



Norfolk Island Applied Laws Amendment (Local Government Elections) Ordinance 2018

I, the Honourable Paul de Jersey AC, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Ordinance.

Dated 06 December 2018

Paul de Jersey AC
Administrator of the Government of the Commonwealth of Australia

By His Excellency's Command

Sussan Ley
Assistant Minister for Regional Development and Territories
Parliamentary Secretary to the Deputy Prime Minister and Minister for Infrastructure,
Transport and Regional Development

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1 Name

This Ordinance is the *Norfolk Island Applied Laws Amendment (Local Government Elections) 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.	8 December 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Note: This table relates only to the provisions of this Ordinance as originally made.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Each instrument that is specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Ordinance has effect according to its terms.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 Applied Laws Ordinance 2016

1 Schedule 4 (heading)

Repeal the heading, substitute:

Schedule 4—Amendment of the Local Government Act 1993 (NSW) and the Local Government (General) Regulation 2005 (NSW)

2 After item 4 of Schedule 4

Insert:

4A Paragraph 210A(1)(a)

Omit “appropriate districts (within the meaning of the *Electoral Act 2017*)”, substitute “the area constituted under section 204A”.

3 After item 17 of Schedule 4

Insert:

17A Chapter 10 (after the heading)

Insert:

Note: Subsection 18B(2) of the *Norfolk Island Act 1979* of the Commonwealth has the effect of vesting the powers (including the functions and duties) of the Electoral Commissioner and the Electoral Commission (and other persons or authorities) under this Act and the regulations, as in force in Norfolk Island, in:

- (a) the Commonwealth Minister who administers the *Norfolk Island Act 1979* of the Commonwealth; and
- (b) any other person or authority authorised by a direction or delegation under subsection 18B(3) or (4) of that Act.

17B Subsection 269(1)

Omit “(within the meaning of the *Electoral Act 2017*)”, substitute “on a Roll (within the meaning of the *Commonwealth Electoral Act 1918* of the Commonwealth)”.

17C Subsection 270(2)

Omit “strata plan that is registered under the *Strata Schemes Development Act 2015*”, substitute “plan of community division that is registered under the *Community Title Act 2015* of Norfolk Island”.

4 After item 19 of Schedule 4

Insert:

19A Subsection 296(7)

Repeal the subsection.

19B Subsection 298(2)

Repeal the subsection, substitute:

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- (2) The Electoral Commissioner may use information kept on a Roll (within the meaning of the *Commonwealth Electoral Act 1918* of the Commonwealth), or an extract of such a Roll, as a source of information for compiling the residential roll.

19C Before subsection 299(1A)

Insert:

- (1AA) As soon as is practicable after the day on which the *Norfolk Island Applied Laws Amendment (Local Government Elections) Ordinance 2018* commences, the general manager is to prepare a roll of non-resident owners of rateable land within the area for the first election to be held after that day and keep it updated.

19D Subsection 299(1)

Omit “that roll of non-resident owners of rateable land”, substitute “the roll prepared for that election under subsection (1AA) or (1A)”.

19E Before subsection 300(1A)

Insert:

- (1AA) As soon as is practicable after the day on which the *Norfolk Island Applied Laws Amendment (Local Government Elections) Ordinance 2018* commences, the general manager is to prepare a roll of occupiers and ratepaying lessees (of land within the area) for the first election to be held after that day and keep it updated.

19F Subsection 300(1)

Omit “that roll of occupiers and ratepaying lessees”, substitute “the roll prepared for that election under subsection (1AA) or (1A)”.

19G Subsection 303(3)

Omit “*Administrative Decisions Review Act 1997*”, substitute “*Administrative Review Tribunal Act 1996* of Norfolk Island”.

19H Subsection 328A(1)

Omit “New South Wales”.

19J At the end of Chapter 10

Add:

Part 10—Information privacy**331A Information privacy***Scope*

- (1) This section applies in relation to the exercise of powers (*election powers*) for any purpose under this Act in relation to the preparation for, or the conduct of, elections.

- (2) A reference in this section to the exercise of election powers includes a reference to the performance of functions and duties related to the preparation for, or the conduct of, elections.

Collection, use and disclosure of personal information for elections

- (3) To avoid doubt, a person is authorised to collect, use or disclose personal information within the meaning of the *Privacy Act 1988* of the Commonwealth (**authorised information**) in the course of the person’s exercise of the election powers of any of the following:
- (a) the Electoral Commissioner;
 - (b) the Electoral Commission;
 - (c) a general manager;
 - (d) a returning officer (or substitute returning officer);
 - (e) an electoral official.
- (4) In addition, a person (the **principal**) mentioned in an item in column 1 of the following table, and any person acting on the principal’s behalf, is authorised to collect, use or disclose authorised information if:
- (a) in the case of the principal—the principal reasonably believes it to be necessary for a purpose mentioned in column 2 in relation to that item; or
 - (b) in the case of a person acting on the principal’s behalf—the principal, or that person, reasonably believes it to be necessary for a purpose mentioned in column 2 in relation to that item.

Other persons who may collect, use and disclose authorised information

Item	Column 1	Column 2
1	A person engaged by the general manager as an electoral services provider to administer, or to assist in administering, an election (see section 296AA)	Administering, or assisting in administering, the election, in accordance with the terms of engagement.

5 After item 45 of Schedule 4

Insert:

45A Subsection 694(2)

Omit “referred to in section 39 of the *Constitution Act 1902*”.

6 After item 46 of Schedule 4

Insert:

46A Dictionary (paragraph (a) of the definition of *election*)

Repeal the paragraph.

46B Dictionary (definition of *Electoral Commissioner*)

Repeal the definition.

7 At the end of Schedule 4

Add:

Local Government (General) Regulation 2005**49 Subclause 275(1) (definition of *driver licence*)**

Repeal the definition, substitute:

driver licence means a licence issued under the *Traffic Act 2010* of Norfolk Island.

50 Subclause 275(1) (definition of *Electoral Commission*)

Repeal the definition (including the note).

51 Subclause 275(1) (definition of *Photo Card*)

Repeal the definition.

52 Paragraph 281(1)(g)

Omit “(or section 16 or 16A of the *City of Sydney Act 1988*)”.

53 Subclause 295(4)

Omit “New South Wales”.

54 Paragraph 320C(2)(b)

Omit “a Photo Card”, substitute “other documentary evidence of the person’s identity”.

55 Subclause 320C(3) (note)

Omit “a driver licence or a Photo Card”, substitute “proof of identity under paragraph (2)(b)”.

56 Paragraph 356E(3)(c)

Repeal the paragraph, substitute:

(c) on a vehicle on a public road or a public road related area, or

57 At the end of clause 356E

Add:

(4) In this clause:

public road has the same meaning as in the *Traffic Act 2010* of Norfolk Island.

public road related area means:

- (a) an area that divides a public road, or
- (b) a footpath or nature strip adjacent to a public road, or
- (c) an area that is open to the public and is designated for use by cyclists or animals, or
- (d) a shoulder of a public road, or
- (e) an area that is not a public road, if the area is open to or used by the public for driving, riding or parking vehicles, whether or not it is primarily designed or used for that purpose.

58 Paragraph 356I(2)(b)

Omit “development consent in force under the *Environmental Planning and Assessment Act 1979* in relation to its use as a place of public entertainment”, substitute “development approval under the *Planning Act 2002* of Norfolk Island in relation to its use as a place of assembly within the meaning of the *Norfolk Island Plan 2002* of Norfolk Island”.

59 Subclause 393AA(1)

Omit “and each first election for an area after its constitution”.

60 Schedule 11 (Form 1, note 1)

Omit “on the back of this form may be used for this purpose”, substitute “prescribed for the purposes of paragraph 8(a) of the *Statutory Declarations Act 1959* of the Commonwealth may be used for this purpose. The form could in 2018 be accessed through the website of the Commonwealth Attorney-General’s Department (<https://www.ag.gov.au>).”.

61 Schedule 11 (Form 1, note 2)

Omit “Australian Electoral Commission or the State Electoral Office”, substitute “Electoral Commission”.

62 Schedule 11 (Form 1)

Omit all the words after note 2.

63 Schedule 11 (Forms 2 and 3, paragraph (e) of the statistical information sheet)

Omit “New South Wales”, substitute “Norfolk Island”.