



Norfolk Island Applied Laws Amendment (Public Health) Ordinance 2016

Ordinance No. 15, 2016

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 08 December 2016

Peter Cosgrove
Governor-General

By His Excellency's Command

Fiona Nash
Minister for Local Government and Territories

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	1
Schedule 1—Amendments		2
Part 1—Amendments of public health legislation		2
<i>Norfolk Island Applied Laws Ordinance 2016</i>		2
Part 2—Other amendments		6
<i>Norfolk Island Applied Laws Ordinance 2016</i>		6

1 Name

This is the *Norfolk Island Applied Laws Amendment (Public Health) 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	20 January 2017.	20 January 2017

Note: This table relates only to the provisions of this Ordinance as originally made.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

Each instrument that is specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Ordinance has effect according to its terms.

Schedule 1—Amendments

Part 1—Amendments of public health legislation

Norfolk Island Applied Laws Ordinance 2016

1 Subitem 1(1) of Schedule 1 (at the end of the table)

Add:

Public Health Act 2010

2 At the end of the Ordinance

Add:

Schedule 6—Amendment of the Public Health Act 2010 (NSW) and the Public Health Regulation 2012 (NSW)

Part 1—Amendment of the Public Health Act 2010 (NSW)

Public Health Act 2010 (NSW)

1 Subsection 6(1)

Omit all the words after “binds the Crown”, substitute “in each of its capacities”.

2 At the end of Part 1

Add:

6A Modifications for Norfolk Island

- (1) The provisions of this Act, other than the provisions referred to in subsection (2), do not apply in relation to the Territory of Norfolk Island.
- (2) The following provisions of this Act apply in relation to the Territory of Norfolk Island:
 - (a) Part 1, other than section 4;
 - (b) Part 2;
 - (c) Part 4, other than section 53;
 - (d) Part 5, other than Division 3;
 - (e) Part 8;
 - (f) Part 9;
 - (g) Schedules 1 to 5.

Courts

- (3) Jurisdiction in matters arising under this Act as in force in the Territory of Norfolk Island is, to the extent permitted by the Commonwealth Constitution, conferred on:

- (a) if the Supreme Court of New South Wales has jurisdiction in the matter in relation to New South Wales—the Supreme Court of Norfolk Island; and
- (b) if the District Court of New South Wales has jurisdiction in the matter in relation to New South Wales—the Supreme Court of Norfolk Island; and
- (c) if the Local Court has jurisdiction in the matter in relation to New South Wales—the Court of Petty Sessions of Norfolk Island.

Tribunals

- (4) A power or function conferred on the Civil and Administrative Tribunal of New South Wales under this Act as in force in New South Wales is, to the extent permitted by the Commonwealth Constitution:
 - (a) conferred on the Administrative Review Tribunal of Norfolk Island for the purposes of this Act as in force in the Territory of Norfolk Island; and
 - (b) to be exercised or performed by the Administrative Review Tribunal of Norfolk Island in accordance with the *Administrative Review Tribunal Act 1996* of Norfolk Island.

3 Subsection 7(6)

Omit “state of emergency exists under the *State Emergency and Rescue Management Act 1989*”, substitute “state of disaster or emergency is declared to exist under the *Disaster and Emergency Management Act 2001* of Norfolk Island”.

4 Subsection 8(1)

Omit “state of emergency exists under the *State Emergency and Rescue Management Act 1989 (the 1989 Act)*”, substitute “state of disaster or emergency is declared to exist under the *Disaster and Emergency Management Act 2001* of Norfolk Island (the *2001 Act*)”.

5 Subsection 8(2)

Omit “the 1989 Act”, substitute “the 2001 Act”.

6 Subsection 8(6)

Omit “Division 4 of Part 2 of the 1989 Act”, substitute “the 2001 Act”.

7 Subsection 12(5)

Repeal the subsection, substitute:

- (5) Payments under subsection (4) are to be made out of money appropriated by the Parliament of the Commonwealth.

8 Subsections 71(2) and (3)

Omit “authorised warrants officer”, substitute “issuing officer”.

9 Subsection 71(5)

Repeal the subsection, substitute:

- (5) In this section, *issuing officer* means:
 - (a) a Judge, or the registrar, of the Supreme Court of Norfolk Island; or
 - (b) a magistrate of the Court of Petty Sessions of Norfolk Island.

10 Subsection 85(1) (definition of *primary school*)

Repeal the definition, substitute:

primary school means:

- (a) a public school within the meaning of the *Education Act 1931* of Norfolk Island; or
- (b) a private school within the meaning of that Act.

11 Subsection 107(1)

Omit “the Register kept under the *Births, Deaths and Marriages Registration Act 1995*”, substitute “a register kept under the *Registration of Births, Deaths and Marriages Act 1963* of Norfolk Island”.

12 Subsection 107(2)

Omit “Registrar of Births, Deaths and Marriages is to make such arrangements as are necessary for the supply of information from the Register”, substitute “Registrar (within the meaning of the *Registration of Births, Deaths and Marriages Act 1963* of Norfolk Island) is to make such arrangements as are necessary for the supply of information from a register referred to in subsection (1)”.

13 Subsections 109(1) and (2)

Omit “authorised warrants officer”, substitute “issuing officer”.

14 Subsection 109(3)

Repeal the subsection, substitute:

- (3) Division 3 of Chapter 3 of the *Criminal Procedure Act 2007* of Norfolk Island (other than subsections 56(1) and (2)) applies to a search warrant issued under this section as if:
 - (a) the search warrant had been issued under subsection 56(1) of that Act; and
 - (b) a reference in that Division to evidential material were a reference to a thing relevant to a contravention of this Act or the regulations, including such a thing in electronic form; and
 - (c) a reference in that Division to an offence were a reference to a contravention of this Act or the regulations.

15 Subsection 109(4)

Omit “section 71 of the *Law Enforcement (Powers and Responsibilities) Act 2002*”, substitute “section 58 of the *Criminal Procedure Act 2007* of Norfolk Island”.

16 Subsection 109(5)

Repeal the subsection, substitute:

- (5) In this section, *issuing officer* means:
 - (a) a Judge, or the registrar, of the Supreme Court of Norfolk Island; or
 - (b) a magistrate of the Court of Petty Sessions of Norfolk Island.

17 Section 121

After “part of the State”, insert “(which may be the whole of the State)”.

18 Section 125

After “NSW Health Service”, insert “, to the manager of the Norfolk Island Health and Residential Aged Care Service (within the meaning of the *Norfolk Island Health and Residential Aged Care Service Act 1985* of Norfolk Island) or to a person employed by the manager for the purposes of the Norfolk Island Health and Residential Aged Care Service”.

19 After subsection 126(1)

Insert:

(1A) The Secretary may appoint:

- (a) the manager of the Norfolk Island Health and Residential Aged Care Service (within the meaning of the *Norfolk Island Health and Residential Aged Care Service Act 1985* of Norfolk Island); or
- (b) a person employed by the manager for the purposes of the Norfolk Island Health and Residential Aged Care Service;

to be an authorised officer, either generally or in relation to any particular function exercisable by authorised officers under this or any other Act relating to public health.

20 Subsection 132(1)

After “brought against”, insert “the Commonwealth or any authority of the Commonwealth, or”.

Part 2—Amendment of the Public Health Regulation 2012 (NSW)

Public Health Regulation 2012 (NSW)

21 At the end of Part 1

Add:

3A Modifications for Norfolk Island

- (1) The provisions of this Regulation, other than the provisions referred to in subclause (2), do not apply in relation to the Territory of Norfolk Island.
- (2) The following provisions of this Regulation apply in relation to the Territory of Norfolk Island:
 - (a) this Part;
 - (b) Part 6;
 - (c) Divisions 1 and 2 of Part 7;
 - (d) Schedule 2.

22 Paragraph 44A(1)(d)

Omit “state of emergency is declared to exist under the *State Emergency and Rescue Management Act 1989*”, substitute “state of disaster or emergency is declared to exist under the *Disaster and Emergency Management Act 2001* of Norfolk Island”.

Part 2—Other amendments

Norfolk Island Applied Laws Ordinance 2016

3 Item 1 of Schedule 4

Repeal the item, substitute:

1 At the end of Chapter 1

Add:

6A Modifications for Norfolk Island

Courts

- (1) Jurisdiction in matters arising under this Act as in force in the Territory of Norfolk Island is, to the extent permitted by the Commonwealth Constitution, conferred on:
 - (a) if the Supreme Court of New South Wales has jurisdiction in the matter in relation to New South Wales—the Supreme Court of Norfolk Island; and
 - (b) if the Local Court has jurisdiction in the matter in relation to New South Wales—the Court of Petty Sessions of Norfolk Island; and
 - (c) if the Land and Environment Court of New South Wales has jurisdiction in the matter in relation to New South Wales and the matter arises under Chapter 17—the Supreme Court of Norfolk Island.

Tribunals

- (2) A power or function conferred on the Civil and Administrative Tribunal of New South Wales under this Act as in force in New South Wales is, to the extent permitted by the Commonwealth Constitution:
 - (a) conferred on the Administrative Review Tribunal of Norfolk Island for the purposes of this Act as in force in the Territory of Norfolk Island; and
 - (b) to be exercised or performed by the Administrative Review Tribunal of Norfolk Island in accordance with the *Administrative Review Tribunal Act 1996* of Norfolk Island.
- (3) A power or function conferred on the Land and Environment Court of New South Wales under this Act as in force in New South Wales (other than under Chapter 17) is, to the extent permitted by the Commonwealth Constitution:
 - (a) conferred on the Administrative Review Tribunal of Norfolk Island for the purposes of this Act as in force in the Territory of Norfolk Island; and
 - (b) to be exercised or performed by the Administrative Review Tribunal of Norfolk Island in accordance with the *Administrative Review Tribunal Act 1996* of Norfolk Island.

Ordinary elections

- (4) For the purposes of this Act as in force in the Territory of Norfolk Island, a reference in any of the following provisions to an ordinary election is taken not to include a reference to the election provided for by the Preparatory Election Ordinance:
 - (a) subsection 402(5);

- (b) subsection 404(3);
- (c) subsection 428(2);
- (d) subsection 428A(1);
- (e) subsection 440(7).