



Norfolk Island Continued Laws Amendment (Child Welfare Officer) Ordinance 2018

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 07 June 2018

Peter Cosgrove
Governor-General

By His Excellency's Command

Dr John McVeigh
Minister for Regional Development, Territories and Local Government

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	1
	Schedule 1—Amendments	2
	<i>Norfolk Island Continued Laws Ordinance 2015</i>	<i>2</i>

1 Name

This Ordinance is the *Norfolk Island Continued Laws Amendment (Child Welfare Officer) Ordinance 2018*.

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.	9 June 2018

Note: This table relates only to the provisions of this Ordinance as originally made.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Each instrument that is specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Ordinance has effect according to its terms.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

Norfolk Island Continued Laws Ordinance 2015

1 Item 29AA of Schedule 1

Repeal the item, substitute:

29AA Paragraph 24(1)(a)

Repeal the paragraph, substitute:

- (a) The Commonwealth Minister may, by written instrument, appoint any of the following as the child welfare officer:
 - (i) an individual who the Minister is satisfied has suitable qualifications and experience to perform the functions of the child welfare officer;
 - (ii) an individual who holds a position in a body that specialises in providing, or facilitating the provision of, child welfare services if the Minister is satisfied that the position is sufficiently senior to perform the functions of the child welfare officer;
 - (iii) an SES employee or acting SES employee, or an individual who performs the duties of an office or position in a Department of State or other body that is a part, or authority, of the Commonwealth, if the office or position is at a level equivalent to or higher than that of an SES employee;
 - (iv) an individual who holds or performs the duties of an office or position in a Department of State or other body that is a part, or authority, of a State or Territory, if the office or position is at a level equivalent to or higher than that of an SES employee.

Note: For subparagraph (a)(iii) and (iv), *SES employee* and *acting SES employee* are defined in section 2B of the *Acts Interpretation Act 1901* of the Commonwealth (applying because of section 8A of the *Interpretation Act 1979*).

- (aa) However, the Commonwealth Minister may only make an appointment under subparagraph (a)(iv) if:
 - (i) the Department of State or other body has functions that include providing child welfare services; and
 - (ii) the State or Territory agrees to the appointment.
- (ab) The Commonwealth Minister may determine the terms and conditions of an appointment under paragraph (a), including remuneration and allowances.

2 Items 29AC, 29AD and 29A of Schedule 1

Repeal the items, substitute:

29A Paragraphs 24(1)(c) and (d)

Repeal the paragraphs, substitute:

- (c) The Commonwealth Minister may, by written notice, terminate the appointment of the child welfare officer at any time.

3 After item 30 of Schedule 1

Insert:

30AAA Subsection 26(1)

Omit “public sector agency”, substitute “defined entity (within the meaning of subsection 27(11))”.

30AAB Subsection 26(2)

Repeal the subsection, substitute:

- (2) The entity must promptly comply with the request if:
 - (a) the entity is covered by paragraph (c), (ca), (cb), (d), (e), (f), (g), (h) or (j) of the definition of *defined entity* in subsection 27(11); or
 - (b) the entity is covered by paragraph (k) of that definition, unless the entity is contracted as mentioned in that paragraph by a Department of State or other body that is a part, or authority, of a State or Territory.
- (3) Subsection (4) applies if a law of a State or Territory:
 - (a) limits disclosure of some or all of the information covered by the request by a Department of State or other body that is a part, or authority, of the State or Territory, or by a body or person acting on behalf of such a Department or other body; and
 - (b) exempts from the limitation a disclosure authorised by a law in force in Norfolk Island.
- (4) For the purposes of the exemption, the Department or other body or person may disclose to the child welfare officer the information covered by the request.

4 After item 30AB of Schedule 1

Insert:

30ABA Subsection 27(11) (paragraph (c) of the definition of *defined entity*)

Repeal the paragraph, substitute:

- (c) the public service;
- (ca) a territory instrumentality;
- (cb) a holder of an office established by an enactment;

5 Item 30AC of Schedule 1 (paragraph (j) of the definition of *defined entity*)

Repeal the paragraph, substitute:

- (j) a Department of State or other body that is a part, or authority, of the Commonwealth;
- (ja) a Department of State or other body that is a part, or authority, of a State or Territory;

6 Item 31 of Schedule 1 (section 32)

Omit “The child welfare officer”, substitute “(1) The child welfare officer”.

7 Item 31 of Schedule 1 (paragraph 32(c))

Repeal the paragraph (not including the note), substitute:

- (c) an individual who:

- (i) holds or performs the duties of an office or position in a Department of State or other body that is a part, or authority, of the Commonwealth or of a State or Territory, if the office or position is, or is equivalent to or higher than, an Executive Level 2 position in the Australian Public Service; and
- (ii) has suitable qualifications and experience to perform the functions or exercise the powers under the Act or the interstate law; or
- (d) if the child welfare officer was appointed under subparagraph 24(1)(a)(ii):
 - (i) an employee of the body mentioned in that subparagraph; or
 - (ii) an individual engaged by that body to provide child welfare services.

8 Item 31 of Schedule 1 (at the end of section 32)

Add:

- (2) If a function or power is delegated under subsection (1) to a person referred to in paragraph (1)(c), the person need not accept the function or power delegated.

9 After item 32AB of Schedule 1

Insert:

32AC Before subsection 186(1)

Insert:

- (1A) A person who acquires information or a document under this Act may:
 - (a) make a record of the information or document; or
 - (b) divulge or communicate the information or document to any person;if the recording, divulging or communication is for the purposes of this Act or as required by law.

32AD Section 187

After “welfare officer,”, insert “a delegate of the child welfare officer,”.