

EXPLANATORY STATEMENT

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

Norfolk Island Applied Laws Ordinance 2016

***Norfolk Island Applied Laws Amendment (Applied Laws and Service Delivery
(Queensland)(School Attendance)) Rules 2022***

Authority

The ***Norfolk Island Applied Laws Amendment (Applied Laws and Service Delivery (Queensland)(School Attendance)) Rules 2022*** (the Rules) are made under subsection 7(1) of *Norfolk Island Applied Laws Ordinance 2016* (the Ordinance). The Ordinance relates to the laws of New South Wales which have been applied on Norfolk Island.

Subsection 7(1) of the Ordinance provides that the Commonwealth Minister with responsibility for the Territory of Norfolk Island may, by legislative instrument, make rules amending the Ordinance to:

- amend or repeal an applied law; and;
- to make application, saving or transitional provisions in relation to rules affecting the operation of applied laws.

Purpose

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 education service provision from NSW to Queensland from 1 January 2022.

Queensland will provide government school education services to the Norfolk Island Central School. This will include management and administration, teacher staffing, professional development and support, the delivery of the curriculum learning programs and the services underlying this delivery, as well as discharging its work health and safety duties.

The Rules amend the Ordinance and repeal the compulsory schooling provisions in the the *Education Act 1990* (NSW)(NI) (the NSW Education Act) in their application to Norfolk Island, and remove the status of the Norfolk Island Central School as a ‘government school’, established under the NSW Education Act. These provisions have been superseded from 1 January 2022 through the arrangements put in place by the *Education (General Provisions) Act 2006* (Qld)(NI) under the *Norfolk Island Applied Laws and Service Delivery (Queensland) Amendment Rules 2021*.

This set of Rules removes any possibility that a Norfolk Island parent might commit an offence under the NSW Education Act, by repealing its compulsory school attendance provisions. Making these changes ensures that there is no inconsistency between Norfolk Island and Queensland requirements.

Consultation

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. Additionally, New South Wales Government has been engaged in the transition process.

Other

The Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Rules commence the day following registration on the Federal Register of Legislation.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Norfolk Island Applied Laws Amendment (Applied Laws and Service Delivery (Queensland)(School Attendance)) Rules 2022

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 Rules

These Rules repeal New South Wales compulsory school age laws on Norfolk Island to avoid inconsistencies with Queensland applied laws.

The Rules amend the Ordinance and repeal the compulsory schooling provisions in the the *Education Act 1990* (NSW)(NI) (the NSW Education Act) in their application to Norfolk Island, and remove the status of the Norfolk Island Central School as a ‘government school’, established under the NSW Education Act. These provisions have been superseded from 1 January 2022 through the arrangements put in place by the *Education (General Provisions) Act 2006* (Qld)(NI) under the *Norfolk Island Applied Laws and Service Delivery (Queensland) Amendment Rules 2021*.

Human rights compatibility assessment

The legislative instrument will not engage or impact any human rights and freedoms recognised or declared by any of the international instruments specified in subsection 3(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011*. Therefore, it is assessed as being compatible with human rights, pursuant to section 9(2) of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Assistant Minister for Regional Development and Territories and Parliamentary Secretary to the Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development
The Hon Nola Marino MP

ATTACHMENT—NOTES ON CLAUSES

Section 1—Name

This clause provides that the title of the Rules is the *Norfolk Island Applied Laws Amendment (Applied Laws and Service Delivery (Queensland)(School Attendance)) Rules 2022* (the Rules).

Section 2—Commencement

This clause provides for the Rules to commence the day after this instrument is registered.

Section 3—Authority

Clause 3 provides that the Rules are made under Section 7 of the *Norfolk Island Applied Laws Ordinance 2016* (the Ordinance).

Section 4—Schedules

This clause provides that legislation that is specified in a Schedule is amended or repealed as set out in the Schedule concerned, and any other item in a Schedule to the Rules has effect according to its terms.

Schedule 1—Amendments

The amendments made by the Rules amend Schedule 1AA of the Ordinance. That Schedule makes amendments to the *Education Act 1990* (NSW)(NI) (the NSW Education Act).

The Rules repeal the compulsory schooling provisions in the NSW Education Act in their application to Norfolk Island and remove the status of the Norfolk Island Central School as a ‘government school’ established under the NSW Education Act.

These provisions have been superseded through the arrangements put in place by the *Education (General Provisions) Act 2006* (Qld)(NI) under the *Norfolk Island Applied Laws and Service Delivery (Queensland) Amendment Rules 2021*.

Item 1 – Repeal items 26 to 31 of Schedule 1AA: new item 26

This item repeals items that made various amendments to Part 5 of the NSW Education Act in its application to Norfolk Island. Part 5 deals with compulsory attendance of school age children. New item 26 instead repeals Part 5 in its entirety. As noted above, compulsory school attendance is now regulated under the *Education (General Provisions) Act 2006* (Qld)(NI).

Item 2 – Item 8 of Schedule 1AA (section 3B)

This item repeals section 3B of the Act (inserted into the NSW Education Act by item 8 of Schedule 1AA to the Ordinance). Section 3B provides that the Norfolk Island Central School is taken to be a ‘government school’ established under the NSW Education Act.

The School has now been declared a ‘State School’ for the purposes of the *Education (General Provisions) Act 2006* (Qld)(NI).

Item 3 – After item 52 of Schedule 1AA: new item 52A

This item repeals section 122 of the NSW Education Act in its application to Norfolk Island. This provides for an authorised person or police officer to seek information from a child aged between 6 and 17 ‘apparently not in attendance at school as required by this Act’ and to accompany the child to his or her home, or to a school, to verify the information provided. As the requirements for school attendance will no longer apply under the NSW Education Act, there will be no basis for reliance upon section 122.