

## EXPLANATORY STATEMENT

### **Ordinance No. 2, 2017**

Issued by the authority of the Minister for Local Government and Territories

*Norfolk Island Act 1979*

### ***Norfolk Island Continued Laws Amendment (2017 Measures No. 1) Ordinance 2017***

#### **Authority**

The *Norfolk Island Act 1979* (the Act) provides for the Government of the Territory 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 (2017 Measures No. 1) Ordinance 2017* (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 a number of Norfolk Island enactments. Norfolk Island enactments, made by the former Legislative Assembly, have been continued in force under section 16A of the Act and, under section 17, may be amended or repealed by a section 19A ordinance.

#### **Purpose and operation**

The proposed Ordinance would amend a number of Norfolk Island laws. Part 1 of Schedule 1 to the proposed Ordinance would provide for some improvements to the *Child Welfare Act 2009* (NI), including placing an obligation on the Child Welfare Officer to act in relation to reports received about a child or young person, except where there is insufficient reason to believe that the child or young person is in need of care and protection, or where the circumstances that led to the report are being adequately dealt with. Part 1 would also allow the Child Welfare Officer to delegate his or her functions to a wider range of people and it also extends the time for which the Child Welfare Officer or a police officer may keep parental responsibility for a child or young person without the need for a court order in emergency situations from two working days to three working days.

The remaining parts of the proposed Ordinance would fix out of date references to other legislation in the *Domestic Violence Act 1995* (NI); make silencers a prohibited weapon; increase the Norfolk Island fee unit for the first time since 2010; provide for the development of a jury list; and would allow for the appointment of an acting health service manager and medical superintendent and acting medical superintendent.

#### **Consultation**

Child welfare authorities were consulted on aspects of the child welfare changes.

The domestic violence measure fixes a drafting oversight and is not a substantive policy change. Therefore it is machinery in nature and consultation was not undertaken.

The silencer change was proposed by the former Norfolk Island Government and fixes a legislative oversight whereby possession of silencers on Norfolk Island was not restricted. It is therefore machinery in nature and further consultation was not undertaken.

The community has been consulted on the fee unit changes by the Norfolk Island Regional Council and Norfolk Island Regional Council staff were consulted on the drafting of the fee unit change.

The change to the *Jury Act 1960* (NI) fixes a legislative issue in that the Act refers to an electoral roll which does not yet exist. Therefore this change is machinery in nature and consultation was not undertaken.

The reintroduction of the medical superintendent role has no impact on the community and is machinery in nature, therefore consultation was not undertaken.

Details of the Ordinance are set out in the Attachment.

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

The proposed Ordinance would commence the day after registration, except for Part 3 of Schedule 1 to the proposed Ordinance which would commence on 1 August 2017 and Part 4 of Schedule 1 to the proposed Ordinance, which would commence on 1 July 2017.

## 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 (2017 Measures No. 1) Ordinance 2017***

The amendments made by the *Norfolk Island Continued Laws Amendment (2017 Measures No. 1) Ordinance 2017* ('the Ordinance') are 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 Ordinance**

The Ordinance amends a number of Norfolk Island laws.

Part 1 of Schedule 1 to the Ordinance would provide for some improvements to the *Child Welfare Act 2009* (NI), including requiring the Child Welfare Officer to consider each report about a child or young person he or she receives and to document any action taken in response. Part 1 would also allow the Child Welfare Officer to delegate some of his or her functions to another person (with Ministerial approval) and it also extends the time for which the Child Welfare Officer or a police officer may keep parental responsibility for a child or young person without the need for a court order in emergency situations from two working days to three working days.

Part 5 of Schedule 1 to the Ordinance addresses some existing deficiencies in the *Juries Act 1960* (NI) which may prevent the preparation of a new jury list for criminal proceeding in the Supreme Court of Norfolk Island. In particular, the changes will clarify which persons are liable to serve as a juror and the information which a Sheriff may have regard to when preparing a jury list, including having regard to the electoral roll previously prepared for the 2016 Norfolk Island Regional Council election. Electoral rolls are routinely used by Commonwealth, state and territory court officials for the creation and maintenance of jury lists.

The remaining parts of the Ordinance fix out of date references to other legislation in the *Domestic Violence Act 1995* (NI); make silencers a prohibited weapon; increase the Norfolk Island fee unit for the first time since 2010; and would allow for the appointment of an acting health service manager and medical superintendent and acting medical superintendent. These parts do not engage any human rights.

### **Human rights implications**

The amendments in the Ordinance to the Child Welfare Act engage the following categories of human rights:

- Rights relating to the protection of children from physical or mental violence, injury or abuse, and the obligation of the State to provide children with protection and care as necessary for their wellbeing
- Rights relating to the recognition of the family as the natural and fundamental unit of society

- Freedom from arbitrary deprivation of liberty

In addition, the requirement in the *Convention on the Rights of the Child* (CROC) that the best interests of the child shall be the primary consideration in all actions concerning children is also engaged by this Ordinance.

### **Right to protection**

Article 3(2) of the CROC requires Parties to ensure the child receives such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents. Article 19 of the CROC contains the obligation to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse. In addition, Article 34 of the CROC requires Parties to protect the child from all forms of sexual exploitation and sexual abuse. Similarly, Article 24(1) of the ICCPR contains the obligation to provide children with protection on the part of the child's family, society and the State.

The amendment to s 93(2) promotes the right to protection. It is engaged where a child welfare officer or police officer has taken emergency action under the Act on the basis that the child is in immediate need of care and protection. This may include care and protection from instances of violence, injury, abuse, neglect or negligent treatment. The amendment to s 93(2) will reduce the risk of having to return a child to a place which is not considered to be 'safe' merely because a court order could not be secured within the required time frame.

Specifically, it is often practically difficult to obtain a court order within the current two-day time period due to the logistical obstacles associated with accessing the Chief Magistrate on Norfolk Island. To alleviate this issue, the time period within which a court order can be obtained is to be extended by an additional day. This extended time period remains within the range of time periods allowed for in other Australian jurisdictions in similar circumstances.

### **Recognition of the family**

Article 23 of the *International Covenant on Civil and Political Rights* (ICCPR) and Article 10(1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) provide that protection should be given to the family as the natural and fundamental group unit of society.

Article 5 of the CROC requires Parties to respect the responsibilities, rights and duties of parents. Article 9(1) of the CROC also requires Parties to ensure that a child shall not be separated from his or her parents against their will, unless the competent authorities determine that such separation is necessary for the best interests of the child. Finally, Article 16 of the CROC provides that no child should be subject to arbitrary interference with his or her family.

Section 93(2), as amended, will increase the amount of time during which a child welfare officer or police officer may keep parental responsibility for a child or young person without the need for a court order from two to three working days. This will necessarily involve separation of the child from his or her parents, possibly against their will, and may arguably involve some interference with the family unit.

To the extent that the amendment does involve such separation or interference, it would only be engaged where necessary in the best interests of the child. That is, the time period under s 93(2) is only engaged where an emergency action has been taken because the child is in immediate need of care and protection. In addition, the increase in the time period is not so significant as to infringe substantively on recognition of the rights and duties of parents or the protection of the family as the fundamental group unit of society. Furthermore, s 13(1) of the Act sets out matters to be taken into account when applying the best interests principle,

including the capacity of parents to provide for the child's needs, and the likely effect of separation of the child from a parent. The principles set out in s 12 also acknowledge the importance of the family unit. Accordingly, factors relating to the protection of or interference with the family unit and the separation of the child from his or her parents are already taken into account in all actions concerning children under the Act.

In light of these factors, the Ordinance is consistent with any applicable rights and obligations in relation to the protection of the family.

### **Freedom from arbitrary deprivation of liberty**

Article 37(b) of the CROC and Article 9(1) of the ICCPR require Parties to ensure that no child is deprived of his or her liberty arbitrarily.

The process for removal of a child into the care of a child welfare officer or a police officer is set out in the legislation. It may be said that such removal involves some deprivation of the child's liberty. To the extent that this is the case, this deprivation would not be arbitrary, as the legislation sets out specific requirements to be met before the child can be removed, and governing the time during which the child would be in the care and protection of the State. Furthermore, its use is limited to emergency situations.

In light of the above considerations, the Ordinance is consistent with the child's right to freedom from arbitrary deprivation of liberty.

### **Best interests of the child**

Article 3 of the CROC provides that a primary consideration in all actions concerning children must be the best interests of the child.

Section 12(1)(a) as elaborated by s 13 of the *Child Welfare Act 2009* (NI) provides that in making a decision or taking action under the Act in relation to a child or young person, the best interests of the child or young person should be the paramount consideration. In taking emergency action or making an order in relation to the care of a child under the Act, the requirement of Article 3 of the CROC is therefore already embedded as the main consideration.

### **Right to be equal before the courts and tribunals**

The amendments in the Ordinance to the *Juries Act 1960* (NI) engage the right to be equal before the courts and tribunals, as set out in Article 14(1) of the International Covenant on Civil and Political Rights, which entitles all persons to a fair and public hearing by a competent, independent and impartial tribunal established by law. These amendments address an issue with existing Norfolk Island legislation which may prevent a new jury list being prepared. Jury trials are one means of advancing the right to a fair and public hearing by an impartial tribunal, as they allow for the application of community values to the law. Therefore these amendments will enhance human rights on Norfolk Island by enhancing the right of trial by jury in criminal proceedings.

### **Conclusion**

These amendments in the Ordinance are compatible with human rights because they advance the protection of human rights, in particular Australia's obligations with respect to the right to protection and the right to be equal before the courts and tribunals.

**Minister for Local Government and Territories,  
Senator the Hon Fiona Nash**

**Norfolk Island Continued Laws Amendment (2017 Measures No. 1) Ordinance 2017**

**Section 1 – Name**

This section provides that the title of the Ordinance is the *Norfolk Island Continued Laws Amendment (2017 Measures No. 1) Ordinance 2017*.

**Section 2 – Commencement**

This section provides the commencement provisions for the Ordinance. The Ordinance commences on the day after registration, except for Parts 3 and 4 of Schedule 1 to the Ordinance. Part 3 relates to silencers and commences on 1 August 2017, which allows persons possessing silencers to either seek a permit or dispose of the silencer. Part 4 relates to the fee unit and commences on 1 July 2017, which is the beginning of the financial year in which the fee unit increase is to apply.

**Section 3 – Authority**

This section would provide that the Ordinance is made under the *Norfolk Island Act 1979*.

**Section 4 – Schedules**

This section would provide that each instrument that is specified in a Schedule to the Ordinance is amended or repealed as set out in the applicable terms in the Schedule concerned, and any other item in a Schedule to that Ordinance has effect according to its terms.

**Schedule 1 – Amendments**

***Part 1—Amendment of the Child Welfare Act 2009 (Norfolk Island)***

***Norfolk Island Continued Laws Ordinance 2015***

**Item 1—After item 29 of Schedule 1**

This item inserts provisions into the *Norfolk Island Continued Laws Ordinance 2015* (Principal Ordinance) to make amendments to section 24 of the *Child Welfare Act 2009* (Child Welfare Act).

Section 24 of the Child Welfare Act provides for the appointment and functions of the child welfare officer.

The amendments to this section provide that the child welfare officer will no longer be appointed by the “Chief Executive Officer”. (“Chief Executive Officer” is defined in the *Interpretation Act 1979* (Norfolk Island) to mean “the general manager of the Norfolk Island Regional Council”.) Instead, the child welfare officer is to be appointed by the Commonwealth Minister. The Commonwealth Minister will have the power to terminate the appointment of the child welfare officer for reasons including having failed to properly carry out the functions and responsibilities of the Child Welfare Act.

The amendments also provide that the Commonwealth Minister may issue general directions to the child welfare officer about the exercise of his or her functions and powers under the Child Welfare Act. This will allow the Commonwealth Minister, for example, to give the child welfare officer a direction about the exercise of the child welfare officer’s information-

sharing powers. It may also include directions about particular processes that the child welfare officer must follow in carrying out his or her duties. It will not allow directions relating to a particular case or a particular person. Directions of the Commonwealth Minister will be subject to any contrary directions given by the court.

Ordinarily, only agencies or high-level statutory officers are subject to Ministerial directions. However, the Norfolk Island context is unique in that the child welfare officer has an unusually high level of individual responsibility for safeguarding the wellbeing of children and young people on Norfolk Island. For example, the Child Welfare Act bestows on the child welfare officer responsibility for functions that in the New South Wales context are bestowed upon the Secretary of the Department of Family and Community Services, including responsibility for taking action where a child or young person is in need of care and protection. Norfolk Island is also unique due to its isolation and the fact that many of the integrated services available on the mainland to support child wellbeing are not yet available on Norfolk Island. Providing for directions by the Commonwealth Minister will allow an additional mechanism to strengthen responses to risks to children on Norfolk Island. In addition, due to the unique environment on Norfolk Island and the high level of responsibility placed on the child welfare officer, it is important for the Commonwealth Minister to be able to take prompt action where the responsibilities of the child welfare officer are not being properly carried out.

#### **Item 2—After item 29A of Schedule 1**

This item inserts a provision into the Principal Ordinance to amend subparagraph 24(1)(e)(v) of the Child Welfare Act. The amendment will require the child welfare officer to deliver any notice of resignation to the Commonwealth Minister rather than to the general manager of the Norfolk Island Regional Council. This amendment is consequential on the amendment to section 24 that provides that the child welfare officer is to be appointed by the Commonwealth Minister.

#### **Item 3—After item 30 of Schedule 1**

This item inserts provisions into the Principal Ordinance to amend sections 28 and 32 of the Child Welfare Act.

##### *Section 28*

Section 28 of the Child Welfare Act allows the child welfare officer to enter into an agreement with a carer for the carer to exercise parental responsibility for a child or young person on behalf of the child welfare officer. Previously the child welfare officer has been required to obtain the approval of the general manager of the Norfolk Island Regional Council in order to enter into such an agreement. The amendment to section 28 provides that the child welfare officer will be required to obtain the approval of the Commonwealth Minister instead. This amendment is related to the amendments to section 24, which will make the child welfare officer an appointment of the Commonwealth Minister rather than of the general manager.

##### *Section 32*

Section 32 of the Child Welfare Act gives the child welfare officer the power to delegate his or her functions. The amendment to section 32 expands the delegation power to allow the child welfare officer to delegate his or her functions to a person with expertise in the provision of child welfare services approved by the Minister, or an APS employee who holds or performs the duties of an EL2 position, or an equivalent or higher position, in the Department. The amendment is intended to enable the child welfare officer to access suitable

expert assistance in discharging his or her functions under the Act and to enable future unknown contingencies to be addressed.

#### **Item 4—After item 31 of Schedule 1**

This item inserts a number of provisions into the Principal Ordinance to amend the Child Welfare Act.

##### *Section 43*

Section 43 of the Child Welfare Act is about action that the child welfare officer may take in relation to reports about potential risks of harm to children and young people. Previously the child welfare officer had discretion as to whether or not to act in response to such reports. The amendments to section 43 make it mandatory for the child welfare officer to take whatever action is necessary to safeguard or promote the safety, welfare and well-being of the child or young person who is the subject of the report. The only exceptions to this are if the child welfare officer considers that there is insufficient reason to believe that the child or young person is in need of care and protection, or if the child welfare officer considers that the circumstances that led to the report have been, or are being, adequately dealt with. This will bring the provision more closely into line with requirements in the *Children and Young Persons (Care and Protection) Act 1998* (NSW). The amendment to subsection 43(3) clarifies that even when the child welfare officer does not take action in relation to the report because of an exception in subsection 43(1A), the child welfare officer must still comply with the record-keeping requirements in section 44.

##### *Section 44*

Section 44 of the Child Welfare Act is about records that the child welfare officer must keep. The amendment to section 44 adds requirements for the child welfare officer to keep additional records to the records that the child welfare officer was previously required to keep. The child welfare officer must record his or her decision whether to take action in relation to a report under section 40, 40A or 41, the reasons for the child welfare officer's decision, any action taken in relation to the report, and any child protection appraisal made as a result of the report. Record-keeping is good professional practice, and this amendment brings record-keeping requirements into line with policy and practice in New South Wales.

##### *Subsections 85(4) and (5) and 92(4) and (5)*

Subsections 85(4) and (5) and 92(4) and (5) of the Child Welfare Act are about situations in which the court may order someone with parental responsibility for a child or young person to contribute to the cost of court ordered assessments or appraisals, or emergency action, in relation to a child or young person.

The amendments remove the power of the court to order someone with parental responsibility for a child or young person to contribute to these costs. There is no equivalent provision in NSW child wellbeing legislation that allows the court to require financial contributions from people with parental responsibility. It is inappropriate for individuals to be required to contribute to the costs of administering the Child Welfare Act.

##### *Paragraph 93(2)(a)*

Section 93 of the Child Welfare Act is about who has parental responsibility for a child or young person who is in immediate need of care and protection and in relation to whom emergency action has been taken. Subsection 93(2) provides that in these circumstances, the child welfare officer or police officer who took the emergency action has parental responsibility for the child or young person without the need for a court order for a period of



2 working days. The proposed amendment would increase this period to 3 working days. This brings this period into closer alignment with the equivalent period under NSW legislation, and takes account of the fact that the Chief Magistrate, from whom an order would be sought, is not likely to be on island.

#### *Subsections 103(3) and (4)*

Subsections 103(3) and (4) of the Child Welfare Act give the court the power to order someone with parental responsibility for a child or young person to contribute to the cost of care or protection of a child or young person who is the subject of a therapeutic protection order.

The proposed amendments remove the power of the court to order someone with parental responsibility for a child or young person to contribute to these costs. These amendments are similar to the amendments to subsections 85(4) and (5) and 92(4) and (5) of the Child Welfare Act, and the rationale for the amendments is the same.

#### *Section 111*

Section 111 of the Child Welfare Act is about the provision of information by the child welfare officer about therapeutic protection provided to a child or young person. Therapeutic protection is described in section 101 as care provided by the child welfare officer for a child or young person where the child or young person is confined to a place in a way that the child welfare officer considers appropriate to protect the child or young person from serious harm. Previously, the Child Welfare Act allowed the general manager of the Norfolk Island Regional Council to request such information from the child welfare officer. The proposed amendment allows the Commonwealth Minister to request the information instead. This amendment is related to the amendments to section 24 which will make the child welfare officer an appointment of the Commonwealth Minister rather than of the general manager.

#### *Subsections 114(4) and (5)*

Subsections 114(4) and (5) of the Child Welfare Act allow the court to order someone with parental responsibility for a child or young person in relation to whom a specific issues order is made to contribute to the cost of the care or protection of the child or young person.

The proposed amendments remove the power of the court to order someone with parental responsibility for a child or young person to contribute to these costs. These amendments are similar to the amendments to subsections 85(4) and (5), 92(4) and (5) and 103(3) and (4) of the Child Welfare Act, and the rationale for the amendments is the same.

#### *Section 116*

Section 116 of the Child Welfare Act is about the court providing notice of making, varying or extending certain specific issues orders. Previously, the court was required to cause a copy of certain specific issues orders to be served on the general manager of the Norfolk Island Regional Council, among other people. The proposed amendment replaces the requirement for a copy to be served on the general manager of the Norfolk Island Regional Council with a requirement for a copy to be served on the Commonwealth Minister. This amendment is related to the amendments to section 24, which will make the child welfare officer an appointment of the Commonwealth Minister rather than of the general manager.

#### *Subsections 131(1) and (2)*

Section 131 of the Child Welfare Act applies where the court makes a final care and protection order giving parental responsibility for a child or young person to the child welfare

officer. Subsections 131(1) and (2) allow the court to order someone with parental responsibility for a child or young person to contribute to the cost of the care of the child or young person in this circumstance.

The proposed amendments remove the power of the court to order someone with parental responsibility for a child or young person to contribute to these costs. These amendments are similar to the amendments to subsections 85(4) and (5), 92(4) and (5), 103(3) and (4), and 114(4) and (5) of the Child Welfare Act, and the rationale for the amendments is the same.

## ***Part 2—Amendment of the Domestic Violence Act 1995 (Norfolk Island)***

### ***Norfolk Island Continued Laws Ordinance 2015***

#### **Item 5—After item 72 of Schedule 1**

These new items make amendments to the *Domestic Violence Act 1995* (NI) to address a legal problem with the operation of this Act. When this Act was enacted, it defined ‘violent conduct’ primarily by reference to offences in the *Crimes Act 1900* (NSW) as it applied to Norfolk Island, which was the main criminal law on Norfolk Island at that time.

The *Criminal Code 2007* (NI) (the Code) repealed most of the *Crimes Act 1900* (NSW) in its application to Norfolk Island. However, the references to offences in the definition of ‘violent conduct’ in the *Domestic Violence Act 1995* (NI) were not updated at that time. Therefore, most of the offences in the definition of ‘domestic violence’ are references to offences that are repealed on Norfolk Island.

To address this oversight, the Ordinance removes the references to repealed offences and substitute references to comparable or equivalent offences under the Code.

New item 72A in the *Continued Laws Amendment Ordinance 2015* repeals the definition of ‘Crimes Act’. This definition, which means the *Crimes Act 1900* (NSW) as applied to Norfolk Island, is no longer required.

New item 72B in the *Continued Laws Amendment Ordinance 2015* amends the definition of ‘violent conduct’ so it covers relevant offences in the *Criminal Code 2007* (NI).

New item 72C in the *Continued Laws Amendment Ordinance 2015* repeals and substitutes a new section 50 of the *Domestic Violence Act 1995* (NI) which no longer contains a reference to the *Crimes Act 1900* (NSW) as applied to Norfolk Island.

## ***Part 3—Amendment of the Firearms and Prohibited Weapons Act 1997 (Norfolk Island)***

### ***Norfolk Island Continued Laws Ordinance 2015***

#### **Item 6—After item 97 of Schedule 1**

This item adds firearms silencers to the list of prohibited weapons in Schedule 2 to the *Firearms and Prohibited Weapons Act 1997* (NI). This has the effect of making it an offence to possess a silencer unless otherwise permitted under that Act. The commencement of this change has been delayed until 1 August 2017, to allow persons with silencers to surrender or destroy them, or to seek a permit.

## ***Part 4—Amendment of the Interpretation Act 1979 (Norfolk Island)***

### ***Norfolk Island Continued Laws Ordinance 2015***

#### **Item 7—Item 167 of Schedule 1**

This item repeals a mechanism by which the Norfolk Island fee unit can be set outside of legislation under a process set out under the *Retail Price Index Act 1983* (NI). It substitutes a new section providing that the fee unit amount will be \$28.40 (subject to rounding). This fee unit amount was based on the most recent calculations of the statistical model developed by the Norfolk Island Regional Council under the *Retail Price Index Act 1983* (NI) in consultation with a statistician. Changes to the fee unit in future will be made by disallowable instrument, rather than on the basis of a model determined by the Commonwealth Minister outside of legislation.

## ***Part 5—Amendment of the Juries Act 1960 (Norfolk Island)***

### ***Norfolk Island Continued Laws Ordinance 2015***

#### **Item 8—Item 190A of Schedule 1**

New item 190A inserts a new definition of ‘eligible former British subject’ into the *Juries Act 1960* (NI). This definition mirrors the arrangements in s 93 of the *Commonwealth Electoral Act 1918* (Cth). The definition is relevant to new section 8 inserted by new item 190AA.

New item 190AA repeals the previous section 8 and replaces it with a new section determining liability to serve as a juror. A person will be liable to serve as a juror if they meet the qualifications set out in paragraphs (a) through (d) (inclusive).

#### **Item 9—After item 190C of Schedule 1**

New item 190CA amends subsection 16(2) to remove the requirement that the jury list prepared by the Sheriff must contain details of the occupations of the persons on the list. This change reflects the fact that the information the Sheriff is likely to have regard to when preparing a jury list, for instance electoral roll information, is unlikely to contain information regarding the occupations of potential jurors.

New item 190CB provides mechanisms for the Sheriff to obtain information for a jury list, and the information to which the Sheriff may have regard. The item inserts new subsection 16(3A) which allows the Sheriff to require the Registrar of Births Deaths and Marriages to provide information. This is intended to give the Sheriff the option of approaching the Registrar for the purposes of confirming information relevant to establishing or maintaining a jury list, including for the purposes of removing any persons from the list who are deceased.

The item also inserts new subsection 16(3B) which allows the Commonwealth Minister to provide the Sheriff a copy of a roll produced for the purposes of the repealed *Norfolk Island Regional Council Preparatory Election Ordinance 2016* (Commonwealth). This was the most recent electoral roll prepared for Norfolk Island, and this provision will enable this electoral roll to be used as the basis of a jury list. Electoral rolls are routinely used by Commonwealth, state and territory court officials for the creation and maintenance of jury lists.

The item also inserts new subsection 16(3C) which avoids any doubt that, for the purposes of preparing a jury list, the Sheriff may have regard to the above information as provided

under new subsections 16(3A) and 16(3B) and any other information he or she considers relevant.

New item 190CC amends section 18 to remove the existing reference to ‘occupation’ and is a change consequential to the amendment to subsection 16(2) described above.

***Part 6—Amendment of the Norfolk Island Health and Residential Aged Care Service Act 1985 (Norfolk Island)***

***Norfolk Island Continued Laws Ordinance 2015***

**Item 10—At the end of item 207N of Schedule 1**

This item provides a power for the Commonwealth Minister to appoint an acting Manager of the Norfolk Island Health and Residential Aged Care Service (NIHRACS). Allowance for an acting position provides flexibility for situations when the NIHRACS manager is absent from duty or from Norfolk Island, or is unable to perform the duties of the office.

**Item 11—Item 208 of Schedule 1**

This item creates a new position of medical superintendent, to be appointed by the NIHRACS manager. This position was repealed from 1 July 2016, but is being reinstated to allow the occupant to discharge functions under other Norfolk Island laws. To be appointed medical superintendent, a person must be a registered medical practitioner. Provision is also made for an acting medical superintendent.

***Part 7—Transitional provisions***

***Norfolk Island Continued Laws Ordinance 2015***

**Item 12—In the appropriate position in Part 2 of Schedule 1**

This item inserts transitional provisions into the Principal Ordinance relating to the amendments the proposed Ordinance would make to the Child Welfare Act.

***Item 363***

Item 363 includes a definition for the purposes of items 364 and 365.

***Item 364***

Item 364 deals with the application of the amendments to the Child Welfare Act to a child welfare officer who has been appointed under paragraph 24(1)(a) of the Child Welfare Act prior to the commencement of Part 1 of Schedule 1 to the proposed Ordinance, where that appointment is still in force at that commencement. The item provides that such an appointment continues in force at and after that commencement as if it were an appointment under paragraph 24(1)(a) of the Child Welfare Act as amended by the proposed Ordinance. The item also provides that at and after that commencement, such an appointment is subject to the Child Welfare Act as amended by the proposed Ordinance.

***Item 365***

Item 365 is about the amendments to sections 43 and 44 of the Child Welfare Act made by the proposed Ordinance, which relate to the child welfare officer’s obligations on receiving certain reports about children and young people. Item 365 provides that the amendments apply to reports received at and after the commencement of Part 1 of Schedule 1 to the

proposed Ordinance. The amendments do not apply to reports received prior to that commencement.