

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 Act 1979

Norfolk Island Legislation Amendment (Queensland Consequential Amendments) Ordinance 2021

Authority

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

The *Norfolk Island Legislation Amendment (Queensland Consequential Amendments) Ordinance 2021* (the Ordinance) is made under section 19A of the Act.

Purpose and operation

The *Norfolk Island Legislation Amendment (Queensland Consequential Amendments) Ordinance 2021* amends the *Norfolk Island Applied Laws Ordinance 2016* to allow the Minister to delegate their powers, by legislative instrument, to make rules amending that Ordinance under subsection 7(1) to the Secretary of the Department of Infrastructure, Transport, Regional Development and Communications (the Department) or a Deputy Secretary of the Department. When exercising powers under a delegation, the delegate must comply with the directions of the Minister. The delegate will not be able to make new rules after 31 December 2022, but any rules made by a delegate before that date will continue in effect.

The Ordinance also amends the *Norfolk Island Continued Laws Ordinance 2015* to allow the Minister to delegate their powers, by legislative instrument, to make rules amending that Ordinance under subsection 6(1) to the Secretary of the Department or a Deputy Secretary of the Department. When exercising powers under a delegation, the delegate must comply with the directions of the Minister. The delegate will not be able to make new rules after 31 December 2022, but any rules made by a delegate before that date will continue in effect.

The Australian and Queensland Governments signed the Intergovernmental Partnership Agreement on State Service Delivery to Norfolk Island (IGA) on 26 October 2021 to transition responsibility for state-level health and education service provision from New South Wales to Queensland from 1 January 2022.

The Ordinance complements the implementation and operation of the IGA

Consultation

The Department has worked with the Norfolk Island community to seek their views on service delivery and to provide guidance and support to those impacted by the transition. This work has been undertaken in line with the Norfolk Island Community Engagement Framework.

There has been a strong focus from all parties on the teachers, students and parents of the Norfolk Island Central School and ensuring those engaged with the Norfolk Island Health and Residential Aged Care Service are provided with guidance and support as the transition approaches and is implemented.

As the incoming service provider, the Queensland Government has been actively involved in the development of all relevant instruments. Queensland officials are also undertaking their own engagement with Norfolk Island stakeholders, including visits to the island. As the outgoing service provider, the New South Wales Government has engaged with the Australian and Queensland Governments.

Other

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

The Ordinance commences the day after registration.

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 Legislation Amendment (Queensland Consequential Amendments) Ordinance 2021

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 Ordinance

The *Norfolk Island Legislation Amendment (Queensland Consequential Amendments) Ordinance 2021* amends the *Norfolk Island Applied Laws Ordinance 2016* to allow the Minister to delegate their powers, by legislative instrument, to make rules amending that Ordinance under subsection 7(1) to the Secretary of the Department of Infrastructure, Transport, Regional Development and Communications (the Department) or a Deputy Secretary of the Department. When exercising powers under a delegation, the delegate must comply with the directions of the Minister. The delegate will not be able to make new rules after 31 December 2022, but any rules made by a delegate before that date will continue in effect.

The Ordinance also amends the *Norfolk Island Continued Laws Ordinance 2015* to allow the Minister to delegate their powers, by legislative instrument, to make rules amending that

Ordinance under subsection 6(1) to the Secretary of the Department or a Deputy Secretary of the Department. When exercising powers under a delegation, the delegate must comply with the directions of the Minister. The delegate will not be able to make new rules after 31 December 2022, but any rules made by a delegate before that date will continue in effect.

Human rights implications

This Disallowable Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**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 Legislation Amendment (Queensland Consequential Amendments) Ordinance 2021*.

Part 1—Preliminary

Section 1 – Name

Section 1 provides that the name of the Ordinance is the *Norfolk Island Legislation Amendment (Queensland Consequential Amendments) Ordinance 2021* (the Ordinance).

Section 2 – Commencement

This section provides for the Ordinance to commence the day after registration.

Section 3 – Authority

Section 3 provides that the Ordinance is made under section 19A of the *Norfolk Island Act 1979* (the Act).

Section 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. Any other item in a Schedule to this Ordinance has effect according to its terms.

Schedule 1— Amendments relating to the delegation of Minister’s power

Norfolk Island Applied Laws Ordinance 2016

Item 1 – At the end of section 7

Item 1 inserts the following subsections at the end of section 7 of the *Norfolk Island Applied Laws Ordinance 2016*.

New subsection 7(3) provides that the Minister may delegate the Minister’s powers under subsection 7(1) to the Secretary of the Department or a Deputy Secretary of the Department.

New subsection 7(4) provides that an instrument of delegation made under subsection (3) is of no effect on or after 1 January 2023. This means that the delegate will not be able to make new rules after 31 December 2022, but that any rules made by a delegate before that date will continue in effect.

New subsection 7(5) provides that, in exercising powers under a delegation, the delegate must comply with any directions of the Minister.

Norfolk Island Continued Laws Ordinance 2015

Item 2 – At the end of section 6

Item 2 inserts the following subsections at the end of section 6 of the *Norfolk Island Continued Laws Ordinance 2015*.

New subsection 6(3) provides the Minister may delegate the Minister's powers under subsection 6(1) to the Secretary of the Department or a Deputy Secretary of the Department.

New subsection 6(4) provides that an instrument of delegation made under subsection (3) is of no effect on or after 1 January 2023. This means that the delegate will not be able to make new rules after 31 December 2022, but that any rules made by a delegate before that date will continue in effect.

New subsection 6(5) provides that, in exercising powers under a delegation, the delegate must comply with any directions of the Minister.