

## **EXPLANATORY STATEMENT**

Minute No. 16 of 2017 – Minister for Local Government and Territories

Subject - *Cocos (Keeling) Islands Act 1955*

*Cocos (Keeling) Islands Legislation Amendment (2017 Measures No. 1) Ordinance 2017*

The *Cocos (Keeling) Islands Act 1955* (the Act) provides for the government of the Territory of the Cocos (Keeling) Islands.

Subsection 12(1) of the Act provides that the Governor-General may make Ordinances for the peace, order and good government of the Territory.

Subsection 8A(1) of the Act provides that the Laws of Western Australia are in force in the Territory of the Cocos (Keeling) Islands from time to time as applied laws. When amending or repealing applied laws by Ordinance under subsection 8(2) of the Act, section 3 of *Applied Laws (General) Ordinance 1992* provides that applied laws that are amended are specified in Schedule 1.

The purpose of the proposed *Cocos (Keeling) Islands Legislation Amendment (2017 Measures No. 1) Ordinance 2017* is to ensure laws of the Territory of the Cocos (Keeling) Islands are consistent with Australian Government policy and legislation, and with changes to applied Western Australian laws.

### *Amendments to the Applied Laws (General) Ordinance 1992*

The proposed amendment changes the name of the *Applied Law (General) Ordinance 1992* to the *Cocos (Keeling) Islands Applied Laws Ordinance 1992*, reflecting current drafting standards and practices.

### *Amendments to the Interpretation Act 1984 (W.A)(C.K.I.) (Amendment) Ordinance 1992*

The proposed amendment updates how Government information is published in the Territory of the Cocos (Keeling) Islands. Currently the *Interpretation Act 1984 (W.A)(C.K.I.) (Amendment) Ordinance 1992* allows for gazettal to occur in the Gazette or the Government Gazette, or a newspaper circulating in Western Australia, which includes the Territory of the Cocos (Keeling) Islands.

This amendment simplifies gazettal arrangements by ensuring information that is required to be gazetted is published as a Notifiable Instrument in one central location on the Federal Register of Legislation. This requirement does not apply where an instrument is published on behalf of the Western Australian Government in the government gazette of Western Australia.

*Repeal the Co-operative Societies Ordinance (of the Colony of Singapore in its application to the Territory)*

This amendment will repeal the *Co-operative Societies Ordinance*, which is a former law of the Colony of Singapore. The Western Australian Government will provide regulatory services under a Service Delivery Arrangement with the Australian Government. The change will bring the Cocos (Keeling) Islands in line with Christmas Island, where the Western Australian Government has oversight of cooperative societies.

The Ordinance provides for transitional provisions to ensure that a registered cooperative society is taken to be registered under the *Co-operatives Act 2009 (WA) (CKI)* for six months after the Ordinance commences. The Cocos Islands Cooperative Society Ltd is the only cooperative society in the Territory.

To align itself with the Western Australian regulatory framework, the Cocos Islands Cooperative Society has worked with the WA Department of Commerce. The Cocos Islands Cooperative Society supports this amendment.

*Conditions to be Satisfied*

The Act does not specify conditions that would need to be satisfied before the power to make the Ordinance may be exercised.

*Legislative Instrument*

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

*Commencement*

The Ordinance commences on the date after registration on the Federal Register of Legislative Instruments.

*Regulatory Impact Statement*

The Office of Best Practice Regulation has advised that a Regulatory Impact Statement is not required.

*Consultation*

In preparing this Ordinance, the Department advised the Federal Executive Council Secretariat that it consulted on matters contained within the *Cocos (Keeling) Islands Legislation Amendment (2017 Measures No. 1) Ordinance 2017*.

The *Cocos (Keeling) Islands Legislation Amendment (2017 Measures No. 1) Ordinance 2017* was publicly available on the Department's website and a Community Bulletin was circulated advising the Cocos (Keeling) Islands community about the proposed changes and requesting feedback. The Cocos Islands Cooperative Society Ltd advised that it was supportive of the proposed amendment.

Details of the proposed Ordinance are set out in the [Attachment](#).

The Minute recommends that the Ordinance be made in the form proposed.

Authority: Section 12(1) of the *Cocos (Keeling) Islands Act 1955*

**Details of the proposed *Cocos (Keeling) Islands Legislation Amendment (2017 Measures No. 1) Ordinance 2017***

This Attachment sets out further details of the *Cocos (Keeling) Islands Legislation Amendment (2017 Measures No. 1) Ordinance 2017*.

**Section 1 – Name**

This section provides that the title of the instrument is the *Cocos (Keeling) Islands Legislation Amendment (2017 Measures No. 1) Ordinance 2017*.

**Section 2 – Commencement**

This section provides that the Ordinance commences on the day after registration.

**Section 3 - Authority**

This section provides that the Ordinance is made under the *Cocos (Keeling) Islands Act 1955*.

**Section 4 – Schedules**

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

**Schedule 1 – Amendments**

***Applied Laws (General) Ordinance 1992***

Item 1 amends section 1 (Name of Ordinance) by omitting ‘*Applied Laws (General)*’ substituting it with ‘*Cocos (Keeling) Islands Applied Laws*’. The proposed amendment results in the name of the Ordinance being the ‘*Cocos (Keeling) Islands Applied Laws Ordinance 1992*’.

***Interpretation Act 1984 (W.A)(C.K.I.) (Amendment) Ordinance 1992***

Item 2 amends subsection 5(5) after the definition of Crown by inserting the defined term ‘notifiable instrument’, which has the same meaning as in the *Legislation Act 2003*.

Item 3 amends section 7(1)(74A) by substituting a new section 74A so that where an applied law requires or permits a person to publish in the Gazette or the Government Gazette or in a newspaper in Western Australia, which includes the Territory of the Cocos (Keeling) Islands, that requirement is satisfied by the registration of the instrument as a notifiable instrument.

Subsection 74A(2) provides that this requirement does not apply to an instrument published by or on behalf of Western Australia.

## Schedule 2 – Repeals

### *Co-operative Societies Ordinance (of the Colony of Singapore in its application to the Territory)*

#### Part 1 – Repeals

Item 1 repeals the *Co-operative Societies Ordinance*. Subsection 8A(1) of the *Cocos (Keeling) Islands Act 1955* would provide that the laws in force in Western Australia in relation to cooperative societies would apply in the Territory of the Cocos (Keeling) Islands.

#### Part 2 – Transitional provisions

Item 2 would provide for the definitions of:

*old law* which means the *Co-operative Societies Ordinance* and its application to the Territory of the Cocos (Keeling) Islands before the repeal day, and

*repeal day* means the day the Schedules commence as provided for by section 2 of the Ordinance.

Item 3 would ensure that a cooperative registered under the old law prior to repeal day is taken to be registered as a cooperative under the *Co-operatives Act 2009 (WA)(CKI)*.

Item 4 would repeal this Part, six months after the day on which the Ordinance commences.

## **Statement of Compatibility with Human Rights**

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

### ***Cocos (Keeling) Islands Legislation Amendment (2017 Measures No. 1) Ordinance 2017***

This Ordinance 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 the regulation**

The *Cocos (Keeling) Islands Legislation Amendment (2017 Measures No. 1) Ordinance 2017* (the Ordinance) makes minor amendments to laws of the Territory of the Cocos (Keeling) Islands.

These changes ensure that laws of the Territory are consistent with Australian Government policy and legislation, and with changes to applied Western Australian laws.

The amendments made by the Ordinances:

- update titles to align with current drafting practices;
- aligns Cocos (Keeling) Island gazettal processes with Notifiable Instruments under the *Legislation Act 2003*; and
- repeals and provides transitional provisions for the *Co-operative Societies Ordinance*.

#### **Human rights implications**

The Ordinance does not engage any of the applicable rights or freedoms.

#### **Conclusion**

The Ordinance is compatible with human rights, as it does not raise any human rights issues.

**FIONA NASH**

**Minister for Local Government and Territories**