 2 amendments relating to the Norfolk Island Health and Residential Aged Care Service commences on 1 July 2016

Schedule 3 amendments relating to health practitioners commences on 1 July 2016

Part 1 of Schedule 4 comprising miscellaneous amendments commences on the day after registration of the Ordinance.

Part 2 of Schedule 4 comprising miscellaneous amendments commences on 1 July 2016.

Schedule 5 other repeals and transitional provisions commences on 1 July 2016.

Details of the Ordinance are set out at [Attachment B](#).

[Authority](#): Section 19A of the *Norfolk Island Act 1979*

ATTACHMENT A

Statement of Compatibility with Human Rights

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

Norfolk Island Continued Laws Amendment (2016 Measures No. 2) Ordinance 2016

The Legislative Instrument 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 Legislative Instrument

The *Norfolk Island Continued Laws Amendment (2016 Measures No. 2) Ordinance 2016* amends the *Norfolk Island Continued Laws Ordinance 2015* (the Principal Ordinance) to amend and repeal a number of Norfolk Island enactments. The Ordinance also inserts a new rule-making power in the Principal Ordinance, as well as savings and transitional provisions for some enactments.

Human rights implications

The Legislative Instrument engages the following rights:

- The right to work
- The right to health

The right to work

Article 6(1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) recognises the right to work, which includes the right of everyone to the opportunity to gain his or her living by work which he or she freely chooses or accepts. Under this Article, States Parties undertake to take appropriate steps to safeguard this right. A similar right is found in Article 27 of the *Convention on the Rights of Persons with Disabilities* (CRPD). Under Article 2(1) of ICESCR, a country is obliged to take steps “to the maximum of its available resources, with a view to achieving progressively the full realisation” of the rights recognised in ICESCR. Additionally, Article 11 of the *Convention on the Elimination of All Forms of Discrimination Against Women* (CEDAW) requires States Parties to ‘eliminate discrimination against women in the field of employment’.

Article 7 of ICESCR recognises the ‘right of everyone to the enjoyment of just and favourable conditions of work’. The United Nations Committee on Economic, Social and Cultural Rights has stated that this right encompasses the right to fair wages and equal remuneration for work of equal value, safe and healthy working conditions, and rest, leisure and reasonable limitation of working hours, among other elements.

Schedule 1 of the *Norfolk Island Continued Laws Amendment (2016 Measures No. 2) Ordinance 2016* relevantly:

- repeals many provisions of the *Employment Act 1988* (NI) (Employment Act) and associated provisions of the *Employment Regulations 1991* (NI) (Employment Regulations) on 1 July 2016;
- repeals further provisions of the Employment Act on 1 July 2018; and
- repeals the *Public Service Remuneration Tribunal Act 1992* (NI) and the *Public Service Act 2014* (NI) and the *Public Service Regulations 2014* (NI) on 1 July 2016.

The repeals under Schedule 1 of this Ordinance do not limit the right to work and the enjoyment of just and favourable conditions of work. The bulk of the repeals occur on 1 July 2016, and are consequential to the extension of the *Fair Work Act 2009* (Cth) (Fair Work Act), among other Commonwealth laws, on 1 July 2016. Those provisions will be extended to Norfolk Island with appropriate transitional arrangements. Commonwealth law provide strong protections for workers. These include provisions in the Fair Work Act concerning the National Minimum Wage, the National Employment Standards, modern awards (which include a range of entitlements for particular industries or occupations, such as higher minimum wages, overtime rates, penalty rates, loadings and allowances) and an unfair dismissal framework. Those provisions can be expected to enhance the ability of workers on Norfolk Island to fully utilise their right to just and favourable conditions of work.

As part of the transitioning to the Fair Work Act framework it is expected that the Minister for Employment will separately make a rule (under new section 32A of the Fair Work Act), modifying the application of the Fair Work Act in relation to Norfolk Island on 1 July 2016. The intention is that the modern awards framework under the Fair Work Act will extend to Norfolk Island on 1 July 2018. This Ordinance ensures that sections 18 and 18A of the Employment Act (as amended), relating to a continuous rest period and the provision of a staff uniform in specified circumstances are retained until 1 July 2018. The repeal of these provisions on 1 July 2018 will not limit the right to favourable work conditions as such matters (where applicable) are typically addressed in modern awards.

The right to health

Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) recognises the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. A similar right is found in Art 24 of the Convention on the Rights of the Child and Art 25 of the Convention on the Rights of Persons with Disabilities. Under Art 2(1) of ICESCR, a country is obliged to take steps 'to the maximum of its available resources, with a view to achieving progressively the full realisation' of the rights recognised in ICESCR. Ensuring that health services are affordable is one component of this right.

From 1 July 2016, the *Norfolk Island Legislation Amendment Act 2015* will extend a number of health arrangements which exist on mainland Australia, including the Medicare Benefits Schedule, the Pharmaceutical Benefits Scheme (PBS) and the Private Health Insurance rebate. The extension of arrangements is supported by a number of other bills which extend tax and levy-related health measures to Norfolk Island, as part of the extension of mainland health arrangements to the Territory.

Schedule 3 of the Ordinance provides for amendments relating to health practitioners. The purpose of these amendments is to enhance Norfolk Island health practitioner registration requirements to align with the Health Practitioner Regulation National Law. The application of the National Law expands the number of health professions that may be registered under Norfolk Island law to fourteen. Together with the *Norfolk Island Legislation Amendment Act 2015*, the Ordinance will promote community access to a range of registered health practitioners, and ensure that the Norfolk Island community adequately protected by standards consistent with the mainland.

Conclusion

The Legislative Instrument is compatible with human rights because it promotes the protection of human rights.

ATTACHMENT B

Norfolk Island Continued Laws Amendment (2016 Measures No. 2) Ordinance 2016

Section 1

Section 1 provides the name of the Ordinance as the *Norfolk Island Continued Laws Amendment (2016 Measures No. 2) Ordinance 2016* (the Ordinance).

Section 2

Section 2 provides the commencement provisions for the Sections, Schedules and Parts of the Ordinance.

Section 3

Section 3 refers to the *Norfolk Island Act 1979* as the legislative authority under which the Ordinance is made.

Section 4

Section 4 provides an enabling provision for the Schedules of the Ordinance.

Schedule 1 – Amendments relating to employment

Part 1 – Amendments relating to the Employment Act 1988 (Norfolk Island)

Division 1 – Main Amendments

Norfolk Island Continued Laws Ordinance 2015

Item 1 – Before item 75 of Schedule 1

This item inserts a number of provisions into the *Norfolk Island Continued Laws Ordinance 2015* (Principal Ordinance), to make amendments and repeals to the *Employment Act 1988* (NI) (Employment Act).

Section 3

Section 3 of the Employment Act provides for the Crown in right of Norfolk Island and the Administration to be bound by that Act. This item repeals section 3 of the Employment Act. Firstly, Norfolk Island will no longer be a self-governing Territory. Secondly, the Norfolk Island Regional Council and its employees will generally be subject to the national workplace relations system under the *Fair Work Act 2009* (Cth) (Fair Work Act) on 1 July 2016.

Section 4

Section 4 of the Employment Act provides for definitions in that Act. This item repeals a number of definitions that will have no practical application from 1 July 2016.

Section 7(1)(b)

Subsection 7(1) of the Employment Act specifies certain persons to whom the Act does not apply. This item also provides that the Employment Act will not apply to officers or employees of New South Wales (NSW). Rather, it is intended that NSW officers and employees will be subject to the NSW industrial relations system.

Division 1 of Part 2

Division 1 of Part 2 of the Employment Act provides provisions relating to “employment contracts” under that Act. This item repeals the Division. This is consequential to the transition to the Fair Work Act on 1 July 2016.

Sections 12 to 17

Sections 12 to 17 (within Division 2 of Part 2) of the Employment Act provide for:

- application of employment terms and conditions under Division 2;
- minimum rates of pay;
- determination of minimum rate;
- annual holidays;
- public holidays; and
- sick leave.

This item repeals sections 12 to 17. Again, this is consequential to the transition to the Fair Work Act on 1 July 2016.

Section 18

Section 18 (note)

At the end of section 18

Section 18 (within Division 2 of Part 2) of the Employment Act provides an obligation for employers to give employees a continuous rest period of at least 24 hours in each week. This item amends section 18 to provide two exceptions from the general rule from 1 July 2016:

- where an enterprise agreement under the Fair Work Act provides otherwise; or
- under the operation of Division 3 of Part 2-2 of the Fair Work Act, which relevantly provides for permissible averaging arrangements for determining maximum weekly hours under the National Employment Standards (NES).

This item will be retained until 1 July 2018 to coincide with the extension of modern awards under the Fair Work Act to Norfolk Island (see below). Maximum weekly hours and permissible averaging arrangements are typically addressed in modern awards.

At the end of section 18A

Section 18A (within Division 2 of Part 2) of the Employment Act provides an obligation on an employer to provide a uniform to an employee, in specified circumstances. This item amends section 18A to provide an exception to the general rule from 1 July 2016, where an enterprise agreement provides otherwise.

This item will be retained until 1 July 2018 to coincide with the extension of modern awards under the Fair Work Act to Norfolk Island (see below). The provision of uniforms (where applicable) is typically addressed in a modern award.

Section 19

Section 19 (within Division 2 of Part 2) of the Employment Act provides specified obligations relating to termination of employment. Firstly, this item repeals existing section 19 on 1 July 2016. This is consequential to the transition to the Fair Work Act on 1 July 2016.

Secondly, the item substitutes a new section 19. This item provides that Division 2 of Part 2, relating to a rest period (section 18) and a uniform (section 18A) is repealed on 1 July 2018. As noted above, this is to coincide with the extension of modern awards to Norfolk Island on 1 July 2018.

Division 3 of Part 2

Division 3 of Part 2 of the Employment Act provides for default terms and conditions of employment, including payment of wages, annual leave and working outside working hours. This item repeals the Division. Again, this is consequential to the transition to the Fair Work Act on 1 July 2016.

Section 25

Section 25 of the Employment Act provides for an ‘anti-avoidance’ mechanism concerning the termination or variation of the employment to reduce entitlements, followed by re-employment or the rescinding of the variation. This item repeals section 25, consequential to the repeal of related provisions above. Protections for employees relating to employment terms and conditions and terminations will be provided for under the Fair Work Act framework from 1 July 2016.

Paragraph 30(4)(a)

Subparagraph 30(4)(a)(ii)

Section 30 of the Employment Act provides for compensation for incapacity for work-related injuries in specified circumstances. Paragraph 30(4)(a) provides that where an employee suffers total incapacity, compensation shall be payment as if the period of compensation were a period of absence from duty under section 17 by reason of ill health:

- in respect of 5 working days next following the commencement of the incapacity; or
- where a written contract entered into in pursuance of section 10 provides for a longer period – that longer period.

Firstly, this item replaces the reference to section 17 of the Employment Act, with a reference to paid personal/carer’s leave under the NES.

Secondly, this item modifies the reference to an employment contract entered into under section 10, to provide for a contract entered into before 1 July 2016 that has affect under the Fair Work Act through section 32A of the Fair Work Act. This ensures that employment contracts that continue as transitional instruments under the Fair Work Act continue to have practical application for the purposes of paragraph 30(4)(a).

Paragraph 39A(2)(a)

Section 39A of the Employment Act provides for the establishment and functions of the Employment Liaison Officer. Paragraph 39A(2)(a) includes a reference to being appointed under the former *Public Service Management Act 2000*. This item repeals the reference to the repealed Act.

Paragraph 39A(2)(d)

Section 39A(2)(d) includes a reference to the Employment Liaison Officer certifying employment contracts. This item repeals that paragraph due to the repeal of the provisions concerning employment contracts.

Item 2 – After item 76 of Schedule 1

This item inserts a number of provisions into the Principal Ordinance, to make amendments and repeals to the Employment Act.

Section 73

Paragraphs 76(1)(a), (b) and (c)

Paragraph 76(1)(d)

Section 73 of the Employment Act provides for the functions of the Employment Conciliation Board (Board). This item repeals and substitutes section 73 to refer to the remaining functions of the Board from 1 July 2016, namely dealing with complaints lodged under section 76; and reporting under section 75 on the operations of the Board.

This item also amends section 76, to repeal complaints mechanisms for compliance with provisions of the Act that will be repealed and to provide that the functions will relate to specified matters under Part 3, which is about workers compensation.

Paragraph 85(2)(c)

Paragraph 85(2)(d)

Subsection 85(6)

Subsection 85(8), (9) and 10)

Subsection 86(2)

Section 85 of the Employment Act enables the Court of Petty Sessions (the Tribunal) to make orders in specified circumstances. Paragraph 85(2)(c) relevantly enables the Tribunal to make an order requiring a person to comply with a written contract entered into under section 10 in specified circumstances. Paragraph 85(2)(d) relevantly enables the Tribunal to make an order requiring a person to pay money in relation to a written contract entered into under section 10. This item repeals paragraph 85(2)(c) and the part of paragraph 85(2)(d) that refers to a contract. These repeals are consequential to the repeal of section 10 of the Employment Act, for the transition to the Fair Work Act.

Subsection 85(6) includes a cross-reference to subsection 85(8) of the Employment Act (relating to contraventions of section 22 which deals with annual leave). This item repeals the cross-reference in subsection 85(6) and also repeals subsection 85(8). These repeals are consequential to the repeal of section 22 of the Employment Act.

Subsection 85(9) similarly relates to contraventions of section 22. Subsection 85(10) cross-refers to subsection 85(9). This item also repeals subsections 85(9) and (10).

Subsection 86(2) deals with compliance with orders made under paragraph 85(2)(d) and subsection 85(9). As a consequence of the repeal of paragraph 85(2)(d) and subsection 85(9) this item also repeals subsection 86(2).

Paragraph 106(1)(d)

Subsections 106(2) and (3)

Section 106 of the Employment Act prohibits victimisation in specified circumstances. Paragraph 106(1)(d) provides that victimisation is prohibited because a person has refused, or proposes to refuse to work for the employer in accordance with section 22. This item repeals the reference to an employee “proposing” to refuse to work for the employer in accordance with section 22. As section 22 will be repealed, an employee ‘proposing to refuse’ to work under the provision will have no practical application from 1 July 2016. Rather, victimisation will be addressed under the Fair Work Act.

Subsections 106(2) and (3) prohibit employers and employees from taking specified action relating to freedom of association. This item also repeals subsections 106(2) and (3). This is consequential to the transition to the Fair Work Act on 1 July 2016 and the application of the general protections framework under that Act.

Subsection 108(3)

Subsection 108(3) of the Employment Act provides a regulation making power for the purposes of section 14 (determination of minimum wage). This item repeals subsection 108(3), consequential to the repeal of section 14 and the transition to the Fair Work Act on 1 July 2016.

Employment Regulations 1991 (NI)

This item also makes a series of repeals to the *Employment Regulations 1991 (NI)* (Employment Regulations).

Paragraph 3(b)

Paragraph 3(c)

Regulation 3 of the Employment Regulations provides for the application of specified provisions of the Act to officers and employees of the Administration (i.e. the Norfolk Island Regional Council from 1 July 2016). This item makes consequential amendments to paragraphs 3(b) and (c) of the Employment Regulations to repeal references to provisions of the Employment Act that have been repealed or are being repealed on 1 July 2016.

Subregulation 3A(1)

Subregulation 3A(2)

Regulation 3A of the Employment Regulations provides for days taken to be public holidays under subsection 9(2) of the Employment Act, instead of days mentioned in subsection 9(1) of the Employment Act. This item repeals the spent public holiday specified for the Boxing Day 2015 public holiday. It also makes a minor, technical numbering amendment.

Regulations 4 and 12

Schedules 1 and 1A

Regulation 4 of the Employment Regulations provides for specified forms for contracts of employment for the purposes of section 11 of the Employment Act, as set out in Schedules 1 and 1A to the Employment Regulations. This item repeals these provisions, consequential to the repeal of section 11 of the Employment Act and the transition to the Fair Work Act on 1 July 2016.

Regulation 12 of the Employment Regulations provides for a prescribed minimum wage of \$10.70 per hour. This item repeals regulation 12. This is consequential to the transition to the Fair Work Act and the provision of a minimum wage for award/agreement free employees that will apply for Norfolk Island employees under the Fair Work Act on 1 July 2016.

Division 2 – Application, saving and transitional provisions

Norfolk Island Continued Laws Ordinance 2015

Division 2 of Part 2 of Schedule 1 (heading)

This item substitutes the heading of Division 2 of Part 2 of Schedule 1 to the Principal Ordinance. The new heading refers to specific application, saving and transitional provisions relating to amendments made on 18 June 2015.

Item 4 – In the appropriate position in Part 2 of Schedule 1

This item inserts a new Division 3 to provide for application, saving and transitional provisions relating to amendments to the Employment Act.

Item 352 – Application of amendments of subsection 30(4) of the Employment Act 1988 (Norfolk Island)

New item 352 clarifies that the amendments of subsection 30(4) of the Employment Act only apply in relation to total incapacity employees start to suffer on or after 1 July 2016. If an employee started to suffer total incapacity prior to 1 July 2016, subsection 30(4) applies as it did prior to the amendments.

Item 353 – Continuation of conciliation, adjudication and review proceedings

New item 353 ensures that despite the amendments to Part 5 of the Employment Act on 1 July 2016:

- complaints made on or before 30 June 2016 can continue to be dealt with;
- an inquiry under Division 2 of Part 5, relating to such a complaint may be applied and held, and a determination and orders made on or after 1 July 2016; and
- an appeal under Division 3 of Part 5, relating to such a determination or order may be instituted or determined on or after 1 July 2016.

This item ensures that active but undetermined matters as at 1 July 2016 may continue through the redress mechanism provided for in Part 5 of the Employment Act.

Part 2 – Repeals

Division 1 – Repeals

Norfolk Island Continued Ordinance 2015

Item 5 - Item 1 of Schedule 2

Item 6 - Item 2 of Schedule 2

These items amend the Principal Ordinance to provide for the repeal of the *Public Sector Remuneration Tribunal Act 1992* (NI) (Public Sector Remuneration Tribunal Act), the *Public Service Act 2014* (NI) (Norfolk Public Service Act) and the *Public Service Regulations 2014* (NI) (Norfolk Public Service Regulations)

Division 2 – Amendments consequential on repeals

Norfolk Island Continued Ordinance 2015

Item 7 – Part 1 of Schedule 1 (heading specifying *Public Sector Remuneration Tribunal Act 1992* (Norfolk Island))

Item 8 – Items 277 to 290B of Schedule 1

These items amend the Principal Ordinance to make a series of repeals, consequential to the repeal of the Public Service Remuneration Tribunal Act.

Item 9 – Part 1 of Schedule 1 (heading specifying *Public Service Act 2014* (Norfolk Island))

Item 10 – Items 291 and 292 of Schedule 1

These items amend the Principal Ordinance to make a series of repeals, consequential to the repeal of the Norfolk Public Service Act.

Division 3 – Application, saving and transitional provisions

Norfolk Island Continued Ordinance 2015

Item 11 – In the appropriate position in Schedule 2

This item inserts a new Part 5 into Schedule 2 of the Principal Ordinance.

Item 20 – Saving of section 75 of the Public Service Act 2014

New item 20 ensures that despite the repeal of the Norfolk Public Service Act on 1 July 2016, section 75 of that Act continues to apply in relation to acts or omissions that occurred before the repeal. This item ensures, for the avoidance of doubt, that the protection from liability for acts or omissions relating to appeals and reviews continues beyond 1 July 2016.

The item also ensures that the Norfolk Island Regional Council (as the successor to the Administration) is the same position as the Administration prior to 1 July 2016.

Item 21 – Saving of section 88 of the Public Service Act 2014

New item 21 ensures that despite the repeal of the Norfolk Public Service Act on 1 July 2016, section 88 of the Act continues to apply in relation to reports prepared before the repeal. This item ensures, for the avoidance of doubt, that the protection from liability for reports about employees continues beyond 1 July 2016.

Schedule 2—Amendments relating to the Norfolk Island Health and Residential Aged Care Service

Norfolk Island Continued Laws Ordinance 2015

Item 1 - After item 167 of Schedule 1

Interpretation Act 1979 (NI)

This item amends the *Norfolk Island Continued Laws Ordinance 2015* – the Principal Ordinance – to insert new section 12C into the *Interpretation Act 1979 (NI)*. Section 12C provides for how to interpret references to the *Norfolk Island Hospital Act 1985*, Norfolk Island Hospital and Norfolk Island Hospital Enterprise. This provision reflects the changes made by this Schedule to the names of that Act, the Hospital and the Enterprise.

Subsection 12C(1) will mean that, in an enactment, a reference to the *Norfolk Island Hospital Act 1985* is to be read as a reference to the *Norfolk Island Health and Residential Aged Care Service Act 1985*.

Subsection 12C(2) will mean that in an enactment, a reference to the Norfolk Island Hospital is to be read as a reference to the Norfolk Island Health and Residential Aged Care Service Facility continued in existence by section 5 of the *Norfolk Island Health and Residential Aged Care Service Act 1985*.

Subsection 12C(3) will mean that in an enactment, a reference to the Norfolk Island Hospital Enterprise is to be read as a reference to the Norfolk Island Health and Residential Aged Care Service continued in existence by subsection 6(1) of the *Norfolk Island Health and Residential Aged Care Service Act 1985*.

Subsection 12C(4) will mean that in an enactment, a reference to the Director of the Norfolk Island Hospital Enterprise is to be read as a reference to the Manager of the Norfolk Island Health and Residential Aged Care Service appointed under section 19 of the *Norfolk Island Health and Residential Aged Care Service Act 1985*. This reflects the new management structure provided for in this Schedule.

Item 2 - Items 207 to 209 of Schedule 1

Norfolk Island Hospital Act 1985 (NI)

This item repeals items 207-209 of the Principal Ordinance, and replaces them with new items 207, 207A-207N, 207P-207R, 208, 208A, 208B, and 209. By making these changes to the Principal Ordinance, the effect will be to amend the *Norfolk Island Hospital Act 1985 (NI)*.

Section 1

The amendment to section 1 will change the short title of the *Norfolk Island Hospital Act 1985* to the *Norfolk Island Health and Residential Aged Care Service Act 1985*.

Section 4

Section 4 of the *Norfolk Island Hospital Act 1985 (NI)* sets out definitions of terms used in that Act. Section 4 is repealed because, given the amendments to the Act provided for in this Schedule, the existing definitions will no longer be needed. A new section 4 is substituted, which sets out the new definitions that are required.

Section 5

New section 5 provides that the body known immediately before the commencement of this section as the Norfolk Island Hospital is continued in existence with the new name, Norfolk Island Health and Residential Aged Care Service Facility.

Subsection 6(1)

Subsection 6(1) continues the existence of the Norfolk Island Hospital Enterprise, but with the new name of the Norfolk Island Health and Residential Aged Care Service.

Section 7

New paragraph 7(e) is inserted to allow the Commonwealth Minister to confer additional functions on the Service.

Section 8

The principles set out in section 8 of the Act require amendment to make them appropriate for the new arrangements relating to the Norfolk Island Health and Residential Aged Care Service. Substituted paragraph 8(1)(d) relates to the possibility of a performance agreement being entered into by the Service in respect to the performance of its functions. Such an agreement might be with the Commonwealth Minister, or might be an agreement of the kind referred to in section 126 of the *Health Services Act 1997 (NSW)*, as that Act will apply in Norfolk Island. (Provision in relation to the *Health Services Act 1997 (NSW)(NI)* is made in the *Norfolk Island Applied Laws Ordinance 2016*.)

Section 9

Section 9 provides for the Commonwealth Minister to notify the Service of applicable government policies, and to give directions to the Service. Subsections 9(3) and 9(4) are repealed as they are redundant.

Part 3

Part 3 concerning the Norfolk Island Advisory Board is repealed as there will no longer be such a board. It is envisaged that certain functions of the kind previously performed by the Advisory Board may be performed by relevant NSW authorities under the *Health Services Act 1997* (NSW) (as it applies in Norfolk Island), in accordance with an arrangement between the Commonwealth and NSW under s 18C of the Norfolk Island Act 1979.

Section 19 to 19B

Sections 19, 19A and 19B regarding the Director of the Enterprise are repealed and replaced by new section 19. New section 19 provides for the position of Manager of the Norfolk Island Health and Residential Aged Care Service, and for the appointment of a person to that position by the Commonwealth Minister.

Section 20

Subsections 20(1) and (2) are repealed and replaced to reflect the new management arrangements for the Norfolk Island Health and Residential Aged Care Service. There will no longer be a Director, and the Manager will be responsible for the management of the Service. Particular (although not exhaustive) duties of confidentiality are imposed on the Manager by subsection 20(1). The amendments to subsection 20(2) will mean that the Manager is required to report to the Commonwealth Minister, as there will no longer be an Advisory Board.

Sections 21 to 23

As there is no longer a Director or Deputy Director, sections 21 to 23 are repealed and replaced by new section 21, which provides for the powers of the Manager. Subsection 21(1) provides that in addition to exercising powers or performing duties expressly conferred or imposed on him or her by the Act, the Manager will also be able to act for the Service and exercise its powers for that purpose. The Manager will also be responsible for performing the duties imposed on the Service by the Act. Under subsection 21(2), the Manager will have power to employ persons for the purposes of the Norfolk Island Health and Residential Aged Care Service on the terms and conditions that the Manager determines in writing.

Parts 4A, 5 and 6

Parts 4A (Professional Staff), 5 (Charges for Health Services) and 6 (Finance) are repealed as they are no longer required.

Sections 44 to 47

Sections 44 to 47 concerning Code of Conduct and breaches, and a bylaw-making power, are repealed as they are no longer required.

Section 50

The section 50 regulation power is repealed as it is envisaged that further matters which may need to be provided for will be dealt with by other means; for example, in the rules that may be made by the Commonwealth Minister under Part 1 of Schedule 4 of this Ordinance.

Amendments of listed provisions

The item inserts Item 209 into the Principal Ordinance to consequentially amend all the references in the *Norfolk Island Hospital Act 1985* (NI) to the Hospital Enterprise, Enterprise, and Hospital to Health and Residential Aged Care Service, Norfolk Island Health and Residential Aged Care Service, and the Norfolk Island Health and Residential Aged Care Service Facility, respectively.

Item 3 - In the appropriate position in Part 2 of Schedule 1

This item inserts Division 4 into Part 2 of Schedule 1 of the Principal Ordinance to provide for transitional matters relating to the Norfolk Island Health and Residential Aged Care Service.

In practical terms, Item 355 effectively transfers to the Norfolk Island Regional Council any liabilities accrued by the Norfolk Island Hospital Enterprise before 1 July 2016.

Item 4 - Part 2 of Schedule 2

Norfolk Island Hospital Finance Regulations 1989

This item repeals the *Norfolk Island Hospital Finance Regulations 1989* (NI) by inserting the name of these regulations in Part 2 of Schedule 2 of the Principal Ordinance. This is consequential to the amendments to the *Norfolk Island Hospital Act 1985*.

Schedule 3—Amendments relating to health practitioners

Norfolk Island Continued Laws Ordinance 2015

Item 1 - After item 205 of Schedule 1

Medical Practitioners Registration Act 1983 (NI)

This item amends the Principal Ordinance to insert new Items 205A, 205B, 205C and 205D relating to the *Medical Practitioners Registration Act 1983* (NI). These changes are intended to enhance Norfolk Island health practitioner registration requirements to align with the Health Practitioner Regulation National Law.

This item replaces the reference to “the registration of medical practitioners” so that the description under the title of this Act reads, “An Act to provide for requirements relating to health practitioners”. This reflects the fact that the Act now covers a broader range of practitioners, consistent with the National Law.

Section 1

At section 1, the short title of the *Medical Practitioners Registration Act 1983* is amended to be the *Health Practitioners Registration Act 1983*.

Section 3 to 12

Sections 3 to 12 are repealed and replaced. New section 3 provides for the definitions:

health profession means the following professions, and includes a recognised specialty in any of the following professions:

- Aboriginal and Torres Strait Islander health practice;
- Chinese medicine;
- chiropractic;
- dental (including the profession of a dentist, dental therapist, dental hygienist, dental prosthetist and oral health therapist);
- medical;
- medical radiation practice;
- nursing and midwifery;
- occupational therapy;
- optometry;
- osteopathy;

- pharmacy;
- physiotherapy;
- podiatry;
- psychology.

National Law has the same meaning as in the *My Health Records Act 2012* of the Commonwealth.

registered health practitioner means a person registered under a National Law to practise in a health profession (other than as a student).

registered medical practitioner means a medical practitioner within the meaning of a National Law.

New section 4 provides for title and practice protections and related offences.

Subsection 4(1) provides that a person commits an offence if the person knowingly or recklessly engages in conduct; and were the conduct knowingly or recklessly engaged in by the person in a State or Territory, it would constitute an offence against Subdivision 1 of Division 10 of Part 7 of a National Law. The following penalties are attached to subsection 4(1):

- for an individual—a fine not exceeding 300 penalty units; or
- for a body corporate—a fine not exceeding 600 penalty units.

While these are high penalty amounts, they reflect the seriousness of the offences and are aligned with mainland standards.

Subsection 4(2) provides that a person commits an offence if the person engages in conduct; and were the conduct engaged in by the person in a State or Territory, it would constitute an offence against Subdivision 2 of Division 10 of Part 7 of a National Law. A penalty for a fine not exceeding 300 penalty units is attached. While these are high penalty amounts, they reflect the seriousness of the offences and are aligned with mainland standards.

Sections 15 and 16

Sections 15 and 16 are consequentially repealed as they are no longer required.

Item 2 - Part 1 of Schedule 1 (before heading specifying *Planning Act 2002 (Norfolk Island)*)

Pharmacy Act 1956 (NI)

This item amends the Principal Ordinance to insert new Items 211A-211G relating to the *Pharmacy Act 1956 (NI)*. The changes are consequential to those relating to the *Medical Practitioners Registration Act 1983 (NI)*.

Sections 3 and 4

Sections 3 and 4 are repealed and replaced. New section 3 provides for the interaction with requirements under a National Law, that is, if a registered pharmaceutical chemist is required to do something or to do something in a particular manner under a National Law, the *Pharmacy Act 1956 (NI)* has no effect to the extent that it would, apart from section 3, prevent the registered pharmaceutical chemist from complying with the requirement.

New section 4 Definitions provides:

- *medical practitioner* means a medical practitioner within the meaning of a National Law.

- *National Law* has the same meaning as in the *Health Practitioners Act 1983*.
- *registered pharmaceutical chemist* means a person registered under a National Law in the pharmacy health profession (other than as a student).

Part 2

Subsection 15(2)

Paragraph 20(b)

Part 2, subsection 15(2), and paragraph 20(b) are consequentially repealed as they are not required.

Pharmacy Regulations (NI)

Regulations 3 to 5, 7 and 8

Schedule

Regulations 3 to 5, 7, 8 and the Schedule containing the certificate of registration in the *Pharmacy Regulations (NI)* are consequentially repealed as they are not required.

Item 3 - Item 1 of Schedule 2

Registration of Dentists Act 1931 (NI)

This item inserts the *Registration of Dentists Act 1931 (NI)* into Item 1 of Schedule 2 with the effect that the Act is repealed. This is consequential to the changes relating to the *Medical Practitioners Registration Act 1983 (NI)*.

Item 4 - Item 2 of Schedule 2

Medical Practitioners Registration Regulations 1987 (NI)

This item inserts the *Medical Practitioners Registration Regulations 1987 (NI)* into Item 2 of Schedule 2 to the effect that the Regulations are repealed. This is consequential to the changes relating to the *Medical Practitioners Registration Act 1983 (NI)*.

Schedule 4—Miscellaneous amendments

Part 1—Amendments commencing day after registration

Norfolk Island Continued Laws Ordinance 2015

Item 1 - Section 4

This item repeals and replaces section 4 of the Principal Ordinance. New section 4 provides a simplified overview of the Principal Ordinance to assist the reader.

This item also provides a new section 4A Definition for *continued law*. Section 4A provides that *continued law* means a law continued in force in the Territory by section 16 of the *Norfolk Island Act 1979*; or a Legislative Assembly law, or a law made under a Legislative Assembly law, continued in force in the Territory by section 16A of that Act.

Item 2 - After section 5

This item inserts new sections 6 and 7 into the Principal Ordinance. Section 6 provides a rule-making power for the Commonwealth Minister. Subsection 6(1) provides that the Minister may, by legislative instrument, make rules amending this Ordinance so as to amend or repeal a continued law; or to make application, saving or transitional provision in relation to any amendments or repeals of continued laws. Subsection 6(1) provides the limitations on

the rule-making power, that is, the rules may not create an offence or civil penalty; provide powers of arrest or detention; or entry, search or seizure; or impose a tax.

New section 7 provides guidance on Schedules of the Principal Ordinance. Subsection 7(1) provides that each continued law that is specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the Schedule, and any other item in a Schedule to this Ordinance has effect according to its terms. Subsection 7(2) provides that the amendments and repeals, and any other items, set out in the Schedules to this Ordinance continue in effect according to their terms from time to time. Subsection 7(3) provides if an item in a Schedule to this Ordinance amends, repeals, suspends or otherwise affects a continued law; and the item is amended or repealed; then the continued law as in force immediately before 18 June 2015 continues in force in the Territory in accordance with section 16 or 16A of the *Norfolk Island Act 1979* (as the case may be) and this Ordinance as amended.

Item 3 - Item 24 of Schedule 1

Bookmakers and Betting Exchange Act 1998 (NI)

This item repeal and replace item 24 of the Principal Ordinance, to the effect that Division 4 of Part 2 of the *Bookmakers and Betting Exchange Act 1998* (NI) is repealed. This is to provide certainty that section 25 of the *Gaming Supervision Act 1998* (NI) applies to the *Bookmakers and Betting Exchange Act 1998* (NI)

Item 4 - After item 28 of Schedule 1

Business Transactions (Levy Imposition) Act 2006 (NI)

This item amends the Principal Ordinance to insert an additional exemption from payment of levy into the *Business Transactions (Levy Imposition) Act 2006* (NI) (Levy Imposition Act). Schedule 2 of the Levy Imposition Act sets out the classes of instrument which are exempted from payment of levy under Section 6 of the Levy Imposition Act. The amendment creates an additional exemption for an instrument effecting or evidencing the conveyance of leviable property where the transfer of property does not involve a change in beneficial ownership; and the instrument is executed during the period starting on the day the item commences and ending on 30 June 2017. This amendment is intended to relieve an additional cost which Norfolk Island business owners may otherwise incur in adjusting their business structures to achieve compatibility with Commonwealth taxation and other business laws.

Item 5 - Item 101A of Schedule 1 (subsection 25(2))

Gaming Supervision Act 1998 (NI)

This item amends the Principal Ordinance to repeal subsection 25(2) of the *Gaming Supervision Act 1998* (NI). The item provides for a new subsection 25(2) which provides that, without limiting subsection (1), a direction under that subsection may require the Authority to arrange for an external audit of the operations of the Authority or Director; or for the Authority or the Director not to perform, or to no longer perform, one or more functions or duties (or both). This amendment provides clarity for directions given by the Commonwealth Minister.

Schedule 4—Miscellaneous amendments

Part 2—Amendments commencing 1 July 2016

Norfolk Island Continued Laws Ordinance 2015

Item 6 - Part 1 of Schedule 1 (before heading specifying *Administration and Probate Act 2006 (Norfolk Island)*)

Absentee Landowners Levy Act 1976 (NI)

This item inserts the *Absentee Landowners Levy Act 1976 (NI)* into Part 1 of Schedule 1 of the Principal Ordinance, and consequentially amends the *Absentee Landowners Levy Act 1976 (NI)* following the changes in this Ordinance.

Item 7 - Before item 2 of Schedule 1

Item 8 - After item 2 of Schedule 1

Administrative Review Tribunal Act 1996 (NI)

These items consequentially amend the *Administrative Review Tribunal Act 1996 (NI)* following the changes in this Ordinance.

Item 9 - Item 3 of Schedule 1

Annual Reports Act 2004 (NI)

This item amends the *Annual Reports Act 2004 (NI)* to require annual reports to be given to the Commonwealth Minister.

Item 10 - After item 22 of Schedule 1

Associations Incorporation Act 2005

Bail Act 2005 (NI)

Bankruptcy Act 2006 (NI)

This item inserts the *Associations Incorporation Act 2005 (NI)*, *Bail Act 2005 (NI)* and *Bankruptcy Act 2006 (NI)* into Schedule 1 of the Principal Ordinance. This item consequentially amends the *Associations Incorporation Act 2005 (NI)* following the changes in this Ordinance. This item consequentially amends the *Bail Act 2005 (NI)* following the changes in the *Norfolk Island Continued Laws Amendment (2016 Measures No. 1) Ordinance 2016*. This item consequentially amends the *Bankruptcy Act 2006 (NI)* following the employment amendments contained in Schedule 1 of this Ordinance.

Item 11 - After item 24 of Schedule 1

Building Act 2002 (NI)

This item inserts the *Building Act 2002 (NI)* into Schedule 1 of the Principal Ordinance, and consequentially amends the *Building Act 2002 (NI)* following the changes in this Ordinance.

Item 12 - After item 29 of Schedule 1

Child Welfare Act 2009 (NI)

This item consequentially amends the *Child Welfare Act 2009* (NI) following the changes in this Ordinance.

Item 13 - After item 43 of Schedule 1

Coroners Act 1993 (NI)

Court of Petty Sessions Act 1960 (NI)

This item consequentially amends the *Coroners Act 1993* (NI) following the changes in the *Norfolk Island Continued Laws Amendment (2016 Measures No. 1) Ordinance 2016*.

This item consequentially amends the *Court of Petty Sessions Act 1960* (NI) following the changes in this Ordinance.

Item 14 - After item 48 of Schedule 1

Item 15 - After item 51 of Schedule 1

Court Procedures Act 2007 (NI)

These items make amendments to the *Court Procedures Act 2007* (NI). Section 20 provides a definition for *Administration* for the purposes of the *Court Procedures Act 2007* (NI). This definition is broader than the definition of *Administration* in the *Interpretation Act 1979* (NI). The items consequentially amend the *Court Procedures Act 2007* (NI) following the employment and interpretation changes in this Ordinance.

Item 16 - After item 53D of Schedule 1

Criminal Code 2007 (NI)

This item consequentially amends the *Criminal Code 2007* (NI) following the interpretation changes in this Ordinance.

Item 17 - After item 57 of Schedule 1

Criminal Procedure Act 2007 (NI)

This item consequentially amends the *Criminal Procedure Act 2007* (NI) definitions following the interpretation changes in this Ordinance.

Item 18 - Part 1 of Schedule 1 (before heading specifying *Disaster and Emergency Management Act 2001 (Norfolk Island)*)

Dangerous Drugs Act 1927 (NI)

This item consequentially amends the *Dangerous Drugs Act 1927* (NI) following the health changes in this Ordinance.

Item 19 - Part 1 of Schedule 1 (before heading specifying *Environment Act 1990 (Norfolk Island)*)

Enactments Reprinting Act 1980

This item removes the subsection 7A example in the *Enactments Reprinting Act 1980* (NI) as it is not required.

Item 20 - After item 97 of Schedule 1

Firearms and Prohibited Weapons Regulations 1998 (NI)

This item inserts the *Firearms and Prohibited Weapons Regulations 1998* (NI) into Schedule 1 of the Principal Ordinance, and consequentially amends it to remove outdated references.

Item 21 - After item 101 of Schedule 1

Gaming Supervision Act 1998 (NI)

This item consequentially amends the *Gaming Supervision Act 1998* (NI) to remove an outdated reference.

Item 22 - After item 101A of Schedule 1

Health Act 1913 (NI)

This item inserts the *Health Act 1913* (NI) into Schedule 1 of the Principal Ordinance, and consequentially amends the *Health Act 1913* (NI) following the health practitioner registration changes provided in this Ordinance.

Item 23 - Before item 110 of Schedule 1

Heritage Act 2002 (NI)

This item consequentially amends the *Heritage Act 2002* (NI) following the interpretation changes in this Ordinance.

Item 24 - After item 149 of Schedule 1

Item 25 - After item 157 of Schedule 1

Item 26 - Item 159 of Schedule 1

Item 27 - Item 165 of Schedule 1

Item 28 - Item 190 of Schedule 1 (clause 7 of Schedule 1 (heading))

Item 29 - Item 190 of Schedule 1 (clause 7 of Schedule 1)

Item 30 - Item 190 of Schedule 1 (paragraphs 10(1)(b) and (c) of Schedule 1)

Interpretation Act 1979 (NI)

These items repeal and amend sections of the *Interpretation Act 1979* (NI). New definitions are provided at subsection 12(2) for *Administration*, *Chief Executive Officer*, *public sector employee* or *public service employee*, *public service*, and *territory instrumentality*.

The following subsection 12(2) Definitions are repealed: *contravene*, *appoint*, *calendar year*, *month*, *oath* or *affidavit*, *person* or *party*; *prescribed*, *proclamation*, *regulations*, *rules of Court*, *State*, and *State Act*.

The definition of *Administration printer* is amended to refer to the Administration “as it existed before the interim transition time”.

Schedule 1 of the *Interpretation Act 1979* (NI) provides for the Administration of enactments at and after the interim transition time. The references in clause 7 in Schedule 1 to the Administration are updated to refer to the Norfolk Island Regional Council. The references in clause 10 to the Executive Director and employee of the Administrator are updated to refer to a councillor of the Norfolk Island Regional Council, and an employee of the Norfolk Island Regional Council, respectively.

Item 31 - After item 190 of Schedule 1

Juries Act 1960 (NI)

Justices of the Peace Act 1972 (NI)

This item inserts the *Juries Act 1960* (NI) and the *Justices of the Peace Act 1972* (NI) into Schedule 1 of the Principal Ordinance. The item amends section 8 of the *Juries Act 1960* (NI) to require that only person on the residential roll kept under section 298 of the *Local Government Act 1993* (NSW)(NI) are required to serve as a juror on Norfolk Island. The item also consequentially amends the *Juries Act 1960* (NI) to reflect the interpretation changes provided by this Ordinance.

This item consequentially amends the *Justices of the Peace Act 1972* (NI) concerning references to resident following the changes contained in the *Norfolk Island Continued Laws Amendment (2016 Measures No. 1) Ordinance 2016*.

Item 32 - Before item 191 of Schedule 1

This item consequentially amends the *Land Titles Act 1996* (NI) following the changes to interpretation provided by this Ordinance.

Item 33 - After item 193 of Schedule 1

Law of Negligence and Limitation of Liability Act 2008 (NI)

This item inserts the *Law of Negligence and Limitation of Liability Act 2008* (NI) in Schedule 1 of the Principal Ordinance, and consequentially amends this Act following the changes provided in this Ordinance.

Item 34 - After item 194 of Schedule 1

Item 35 - After item 197 of Schedule 1

Legal Aid Act 1995 (NI)

These items consequentially amends the *Legal Aid Act 1995 (NI)* following the interpretation changes provided in this Ordinance.

Item 36 - After item 198 of Schedule 1

Legal Profession Act 1993 (NI)

This item consequentially amends the *Legal Profession Act 1993 (NI)* to update the reference to *resident practitioner* following the changes contained in *Norfolk Island Continued Laws Amendment (2016 Measures No. 1) Ordinance 2016*.

Item 37 - Before item 200 of Schedule 1

Item 38 - After item 200 of Schedule 1

Item 39 - After item 202 of Schedule 1

Liquor Act 2005 (NI)

Item 37 inserts definitions of ‘aircraft’ and ‘member of the crew’ into subsection 4(1) of the *Liquor Act 2005* (Liquor Act) to support the new conditions in section 75 of the Liquor Act which regulate the importation of alcohol into Norfolk Island.

Item 38 inserts a definition of ‘ship’ into subsection 4(1) of the Liquor Act to support the new conditions in section 75 of the Liquor Act which regulate the importation of alcohol into Norfolk Island.

Item 39 makes amendments which remove the reference to the *Customs Act 1913 (NI)*, which will be repealed on 1 July 2016, and insert new requirements for the importation of alcohol into Norfolk Island. New subsection 75(1) will provide that a person shall not import liquor into Norfolk Island except under the authority of the Minister.

New subsection 75(2)(a) will provide that subsection (1) does not apply if the person is a passenger or ‘member of the crew’ on an aircraft or ship and has attained the age of 18 years or over, and imports alcohol in accordance with subsection 75(2)(b).

New subsection 75(2)(b) will permit alcohol to be imported in two specific circumstances: firstly, as accompanied personal effects of the person, whether in unchecked baggage, checked baggage or otherwise carried by the person; and secondly as unaccompanied personal or household effects of the person.

The exemption for unaccompanied personal effects and household effects in section 75(2)(b)(ii) is not intended to apply to imports of liquor which are brought to Norfolk Island for purposes which are not personal – for example, to be sold in retail or wholesale businesses. Such imports will continue to require the authority of the Minister under section 75(1).

Item 40 - Before item 203 of Schedule 1

Marine Safety Act 2013 (NI)

This item consequentially amends the *Marine Safety Act 2013* (NI) following the changes made by the *Norfolk Island Continued Laws Amendment (2016 Measures No. 1) Ordinance 2016*.

Item 41 - Part 1 of Schedule 1 (before heading specifying *Norfolk Island Broadcasting Regulations 2002* (Norfolk Island))

Mental Health Act 1996 (NI)

This item inserts the *Mental Health Act 1996* (NI) in Schedule 1 of the Principal Ordinance and makes consequential changes to the *Mental Health Act 1996* (NI) following the changes related to health practitioner registration and interpretation provided in this Ordinance.

Item 42 - Part 1 of Schedule 1 (before heading specifying *Official Survey Act 1978* (Norfolk Island))

Norfolk Island Planning and Environment Board Act 2002 (NI)

This item inserts the *Norfolk Island Planning and Environment Board Act 2002* (NI) in Schedule 1 of the Principal Ordinance and consequentially amends this Act following the changes to interpretation provided in this Ordinance.

Item 43 - After item 213 of Schedule 1

Planning Act 2002 (NI)

This item consequentially amends the *Planning Act 2002* (NI) following the changes to interpretation provided by this Ordinance.

Item 45 - After item 232 of Schedule 1

Poisons and Dangerous Substances Act 1957 (NI)

This item inserts the *Poisons and Dangerous Substances Act 1957* (NI) in Schedule 1 of the Principal Ordinance and makes consequential changes to the *Poisons and Dangerous Substances Act 1957* (NI) following the changes related to health practitioner registration provided in this Ordinance.

Item 46 - Before item 233 of Schedule 1

Protection of Movable Cultural Heritage Act 1987 (NI)

This item consequentially amends the *Protection of Movable Cultural Heritage Act 1987* (NI) following changes to interpretation in this Ordinance.

Item 47 - After item 294 of Schedule 1

Roads Act 2002 (NI)

This item consequentially amends the *Roads Act 2002* (NI) following changes to interpretation provided in this Ordinance.

Item 48 - After item 297 of Schedule 1

Sentencing Act 2007 (NI)

This item inserts the *Sentencing Act 2007* (NI) in Schedule 1 of the Principal Ordinance, and makes consequential changes to the *Sentencing Act 2007* (NI) following the changes related to health practitioner registration in this Ordinance.

Item 49 - Part 1 of Schedule 1 (before heading specifying *Supreme Court Act 1960* (Norfolk Island))

Subdivision Act 2002 (NI)

This item inserts the *Subdivision Act 2002* (NI) in Schedule 1 of the Principal Ordinance, and consequentially amends the *Subdivision Act 2002* (NI) following changes to interpretation provided in this Ordinance.

Item 50 - Before item 337 of Schedule 1

Item 51 - Item 338 of Schedule 1

Item 52 - After item 339 of Schedule 1

Item 53 - Item 340 of Schedule 1

These items amend the *Telecommunications Act 1992* (NI). New paragraph 2(a) provides that an aim of the Act is to make provision in relation to the ownership of telecommunications services. Outdated references are repealed. All of Part 2 of this Act is repealed apart from section 17. Part 2 of the *Telecommunications Act 1992* provides for the reserved rights of the Administration in relation to telecommunications services, infrastructure and network. Removing the legislative barriers to telecommunications on Norfolk Island is intended to prepare Norfolk Island for the extension of the *Telecommunications Act 1997*. Relevant offences are consequentially amended so that they are not restricted to the Administration. Section 55B regarding forfeiture to the Administration is consequentially repealed. It is intended that the relevant Court will determine to where telecommunications infrastructure will be forfeited following an offence. The definitions of *customer cabling*, *customer equipment*, *intercept* and *public mobile telecommunications service* are consequentially amended to remove the reference to the Administration. The definitions of *disallowable instrument*, *employee* and *public payphone* are consequentially repealed.

Item 54 - After item 341D of Schedule 1

Traffic Act 2010 (NI)

This item consequentially amends the *Traffic Act 2010* (NI) following changes to health practitioner registration provided in this Ordinance.

Item 55 - Before item 342 of Schedule 1

Item 56 - At the end of Part 1 of Schedule 1

Trees Act 1997 (NI)

Tuberculosis Act 1950 (NI)

These items makes consequential amendments to the *Trees Act 1997* (NI) following the changes to interpretation provided in this Ordinance.

These items insert *Tuberculosis Act 1950* (NI) in Schedule 1 of the Principal Ordinance and make consequential changes to the *Tuberculosis Act 1950* (NI) following the changes related to health practitioner registration in this Ordinance.

Item 57 - In the appropriate position in Part 2 of Schedule 1

Justices of the Peace Act 1972 (NI)

This item inserts new Division 5 in Part 2 of Schedule 1 of the Principal Ordinance to provide a savings provision relating to Justices of the Peace. New Item 356 provides that despite the repeal of subsection 4(1) of the *Justices of the Peace Act 1972* (NI), an appointment that was in force under that subsection immediately before the repeal continues in force after that repeal according to its terms.

Schedule 5 – Repeals and transitional amendments

Part 1—Repeals

Norfolk Island Continued Laws Ordinance 2015

Items 1 – 13 – Schedule 1, various items

Consequential to their repeal by Items 1 and 2 of Schedule 2 of the Principal Ordinance, Items 1-13 remove the references to the following Acts and Regulations from where they appear in Schedule 1 of the Principal Ordinance:

Customs Act 1913 (Norfolk Island)

Goods and Services Tax Act 2007 (Norfolk Island)

Ombudsman Act 2012 (Norfolk Island)

Public Moneys Act 1979 (Norfolk Island)

Social Services Act 1980 (Norfolk Island)

Social Services Regulations (Norfolk Island)

Item 14 - Item 1 of Schedule 2

This item repeals the following Acts by inserting them into Item 1 of Schedule 2 of the Principal Ordinance:

Airport Runways Loan Act 2003

Cascade Cliff Loan Act 1998

Census and Statistics Act 1961

Customs Act 1913

Departure Fee Act 1980

Foreign Marriages Act 1963

Goods and Services Tax Act 2007

Greenwich University Act 1998

Ombudsman Act 2012

Postal Services Act 1983

Public Moneys Act 1979

Social Services Act 1980

Weights Act 1926

These Acts are repealed because they are either not required following the changes from the *Norfolk Island Legislation Amendment Act 2015* and the *Territories Legislation Amendment Act 2016*, or they are outdated.

Item 15 - Item 2 of Schedule 2

This item repeals the following Regulations by inserting them into Item 2 of Schedule 2 of the Principal Ordinance:

Census and Statistics Regulations 2011

Customs Regulations 1986

Goods and Services Tax Regulations 2007

Postal Services Regulations 2013

Social Services Regulations

Schedule 5 – Repeals and transitional amendments

Part 2—Transitional provisions

Norfolk Island Continued Laws Ordinance 2015

Item 16 - In the appropriate position in Schedule 2

Transitional provisions for the Goods and Services Tax Act 2007

This item inserts Part 6 into Schedule 2 of the Principal Ordinance. Part 6 provides for transitional provisions relating to repeal of the *Goods and Services Tax Act 2007*, including some new definitions. The transitional provisions are to ensure the cost recovery of outstanding goods and service tax payments, despite the repeal of the *Goods and Services Tax Act 2007*.

New item 22 provides for the following new definitions:

- *Old Act* means the *Goods and Services Tax 2007* (Norfolk Island) as in force immediately before 1 July 2016.
- *Registered person* has the same meaning as in the old Act.
- *Taxable supply* has the same meaning as in the old Act.
- *Termination day* means 1 January 2018.
- *Transition period* means the period commencing on 1 July 2016 and ending on 1 January 2018.

New item 23 provides for the *Goods and Services Tax Act 2007* to continue for certain purposes despite its repeal. Sub-item 23(1) provides that item 23 applies if a registered person made a taxable supply before 1 July 2016; and all the steps and processes required or permitted under the old Act had not been completed by, or in relation to, the person, or in relation to the taxable supply, before 1 July 2016.

Sub-item 23(2) provides that despite the repeal of the old Act by this Schedule, those steps and processes continue to be required or permitted during the transition period as if the old Act had not been repealed and for that purpose:

- a power or function conferred on the Chief Revenue Officer under the old Act may be exercised and performed by the Norfolk Island Regional Council; and
- sections 9 and 9A of the old Act continue to apply in relation to the registered person in relation to the taxable supply; and
- an assessment under section 11 of the old Act must not be issued after 1 July 2017; and
- the registered person must retain the records mentioned in section 12D of the old Act for a period of 5 years commencing on the day the records were created and ending on termination day.

Transitional provisions for the Public Moneys Act 1979

New item 24 inserts Part 7 into Schedule 2 of the Principal Ordinance. Part 7 provides for transitional provisions relating to repeal of the *Public Moneys Act 1979*. The transitional provisions are to ensure that money that was required to be into the Public Account is paid to the Norfolk Island Regional Council from 1 July 2016.