



Norfolk Island Applied Laws and Service Delivery (Queensland) Ordinance 2021

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Ordinance.

Dated 16 December 2021

David Hurley
Governor-General

By His Excellency's Command

Nola Marino
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 and Service Delivery (Queensland) Ordinance 2021*.

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	1 January 2022.	1 January 2022

Note: This table relates only to the provisions of this Ordinance as originally made.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 Simplified outline of this Ordinance

The laws of Queensland, as in force in Queensland from time to time, form part of the law of the Territory. In this Ordinance, the term “applied laws” is used to refer to Queensland laws in their character as laws of the Territory.

Applied laws may be amended or repealed by an Ordinance made under section 19A of the *Norfolk Island Act 1979* or by a law made under such an Ordinance. An Ordinance may also suspend the operation of an applied law for a period.

This Ordinance amends, repeals and suspends applied laws as set out in the items in the Schedules to this Ordinance.

The items are to be read together with the Queensland laws in order to understand the operation of the applied laws in the Territory. The items continue in effect according to their terms from time to time and may be amended or repealed by subsequent Ordinances or by rules made under this Ordinance.

This Ordinance also provides for rules to be made to support the delivery of services to Norfolk Island under an arrangement between the Commonwealth and Queensland. Under section 66A of the *Norfolk Island Act 1979*, rules may adopt Queensland laws.

5 Definitions

In this Ordinance:

applied industrial relations law means any of the following applied laws:

- (a) the *Industrial Relations Act 2016* (Qld);
- (b) the *Public Sector Ethics Act 1994* (Qld);
- (c) the *Public Service Act 2008* (Qld);
- (d) the *Superannuation (State Public Sector) Act 1990* (Qld);
- (e) the *Workers' Compensation and Rehabilitation Act 2003* (Qld);
- (f) the *Work Health and Safety Act 2011* (Qld).

applied law means a law of Queensland as in force in the Territory under section 18A of the *Norfolk Island Act 1979*.

Queensland Act means an Act within the meaning of the *Acts Interpretation Act 1954* (Qld) as it applies in the Territory from time to time.

Queensland statutory instrument means a statutory instrument within the meaning of the *Statutory Instruments Act 1992* (Qld) as it applies in the Territory from time to time.

service delivery rule means a rule made under subsection 7(2).

6 Interpretation Act

- (1) The *Interpretation Act 1979* (Norfolk Island) does not apply to this Ordinance or rules made under this Ordinance.

Note: The *Acts Interpretation Act 1901* applies instead because this Ordinance and rules made under it are legislative instruments (see subsection 13(1) of the *Legislation Act 2003*).

- (2) The *Acts Interpretation Act 1954* (Qld), as it applies in the Territory from time to time, applies in relation to:
- (a) an applied law that is a Queensland Act (including a Queensland Act as amended by this Ordinance); and
 - (b) subject to any contrary intention in the service delivery rule—a provision of a Queensland Act that is applied, adopted or incorporated, with or without modification, by a service delivery rule.
- (3) The *Statutory Instruments Act 1992* (Qld), as it applies in the Territory from time to time, applies in relation to:
- (a) an applied law that is a Queensland statutory instrument (including a Queensland statutory instrument as amended by this Ordinance); and

- (b) subject to any contrary intention in the service delivery rule—a provision of a Queensland statutory instrument that is applied, adopted or incorporated, with or without modification, by a service delivery rule.

Note: The *Acts Interpretation Act 1954* (Qld) and the *Statutory Instruments Act 1992* (Qld) are laws of Queensland in force in the Territory under section 18A of the *Norfolk Island Act 1979*.

7 Rules

- (1) The Minister may, by legislative instrument, make rules amending this Ordinance:
 - (a) so as to amend or repeal an applied law; or
 - (b) so as to otherwise affect the operation of an applied law (but not to suspend the operation); or
 - (c) to make application, saving or transitional provision in relation to any amendments, repeals or provisions affecting the operation of applied laws.
 - (2) The Minister may, by legislative instrument, make rules necessary or convenient for supporting the delivery of services to Norfolk Island under an arrangement between the Commonwealth and Queensland.
 - (3) Subject to subsection (4), the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax.
 - (4) Subsection (3) does not prevent rules made under subsection (2) from applying, adopting or incorporating, with or without modification, a provision of a law of Queensland.
- Note: The rules may apply, adopt or incorporate such a provision as in force at a particular time or as in force from time to time: see section 66A of the *Norfolk Island Act 1979*.
- (5) Rules must not be made under subsection (2) on or after 1 January 2023.
 - (6) The Minister may, in writing, delegate the Minister's powers under this section to:
 - (a) the Secretary of the Department; or
 - (b) a Deputy Secretary of the Department.
 - (7) However, an instrument of delegation made under subsection (6) is of no effect on or after 1 January 2023.
 - (8) In exercising powers under a delegation, the delegate must comply with any directions of the Minister.

8 Powers under Queensland laws incorporated by service delivery rules

- (1) If a service delivery rule applies, adopts or incorporates, with or without modification, a provision of a law of Queensland (an ***adopted provision***), then (subject to any contrary intention in the service delivery rule), the adopted

Section 9

provision has effect as if section 18B of the *Norfolk Island Act 1979* applied to it with the following modifications:

- (a) a reference in that section to an applied State law is taken to be a reference to the adopted provision;
 - (b) subsections 18B (2A) and (13) are taken to be omitted.
- (2) If a service delivery rule applies, adopts or incorporates, with or without modification, a provision of a law of Queensland as in force from time to time (an ***adopted provision***), then (subject to any contrary intention in the service delivery rule), the adopted provision has effect as if section 18E of the *Norfolk Island Act 1979* applied to it with the following modifications:
- (a) a reference in that section to an applied law is taken to be a reference to the adopted provision;
 - (b) the reference in paragraph 18E(4)(a) to being amended by a section 19A Ordinance is taken to be a reference to being modified by the service delivery rule.

9 Schedules

- (1) Each applied law 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.
- (2) The amendments, repeals and other items set out in the Schedules to this Ordinance continue in effect according to their terms from time to time.
- (3) If:
 - (a) an item in a Schedule to this Ordinance amends, repeals, suspends or otherwise affects an applied law; and
 - (b) the item is amended or repealed;then, to the extent to which the law remains a law in force in Queensland, the applied law continues in force in the Territory in accordance with section 18A of the *Norfolk Island Act 1979* and this Ordinance as amended.

Schedule 1—Suspension

1 Suspension

- (1) The operation of the legislation of Queensland, other than an Act specified in the following table or legislation made under such an Act, is suspended in the Territory until the end of 31 December 2026.

Legislation of Queensland that has not been suspended

Name of Act

Acts Interpretation Act 1954

Education (General Provisions) Act 2006

Education (Queensland College of Teachers) Act 2005

Education (Queensland Curriculum and Assessment Authority) Act 2014

Hospital and Health Boards Act 2011

Industrial Relations Act 2016

Public Health Act 2005

Public Sector Ethics Act 1994

Public Service Act 2008

Statutory Instruments Act 1992

Superannuation (State Public Sector) Act 1990

Workers' Compensation and Rehabilitation Act 2003

Work Health and Safety Act 2011

- (2) Subitem (1) applies to legislation of Queensland whether the legislation is in operation on the day this item commences or whether it comes into operation after that day.
- (3) An applied industrial relations law applies in the Territory only in relation to the following:
- (a) an officer or employee of Queensland;
 - (b) an authority of Queensland;
 - (c) an officer or employee of an authority of Queensland;

and only to the extent that the officer, employee or authority is exercising powers or performing functions or duties under an arrangement between the Commonwealth and Queensland for the delivery of services to Norfolk Island.

2 References to suspended law in law that is not suspended

The suspension of the operation of a law of Queensland in the Territory by this Schedule does not affect any reference to that law in:

- (a) a provision of a law of Queensland the operation of which is not suspended in the Territory; or
- (b) subject to any contrary intention in the service delivery rule—a provision of a law of Queensland applied, adopted or incorporated by a service delivery rule.

Schedule 2—Amendment of the Acts Interpretation Act 1954 (Qld)

Acts Interpretation Act 1954 (Qld)

1 At the end of section 5

Add “in each of its capacities”.

2 After section 26

Insert:

26A Statutory bodies

If an applied law or adopted law establishes or requires the establishment or appointment of:

- (a) a committee; or
- (b) a board; or
- (c) a registrar; or
- (d) any other statutory body;

then the law is not taken to establish, or require the establishment or appointment of, the same kind of body in the Territory of Norfolk Island.

3 At the end of Part 8

Add:

36A References to documents

If an applied law or adopted law requires or permits something to be done in accordance with, or having regard to, a document made, approved or published under, or for the purposes of, an applied law, adopted law or a law of Queensland, the reference to the document is taken to be a reference to:

- (a) any such document made, approved or published in relation to the Territory of Norfolk Island in force or existing at the time the thing is to be done (the *relevant time*); or
- (b) if there is no document made, approved or published in relation to the Territory of Norfolk Island in force or existing at the relevant time—the document made, approved or published under, or for the purposes of, the law as in force in Queensland, as the document is in force or exists at the relevant time.

4 Section 52

Before “In every Act—”, insert “(1)”.

5 At the end of section 52

Add:

- (2) A reference in an Act to the Crown, or to the Crown in right of Queensland, is to be read as if it were a reference to the Crown in right of the Commonwealth unless the context precludes that meaning.

6 Schedule 1

Insert:

adopted law means a law of Queensland applied, adopted or incorporated by a legislative instrument made under the Norfolk Island Act, other than an applied law.

applied law means a law of Queensland as in force in the Territory of Norfolk Island under section 18A of the Norfolk Island Act.

Norfolk Island Act means the *Norfolk Island Act 1979* of the Commonwealth.

Territory of Norfolk Island means the Territory of Norfolk Island as described in Schedule 1 to the Norfolk Island Act.

7 Schedule 1 (definition of *the State*)

Repeal the definition, substitute:

the State:

- (a) when used in a geographical sense—means the Territory of Norfolk Island;
and
- (b) when used in any other sense—means the Territory of Norfolk Island unless the context precludes that meaning.