

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Regional Development, Local Government and Territories

Norfolk Island Applied Laws Ordinance 2016

Norfolk Island Applied Laws Amendment (Suspension) Ordinance 2023

Authority

The *Norfolk Island Act 1979* (the Act) provides for the governance of the Territory of 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 Applied Laws Amendment (Suspension) Ordinance 2023 (the Ordinance) is made under section 19A of the Act.

Purpose and operation

Subsection 18A(1) of the Act provides that the laws in force in New South Wales (NSW) are in force on Norfolk Island (known as ‘applied laws’). Subsection 18A(2) provides that an applied law may be incorporated, amended or repealed under an ordinance made under section 19A of the Act. Subsection 18A(3) provides that a section 19A ordinance may also suspend the operation of an applied law for such period as is specified in the ordinance.

The Norfolk Island Applied Laws Ordinance 2016 (the NSW Applied Laws Ordinance) temporarily suspends the application of the majority of applied NSW laws. This was initially intended to allow a gradual transition towards NSW applied laws and service delivery on Norfolk Island, following the end of self-government in 2015. The NSW Government has since withdrawn from service delivery on Norfolk Island in 2021.

On 26 October 2021, the Australian and Queensland governments signed the Intergovernmental Partnership Agreement on State Service Delivery to Norfolk Island (IGA). The IGA facilitated the transfer of responsibility for health and education service provision from NSW to Queensland from 1 January 2022.

The suspension of NSW applied laws ceases on 1 July 2023. It was previously extended in 2021 to allow for a gradual transition to Queensland service delivery. The Ordinance amends the NSW Applied Laws Ordinance to further suspend the operation of the majority of NSW laws in Norfolk Island until 31 December 2026.

This revised date aligns with the expiry of the suspension of Queensland applied laws under the Norfolk Island Applied Laws and Service Delivery (Queensland) Ordinance 2021 (the Queensland Applied Laws Ordinance). The alignment of the suspension dates will enable the concurrent review of the applied laws ordinances, based on progress in establishing service delivery arrangements with Queensland as principal provider of state services to Norfolk Island.

Consultation

As the outcomes of the Ordinance are machinery in nature and a continuation of arrangements introduced by the NSW Applied Laws Ordinance, public consultation was not undertaken.

On the basis the Ordinance is unlikely to have a more than minor impact, the Office of Impact Analysis do not consider a Regulatory Impact Analysis is required (OIA23-05022).

Other

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

The Ordinance commences the day after registration on the Federal Register of Legislation.

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 Applied Laws Amendment (Suspension) Ordinance 2023

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

Purpose and operation

While some New South Wales (NSW) laws operate in Norfolk Island to support the delivery of state-like services (including local government, health and education services), the operation of the majority of NSW laws has been suspended until 1 July 2023.

This Ordinance amends the Norfolk Island Applied Laws Ordinance 2016 to further suspend the operation of the majority of NSW laws in Norfolk Island until 31 December 2026. This revised date aligns with the expiry of the suspension of Queensland laws under the Norfolk Island Applied Laws and Service Delivery (Queensland) Ordinance 2021. The alignment of the suspension dates will enable the concurrent review of the applied laws ordinances, based on progress in establishing service delivery arrangements with Queensland as principal state service provider.

Human rights implications

This Ordinance does not engage any of the applicable rights or freedoms.

Conclusion

This Ordinance is compatible with human rights as it does not raise any human rights issues.

Minister for Regional Development, Local Government and Territories

The Hon Kristy McBain MP

ATTACHMENT—NOTES ON CLAUSES

This attachment explains the operation of individual provisions in the Norfolk Island Applied Laws Amendment (Suspension) Ordinance 2023.

Section 1 – Name

This section provides that the name of the Ordinance is the Norfolk Island Applied Laws Amendment (Suspension) Ordinance 2023 (the Ordinance).

Section 2 – Commencement

This section provides for the Ordinance to commence on the day after the Ordinance is registered on the Federal Register of Legislation.

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 the 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

Item 1—Paragraph 1(1)(b) of Schedule 1

Item 1 amends paragraph 1(1)(b) of Schedule 1 to the Norfolk Island Applied Laws Ordinance 2016 to extend the suspension of New South Wales applied laws from 1 July 2023 to 31 December 2026 (an extension of three years and six months).