



# Norfolk Island Applied Laws Ordinance 2016

## Ordinance No. 9, 2016

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Ordinance.

Dated 05 May 2016

Peter Cosgrove  
Governor-General

By His Excellency's Command

Paul Fletcher  
Minister for Territories, Local Government and Major Projects

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## 1 Name

This is the *Norfolk Island Applied Laws Ordinance 2016*.

## 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 July 2016.	1 July 2016

Note: This table relates only to the provisions of this Ordinance as originally made.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 New South Wales, as in force in New South Wales from time to time, form part of the law of the Territory. In this Ordinance, the term “applied laws” is used to refer to New South Wales 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Applied laws may be amended or repealed by an Ordinance made under section 19A of the *Norfolk Island Act 1979* or by a law made under such an Ordinance.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 New South Wales 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 The items continue in effect according to their terms from time to time and may be amended or repealed by subsequent Ordinances or by rules made under this Ordinance.

## 5 Definitions

In this Ordinance:

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

## 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 *Interpretation Act 1987* (NSW), as it applies in the Territory from time to time, applies in relation to an applied law as amended by this Ordinance.

Note: The *Interpretation Act 1987* (NSW) is a law of New South Wales 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) to make application, saving or transitional provision in relation to any amendments or repeals of applied laws.
- (2) To avoid doubt, 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.

## 8 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 New South Wales, 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.

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## Schedule 1—Suspension

### 1 Suspension

- (1) The operation of the legislation of New South Wales, other than an Act specified in the following table or legislation made under such an Act, is suspended in the Territory for the period:
- (a) beginning on the day this item commences; and
  - (b) ending immediately before the start of 1 January 2017.

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Legislation of New South Wales that is not suspended
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Name of Act
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<i>Health Services Act 1997</i>
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<i>Interpretation Act 1987</i>
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<i>Local Government Act 1993</i>
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<i>Long Service Leave Act 1955</i>
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- (2) Subitem (1) applies to legislation of New South Wales whether the legislation is in operation on the day this item commences or whether it comes into operation after that day.

### 2 References to suspended law in law that is not suspended

- (1) The suspension of the operation of a law of New South Wales in the Territory by this Schedule does not affect any reference to that law in a provision of a law of New South Wales the operation of which is not suspended in the Territory.
- (2) Subsection 21D(3) of the *Interpretation Act 1987* of New South Wales (as it applies in the Territory from time to time) does not apply to a reference to the short title of a New South Wales Act the operation of which is suspended in the Territory.

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## Schedule 2—Amendment of the Health Services Act 1997 (NSW)

### *Health Services Act 1997 (NSW)*

#### **1 At the end of Chapter 1**

Add:

##### **5A Modifications for Norfolk Island**

- (1) The provisions of this Act, other than the provisions referred to in subsection (2), do not apply in relation to the Territory of Norfolk Island.
- (2) The following provisions of this Act apply in relation to the Territory of Norfolk Island:
  - (a) Chapters 1, 2, 3, 5 and 6;
  - (b) Parts 1 and 1A of Chapter 10;
  - (c) sections 134, 135, 136, 137, 139 and 140;
  - (d) Schedules 1 and 3;
  - (e) the Dictionary.
- (3) Jurisdiction in matters arising under this Act as in force in the Territory of Norfolk Island, and in which the Local Court has jurisdiction in relation to New South Wales, is, to the extent permitted by the Commonwealth Constitution, conferred on the Court of Petty Sessions of Norfolk Island.

#### **2 At the end of section 18**

Add:

- (4) The Territory of Norfolk Island is taken to be a local government area in respect of which the South Eastern Sydney Local Health District is constituted. The table in Schedule 1 is taken to have been amended accordingly.

#### **3 At the end of section 62**

Add:

- (6) The Norfolk Island Health and Residential Aged Care Service (within the meaning of the *Norfolk Island Health and Residential Aged Care Service Act 1985* of Norfolk Island) is taken to be an affiliated health organisation in respect of its recognised establishment, the Norfolk Island Health and Residential Aged Care Service Facility (within the meaning of the *Norfolk Island Health and Residential Aged Care Act 1985* of Norfolk Island). The table in Schedule 3 is taken to have been amended accordingly.



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## **Schedule 3—Amendment of the Interpretation Act 1987 (NSW)**

### ***Interpretation Act 1987 (NSW)***

#### **1 Section 4**

Omit all the words after “binds the Crown”, substitute “in each of its capacities”.

#### **2 Paragraph 13(b)**

Omit “New South Wales”, substitute “the Commonwealth”.

#### **3 Subsection 21(1)**

Insert:

***applied law*** means a law of New South Wales as in force in the Territory of Norfolk Island under section 18A of the Norfolk Island Act.

***Commissioner of Police*** means the Commissioner of the Australian Federal Police.

***Commonwealth Gazette*** means the *Commonwealth of Australia Gazette*.

***Commonwealth Government Printer*** includes any person printing for the Government.

***Commonwealth Minister*** means a Minister of State of the Commonwealth.

#### **4 Subsection 21(1) (definition of *Consolidated Fund*)**

Repeal the definition, substitute:

***Consolidated Fund*** means the Consolidated Revenue Fund referred to in section 81 of the Commonwealth Constitution.

#### **5 Subsection 21(1) (definition of *Government*)**

Repeal the definition, substitute:

***Government*** means the Government of the Commonwealth.

#### **6 Subsection 21(1)**

Insert:

***law of the State*** means the laws (whether written or unwritten and whether substantive or procedural) that are from time to time in force in the Territory of Norfolk Island.

***New South Wales Act*** means an Act passed by the Parliament of New South Wales.

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

***Norfolk Island Minister*** means the Commonwealth Minister who administers the Norfolk Island Act.

## 7 Subsection 21(1) (definition of *NSW Police Force*)

Repeal the definition, substitute:

*NSW Police Force* means the Australian Federal Police.

## 8 Subsection 21(1) (definition of *police officer*)

Repeal the definition, substitute:

*police officer* means any of the following:

- (a) a member or a special member of the Australian Federal Police;
- (b) a member of the Police Force of Norfolk Island;
- (c) a member of a State or Territory police force providing police services in relation to the Territory of Norfolk Island in accordance with section 18B or 18C of the Norfolk Island Act.

## 9 Subsection 21(1)

Insert:

*Territory Gazette* means the *Norfolk Island Government Gazette*.

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

*Territory Ordinance* means:

- (a) a section 19A Ordinance (within the meaning of subsection 4(1) of the Norfolk Island Act); or
- (b) an Ordinance continued in force by the Norfolk Island Act.

## 10 Subsection 21(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.

## 11 At the end of Part 2

Add:

### 21D New South Wales Acts

- (1) A reference in this Act or a Territory Ordinance to the short title of a New South Wales Act followed by “(N.S.W.)” or “(NSW)” is a reference to the Act as in force in New South Wales from time to time.
- (2) A reference in this Act, a Territory Ordinance or an applied law to the short title of a New South Wales Act followed by “(N.S.W.)(N.I.)” or “(NSW)(NI)” is a reference to the Act as in force in the Territory of Norfolk Island from time to time in accordance with section 18A of the Norfolk Island Act.
- (3) A reference in an applied law to the short title of a New South Wales Act is taken to be a reference to the corresponding applied law.

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**21E New South Wales instruments**

- (1) A reference in this Act or a Territory Ordinance to an instrument followed by “(N.S.W.)” or “(NSW)” is a reference to the instrument as in force in New South Wales from time to time.
- (2) A reference in this Act, a Territory Ordinance or an applied law to an instrument followed by “(N.S.W.) (N.I.)” or “(NSW) (NI)” is a reference to the instrument as in force in the Territory of Norfolk Island from time to time in accordance with section 18A of the Norfolk Island Act.

**12 At the end of Part 5**

Add:

**38A References to documents**

If an applied 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 or a law of New South Wales, 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 New South Wales, as the document is in force or exists at the relevant time.

**38B Modification of prerequisites for Norfolk Island Minister to take action**

- (1) This section applies if:
  - (a) an applied law is expressed (ignoring section 18B of the Norfolk Island Act) to make:
    - (i) a recommendation (however described) about a matter; or
    - (ii) an approval (however described) of a matter;by a Minister or an authority established or appointed by or under an applied law or a law of New South Wales a prerequisite for a person to exercise a function; and
  - (b) the Norfolk Island Minister has that function because of section 18B of the Norfolk Island Act.
- (2) The Norfolk Island Minister may exercise the function without receiving or following the Minister’s or authority’s recommendation about the matter or approval of the matter.

**38C Norfolk Island Minister not required to interact with himself or herself**

- (1) The Norfolk Island Minister need not comply with a requirement that:
  - (a) is imposed on the Norfolk Island Minister by an applied law (as affected by section 18B of the Norfolk Island Act or otherwise); and

(b) because of section 18B of the Norfolk Island Act, is a requirement for the Norfolk Island Minister to do something in relation to the Norfolk Island Minister:

- (i) before taking another action; or
- (ii) in the process of taking another action; or
- (iii) after taking another action.

Note: Some examples of a requirement to which this section applies are if an applied law (ignoring section 18B of the Norfolk Island Act) says:

- (a) the Governor may do something on the advice of a Minister; or
- (b) an authority must give the Minister notice of a decision or action the authority has taken.

(2) To avoid doubt, if the Norfolk Island Minister takes the other action, its validity is not affected merely because the Norfolk Island Minister did not or does not comply with the requirement.

Note: This also applies to action by a delegate of the Norfolk Island Minister.

### 38D Special rules relating to the Parliament

#### *Requirements relating to the Parliament that need not be complied with*

- (1) A person or body need not comply with a requirement imposed by an applied law on the person or body to do either of the following:
- (a) give (however described) a thing to the Parliament, a committee of the Parliament or an officer or member of the Parliament;
  - (b) act consistently (however described) with a resolution or recommendation of the Parliament.

Failure to comply with the requirement does not affect the validity of any act.

Note 1: Applied laws may use various verbs to express requirements to give something to the Parliament, a committee of the Parliament, or an officer or member of the Parliament. Some examples of such verbs are giving, furnishing, laying before, presenting to, tabling, notifying, advising and providing.

Note 2: Applied laws may express in various ways a requirement for a person or body to act consistently with a resolution or recommendation of the Parliament. For example, applied laws may refer to a person or body doing something in accordance with a resolution of the Parliament, on the recommendation of the Parliament or on an address from the Parliament.

#### *Acts valid despite absence of action relating to the Parliament*

- (2) Despite an applied law providing for a thing to be done by or in relation to the Parliament:
- (a) before a function can be exercised by an authority other than the Parliament; or
  - (b) in connection with the exercise of a function, by such an authority;
- the function may be exercised by the authority even though that thing has not been done, or is not done, by or in relation to the Parliament.

### 13 At the end of Part 8

Add:

**53B Statutory bodies**

If an applied 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.

**14 Section 58 (definition of *laws of the State*)**

Repeal the definition.

**15 After section 75**

Insert:

**75A Publication in Territory or Commonwealth Gazette**

If an applied law requires or permits a person to publish an instrument or notice in the Gazette or the Government Gazette or in a newspaper circulating in the State (whatever the frequency of circulation) then the requirement is satisfied by, or the entitlement extends to, publication of the instrument or notice in the Gazette, the Government Gazette, the Commonwealth Gazette or the Territory Gazette.

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## Schedule 4—Amendment of the Local Government Act 1993 (NSW)

### *Local Government Act 1993 (NSW)*

#### **1 At the end of Chapter 1**

Add:

#### **6A Modifications for Norfolk Island**

##### *Courts*

- (1) Jurisdiction in matters arising under this Act as in force in the Territory of Norfolk Island is, to the extent permitted by the Commonwealth Constitution, conferred on:
  - (a) if the Supreme Court of New South Wales has jurisdiction in the matter in relation to New South Wales—the Supreme Court of Norfolk Island; and
  - (b) if the Local Court has jurisdiction in the matter in relation to New South Wales—the Court of Petty Sessions of Norfolk Island; and
  - (c) if the Land and Environment Court of New South Wales has jurisdiction in the matter in relation to New South Wales and the matter arises under Chapter 17—the Supreme Court of Norfolk Island.

##### *Tribunals*

- (2) A power or function conferred on the Civil and Administrative Tribunal of New South Wales under this Act as in force in New South Wales is, to the extent permitted by the Commonwealth Constitution, conferred on the Administrative Review Tribunal of Norfolk Island for the purposes of this Act as in force in the Territory of Norfolk Island.
- (3) A power or function conferred on the Land and Environment Court of New South Wales under this Act as in force in New South Wales (other than under Chapter 17) is, to the extent permitted by the Commonwealth Constitution, conferred on the Administrative Review Tribunal of Norfolk Island for the purposes of this Act as in force in the Territory of Norfolk Island.

##### *Ordinary elections*

- (4) For the purposes of this Act as in force in the Territory of Norfolk Island, a reference in any of the following provisions to an ordinary election is taken not to include a reference to the election provided for by the Preparatory Election Ordinance:
  - (a) subsection 402(5);
  - (b) subsection 404(3);
  - (c) subsection 428(2);
  - (d) subsection 428A(1);
  - (e) subsection 440(7).

#### **2 Before Division 1 of Part 2 of Chapter 6**

Insert:

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**Division 1A—Temporary suspension of this Part****24A Temporary suspension of this Part**

This Part does not apply in relation to the Territory of Norfolk Island until the start of 1 July 2018.

**3 After subsection 68(1)**

Insert:

(1A) This section does not apply to an activity that is:

- (a) a development activity within the meaning of the *Planning Act 2002* of Norfolk Island; or
- (b) any of the following within the meaning of that Act:
  - (i) a permissible (with consent) use or development;
  - (ii) a permitted (as of right) use or development;
  - (iii) a permitted use or development;
  - (iv) a prohibited use or development.

Note: The *Planning Act 2002* of Norfolk Island is continued in force by section 16A of the *Norfolk Island Act 1979* of the Commonwealth and may be amended by Ordinance made under that Act or a law made under such an Ordinance.

**4 After section 204**

Insert:

**204A Constitution of Norfolk Island as an area**

- (1) The island of Norfolk Island is constituted as an area.
- (2) Subsection (1) has effect regardless of any requirements in this Act or any other law in force in the Territory of Norfolk Island for the constitution of an area.

**5 Section 219**

Before “A council”, insert “(1)”.

**6 At the end of section 219**

Add:

- (2) Subsection (1) applies despite section 53B of the *Interpretation Act 1987*.

**7 Subsection 220(1)**

Omit “of the State”.

**8 Subsection 220(3)**

Omit “(including the State and the Government of the State)”.

**9 At the end of section 221**

Add:

- (3) Despite subsections (1) and (2), the name of the council of the area constituted by section 204A is the “Norfolk Island Regional Council”.

**10 At the end of section 222**

Add:

Note: Under the *Norfolk Island Regional Council Declaration Ordinance 2016* of the Commonwealth, the persons elected in the election provided for by the Preparatory Election Ordinance become councillors of the Norfolk Island Regional Council at the final transition time.

**11 After subsection 233(1)**

Insert:

(1A) A councillor (other than the mayor) of the Norfolk Island Regional Council who became a councillor at the final transition time holds office for 4 years and 3 months, subject to this Act.

**12 Division 4 of Part 2 of Chapter 9**

Repeal the Division.

**13 Subsection 248(2)**

Omit “appropriate determination of the Remuneration Tribunal”, substitute “remuneration determination for the year as if the council were placed in the rural category”.

**14 Subsection 248(4)**

Omit “Remuneration Tribunal”, substitute “remuneration determination for the year as if the council were placed in the rural category”.

**15 Subsection 249(3)**

Omit “appropriate determination of the Remuneration Tribunal”, substitute “remuneration determination for the year as if the mayoral office were placed in the rural category”.

**16 Subsection 249(4)**

Omit “Remuneration Tribunal”, substitute “remuneration determination for the year as if the mayoral office were placed in the rural category”.

**17 After section 249**

Insert:

**249A Definition of *remuneration determination***

In sections 248 and 249:

***remuneration determination***, for a year, means the determination of the Remuneration Tribunal under section 241 of the *Local Government Act 1993* as in force in New South Wales of the maximum and minimum amounts of fees to be paid during the year in relation to councils and mayoral offices in New South Wales.

**18 Subsection 287(1)**

Omit “2008” (wherever occurring), substitute “2020”.



## **19 Paragraph 287(2)(a)**

Repeal the paragraph.

## **20 After subsection 332(2)**

Insert:

- (2A) Subsection (2) does not apply to a position held by a person appointed before 1 January 2017.

## **21 At the end of section 334**

Add:

- (3) Despite subsection (1), the person who is immediately before the final transition time the Chief Executive Officer (within the meaning of the *Public Service Act 2014* of Norfolk Island as in force at that time) is taken to have been appointed at the final transition time to be the general manager of the Norfolk Island Regional Council.

**Note:** After the final transition time, the person is subject to the requirements of this Act. For example, a vacancy will occur in the position of general manager in the circumstances set out in section 336.

## **22 At the end of section 338**

Add:

- (10) This section does not apply in relation to the person mentioned in subsection 334(3) until the earliest of the following occurs:
- (a) the Executive Contract of Employment expires;
  - (b) the Executive Contract of Employment is terminated;
  - (c) the Executive Contract of Employment is varied (other than to extend the term by no more than 6 months after the final transition time).
- (11) In this section:

***Executive Contract of Employment*** means the Executive Contract of Employment (within the meaning of the *Public Service Act 2014* of Norfolk Island as in force immediately before the final transition time) under which the person is employed immediately before the final transition time.

## **23 After section 350**

Insert:

### **350A Staff transferred to Norfolk Island Regional Council**

- (1) This section applies in relation to a transferring employee (within the meaning of item 368 of Schedule 2 to the *Norfolk Island Legislation Amendment Act 2015* of the Commonwealth) becoming an employee of the Norfolk Island Regional Council at the final transition time.
- (2) The Norfolk Island Regional Council is taken to have complied with any provision of this Act which imposes a requirement in connection with the appointment of the employee.

**24 After subsection 402(1)**

Insert:

- (1A) The Norfolk Island Regional Council must have a community strategic plan by 1 October 2016.

**25 At the end of section 403**

Add:

- (3) The Norfolk Island Regional Council must have a resourcing strategy by 1 January 2017.

**26 At the end of section 404**

Add:

- (6) The Norfolk Island Regional Council must have a delivery program by 1 January 2017.

**27 At the end of section 405**

Add:

- (7) Despite subsection (1), the Norfolk Island Regional Council must adopt an operational plan for the year ending on 30 June 2017 before 1 October 2016.

**28 At the end of subsection 449(1)**

Add:

- Note: The persons elected in the election provided for by the Preparatory Election Ordinance become councillors of the Norfolk Island Regional Council on 1 July 2016 under the *Norfolk Island Regional Council Declaration Ordinance 2016* of the Commonwealth.

**29 At the end of section 496**

Add:

- (3) The Norfolk Island Regional Council is taken to have satisfied the requirement in subsection (1) while a levy is imposed under section 8 of the *Waste Management Act 2003* of Norfolk Island.

**30 At the end of section 497**

Add:

- ; or (c) for an ordinary rate for a year ending before 1 July 2018—a base amount.

**31 After subsection 499(3)**

Insert:

- (3A) Despite subsection (3), the appropriate base amount so specified for a year for which the rate consists only of a base amount is to form the whole of the rate levied on each separate parcel of rateable land subject to the rate.

- Note: Paragraph 497(c) allows an ordinary rate for a year ending before 1 July 2018 to consist only of a base amount.

**32 Section 500**

Before “The amount”, insert “(1)”.

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**33 At the end of section 500**

Add:

- (2) Subsection (1) does not apply in relation to a year for which the rate consists only of a base amount.

Note: Paragraph 497(c) allows an ordinary rate for a year ending before 1 July 2018 to consist only of a base amount.

**34 At the end of section 504**

Add:

- (4) This section does not apply to the Norfolk Island Regional Council while a levy is imposed under section 8 of the *Waste Management Act 2003* of Norfolk Island.

**35 At the end of Part 2 of Chapter 15**

Add:

**513A Minimum revenue to be raised from ordinary rates**

Despite any other provision of this Act, an ordinary rate made for a year by the council must be such as to ensure that the total of ordinary rates levied on all rateable land for the year is at least:

- (a) for the year ending on 30 June 2017—\$500,000; and
- (b) for the year ending on 30 June 2018 and any later year—\$1,000,000.

**36 Before paragraph 529(2)(a)**

Insert:

- (aa) for any category—according to the size of the parcel of land; or

**37 At the end of paragraph 529(2)(d)**

Add “or the kind of business”.

**38 Section 532**

Before “A council”, insert “(1)”.

**39 At the end of section 532**

Add:

- (2) Subsection (1) does not apply to the making by the Norfolk Island Regional Council of a rate or charge for the year ending on 30 June 2017.

**40 Section 533**

Before “A rate”, insert “(1)”.

**41 At the end of section 533**

Add:

- (2) Subsection (1) does not apply to a rate or charge made by the Norfolk Island Regional Council for the year ending on 30 June 2017.

**42 At the end of section 536**

Add:

- (3) Despite subsection (1), the council is not required to have regard to matters relating to ad valorem rates in determining a base amount of a rate that consists only of a base amount.

**43 Section 537**

Before “In the”, insert “(1)”.

**44 At the end of section 537**

Add:

- (2) Paragraph (1)(b) does not apply to a resolution for a rate for a year in relation to which subsection 500(1) does not apply.

**45 At the end of section 610F**

Add:

- (5) If the Norfolk Island Regional Council proposes to determine an amount of a fee for the year ending on 30 June 2017:
  - (a) subsections (1), (2) and (3) do not apply in relation to the determination of the amount of the fee; and
  - (b) the council must not determine the amount of the fee until it has given public notice (in accordance with section 705) of the proposed amount for at least 28 days.

**46 Schedule 1**

Repeal the Schedule.

**47 Dictionary**

Insert:

*final transition time* has the same meaning as in item 356 of Schedule 2 to the *Norfolk Island Legislation Amendment Act 2015* of the Commonwealth.

*Preparatory Election Ordinance* means the *Norfolk Island Regional Council Preparatory Election Ordinance 2016* of the Commonwealth.

**48 Dictionary (definition of *Remuneration Tribunal*)**

Omit “this Act”, substitute “the *Local Government Act 1993* as in force in New South Wales”.

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## **Schedule 5—Amendment of the Long Service Leave Act 1955 (NSW)**

### ***Long Service Leave Act 1955 (NSW)***

#### **1 Subsection 3(1) (definition of *Agreement*)**

Repeal the definition, substitute:

***Agreement*** means any of the following:

- (a) an enterprise agreement within the meaning of the *Industrial Relations Act 1996*;
- (b) a fair work instrument under the *Fair Work Act 2009* of the Commonwealth;
- (c) a Norfolk Island employment contract entered into before 1 July 2016;
- (d) a Norfolk Island enterprise agreement approved before 1 July 2016;
- (e) a Norfolk Island wage determination made before 1 July 2016.

#### **2 Subsection 3(1) (at the end of the definition of *Award*)**

Add “or a fair work instrument under the *Fair Work Act 2009* of the Commonwealth”.

#### **3 Subsection 3(1) (at the end of the definition of *Employer*)**

Add “in right of New South Wales”.

#### **4 Subsection 3(1) (definition of *Inspector*)**

Repeal the definition, substitute:

***Inspector*** means a person appointed under section 8A.

#### **5 Subsection 3(1)**

Insert:

***Norfolk Island employment contract*** means an employment contract to which Part 2 of the *Employment Act 1988* of Norfolk Island applied at the time the contract was entered into and which has effect for the purposes of the *Fair Work Act 2009* of the Commonwealth (as that Act applies in relation to Norfolk Island with modifications made by rules under section 32A of that Act).

***Norfolk Island enterprise agreement*** means an enterprise agreement approved under Part 11 of the *Public Service Act 2014* of Norfolk Island which has effect for the purposes of the *Fair Work Act 2009* of the Commonwealth (as that Act applies in relation to Norfolk Island with modifications made by rules under section 32A of that Act).

***Norfolk Island wage determination*** means a determination made under the *Public Sector Remuneration Tribunal Act 1992* of Norfolk Island which has effect for the purposes of the *Fair Work Act 2009* of the Commonwealth (as that Act applies in relation to Norfolk Island with modifications made by rules under section 32A of that Act).

## 6 After section 3

Insert:

### 3A Modifications for Norfolk Island

#### *Industrial Relations Commission*

- (1) A power or function conferred on the Industrial Relations Commission under this Act as in force in New South Wales is, to the extent permitted by the Commonwealth Constitution, conferred on the Fair Work Commission within the meaning of the *Fair Work Act 2009* of the Commonwealth for the purposes of this Act as in force in the Territory of Norfolk Island.
- (2) Subsection (1) does not apply to a power or function conferred by section 12.

#### *Industrial organisation*

- (3) A reference to an industrial organisation includes a reference to an organisation registered under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth.
- (4) A reference to an industrial organisation of employees includes a reference to an organisation of employees registered under the *Fair Work (Registered Organisations) Act 2009* of the Commonwealth.

#### *Local Court*

- (5) Jurisdiction in matters arising under this Act as in force in the Territory of Norfolk Island, and in which the Local Court has jurisdiction in relation to New South Wales, is, to the extent permitted by the Commonwealth Constitution, conferred on the Court of Petty Sessions of Norfolk Island.

## 7 Sections 4A and 4B

Repeal the sections.

## 8 After section 8

Insert:

### 8A Appointment of inspectors

- (1) The Minister may appoint eligible persons as inspectors for the purposes of this Act.
- (2) The following persons are eligible to be appointed as inspectors:
  - (a) an APS employee within the meaning of the *Public Service Act 1999* of the Commonwealth;
  - (b) an officer of a public or local authority (whether an authority of the Territory of Norfolk Island, of the Commonwealth or of another State or Territory);
  - (c) a person of a class prescribed by the regulations.
- (3) A person appointed as an inspector ceases to hold that office if removed from that office by the Minister or if the person ceases to be eligible to be appointed as an inspector.

- (4) An inspector has the functions conferred or imposed by or under this Act on inspectors appointed for the purposes of this Act.
- (5) The Minister is to provide each inspector with a certificate of authority as an inspector.
- (6) The functions of an inspector may be limited by the certificate of authority.
- (7) An inspector is required to produce the certificate of authority:
  - (a) if requested to do so by the occupier of any premises the inspector enters;  
or
  - (b) if requested to do so by a person whom the inspector requires to produce anything or answer any questions.