

## **EXPLANATORY STATEMENT**

Issued by the authority of the Assistant Minister for Regional Development and Territories,  
Parliamentary Secretary to the Deputy Prime Minister and Minister for Infrastructure,  
Transport and Regional Development

*Norfolk Island Continued Laws Ordinance 2015*

### **Norfolk Island Continued Laws Amendment (Registration of Births, Deaths and Marriages) Ordinance 2020**

#### Authority

The *Norfolk Island Act 1979* (the Norfolk Island Act) provides for the government of the Territory of Norfolk Island (Norfolk Island). Section 19A of the Norfolk Island Act provides that the Governor-General may make Ordinances for the peace, order and good government of Norfolk Island.

The *Norfolk Island Continued Laws Amendment (Registration of Births, Deaths and Marriages) Ordinance 2020* (the Ordinance) is made under section 19A of the Norfolk Island Act.

The Ordinance amends the *Norfolk Island Continued Laws Ordinance 2015* (the Continued Laws Ordinance). The Continued Law Ordinance is the mechanism through which amendments to Norfolk Island continued laws, including the *Registration of Births, Deaths and Marriages Act 1963* (NI) (the Act), can be made.

Subsection 17(3) of the Norfolk Island Act provides that Norfolk Island laws continued in force under either section 16 or 16A of the Norfolk Island Act may be amended or repealed by an Ordinance made under section 19A.

#### Purpose and operation

The Act provides for the appointment of the Registrar of Births, Deaths and Marriages and a Deputy Registrar of Births, Deaths and Marriages and establishes arrangements for the keeping of registers of births, deaths, marriages, changes of name, and reassignment of sex.

The primary purpose of the Ordinance is to amend the Act to improve the administration of the Register of Births, the Register of Deaths, and the Register of Marriages, and provide for a contemporary process for registering changes of name.

The Act contains various references to prescribed forms and particulars (information), but no forms or particulars have been prescribed. The amendments address this gap.

Other amendments are required to modernise the Act consistent with approaches in other Australian jurisdictions.

The Ordinance implements the following key measures:

- allowing registration of a married person's reassignment of sex (in line with the *Sex Discrimination Act 1984* (Cth));

- updating the process for registering a change of name for adults and children and creating a contemporary Register of Changes of Name (in line with other Australian jurisdictions);
- allowing the Norfolk Island Registrar of Births, Deaths and Marriages (the Registrar) to refuse to register a ‘prohibited name’, either at birth or when changing a name (in line with other Australian jurisdictions);
- setting out the types of personal information required for registration, similar to the data collected in other Australian jurisdictions; and
- allowing the Registrar to determine forms and notices to be used to supply other information for the purposes of the Act.

The amendments also modernise the Act, including by:

- updating terminology and providing gender-neutral language;
- amending outdated references to legislation; and
- repealing an inoperative provision about notifying the Registrar of intention to marry overseas, made redundant with the application of the *Marriage Act 1961* (Cth) in Norfolk Island.

### Consultation

The Department of Infrastructure, Transport, Regional Development and Communications (the department) consulted broadly about the measures included in the Ordinance. The department released a public consultation paper in 2019 outlining the proposed changes, which elicited no comments, and liaised with the Registrar and the Norfolk Island Coroner during the drafting of the Ordinance.

### Other

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

The Ordinance commences on 1 January 2021.

Details of the Ordinance are set out in the Attachment.

## 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 (Registration of Births, Deaths and Marriages) Ordinance 2020**

This Disallowable Legislative Instrument 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 Disallowable Legislative Instrument**

##### Purpose and operation

The Norfolk Island *Registration of Births, Deaths and Marriages Act 1963* (NI) (the Act) provides for the appointment of the Registrar of Births, Deaths and Marriages and a Deputy Registrar of Births, Deaths and Marriages and establishes arrangements for the keeping of registers of births, deaths, marriages, changes of name, and reassignment of sex.

The primary purpose of the Ordinance is to amend the Act to improve the administration of the Register of Births, the Register of Deaths, and the Register of Marriages, and provide for a contemporary process for registering changes of name.

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- setting out the types of personal information required for registration, similar to the data collected in other Australian jurisdictions; and
- allowing the Registrar to determine forms and notices to be used to supply other information for the purposes of the Act.

The amendments also modernise the Act, including by:

- updating terminology and providing gender-neutral language;
- amending outdated references to legislation; and

- repealing an inoperative provision about notifying the Registrar of intention to marry overseas, made redundant with the application of the *Marriage Act 1961* (Cth) in Norfolk Island.

## **Human rights implications**

The Ordinance engages the following rights:

- the rights of equality and non-discrimination in Articles 2 and 26 of the *International Covenant on Civil and Political Rights* (ICCPR);
- the rights of a child to be protected from discrimination or punishment in Article 2 of the *Convention on the Rights of the Child* (CRC) and Article 14 of the CRC which protects a child’s right to freedom of thought, conscience and religion;
- the right to freedom of opinion and expression in Article 19 of the ICCPR; and
- the right to privacy in Article 17 of the ICCPR.

### ***The rights of equality and non-discrimination***

Article 2.1 of the ICCPR provides that “[e]ach State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

Article 2.2 of the ICCPR provides that “[w]here not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in the present Covenant”.

Article 26 of the ICCPR provides that “[a]ll persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.

The Ordinance promotes these rights by removing the restriction on a married person to register their reassignment of sex. In removing this discriminatory restriction, the Act is aligned with the *Sex Discrimination Act 1984* (Cth).

### ***The rights of a child***

Article 2 of the CRC provides that “States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members”.

Article 14 provides that “States Parties shall respect the right of the child to freedom of thought, conscience and religion” while respecting the rights and duties of the parents to provide appropriate direction to the child.

The CRC provides that limitations on these rights are permissible to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

The Ordinance promotes the rights of the child by preventing the parents, a sole parent, or a guardian giving the child a prohibited name at birth, which could have adverse consequences for the child. The Ordinance provides the Registrar with authority to refuse to register a prohibited name in the Register of Births. This aligns the law in Norfolk Island with equivalent laws in other Australian jurisdictions.

The Ordinance also promotes a child's right to freedom of thought in the context of a change of name. The Ordinance provides that if the child is between 12 and 18 years of age, the child must consent to the change of name, unless the child is unable to understand the meaning and implications of the change of name.

These safeguards positively enhance the rights of a child.

### ***The right to freedom of opinion and expression***

Article 19.2 of the ICCPR provides that “[e]veryone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”.

Article 19.3 of the ICCPR provides that the exercise of the rights in paragraph 19.2 are subject to special duties and responsibilities and certain restrictions may apply to respect the rights or reputation of others and for the protection of national security or public order, or of public health or morals.

The restriction on an adult to change their name to anything they like is limited in the Ordinance to names that are not prohibited. The Ordinance defines *prohibited name* as meaning names that are obscene or offensive, or could not practicably be established by report or usage (such as, being too long, or consisting of or containing symbols without phonetic significance), or including or resembling an official title or rank, or a name which is contrary to the public interest for some other reason.

This is an appropriate limitation on a person's right to freedom of expression, given the above mentioned permissible restrictions on these rights in order to, among others, protect national security, public order or morals.

### ***The right to privacy***

Article 17 of the ICCPR provides that “[n]o one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks”.

The Ordinance engages the guarantees in Article 17 of the ICCPR, given the collection and storage of personal information in the registers of births, deaths and marriages as well as the particulars to be provided for an application for a change of a name and for reassignment of sex.

The Ordinance prescribes the particulars that must be provided to the Registrar for registration of a birth and registration of a death, as well as particulars to be given when

applying to register a reassignment of sex, and particulars to be included in a Coroner's permit, where a death has been reported to the Coroner, for the body to be taken out of the Territory for burial or cremation.

Some information is so fundamental to the maintenance of proper records that the requirements should be spelt out in legislation, particularly in cases where standard information is collected across Australian jurisdictions. While there is no single consistent dataset collected by registries of births, deaths and marriages in Australian states and territories, there are commonalities, such as:

- provision of names (first and last name);
- sex;
- date and place of birth, marriage or death;
- parents' names (and former names if applicable);
- names of medical practitioners (if applicable); and
- applicants may be required to give their occupation and contact details.

The particulars in the Ordinance are the minimum amount of information that needs to be recorded to ensure accurate and verifiable records can be kept by the Registrar.

It is important for the Registrar to maintain an official record of significant events in the lives of community members. A person may rely on the keeping of these records by the Registrar, for instance when needing a copy of their birth certificate to confirm their identity if the original certificate has been lost. Maintaining the integrity of data in birth registries is important because birth registration is intended to preserve information in perpetuity and provide governments with information for law enforcement, planning and funding purposes and for processing passports and driver licences.

Access to the registries and the information they contain is restricted to the Registrar and Deputy Registrar.

A further safeguard is provided through the protection of the information under the *Privacy Act 1988* (Cth) (the Privacy Act) which applies in Norfolk Island. The Registrar will be required to collect and store the information in the registers in accordance with the Privacy Act. The Privacy Act sets out the applicable Information Privacy Principles which deal with all stages of the processing of personal information, setting out standards for the collection, storage, security, use, disclosure and quality of personal information. They also create obligations on organisations regarding access to, and correction of, an individual's own personal record.

The *Freedom of Information Act 1982* (Cth) (the FOI Act) also applies in Norfolk Island. The FOI Act enables a person to request access to their personal records held by the Registrar. A person may apply in writing to the Registrar to ask for an amendment, if required.

## **Conclusion**

The Disallowable Legislative Instrument is compatible with human rights because to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

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

**The Hon Nola Marino MP**

## **ATTACHMENT—NOTES ON CLAUSES**

This attachment explains the operation of individual provisions in the *Norfolk Island Continued Laws Amendment (Registration of Births, Deaths and Marriages) Ordinance 2020* (the Ordinance).

### **Section 1 – Name of Ordinance**

This section provides that the name of the Ordinance is the *Norfolk Island Continued Laws Amendment (Registration of Births, Deaths and Marriages) Ordinance 2020* (the Ordinance).

### **Section 2 – Commencement**

This section provides for the Ordinance to commence on 1 January 2021.

### **Section 3 – Authority**

This section provides that the Ordinance is made under section 19A of the *Norfolk Island Act 1979*.

### **Section 4 – Schedules**

This section provides that 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, 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 278 of Schedule 1**

Amending item 1 repeals item 278 of Schedule 1 to the *Norfolk Island Continued Laws Ordinance 2015* (the Continued Laws Ordinance). Item 278 of Schedule 1 is an amendment that has already been made to subsection 22(1) of the *Registration of Births, Deaths and Marriages Act 1963* (NI) (the Act). However, item 278 of Schedule 1 is repealed as part of the changes to implement the contemporary process for registering changes of name discussed at item 278ZA below.

Item 278 of Schedule 1 is re-used to simplify the numbering of the amending items and so that all amendments to the Act appear in sequence in the Continued Law Ordinance.

Amending item 1 inserts items 278 to 278ZJ into Schedule 1 to the Continued Laws Ordinance which in turn amends the Act.

The Continued Laws Ordinance is the mechanism through which amendments to the Act can be made.

##### **Item 278—Section 2**

Item 278A repeals section 2 which refers to a list of parts in the Act. Section 2 is superfluous as the structure of parts in the Act can be ascertained from the table of contents of the Act.



### **Item 278A—Subsection 5(1)**

Item 278A inserts a definition of *corresponding law* in subsection 5(1) to mean a law of a State or another Territory that provides for the registration of births, deaths and marriages.

### **Item 278B—Subsection 5(1) (definition of *medical practitioner*)**

Item 278B inserts an updated definition of *medical practitioner* in subsection 5(1) to mean a registered medical practitioner within the meaning of the *Health Practitioners Act 1983* (NI).

### **Item 278C—Subsection 5(1) (definition of *parent*)**

Item 278C repeals the definition of *parent* in subsection 5(1). This definition refers to gender-specific concepts of parenthood to define the legitimacy of a child.

### **Item 278D—Subsection 5(1)**

Item 278D inserts definitions for *particulars required to be entered in the Register of Births* and *particulars to be entered in the Register of Deaths* in subsection 5(1) to mean particulars described in subsections 11(3) and 26(3), respectively.

### **Item 278E—Subsection 5(1)**

Item 278E inserts a definition of *prohibited name* in subsection 5(1).

### **Item 278F—Subsections 5(2) and (5)**

Item 278F repeals subsections 5(2) and (5). These amendments are consequential to other amendments regarding particulars required to be entered in the registers of births or deaths, and amendments to administration of forms, respectively.

### **Item 278G—After section 7**

Item 278G inserts subsection 7A after section 7 to provide that the Registrar may require that information (however described) required or permitted by this Act to be given to the Registrar be verified by a statutory declaration.

### **Item 278H—Subsection 8(1)**

Item 278H inserts ‘the Register of Changes of Name,’ after ‘Births’ in subsection 8(1).

### **Item 278J—Subsection 8(2)**

Item 278J inserts ‘the Register of Changes of Name’ after ‘Births’ in subsection 8(2).

### **Item 278K—At the end of section 8**

Item 278K inserts subsections 8(5) and (6) into section 8, which provides for the Register of Changes of Name to include instruments deposited under sections 20 and 21 before the commencement of this subsection and the index that was kept under section 52 immediately before the commencement of this subsection.

**Item 278L—Section 9 (heading)**

Item 278L inserts ‘changes of name,’ after ‘births’ in the heading of section 9.

**Item 278M—Paragraph 9(2)(b)**

Item 278M omits ‘under the hand of that person’ in paragraph 9(2)(b).

**Item 278N—At the end of section 11**

Item 278N inserts subsections (3), (4) and (5) under section 11. Subsection 11(3) provides particulars to be entered in the Register of Births in relation to a child. Subsection 11(4) provides authority for the Registrar to refuse to enter in the Register of Births a prohibited name. Subsection 11(5) provides that applications may be made to the Norfolk Island Administrative Review Tribunal for review of a refusal by the Registrar under subsection 11(4).

**Item 278P—Subsection 12(3)**

Item 278P omits ‘under the hand of the occupier’ in subsection 12(3).

**Item 278Q—Subsection 13(1)**

Item 278Q omits ‘that are’ in subsection 13(1).

**Item 278R—Subsection 13(2)**

Item 278R omits ‘(not being a parent of the child)’ in subsection 13(2).

**Item 278S—Paragraph 13(2)(b)**

Item 278S repeals paragraph 13(2)(b) which refers to gender-specific concepts of parenthood and substitutes with non-gender specific references.

**Item 278T—Subsection 14(2)**

Item 278T omits ‘that are’ in subsection 14(2).

**Item 278U—Subsection 15(2)**

Item 278U omits ‘by writing under his hand’ and substitutes with ‘in writing’ in subsection 15(2).

**Item 278V—Paragraphs 16(2)(c) and 17(1)(b)**

Item 278V omits ‘by writing under his hand’ and substitutes with ‘in writing’ in paragraphs 16(2)(c) and 17(1)(b).

**Item 278W—At the end of Division 1 of Part 3**

Item 278W inserts section 17A at the end of Division 1 of Part 3. Section 17A requires a person to provide certain details to the Registrar if providing particulars under section 12, 13, 14, 15 or 16.

**Item 278X—Division 2 of Part 3 (heading)**

Item 278X repeals the heading of Division 2 of Part 3.

**Item 278Y—Sections 19, 20 and 21**

Item 278Y repeals sections 19, 20 and 21. These amendments are consequential to other amendments regarding the changes to the registration of changes of name under Part 3A.

**Item 278Z—Section 22 (heading)**

Item 278Z repeals the heading of section 22 and substitutes it with a new heading ‘Certified copies of entry in Register of Births to include any particulars of change of name in entry’.

**Item 278ZA—Subsection 22(1)**

Item 278ZA repeals subsection 22(1). This amendment is consequential to other amendments regarding the changes to the registration of changes of name under Part 3A.

**Item 278ZB—Subsection 22(2)**

Item 278ZB omits ‘(2)’ in subsection 22(2).

**Item 278ZC—Subsection 22(2)**

Item 278ZC repeals ‘the particulars entered in accordance with section 19 or subsection 22(1)’ and substitutes with ‘those particulars’ in subsection 22(2).

**Item 278ZD—Subsection 22(3)**

Item 278ZD repeals subsection 22(3). This amendment is consequential to other amendments regarding the changes to the registration of changes of name under Part 3A.

**Item 278ZE—Section 23**

Item 278ZE repeals section 23. This amendment is consequential to other amendments regarding the changes to the registration of changes of name under Part 3A.

**Item 278ZF—Subsection 23A(1)**

Item 278ZF omits ‘only if the person is not married’ in subsection 23A(1).

**Item 278ZG—After subsection 23B(3)**

Item 278ZG inserts subsection 23B(3A) after subsection 23B(3). Subsection 23B(3A) provides details to be provided in an application to note the reassignment of a person’s sex.

**Item 278ZH—Paragraph 23B(4)(a)**

Item 278ZH repeals paragraph 23B(4)(a). This amendment removes the reference to ‘in the approved form’.

**Item 278ZI—At the end of subparagraph 23B(4)(b)(ii)**

Item 278ZI adds ‘and’ at the end of subparagraph 23B(4)(b)(ii).

**Item 278ZJ—Paragraphs 23B(4)(c) and (d)**

Item 278ZJ repeals paragraphs 23B(4)(c) and (d). These amendments remove references to prescribed information or documents.

**[2]—After item 279 of Schedule 1**

Amending item 2 inserts items 279A to 279ZH, including Part 3A—Register of changes of name, into Schedule 1 to the Continued Laws Ordinance which in turn amends the Act. The Continued Law Ordinance is the mechanism through which amendments to the Act can be made.

**Item 279A—After subsection 23B(5)**

Item 279A inserts subsection 23B(5A) after subsection 23B(5) to provide that applications may be made to the Norfolk Island Administrative Review Tribunal for review of refusals by the Registrar of applications made under other provisions of this section.

**Item 279B—Subsection 23B(6) (definition of *doctor*)**

Item 279B omits ‘person registered as a medical practitioner under a law of another State or country corresponding to the *Medical Practitioners Registration Act 1983*’ and substitutes with ‘medical practitioner and a person registered as a medical practitioner under a law of a foreign country corresponding to the *Health Practitioners Act 1983*’ in subsection 23B(6).

**Item 279C—Subsection 23C(6)**

Item 279C repeals subsection 23C(6). This amendment is consequential to other amendments regarding the changes to the registration of changes of name under Part 3A.

**Item 279D—Subsection 23C(7) (definition of *corresponding law*)**

Item 279D repeals the definition of ‘corresponding law’ in subsection 23C(7) as this definition has been relocated to subsection 5(1).

**Item 279E—Paragraph 24(1)(a)**

Item 279E omits ‘in accordance with a form approved by the Minister and made available to medical practitioners,’ in paragraph 24(1)(a).

**Item 279F—Paragraph 24(1)(b)**

Item 279F omits ‘, in accordance with the form prescribed by regulation,’ in paragraph 24(1)(b).

**Item 279G—Paragraph 25(1)(a)**

Item 279G omits ‘in accordance with the form prescribed by regulation, relating to the birth, signed by a medical practitioner’ and substitutes with ‘signed by a medical practitioner, that

the practitioner has signed a certificate, relating to the child, as required by paragraph 24(1)(a)'.

#### **Item 279H—Subsection 25(3)**

Item 279H omits 'in accordance with the form prescribed by regulation' and substitutes with 'stating that the body was disposed of and, if possible, identifying the mother of the child' in subsection 25(3).

#### **Item 279J—After Part 3**

Item 279J inserts Part 3A 'Registration of changes of name' after Part 3 with the following provisions:

- Section 25A authorises a change of name by registration.
- Section 25B establishes an application process to register a change of an adult's name.
- Section 25C and 25D establishes an application process to register a change of a child's name, including requiring that if a child is at least 12 years old, but less than 18 years old, the change of name must not be registered unless the child consents to the change, or the child is unable to understand the meaning and implications of the change of name.
- Section 25E enables the Registrar to seek evidence from the applicant in relation to the person's identity and age, and that the change of name is not sought for a fraudulent or other improper purpose. If the change of name relates to a child of at least 12 years old, but less than 18 years old, the Registrar may seek evidence that the child consents to the change or that the child is unable to understand the meaning and implications of the change of name.
- Subsection 25E(3) enables the Registrar to refuse to register a name if the name would become a prohibited name.
- Subsection 25E(4) enables applications to be made to the Norfolk Island Administrative Review Tribunal for review of refusals by the Registrar under subsection 25E(3).
- Section 25F provides authority for the Registrar to register a change of name by making an entry about the change of name in the Register of Changes of Name.
- Section 25G provides that this Part does not prevent a change of name by repute or usage.

#### **Item 279K—Subsection 26(2)**

Item 279K omits 'Register is' and substitutes with 'Registrar is' in subsection 26(2).

#### **Item 279L—At the end of section 26**

Item 279L inserts subsection 26(3) at the end of section 26 to provide the particulars required to be entered in the Register of Deaths in relation to a person and the person's death.

#### **Item 279M—Subsection 29(2)**

Item 279M omits ', in accordance with the form prescribed by regulation,' in subsection 29(2).

#### **Item 279N—Section 31**

Item 279N omits ‘section 10 of the *Coroners Act 1927*’ and substitutes with ‘section 12 of the *Coroners Act 1993*’ in section 31. The *Coroners Act 1927* (NI) is no longer in force.

**Item 279P—Subsection 33(1)**

Item 279P omits ‘by writing under his hand’ and substitutes with ‘in writing’ in subsection 33(1).

**Item 279Q—Subsection 33(2)**

Item 279Q omits ‘in accordance with the form prescribed by regulations’ in subsection 33(2).

**Item 279R—At the end of section 33**

Item 279R inserts subsection 33(3) at the end of section 33. Subsection 33(3) provides what particulars must be included in a certificate under subsection 33(2).

**Item 279S—Paragraphs 34(1)(b) and (2)(b)**

Item 279S omits ‘in accordance with the form prescribed by regulations’ in paragraphs 34(1)(b) and (2)(b).

**Item 279T—Paragraph 34(3)(a)**

Item 279T repeals paragraph 34(3)(a) which refers to ‘form approved by the Minister and made available to medical practitioners’.

**Item 279U—Paragraph 34(5)(h)**

Item 279U omits ‘hospital for the insane’ and substitutes with ‘mental health facility’ in paragraph 34(5)(h).

**Item 279V—Paragraph 35(1)(a)**

Item 279V omits ‘in accordance with the form prescribed by regulation, signed by a medical practitioner’ and substitutes with ‘signed by a medical practitioner, that the practitioner has signed a certificate, relating to the death of a person whose body is to be buried, as required by paragraph 34(1)(a) or (2)(a)’ in paragraph 35(1)(a).

**Item 279W—Paragraph 35(1)(b)**

Item 279W omits ‘under the hand’ and substitute with ‘from’ in paragraph 35(1)(b).

**Item 279X—Paragraph 35(2)(a)**

Item 279X omits ‘in accordance with the form prescribed by regulation’ and substitutes with ‘described in paragraph (1)(a)’ in paragraph 35(2)(a).

**Item 279Y—Paragraph 35(2)(b)**

Item 279Y omits ‘under the hand’ (wherever occurring) in paragraph 35(2)(b).

### **Item 279Z—Section 37**

Item 279Z omits ‘, in accordance with the form prescribed by regulation’ and substitutes with ‘stating that the body was buried, where it was buried and, if known, the name of the person whose body it was’ in section 37.

### **Item 279ZA—Section 38**

Item 279ZA omits ‘, in accordance with the form prescribed by regulation,’ in section 38.

### **Item 279ZB—Paragraph 39(1)(a)**

Item 279ZB omits ‘in accordance with the form prescribed by regulation, signed by a medical practitioner’ and substitutes with ‘signed by a medical practitioner, that the practitioner has complied with section 34; or’ in paragraph 39(1)(a).

### **Item 279ZC—Paragraph 39(1)(b)**

Item 279ZC omits ‘by the Coroner, in accordance with the form prescribed by regulation’ and substitutes with ‘given by the Coroner under subsection 33(2)’ in paragraph 39(1)(b).

### **Item 279ZD—Paragraph 39(1)(c)**

Item 279ZD omits ‘, in accordance with the form prescribed by regulation,’ and substitutes with ‘that the Registrar has sufficient particulars to be able to make an entry in the Register of Deaths;’ in paragraph 39(1)(c).

### **Item 279ZE—Subsection 43(1)**

Item 279ZE omits ‘under the hand’ and substitutes ‘from’ in subsection 43(1).

### **Item 279ZF—Subsection 43(1)**

Item 279ZF omits ‘prescribed Court’ and substitutes with ‘Court exercising jurisdiction under the *Family Law Act 1975* of the Commonwealth’ in subsection 43(1). The *Family Law Act 1975* (Cth) applies in Norfolk Island.

### **Item 279ZG—Subsection 43(4)**

Item 279ZG repeals subsection 43(4) which defines a ‘prescribed Court’. This is a consequential amendment to reflect the change under item 279ZF.

### **Item 279ZH—Subsection 44(5) (definition of *information with respect to the legitimation of a person*)**

Item 279ZH repeals the definition which refers to regulations which do not exist under the *Marriage Act 1961* (Cth) (the Marriage Act). The Marriage Act applies in Norfolk Island.

### **[3]—Items 281 to 285 of Schedule 1**

Amending item 3 repeals items 281 to 285 of Schedule 1 to the Continued Laws Ordinance and substitutes with the amendments outlined below.

Items 281 to 285 of Schedule 1 are amendments that have already been made to sections 52 and 57 of the Act. These items are redundant as sections 52 and 57 are repealed as part of the changes discussed at items 281A and 284 below.

Items 281 and 285 would be re-used to simplify the numbering of the amending items and so that all amendments to the Act appear in sequence in the Continued Law Ordinance.

Amending item 3 inserts items 281 to 285D into Schedule 1 to the Continued Laws Ordinance which in turn amends the Act. The Continued Laws Ordinance is the mechanism through which amendments to the Act can be made.

#### **Item 281—Paragraph 51(3)(b)**

Item 281 omits ‘, in accordance with the appropriate form prescribed by regulation’ in paragraph 51(3)(b).

#### **Item 281A—Section 52**

Item 281A repeals section 52, which refers to instruments deposited under sections 20 and 21. Sections 20 and 21 have been repealed by this Ordinance as a consequence of the amendments regarding the changes to the registration of changes of name under Part 3A.

#### **Item 281B—Subsection 53(1)**

Item 281B inserts ‘, the Register of Changes of Name’ after ‘Births’ in subsection 53(1).

#### **Item 281C—Subsection 53(1)**

Item 281C inserts ‘, change of name’ after ‘the birth’ in subsection 53(1).

#### **Item 282—Subsection 55(1)**

Item 282 inserts ‘change of name’ after ‘birth’ in subsection 55(1).

#### **Item 283—Paragraph 56(1)(c)**

Item 283 inserts ‘change of name’ after ‘birth’ in paragraph 56(1)(c).

#### **Item 283A—Subsection 56(2)**

Item 283A inserts ‘the Register of Changes of Name,’ after ‘entry in the Register of Births,’ in subsection 56(2).

#### **Item 283B—Paragraph 56(2)(b)**

Item 283B inserts ‘change of name’ after ‘the birth’ in paragraph 56(2)(b).

#### **Item 283C—Paragraph 56(2)(b)**

Item 283C inserts ‘the Register of Changes of Name,’ after ‘Register of Births,’ in paragraph 56(2)(b).



### **Item 284—Section 57**

Item 284 repeals section 57 which provides that a person ordinarily resident in Norfolk Island may give the Registrar notice of their intention to marry overseas. As the *Marriage Act 1961* (Cth) applies in Norfolk Island, this provision is redundant.

### **Item 285—Subsection 58(1)**

Item 285 inserts ‘change of name’ after ‘birth’ in subsection 58(1).

### **Item 285A—Paragraph 58(3)(a)**

Item 285A inserts ‘change of name’ after ‘the birth,’ in paragraph 58(3)(a).

### **Item 285B—Paragraph 58(3)(a)**

Item 285B inserts ‘changed name,’ after ‘born’ in paragraph 58(3)(a).

### **Item 285C—Paragraph 58(3)(b)**

Item 285C inserts ‘the Register of Changes of Name,’ after ‘Register of Births,’ in paragraph 58(3)(b).

### **Item 285D—Sections 60, 61 and 63**

Item 285D repeals sections 60, 61 and 63. Sections 60 and 63 refer to compliance with forms, and regulation making power, respectively. These provisions are redundant based on the above mentioned amendments. Section 61 refers to a right of a minister of religion to require or receive a fee for or in respect of the performance of the religious rite of baptism or burial.