



# **Norfolk Island Provident Account (Closure and Other Measures) Ordinance 2016**

## **Ordinance No. 6, 2016**

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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 05 May 2016

Peter Cosgrove  
Governor-General

By His Excellency's Command

Paul Fletcher  
Minister for Territories, Local Government and Major Projects

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## Part 1—Preliminary

### 1 Name

This is the *Norfolk Island Provident Account (Closure and Other Measures) Ordinance 2016*.

### 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	The day after this Ordinance is registered.	11 May 2016

Note: This table relates only to the provisions of this Ordinance as originally made.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 Definitions

In this Ordinance:

***closure day*** means 19 May 2016.

***contribution*** has the same meaning as in the Provident Account Act.

***contributor*** has the same meaning as in the Provident Account Act.

***eligible employee*** has the same meaning as in the Provident Account Act.

***Official Trustee*** means the person appointed and holding office under section 4A of the Provident Account Act.

***pay day*** has the same meaning as in the Provident Account Act.

***Provident Account*** means the Norfolk Island Provident Account established under the Provident Account Act.

***Provident Account Act*** means the *Provident Account Act 1958* (Norfolk Island) as in force immediately before the commencement of this Ordinance.

Section 5

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*repeal day* means 1 July 2016.

**5 The *Acts Interpretation Act 1901* does not apply**

The *Acts Interpretation Act 1901* does not apply to this Ordinance.

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

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## **Part 2—Closure of the Provident Account**

### **6 Application of Ordinance**

This Ordinance applies despite anything in the Provident Account Act.

### **7 Closure of Norfolk Island Provident Account**

- (1) The Provident Account is closed from the start of the closure day.
- (2) No contributions may be made to the Provident Account on or after the closure day.
- (3) The Administration must not deduct any contributions from an eligible employee's salary under section 9 of the Provident Account Act during the period commencing on the closure day and ending on 30 June 2016.
- (4) To avoid doubt, interest earned on money standing to the credit of the Provident Account may be paid into the Provident Account during the period commencing on the closure day and ending on the repeal day.

### **8 Audit to verify amounts payable to contributors**

The Official Trustee must, as soon as practicable after the start of the closure day, arrange for a person or firm appointed in accordance with the Provident Account Act to conduct an audit of the Provident Account to verify the amounts standing to the credit of each contributor to the Provident Account.

### **9 Refund of contributions and interest**

- (1) As soon as practicable after the completion of the audit, the Official Trustee must arrange for each contributor to be paid an amount equal to the sum of the amounts standing to the credit of the contributor's A account and B account in the Provident Account immediately before the closure day, as verified by the audit.
- (2) An amount payable under subsection (1) includes interest calculated in accordance with section 12 of the Provident Account Act, as modified by section 10 of this Ordinance, for the period commencing on 1 January 2016 and ending on the closure day.
- (3) The Official Trustee must ensure that all amounts payable under subsection (1) are paid no later than 30 June 2016.
- (4) An amount paid to a contributor under this section must be paid:
  - (a) in accordance with the usual procedure by which the contributor is paid his or her salary by the Administration each pay day; or
  - (b) if it is not practicable, for any reason, for the amount to be paid as mentioned in paragraph (a) in respect of a contributor—in such manner as the Official Trustee considers appropriate in the particular circumstances.

## Section 10

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### 10 Modifications of section 12 of the Provident Account Act

For subsection 9(2), section 12 of the Provident Account Act applies as if:

- (a) the reference in subsection 12(1) of that Act to “each 30 June and each 31 December” were a reference to “the closure day”; and
- (b) the reference in subsection 12(1) of that Act to “of 6 months ended on that 30 June or that 31 December, as the case may be”, were a reference to “commencing on 1 January 2016 and ending on the closure day”; and
- (c) the reference in subsection 12(2) of that Act to “6 months ending on 30 June or 31 December, as the case requires”, were a reference to “period commencing on 1 January 2016 and ending on the closure day”.

### 11 Payment to person other than contributor

#### *Contributor deceased or lacking capacity*

- (1) This subsection applies in relation to a contributor to whom an amount is payable under this Ordinance if the contributor’s affairs are being lawfully administered by another person at the time the payment is to be made.
- (2) The Official Trustee must pay the amount to the contributor’s legal personal representative.

#### *Court order in relation to amount payable*

- (3) If, before any amount is paid to a contributor under this Ordinance, a court has made an order in respect of an amount payable to the contributor under the Provident Account Act, the Official Trustee must pay the amount in accordance with the order of the court.

### 12 Final audit

As soon as practicable after the Official Trustee is satisfied that all amounts required by this Ordinance to be paid have been paid in accordance with this Ordinance, the Official Trustee must:

- (a) arrange for an audit of the administration of the operation of the Provident Account as required by this Ordinance; and
- (b) provide a copy of the audit report to the Minister; and
- (c) provide a copy of the audit report to each person to whom a payment was made under this Ordinance.

### 13 Payment of costs of conducting audits required by this Ordinance

- (1) This section applies in relation to interest earned on the investment of money standing to the credit of the Provident Account during the period commencing on the closure day and ending on 30 June 2016.
- (2) The Official Trustee may apply amounts of such interest to pay for the costs of conducting the audits required by this Ordinance.
- (3) Any amounts of interest not required to pay for the audits must be transferred:



- (a) if the Administration exists at the time of the proposed transfer—to the Administration; or
  - (b) if the Administration does not exist at the time of the proposed transfer—to the Norfolk Island Regional Council.
- (4) However, if the interest is insufficient to pay for the audits, then:
- (a) if the Administration exists at the time the costs are due and payable—the Administration is to pay for the costs of the audits; or
  - (b) if the Administration does not exist at the time the costs are due and payable—the Norfolk Island Regional Council is to pay for the costs of the audits.

#### **14 Certain payments to be made to eligible employees**

The Administration must, on each pay day that occurs in the period commencing on the closure day and ending on 30 June 2016, pay to an eligible employee:

- (a) an amount equal to the amount that would, but for this Ordinance, have been deducted from the employee's salary under section 9 of the Provident Account Act in respect of the pay day; and
- (b) an amount equal to the amount that the Administration would, but for this Ordinance, have been required to contribute to the Provident Account under section 10 of the Provident Account Act in respect of the eligible employee in respect of the pay day.

#### **15 Termination of appointment of Official Trustee and completing actions after the repeal day**

- (1) The Executive Director must, in writing, terminate the appointment of the Official Trustee as soon as practicable after the Executive Director is satisfied that all matters arising under this Ordinance that are required to be completed by the Official Trustee have been completed.
- (2) However, if on and after the repeal day, a thing is still required to be done by the Official Trustee under or for the purposes of this Ordinance:
  - (a) subsection (1) does not apply; and
  - (b) the thing may be done by the Norfolk Island Regional Council.

#### **16 Repeal of this Ordinance**

This Ordinance is repealed at the start of 1 October 2016.