



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

Ordinance No. 2, 2017

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 18 May 2017

Peter Cosgrove
Governor-General

By His Excellency's Command

Fiona Nash
Minister for Local Government and Territories

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1 Name

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

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. Sections 1 to 4 and anything in this Ordinance not elsewhere covered by this table	The day after this Ordinance is registered.	24 May 2017
2. Schedule 1, Parts 1 and 2	The day after this Ordinance is registered.	24 May 2017
3. Schedule 1, Part 3	1 August 2017.	1 August 2017
4. Schedule 1, Part 4	1 July 2017.	1 July 2017
5. Schedule 1, Parts 5 to 7	The day after this Ordinance is registered.	24 May 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Note: This table relates only to the provisions of this Ordinance as originally made.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 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Each instrument that is specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Ordinance has effect according to its terms.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—Amendment of the Child Welfare Act 2009 (Norfolk Island)

Norfolk Island Continued Laws Ordinance 2015

1 After item 29 of Schedule 1

Insert:

29AA Paragraph 24(1)(a)

Omit “Chief Executive Officer”, substitute “Commonwealth Minister”.

29AB Paragraph 24(1)(b)

Repeal the paragraph, substitute:

- (b) The Commonwealth Minister may, by legislative instrument, give written directions to the child welfare officer about the exercise of his or her functions and powers under this Act.

Note: Section 42 (disallowance) and Part 4 of Chapter 3 (sunsetting) of the *Legislation Act 2003* (Commonwealth) do not apply to the directions (see regulations made for the purposes of paragraphs 44(2)(b) and 54(2)(b) of that Act).

- (ba) A direction under paragraph (b) must be of a general nature only.
- (bb) Subject to any direction given to the child welfare officer by the court, the child welfare officer must comply with a direction under paragraph (b).

29AC Paragraph 24(1)(c)

Omit “Chief Executive Officer”, substitute “Commonwealth Minister”.

29AD Subparagraph 24(1)(c)(i)

Omit “persistently”.

2 After item 29A of Schedule 1

Insert:

29B Subparagraph 24(1)(e)(v)

Omit “Chief Executive Officer”, substitute “Commonwealth Minister”.

3 After item 30 of Schedule 1

Insert:

30A Subsection 28(4)

Omit “Chief Executive Officer”, substitute “Commonwealth Minister”.

30B Section 32

Omit “to a public sector employee or an employee under the *Norfolk Island Hospital Act 1985*.”, substitute:

to:

- (a) a public sector employee; or

- (b) an employee under the *Norfolk Island Health and Residential Aged Care Service Act 1985*; or
- (c) a person with expertise in the provision of child welfare services who is approved, in writing, by the Commonwealth Minister; or
- (d) an APS employee who holds, or is acting in, an Executive Level 2, or equivalent, position in the Department.

4 After item 31 of Schedule 1

Insert:

31A Subsection 43(1)

Repeal the subsection, substitute:

- (1) If the child welfare officer receives a report about a child or young person under section 40, 40A or 41, the child welfare officer must:
 - (a) consider the report; and
 - (b) after considering the report, take whatever action is necessary to safeguard or promote the safety, welfare and well-being of the child or young person.

31B After subsection 43(1)

Insert:

- (1A) However, the child welfare officer may decide to take no action after considering the report if:
 - (a) the child welfare officer considers, on the basis of the information provided in the report, that there is insufficient reason to believe that the child or young person is in need of care and protection; or
 - (b) the child welfare officer considers that the circumstances that led to the report have been, or are being, adequately dealt with.

31C Subsection 43(3)

After “this Act”, insert “, other than this section and section 44,”.

31D Paragraph 44(1)(b)

Repeal the paragraph, substitute:

- (b) for each such report:
 - (i) the child welfare officer’s decision to take action, or to take no action, in relation to the report; and
 - (ii) the reasons for the decision; and
 - (iii) any action taken in relation to the report; and
 - (iv) any child protection appraisal made as a result of the report.

31E Subsections 85(4) and (5) and 92(4) and (5)

Repeal the subsections.

31F Paragraph 93(2)(a)

Omit “2 working days”, substitute “3 working days”.

31G Subsections 103(3) and (4)

Repeal the subsections.

31H Section 111

Omit “Chief Executive Officer”, substitute “Commonwealth Minister”.

31J Subsections 114(4) and (5)

Repeal the subsections.

31K Paragraph 116(2)(b)

Omit “Chief Executive Officer”, substitute “Commonwealth Minister”.

31L Subsections 131(1) and (2)

Repeal the subsections.

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

Norfolk Island Continued Laws Ordinance 2015

5 After item 72 of Schedule 1

Insert:

Domestic Violence Act 1995

72A Section 3 (definition of *Crimes Act*)

Repeal the definition.

72B Section 3 (paragraph (a) of the definition of *violent conduct*)

Repeal the paragraph, substitute:

- (a) conduct constituting an offence against any of the following provisions of the *Criminal Code 2007*:
 - (i) Part 3.1 (unlawful killing) or 3.3 (endangering life and health), other than section 88 (culpable driving);
 - (ii) Part 3.4 (offences concerning children), other than section 103 (concealment of birth);
 - (iii) Part 3.6 (sexual offences);
 - (iv) section 122 (using child for production of child pornography) or 125 (using the internet, etc. to deprave young people);
 - (v) Part 3.9 (female genital mutilation);
 - (vi) section 138 (sexual servitude);
 - (vii) Division 3.11.2 (criminal damage to property) or 3.11.4 (causing public alarm);
 - (viii) section 186, 187, 188 or 189 (robbery and burglary offences);
 - (ix) Part 4.5 (blackmail) or 5.1 (property damage), other than section 261 (causing bushfires);
 - (x) section 271 (unauthorised access, modification or impairment of computer data with intent to commit serious offence), to the extent that the serious offence referred to in that section is an offence against any of the other provisions covered by this paragraph;
 - (xi) section 358 or 359 (possession of offensive weapons and disabling substances) or 360 (possession of knife in public place or school); or
- (aa) conduct constituting the offence of attempting to commit an offence against any of the provisions covered by paragraph (a); or

72C Section 50

Repeal the section, substitute:

50 Operation of the *Court of Petty Sessions Act 1960* not affected

This Act does not affect the operation of Division 7 (surety of the peace and for good behaviour) of Part 4 of the *Court of Petty Sessions Act 1960*.

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

Norfolk Island Continued Laws Ordinance 2015

6 After item 97 of Schedule 1

Insert:

Firearms and Prohibited Weapons Act 1997

97AA At the end of the table in Schedule 2

Add:

- 32 A silencer, sound moderator or sound suppressor, or any other device designed to reduce, or capable of reducing, the noise of discharge of a firearm.

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

Norfolk Island Continued Laws Ordinance 2015

7 Item 167 of Schedule 1

Repeal the item, substitute:

167 Section 12B

Repeal the section, substitute:

12B Fee units

In an enactment, a reference to a number, whether whole or fractional, of *fee units* is a reference to:

- (a) for a number of fee units less than 2—the amount of money in dollars determined by multiplying the number of fee units by \$28.40 and rounding the result to the nearest whole dollar amount (rounding 50 cents up); or
- (b) for a number of fee units greater than, or equal to, 2—the amount of money in dollars determined by multiplying the number of fee units by \$28.40 and rounding the result to the nearest whole multiple of 5 dollars (rounding odd multiples of \$2.50 up).

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

Norfolk Island Continued Laws Ordinance 2015

8 Item 190A of Schedule 1

Repeal the item, substitute:

190A Section 4

Insert:

eligible former British subject: a person is an ***eligible former British subject*** if:

- (a) the person would be a British subject within the meaning of the relevant citizenship law as defined in subsection 93(8A) of the *Commonwealth Electoral Act 1918* (Commonwealth) if the relevant citizenship law had continued in force; and
- (b) immediately before 26 January 1984, the person's name was:
 - (i) on the roll for a Division within the meaning of the *Commonwealth Electoral Act 1918* (Commonwealth) as in force at that time; or
 - (ii) on a roll kept for the purposes of the *Australian Capital Territory Representation (House of Representatives) Act 1973* (Commonwealth) or the *Northern Territory Representation Act 1922* (Commonwealth).

190AA Section 8

Repeal the section, substitute:

8 Liability to serve as jurors

A person is liable to serve as a juror if the person:

- (a) is 18 or over; and
- (b) is an Australian citizen or an eligible former British subject; and
- (c) is a resident of Norfolk Island; and
- (d) is not a disqualified person or exempt from serving as a juror.

9 After item 190C of Schedule 1

Insert:

190CA Subsection 16(2)

Omit “and occupations”.

190CB After subsection 16(3)

Insert:

(3A) For the purposes of preparing the jury list:

- (a) the Sheriff may ask the Registrar (within the meaning of the *Registration of Births, Deaths and Marriages Act 1963*) to provide the Sheriff with information in a register kept under the *Registration of Births, Deaths and Marriages Act 1963*; and

- (b) the Registrar must comply with the request.
- (3B) For the purposes of the Sheriff preparing the jury list, the Commonwealth Minister may provide the Sheriff with information in a roll prepared for the purposes of the repealed *Norfolk Island Regional Council Preparatory Election Ordinance 2016* (Commonwealth).
- (3C) For the purposes of preparing the jury list, the Sheriff may have regard to the following:
 - (a) information provided to the Sheriff in accordance with subsection (3A) or (3B);
 - (b) any other information that the Sheriff considers relevant.

190CC Section 18

Omit “name, address or occupation”, substitute “name or address”.

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

Norfolk Island Continued Laws Ordinance 2015

10 At the end of item 207N of Schedule 1

Add:

- (5) The Commonwealth Minister may, by written instrument, appoint a person to act as the Manager:
- (a) during a vacancy in the office of the Manager (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Manager:
 - (i) is absent from duty or from Norfolk Island; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901* (Commonwealth) (applying because of section 8A of the *Interpretation Act 1979*).

11 Item 208 of Schedule 1

Omit all the words after “Repeal”, substitute:
the Parts, substitute:

Part 4A—Professional staff

23A Medical Superintendent

- (1) The Manager may, by written instrument, appoint a registered medical practitioner (within the meaning of the *Health Practitioners Act 1983*) as the Medical Superintendent.

Acting appointments

- (2) The Manager may, by written instrument, appoint a registered medical practitioner (within the meaning of the *Health Practitioners Act 1983*) to act as the Medical Superintendent:
- (a) during a vacancy in the office of the Medical Superintendent (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Medical Superintendent:
 - (i) is absent from duty or from Norfolk Island; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901* (Commonwealth) (applying because of section 8A of the *Interpretation Act 1979*).

Part 7—Transitional provisions

Norfolk Island Continued Laws Ordinance 2015

12 In the appropriate position in Part 2 of Schedule 1

Insert:

Division 9—Transitional provisions relating to the Norfolk Island Continued Laws Amendment (2017 Measures No. 1) Ordinance 2017

363 Definitions

In this Division:

Part 1 commencement time means the commencement of Part 1 of Schedule 1 to the *Norfolk Island Continued Laws Amendment (2017 Measures No. 1) Ordinance 2017*.

364 Appointment of the Child Welfare Officer

Despite the amendment of paragraph 24(1)(a) of the *Child Welfare Act 2009* (Norfolk Island) by this Schedule, an appointment that was in force under that paragraph immediately before the Part 1 commencement time continues in force at and after that time:

- (a) as if it were an appointment under that paragraph as in force at the Part 1 commencement time; and
- (b) subject to that Act as in force at and after the Part 1 commencement time.

365 Reports made to the Child Welfare Officer

The amendments of sections 43 and 44 of the *Child Welfare Act 2009* (Norfolk Island) made by this Schedule apply in relation to reports made at and after the Part 1 commencement time.