

# NORFOLK ISLAND.

No. 101 of 1963.

An Act to amend the *Norfolk Island Act* 1957.

[Assented to 1st November, 1963.]

**B**E it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

- 1.—(1.) This Act may be cited as the *Norfolk Island Act* 1963. Short title and citation.  
(2.) The *Norfolk Island Act* 1957\* is in this Act referred to as the Principal Act.  
(3.) The Principal Act, as amended by this Act, may be cited as the *Norfolk Island Act* 1957–1963.
2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.
3. Section four of the Principal Act is amended by omitting the word and figures “ (Section 11) ” and inserting in their stead the word and figures “ (Sections 11–11A) ”. Parts.
4. Section five of the Principal Act is amended— Definitions.  
(a) by inserting after the definition of “ Acting Administrator ” the following definition:—  
    “ ‘ Judge ’ means a Judge of the Supreme Court; ”;  
    and  
(b) by omitting the definition of “ the judge ” and inserting in its stead the following definition:—  
    “ ‘ the senior Judge ’ means the senior Judge who is available for the discharge of duties under this Act; ”.
5. After section nine of the Principal Act the following section is inserted:—  
    “ 9A.—(1.) There shall be a Deputy Administrator of the Territory, who shall be appointed by the Governor-General by commission and shall hold office during the pleasure of the Governor-General. Deputy Administrator.

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\* No. 29, 1957.

“(2.) Where—

(a) there is a vacancy in the office of Administrator or the Administrator is absent from the Territory or unable by reason of illness or incapacity to perform his duties; and

(b) an Acting Administrator has not entered on his duties, the Deputy Administrator has and may exercise and perform all the powers and functions of the Administrator.

“(3.) The exercise of the powers and the performance of the functions of the Administrator, by virtue of this section, by the Deputy Administrator during the absence of the Administrator from the Territory does not affect the exercise of any power or the performance of any function by the Administrator.”.

Oath to be  
taken by  
Administrator,  
&c.

6. Section ten of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-sections:—

“(2.) The Deputy Administrator shall, before exercising a power or performing a function by virtue of his office, make and subscribe an oath or affirmation in accordance with the form in the First Schedule to this Act.

“(3.) An oath or affirmation under this section shall be made before the Governor-General, a Judge or a person authorized by the Governor-General for the purpose.”.

Norfolk Island  
Council.

7. Section eleven of the Principal Act is amended by omitting sub-sections (2.), (3.), (4.), (5.) and (6.) and inserting in their stead the following sub-section:—

“(2.) The Council shall be constituted as provided by Ordinance and has such powers and functions as are conferred on it by this Act.”.

8. After section eleven of the Principal Act the following section is inserted in Part III.:—

Council may  
advise the  
Administrator.

“11A.—(1.) The Council may consider, and tender advice to the Administrator concerning, any matter affecting the peace, order and good government of the Territory.

“(2.) Any such matter may be brought before the Council by a member of the Council or, with the permission of the Chairman of the Council, by any other person or institution.

“(3.) Where the Administrator disagrees with the advice tendered to him by the Council with respect to a matter, he shall—

(a) notify the Minister of the advice so tendered, of his disagreement with the advice and of his reasons for that disagreement;

- (b) seek the directions of the Minister with respect to the matter; and
- (c) refrain from taking any action in relation to the matter until he has received those directions.

“(4.) The last preceding sub-section does not prevent the Administrator from taking such action in relation to a matter to which the last preceding sub-section relates as he considers should be taken by reason of urgency but, in such a case, the Administrator shall inform the Minister of the action that he has taken.

“(5.) Where the Administrator has received the directions of the Minister with respect to a matter, he shall act in the matter in accordance with the directions.”.

9. After section sixteen of the Principal Act the following section is inserted:—

“16A.—(1.) Subject to sub-section (4.) of this section, a copy of any regulations proposed to be made by the Minister under an Ordinance shall be furnished by the Minister, through the Administrator, to the Council for its consideration.

Consideration  
of regulations  
by the Council.

“(2.) The Council may, if it thinks fit, make representations in writing in relation to the proposed regulations to the Administrator, and the Administrator shall forthwith forward the representations to the Minister, together with such written observations (if any) as he thinks fit to make in relation to the representations.

“(3.) Where a copy of proposed regulations has been furnished to the Council and—

- (a) the Minister has received representations of the Council in relation to the proposed regulations and has considered those representations and any observations of the Administrator; or
- (b) a period of not less than thirty days has elapsed from the date on which the copy of the proposed regulations was furnished to the Council and the Minister has not received any such representations,

the proposed regulations, or the proposed regulations amended in such manner as the Minister thinks fit, may be made by the Minister.

“(4.) Where it appears to the Minister—

- (a) that regulations should, on account of urgency, be made without the proposed regulations being first submitted to the Council or before the expiration of a period

of thirty days from the date on which a copy of the proposed regulations has been furnished to the Council; or

- (b) that, for any other special reason, regulations should be made without the proposed regulations being first submitted to the Council,

the regulations may be made accordingly, and in that case a copy of the regulations shall be furnished by the Minister, through the Administrator, to the Council after they have been made.

“(5.) Where a copy of regulations is furnished to the Council in accordance with the last preceding sub-section, the Council may, if it thinks fit, make representations in writing in relation to the regulations to the Administrator, and the Administrator shall forthwith forward the representations to the Minister, together with such written observations (if any) as he thinks fit to make in relation to the representations, and those representations and observations shall be taken into consideration by the Minister.”.

Laying of  
Ordinances  
before the  
Parliament.

10.—(1.) Section seventeen of the Principal Act is amended—

- (a) by omitting sub-sections (2.) and (3.) and inserting in their stead the following sub-sections:—

“(2.) If either House of the Parliament, in pursuance of a motion of which notice has been given within fifteen sitting days after an Ordinance has been laid before that House, passes a resolution disallowing the Ordinance or a part of the Ordinance, the Ordinance or part so disallowed shall thereupon cease to have effect.

“(3.) If, at the expiration of fifteen sitting days after notice of a motion to disallow an Ordinance or part of an Ordinance has been given in a House of the Parliament, being notice given within fifteen sitting days after the Ordinance has been laid before that House—

- (a) the notice has not been withdrawn and the motion has not been called on; or  
(b) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of,

the Ordinance or part, as the case may be, specified in the motion shall thereupon be deemed to have been disallowed.

“(3A.) If, before the expiration of fifteen sitting days after notice of a motion to disallow an Ordinance or part of an Ordinance has been given in a House of the Parliament—

(a) that House is dissolved or, being the House of Representatives, expires, or the Parliament is prorogued; and

(b) at the time of the dissolution, expiry or prorogation, as the case may be—

(i) the notice has not been withdrawn and the motion has not been called on; or

(ii) the motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of,

the Ordinance shall, for the purposes of the last two preceding sub-sections, be deemed to have been laid before that House on the first sitting day of that House after the dissolution, expiry or prorogation, as the case may be.”; and

(b) by omitting from paragraph (b) of sub-section (5.) the word “resolution” (first occurring) and inserting in its stead the word “motion”.

(2.) Notwithstanding the amendments made by the last preceding sub-section, section seventeen of the Principal Act continues to apply in relation to any notice of a motion to disallow an Ordinance or part of an Ordinance given before the commencement of this Act.

**11.** Section eighteen of the Principal Act is amended—

(a) by omitting from sub-section (2.) the word “judge” and inserting in its stead the words “Judge or Judges”; and

(b) by omitting sub-section (4.).

Constitution  
of Supreme  
Court.

**12.—(1.)** Sections nineteen, twenty and twenty-one of the Principal Act are repealed and the following sections inserted in their stead:—

“19. The Governor-General may, by commission, appoint a person who, or persons each of whom, is a Judge of another court created by the Parliament to be a Judge or Judges of the Supreme Court.

Appointment  
of Judges.

“20. The Judges have seniority as Judges of the Supreme Court according to the dates of their commissions.

Seniority of  
Judges.

Holding of  
other judicial  
offices.

“ 21. A person may be a Judge of the Supreme Court notwithstanding that he is also a Judge of another court created by the Parliament, or is also the holder of a judicial office in relation to a Territory of the Commonwealth other than Norfolk Island, by virtue of an appointment made either before or after his appointment as a Judge of the Supreme Court.

Salaries and  
travelling  
expenses.

“ 21A.—(1.) A Judge shall be remunerated with the salary that he receives as a Judge of the other court, or other courts, of which he is a Judge.

“ (2.) A Judge shall be paid such travelling expenses as the Governor-General approves.

Oath of  
allegiance  
and office  
by Judge.

“ 21B. A Judge appointed after the commencement of this section shall, before proceeding to discharge the duties of his office, take before the Governor-General, or before a person authorized by the Governor-General for the purpose, an oath or affirmation in accordance with the form in the First Schedule to this Act.

Exercise of  
jurisdiction.

“ 21C.—(1.) The jurisdiction of the Supreme Court is exercisable by one Judge, sitting in Court or, to the extent and in the cases provided by or under Ordinance, sitting in Chambers.

“ (2.) The senior Judge may, from time to time, make arrangements as to which Judge is to exercise the jurisdiction of the Supreme Court.

“ (3.) The Supreme Court constituted by one Judge may sit and exercise the jurisdiction of the Court notwithstanding that the Court constituted by another Judge is at the same time sitting and exercising the jurisdiction of the Court.

“ (4.) The exercise of the jurisdiction of the Supreme Court by a Judge is not invalidated and shall not be called in question on the ground that it is not in accordance with arrangements made in pursuance of this section.”.

(2.) Nothing in this section affects the appointment of the Judge of the Supreme Court holding office immediately before the commencement of this section and, for the purposes of the Principal Act as amended by this Act, that Judge shall be senior to any other Judge.

Grants of land.

13. Section twenty-six of the Principal Act is amended by omitting the words “ , or a person authorized by him,”.

Application of  
certain  
provisions of  
Crimes Act.

14. Section thirty-one of the Principal Act is repealed.

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15. Section thirty-two of the Principal Act is amended by Regulations.  
omitting from paragraph (a) the word “judge” and inserting  
in its stead the words “senior Judge”.

16. The First Schedule to the Principal Act is amended by First Schedule.  
omitting the words and figures “Sections 10 and 19.” and  
inserting in their stead the words and figures “Sections 10 and  
21B.”.

17. The Second Schedule to the Principal Act is repealed. Second  
Schedule.