

2010

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Territories Law Reform Bill 2010

No. , 2010

(Regional Australia, Regional Development and Local Government)

**A Bill for an Act to amend the law relating to
Norfolk Island, Christmas Island and the Cocos
(Keeling) Islands, and for other purposes**

Contents

1	Short title	1
2	Commencement	1
3	Schedule(s)	3
Schedule 1—Amendments relating to Norfolk Island		4
Part 1—General amendments		4
Division 1—Amendment of the Norfolk Island Act 1979		4
<i>Norfolk Island Act 1979</i>		4
Division 2—Consequential amendments		19
<i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i>		19
<i>Environment Protection and Biodiversity Conservation Act 1999</i>		19
<i>Freedom of Information Act 1982</i>		20
<i>Hazardous Waste (Regulation of Exports and Imports) Act 1989</i>		20
<i>Historic Shipwrecks Act 1976</i>		20
<i>International Criminal Court Act 2002</i>		20
<i>International Transfer of Prisoners Act 1997</i>		20
<i>National Health Security Act 2007</i>		21
<i>Privacy Act 1988</i>		21
<i>Remuneration Tribunal Act 1973</i>		21
Part 2—Amendments relating to elections		22
Division 1—Dates for elections		22
<i>Norfolk Island Act 1979</i>		22
Division 2—Other matters		22
<i>Norfolk Island Act 1979</i>		22
Part 3—Amendments relating to finance		24
<i>Norfolk Island Act 1979</i>		24
Part 4—Amendments relating to the Administrative Appeals Tribunal		49
<i>Administrative Appeals Tribunal Act 1975</i>		49
Part 5—Amendments relating to freedom of information		55
<i>Freedom of Information Act 1982</i>		55

Part 6—Amendments relating to the Ombudsman	72
<i>Norfolk Island Act 1979</i>	72
<i>Ombudsman Act 1976</i>	72
Part 7—Amendments relating to privacy	74
<i>Australian Capital Territory Government Service (Consequential Provisions) Act 1994</i>	74
<i>Privacy Act 1988</i>	74
Schedule 2—Amendments relating to Christmas Island	84
<i>Christmas Island Act 1958</i>	84
Schedule 3—Amendments relating to the Cocos (Keeling) Islands	88
<i>Cocos (Keeling) Islands Act 1955</i>	88

1 **A Bill for an Act to amend the law relating to**
2 **Norfolk Island, Christmas Island and the Cocos**
3 **(Keeling) Islands, and for other purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Territories Law Reform Act 2010*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.

12

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedule 1, Part 1	The day after this Act receives the Royal Assent.	
3. Schedule 1, Part 2	The start of the first meeting of the Legislative Assembly of Norfolk Island held after the first general election of the Legislative Assembly that occurs after the day this Act receives the Royal Assent. The Minister must announce by notice in the <i>Gazette</i> the time of the start of the first meeting of the Legislative Assembly of Norfolk Island held after the first general election of the Legislative Assembly that occurs after the day this Act receives the Royal Assent. The notice is not a legislative instrument.	
4. Schedule 1, Part 3	The day after this Act receives the Royal Assent.	
5. Schedule 1, Part 4	1 January 2011.	1 January 2011
6. Schedule 1, items 155 to 175	1 January 2011.	1 January 2011
7. Schedule 1, items 176 to 182	Immediately after the commencement of item 3 of Schedule 2 to the <i>Freedom of Information Amendment (Reform) Act 2010</i> .	1 May 2011
8. Schedule 1, items 183 to 239	1 January 2011.	1 January 2011
9. Schedule 1, Part 6	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
10. Schedule 1, Part 7	1 January 2011.	1 January 2011
11. Schedules 2 and 3	The day after this Act receives the Royal Assent.	

1 Note: This table relates only to the provisions of this Act as originally
2 enacted. It will not be amended to deal with any later amendments of
3 this Act.

4 (2) Any information in Column 3 of the table is not part of this Act.
5 Information may be inserted in this column, or information in it
6 may be edited, in any published version of this Act.

7 **3 Schedule(s)**

8 Each Act that is specified in a Schedule to this Act is amended or
9 repealed as set out in the applicable items in the Schedule
10 concerned, and any other item in a Schedule to this Act has effect
11 according to its terms.

1
2 **Schedule 1—Amendments relating to Norfolk**
3 **Island**

4 **Part 1—General amendments**

5 **Division 1—Amendment of the Norfolk Island Act 1979**

6 *Norfolk Island Act 1979*

7 **1 Subsection 4(1)**

8 Insert:

9 *Chief Minister* means the Chief Minister appointed under
10 section 13.

11 **2 Subsection 4(1)**

12 Insert:

13 *Commonwealth Finance Minister* means the Commonwealth
14 Minister who administers the *Financial Management and*
15 *Accountability Act 1997*.

16 **3 Subsection 4(1)**

17 Insert:

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

20 **4 Subsection 4(1)**

21 Insert:

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

24 **5 Subsection 4(1) (definition of *executive member*)**

25 Repeal the definition.

26 **6 Subsection 4(1) (definition of *executive office*)**

27 Repeal the definition.

1 **7 Subsection 4(1) (definition of *Finance Minister*)**

2 Repeal the definition.

3 **8 Subsection 4(1)**

4 Insert:

5 *Minister* means:

6 (a) the Chief Minister; or

7 (b) a Minister appointed under section 13.

8 **9 Subsection 4(1)**

9 Insert:

10 *Minister for Finance* means the Minister who is responsible for
11 the administration of the Public Account of Norfolk Island.

12 **10 Subsection 4(1)**

13 Insert:

14 *Norfolk Island Public Service Values* means the rules prescribed
15 by regulations made for the purposes of subsection 61A(1).

16 **11 Subsection 4(1)**

17 Insert:

18 *responsible Commonwealth Minister* means the Commonwealth
19 Minister who administers this Act.

20 **12 Paragraph 7(1)(e)**

21 Omit “Minister”, substitute “responsible Commonwealth Minister”.

22 **13 Subsection 7(2)**

23 Omit “paragraph (1)(b)”, substitute “paragraphs (1)(a) and (b)”.

24 **14 Subsection 7(2)**

25 Omit “that paragraph”, substitute “paragraph (1)(a) or (b)”.

26 **15 Subsection 7(2)**

27 Omit “Minister”, substitute “responsible Commonwealth Minister”.

1 **16 Subsection 7(3)**

2 Omit “Minister” (first occurring), substitute “responsible
3 Commonwealth Minister”.

4 **17 Subsection 7(3)**

5 Omit “paragraph (1)(b)”, substitute “paragraph (1)(a) or (b)”.

6 **18 Subsection 7(3)**

7 Omit “Minister” (second occurring), substitute “responsible
8 Commonwealth Minister”.

9 **19 Section 9**

10 Repeal the section, substitute:

11 **9 Deputies of Administrator**

12 (1) The responsible Commonwealth Minister may appoint a person, or
13 persons jointly or severally, to be the deputy or deputies of the
14 Administrator in the Territory, and in that capacity to exercise
15 during the pleasure of the responsible Commonwealth Minister
16 such powers and functions of the Administrator as the responsible
17 Commonwealth Minister assigns to the deputy or deputies.

18 (2) The appointment of a deputy does not affect the exercise of a
19 power or performance of a function by the Administrator.

20 (3) A reference in a law of the Commonwealth to a *Deputy*
21 *Administrator* of Norfolk Island is a reference to a deputy of the
22 Administrator.

23 **20 Subsection 10(2)**

24 Omit “The Deputy Administrator”, substitute “A deputy of the
25 Administrator”.

26 **21 Subsection 11(2)**

27 Repeal the subsection, substitute:

28 (2) The Executive Council consists of:

29 (a) the Chief Minister; and

30 (b) such other Ministers as are appointed by the Administrator
31 under section 13.

1 **22 Subsection 11(8)**

2 Repeal the subsection.

3 **23 Sections 12, 13 and 14**

4 Repeal the sections, substitute:

5 **12 Ministers**

6 (1) There is to be:

- 7 (a) a Chief Minister of the Territory; and
8 (b) at least one, and not more than 3, other Ministers of the
9 Territory.

10 (2) The matters in respect of which the Ministers have executive
11 authority are the matters specified in Schedules 2 and 3.

12 (3) A person who is employed in the Public Service of the Territory or
13 of the Commonwealth is not eligible to be a Minister, and a person
14 holding office as a Minister vacates his or her office if he or she
15 becomes so employed.

16 (4) For the purposes of subsection (3), a person who:

- 17 (a) is an APS employee; or
18 (b) is employed under a law relating to the Public Service of the
19 Territory as a temporary employee; or
20 (c) is employed under a law relating to the Public Service of a
21 Territory or of the Commonwealth as an officer or employee
22 to whom any provisions of that law do not apply;
23 is taken to be employed in the Public Service of the Territory or of
24 the Commonwealth, as the case requires.

25 **12A Nomination of Chief Minister**

26 (1) At the first meeting of the Legislative Assembly after a general
27 election, the members present must, after electing a Speaker and
28 Deputy Speaker and before any other business, nominate one of
29 their number to be the Chief Minister.

30 (2) If there is a vacancy in the office of Chief Minister (otherwise than
31 because of paragraph 14(1)(e) or (f)), then:

- 1 (a) if the vacancy happens at a meeting of the Legislative
2 Assembly—the members present must nominate one of their
3 number to be the Chief Minister; or
4 (b) if the vacancy happens at any other time—the Speaker must
5 convene a meeting of the Legislative Assembly as soon as
6 practicable and, at the meeting, the members present must
7 nominate one of their number to be the Chief Minister.
- 8 (3) If a resolution of no confidence in the Chief Minister is passed, the
9 members present must nominate one of their number to be the
10 Chief Minister.
- 11 (4) The Speaker or Deputy Speaker is not eligible to be nominated as
12 Chief Minister.
- 13 (5) If a member of the Legislative Assembly is nominated to be the
14 Chief Minister, the Legislative Assembly is taken to have advised
15 the Administrator to appoint the member as the Chief Minister.

16 **13 Appointment of Ministers**

- 17 (1) The Administrator may, on the advice of the Legislative Assembly,
18 appoint a member of the Legislative Assembly as the Chief
19 Minister.
- 20 (2) The Administrator may, on the advice of the Chief Minister,
21 appoint one or more other Ministers from among the members of
22 the Legislative Assembly.
- 23 Note: The maximum number of other Ministers is 3—see subsection 12(1).
- 24 (3) An appointment under subsection (1) or (2) takes effect at the time
25 when it is made or, if a later time is specified in the instrument of
26 appointment, at that later time.
- 27 (4) The Speaker or Deputy Speaker is not eligible to be appointed
28 under subsection (2) as a Minister.

29 **14 Termination**

30 *Chief Minister*

- 31 (1) A person ceases to hold office as the Chief Minister when:
-

- 1 (a) he or she ceases, by reason of his or her resignation or by
2 reason of section 39 or 39AA, to be a member of the
3 Legislative Assembly; or
4 (b) he or she is dismissed from office by the Administrator under
5 section 14A; or
6 (c) he or she resigns his or her office by writing signed by him or
7 her and delivered to the Administrator; or
8 (d) the Legislative Assembly passes a resolution of no
9 confidence in him or her; or
10 (e) a notice about a general election is published under
11 subsection 39AB(1); or
12 (f) the Legislative Assembly is dissolved under section 39AC; or
13 (g) the Legislative Assembly first meets after a general election
14 of the Legislative Assembly that takes place after his or her
15 most recent appointment to the office of Chief Minister takes
16 effect;
17 whichever first happens.

18 *Other Ministers*

- 19 (2) A person ceases to hold office as a Minister (other than the Chief
20 Minister) when:
21 (a) he or she ceases, by reason of his or her resignation or by
22 reason of section 39 or 39AA, to be a member of the
23 Legislative Assembly; or
24 (b) he or she is dismissed from office by the Administrator under
25 section 14A; or
26 (c) he or she resigns his or her office by writing signed by him or
27 her and delivered to the Administrator; or
28 (d) a notice about a general election is published under
29 subsection 39AB(1); or
30 (e) the Legislative Assembly is dissolved under section 39AC; or
31 (f) the Legislative Assembly first meets after a general election
32 of the Legislative Assembly that takes place after his or her
33 most recent appointment to an office of Minister takes effect;
34 whichever first happens.

1 **14A Dismissal of Ministers**

2 (1) The Administrator may dismiss the Chief Minister from office if,
3 in the Administrator’s opinion, there are exceptional circumstances
4 that justify the Administrator so doing.

5 (2) The Administrator may dismiss a Minister from office on the
6 advice of the Chief Minister.

7 **24 Subsection 15(2)**

8 Omit “appointed to an executive office shall”, substitute “appointed to
9 an office of Minister must”.

10 Note: The heading to section 15 is altered by omitting “**executive member**” and substituting
11 “**Minister etc.**”.

12 **25 Subsection 15(3)**

13 Omit “does not hold executive office”, substitute “is not a Minister”.

14 **26 At the end of Part III**

15 Add:

16 **15A Ministerial portfolios**

17 (1) The Chief Minister is to administer such matters relating to the
18 powers of the Administration as are allocated to the Chief Minister
19 from time to time by the Chief Minister.

20 (2) A Minister (other than the Chief Minister) is to administer such
21 matters relating to the powers of the Administration as are
22 allocated to that Minister from time to time by the Chief Minister.

23 (3) The Chief Minister may authorise a Minister or Ministers to act on
24 behalf of the Chief Minister or any other Minister.

25 (4) The Chief Minister must publish particulars of such arrangements
26 in the *Norfolk Island Government Gazette*.

27 **27 After subsection 21(1)**

28 Insert:

1 (1A) If the proposed law was introduced into the Legislative Assembly
2 by the Governor-General, the Administrator must reserve the
3 proposed law for the Governor-General's pleasure.

4 **28 At the end of paragraph 21(2)(a)**

5 Add:

6 (iii) that he or she reserves the proposed law for the
7 Governor-General's pleasure; or

8 **29 Subsection 21(5)**

9 Omit "Executive Council.", substitute "Executive Council and the
10 instructions (if any) of the responsible Commonwealth Minister. If there
11 is an inconsistency between the advice of the Executive Council and the
12 instructions of the responsible Commonwealth Minister, the instructions
13 of the responsible Commonwealth Minister are to prevail to the extent
14 of the inconsistency."

15 **30 Subsection 21(6)**

16 Omit "Minister", substitute "responsible Commonwealth Minister".

17 **31 Subsection 22(3)**

18 Omit "21(2)", substitute "21(1A) or (2)".

19 **32 At the end of Division 2 of Part IV**

20 Add:

21 **26A Responsible Commonwealth Minister may introduce proposed**
22 **law**

23 The responsible Commonwealth Minister may, by message of the
24 Administrator, introduce into the Legislative Assembly a proposed
25 law for the peace, order and good government of the Territory.

26 **33 At the end of paragraph 27(1)(a)**

27 Add "and".

28 **34 Paragraph 27(1)(b)**

29 Omit "and".

30 **35 Paragraph 27(1)(c)**

1 Repeal the paragraph.

2 **36 Subsection 27(4)**

3 Omit “Minister”, substitute “responsible Commonwealth Minister”.

4 **37 Subsection 28A(1)**

5 Omit “Minister”, substitute “responsible Commonwealth Minister”.

6 **38 After subsection 35(1)**

7 Insert:

8 (1A) Subsection (1) does not apply to a general election held in
9 accordance with section 39AB or 39AC.

10 **39 At the end of Division 1 of Part V**

11 Add:

12 **39AA Dismissal of members of the Legislative Assembly**

13 The Administrator may dismiss a member of the Legislative
14 Assembly from office if the member has engaged, or is engaging,
15 in:

- 16 (a) seriously unlawful conduct; or
17 (b) grossly improper conduct.

18 **39AB Resolution of no confidence in the Chief Minister**

19 (1) If:

- 20 (a) on a particular day, the Legislative Assembly passes a
21 resolution of no confidence in the Chief Minister; and
22 (b) the Legislative Assembly does not, within the period of 10
23 days after that day, nominate a member of the Legislative
24 Assembly to be the Chief Minister; and
25 (c) the Governor-General does not, within that period of 10 days,
26 dissolve the Legislative Assembly under section 39AC;
27 a general election of members of the Legislative Assembly is to be
28 held on a day specified by the responsible Commonwealth Minister
29 by notice published in the *Commonwealth Gazette*.

30 (2) The specified day must not be earlier than 36 days, or later than 90
31 days, after the end of that period of 10 days.

- 1 (3) The specified day must not be the polling day for:
2 (a) an election of the Senate; or
3 (b) a general election of the House of Representatives.
- 4 (4) As soon as practicable after the publication of the notice under
5 subsection (1), the responsible Commonwealth Minister must
6 cause notice of the specified day to be published in the *Norfolk*
7 *Island Government Gazette*.
- 8 (5) During the period:
9 (a) beginning when the notice is published under subsection (1);
10 and
11 (b) ending when the Legislative Assembly meets after the
12 general election mentioned in subsection (1);
13 the Administrator:
14 (c) is to exercise all the powers of the Administration, the
15 Executive Council and Ministers in accordance with any
16 directions given by the Governor-General; and
17 (d) if it is necessary to issue or spend public money of the
18 Territory when not authorised to do so by or under
19 enactment—may do so with the authority of the
20 Governor-General.
- 21 (6) The powers of the Governor-General under subsection (5) are to be
22 exercised by Proclamation.
- 23 (7) For the purposes of this Act, if a notice is published under
24 subsection (1) on a particular day, the notice is taken to have been
25 published at the last moment of that day.
- 26 (8) A notice under subsection (1) or (4) is not a legislative instrument.
- 27 (9) A Proclamation under subsection (5) is a legislative instrument, but
28 section 42 (disallowance) of the *Legislative Instruments Act 2003*
29 does not apply to the Proclamation.

30 **39AC Dissolution of Legislative Assembly by the Governor-General**

- 31 (1) If, in the opinion of the Governor-General, the Legislative
32 Assembly:
33 (a) is incapable of effectively performing its functions; or
-

Schedule 1 Amendments relating to Norfolk Island
Part 1 General amendments

- 1 (b) is conducting its affairs in a grossly improper manner;
2 the Governor-General may dissolve the Legislative Assembly.
- 3 (2) If the Legislative Assembly is dissolved, a general election of
4 members of the Legislative Assembly is to be held on a day
5 specified by the responsible Commonwealth Minister by notice
6 published in the *Commonwealth Gazette*.
- 7 (3) The specified day must not be earlier than 36 days, or later than 90
8 days, after the dissolution.
- 9 (4) The specified day must not be the polling day for:
10 (a) an election of the Senate; or
11 (b) a general election of the House of Representatives.
- 12 (5) As soon as practicable after the publication of the notice under
13 subsection (2), the responsible Commonwealth Minister must
14 cause notice of the specified day to be published in the *Norfolk*
15 *Island Government Gazette*.
- 16 (6) During the period:
17 (a) beginning when the Legislative Assembly is dissolved; and
18 (b) ending when the Legislative Assembly meets after the first
19 general election of the Legislative Assembly that takes place
20 after the dissolution;
21 the Administrator:
22 (c) is to exercise all the powers of the Administration, the
23 Executive Council and Ministers in accordance with any
24 directions given by the Governor-General; and
25 (d) if it is necessary to issue or spend public money of the
26 Territory when not authorised to do so by or under
27 enactment—may do so with the authority of the
28 Governor-General.
- 29 (7) The powers of the Governor-General under this section are to be
30 exercised by Proclamation.
- 31 (8) The responsible Commonwealth Minister must cause a statement
32 of the reasons for the dissolution to be:
33 (a) published in the *Commonwealth Gazette* and the *Norfolk*
34 *Island Government Gazette* as soon as practicable after the
35 dissolution; and
-

1 (b) tabled in each House of the Parliament within 15 sitting days
2 of that House after the dissolution.

3 (9) A notice under subsection (2) or (5) is not a legislative instrument.

4 (10) A Proclamation under this section is a legislative instrument, but
5 section 42 (disallowance) of the *Legislative Instruments Act 2003*
6 does not apply to the Proclamation.

7 **40 At the end of section 42**

8 Add:

9 (7) If a motion of no confidence in the Chief Minister is before the
10 Legislative Assembly, the Legislative Assembly must deal with
11 that motion before proceeding to the despatch of any other
12 business.

13 **41 After section 42**

14 Insert:

15 **42A Resolution of no confidence in the Chief Minister**

16 (1) A resolution of no confidence in the Chief Minister passed by the
17 Legislative Assembly has no effect unless:

18 (a) it affirms a motion that is expressed to be a motion of no
19 confidence in the Chief Minister; and

20 (b) at least 14 days notice of the motion has been given in
21 accordance with the standing rules and orders; and

22 (c) the resolution is passed by at least the number of members
23 necessary to be a quorum; and

24 (d) the resolution is passed by a majority of the number of
25 members present and voting at the meeting of the Assembly.

26 (2) If a motion for a resolution of no confidence in the Chief Minister
27 is being voted on by the Legislative Assembly, each member
28 present at the meeting of the Assembly must cast a vote on the
29 motion.

30 **42 Section 49**

31 Omit “Finance Minister” (wherever occurring), substitute
32 “Commonwealth Finance Minister”.

1 **43 Subsection 50(1)**

2 Omit “Finance Minister”, substitute “Commonwealth Finance
3 Minister”.

4 **44 Subsection 50A(1)**

5 Omit “Finance Minister”, substitute “Commonwealth Finance
6 Minister”.

7 **45 Subsection 50A(2)**

8 Omit “Finance Minister” (wherever occurring), substitute
9 “Commonwealth Finance Minister”.

10 **46 Subsection 50D(1)**

11 Omit “Finance Minister”, substitute “Commonwealth Finance
12 Minister”.

13 Note: The heading to section 50D is altered by omitting “**Finance Minister**” and substituting
14 “**Commonwealth Finance Minister**”.

15 **47 Subsection 50D(1)**

16 Omit “Finance Minister’s”, substitute “Commonwealth Finance
17 Minister’s”.

18 **48 Subsection 50D(2)**

19 Omit “Finance Minister”, substitute “Commonwealth Finance
20 Minister”.

21 **49 Subsection 53(2)**

22 Omit “Minister”, substitute “responsible Commonwealth Minister”.

23 **50 After section 61**

24 Insert:

25 **61A Norfolk Island Public Service Values**

26 (1) The regulations may prescribe rules, to be known as the Norfolk
27 Island Public Service Values.

28 (2) A person appointed or employed under an enactment mentioned in
29 section 61 must at all times behave in a way that upholds the
30 Norfolk Island Public Service Values.

1 **51 Section 62**

2 Omit “Minister”, substitute “responsible Commonwealth Minister”.

3 **52 Subsection 65(4)**

4 Omit “executive member”, substitute “Minister”.

5 **53 Subsection 67(2)**

6 Omit all the words after “or 3,”, substitute:

7 but regulations repealing or altering an item in Schedule 2 or 3
8 must not be made unless:

- 9 (a) a copy of the proposed regulations has been tabled in the
10 Legislative Assembly on a sitting day of the Legislative
11 Assembly; and
12 (b) at least one sitting day of the Legislative Assembly has
13 occurred since the sitting day mentioned in paragraph (a).

14 **54 Item 42 of Schedule 2**

15 Omit “executive members”, substitute “Ministers”.

16 **55 Schedule 6**

17 Omit “holding executive office” (wherever occurring), substitute
18 “holding office as a Minister”.

19 **56 Transitional—Chief Minister**

- 20 (1) This item applies to a person if:
21 (a) immediately before the commencement of this item, the
22 person held an executive office under section 13 of the
23 *Norfolk Island Act 1979*; and
24 (b) the person was designated as the Chief Minister.
- 25 (2) The *Norfolk Island Act 1979* as amended by this Division has effect as
26 if, immediately after the commencement of this item, the Administrator
27 had, on the advice of the Legislative Assembly, appointed the person as
28 the Chief Minister under subsection 13(1) of that Act.
- 29 (3) The *Norfolk Island Act 1979* as amended by this Division has effect as
30 if the person had complied with section 15 of that Act in relation to the
31 appointment covered by subitem (2).

1 **57 Transitional—other Ministers**

- 2 (1) This item applies to a person if:
- 3 (a) immediately before the commencement of this item, the
- 4 person held an executive office under section 13 of the
- 5 *Norfolk Island Act 1979*; and
- 6 (b) the person was not designated as the Chief Minister.
- 7 (2) The *Norfolk Island Act 1979* as amended by this Division has effect as
- 8 if the Administrator had, immediately after the commencement of this
- 9 item, on the advice of the Chief Minister, appointed the person as a
- 10 Minister under subsection 13(2) of that Act.
- 11 (3) The *Norfolk Island Act 1979* as amended by this Division has effect as
- 12 if the person had complied with section 15 of that Act in relation to the
- 13 appointment covered by subitem (2).

14 **58 Transitional—maximum number of Ministers**

- 15 (1) This item applies if, immediately before the commencement of this
- 16 item, the number (the *transitional number*) of persons holding
- 17 executive office under section 13 of the *Norfolk Island Act 1979* (other
- 18 than the person who was designated as the Chief Minister) exceeded 3.
- 19 (2) During the period:
- 20 (a) beginning at the commencement of this item; and
- 21 (b) ending at the start of the first meeting of the Legislative
- 22 Assembly of Norfolk Island held after the first general
- 23 election of the Legislative Assembly that occurs after the
- 24 commencement of this item;
- 25 the following provisions of the *Norfolk Island Act 1979* as amended by
- 26 this Division:
- 27 (c) paragraph 12(1)(b);
- 28 (d) the note at the end of subsection 13(2);
- 29 have effect as if each reference in those provisions to 3 were a reference
- 30 to the transitional number.

31 **59 Application of amendments—nomination of Chief Minister**

1 Subsection 12A(1) of the *Norfolk Island Act 1979* as amended by this
2 Division applies in relation to the first meeting of the Legislative
3 Assembly of Norfolk Island after a general election that occurs after the
4 commencement of this item.

5 **60 Application of amendments—presentation of proposed**
6 **laws**

7 The amendments of sections 21 and 22 of the *Norfolk Island Act 1979*
8 made by this Division apply in relation to a proposed law presented to
9 the Administrator under subsection 21(1) of that Act after the
10 commencement of this item.

11 **Division 2—Consequential amendments**

12 ***Aboriginal and Torres Strait Islander Heritage Protection Act***
13 ***1984***

14 **61 Subsection 13(1) (definition of *Minister*)**

15 Repeal the definition.

16 ***Environment Protection and Biodiversity Conservation Act***
17 ***1999***

18 **62 Subsection 393(3)**

19 Omit “person holding an office under section 13 of the *Norfolk Island*
20 *Act 1979*”, substitute “Minister of Norfolk Island”.

21 **63 Subsection 393(3)**

22 Omit “that Act”, substitute “the *Norfolk Island Act 1979*”.

23 **64 Subsection 398(2)**

24 Omit “person holding an office under section 13 of the *Norfolk Island*
25 *Act 1979*”, substitute “Minister of Norfolk Island”.

26 **65 Subsection 398(2)**

27 Omit “that Act”, substitute “the *Norfolk Island Act 1979*”.

1 ***Freedom of Information Act 1982***

2 **66 Subparagraph 4(3)(a)(iii)**

3 Omit “an executive office created pursuant to section 12 of the *Norfolk*
4 *Island Act 1979*”, substitute “of Minister of Norfolk Island”.

5 ***Hazardous Waste (Regulation of Exports and Imports) Act***
6 ***1989***

7 **67 Subsection 42(4)**

8 Repeal the subsection.

9 ***Historic Shipwrecks Act 1976***

10 **68 Paragraph 4A(12)(c)**

11 Omit “person holding office under section 13 of the *Norfolk Island Act*
12 *1979*”, substitute “Minister of Norfolk Island”.

13 ***International Criminal Court Act 2002***

14 **69 Section 4 (paragraph (d) of the definition of *State Minister*)**

15 Omit “executive member (within the meaning of the *Norfolk Island Act*
16 *1979*)”, substitute “Minister of Norfolk Island”.

17 **70 Section 4 (definition of *State Minister*)**

18 Omit “or executive member” (wherever occurring).

19 **71 Section 4 (definition of *State Minister*)**

20 Omit “or executive member’s”.

21 ***International Transfer of Prisoners Act 1997***

22 **72 Subsection 4(1) (paragraph (b) of the definition of**
23 ***Territory Minister*)**

24 Omit “executive member (within the meaning of the *Norfolk Island Act*
25 *1979*)”, substitute “Minister of Norfolk Island”.

26 **73 Subsection 4(1) (definition of *Territory Minister*)**

1 Omit “or executive member” (wherever occurring).

2 **74 Subsection 4(1) (definition of *Territory Minister*)**

3 Omit “or executive member’s”.

4 ***National Health Security Act 2007***

5 **75 Subsection 3(1) (paragraph (d) of the definition of *State or***
6 ***Territory Health Minister*)**

7 Repeal the paragraph, substitute:

8 (d) the Minister of Norfolk Island;

9 ***Privacy Act 1988***

10 **76 Subsection 6C(3) (subparagraphs (d)(vi) and (f)(vi) of the**
11 **definition of *State or Territory authority*)**

12 Repeal the subparagraphs.

13 ***Remuneration Tribunal Act 1973***

14 **77 Paragraph 3(4)(jaa)**

15 Omit “executive member”, substitute “Minister”.

1

2 **Part 2—Amendments relating to elections**

3 **Division 1—Dates for elections**

4 *Norfolk Island Act 1979*

5 **78 Subsection 35(2)**

6 Omit “shall not be more than 3 years”, substitute “must not be less than
7 3 years and must not be more than 4 years”.

8 **79 At the end of section 35**

9 Add:

- 10 (3) However, if the next succeeding general election is required
11 because of section 39AB or 39AC, that election may be held less
12 than 3 years after the first meeting mentioned in subsection (2) of
13 this section.

14 **Division 2—Other matters**

15 *Norfolk Island Act 1979*

16 **80 Subsection 31(3)**

17 After “this Act”, insert “and regulations made for the purposes of
18 subsection (4) or (5)”.

19 **81 At the end of section 31**

20 Add:

- 21 (4) The regulations may make provision for or in relation to the
22 following matters:
23 (a) the method of balloting;
24 (b) the manner in which voters are to indicate their votes;
25 (c) the manner in which voters’ votes are to be used to obtain a
26 result for an election;
27 (d) matters incidental or ancillary to the above matters.

- 1 (5) The regulations may make provision for or in relation to the
2 following matters:
3 (a) the filling of casual vacancies in the offices of members of
4 the Legislative Assembly;
5 (b) matters incidental or ancillary to the above matter.

6 **82 Section 37**

7 Repeal the section.

8 **83 Before section 38**

9 Insert:

10 **37A Arrangements with the Australian Electoral Commission**

11 The Chief Minister may, on behalf of the Administration, enter into
12 an arrangement under section 7A of the *Commonwealth Electoral*
13 *Act 1918* in relation to:

- 14 (a) general elections of members of the Legislative Assembly;
15 and
16 (b) the filling of casual vacancies in the offices of members of
17 the Legislative Assembly.

18 **84 Application of amendments**

- 19 (1) The amendments made by this Division, in so far as they relate to a
20 general election of members of the Legislative Assembly, apply to a
21 general election, where writs for the general election are issued after the
22 commencement of this item.
- 23 (2) The amendments made by this Division, in so far as they relate to a
24 casual vacancy in the office of a member of the Legislative Assembly,
25 apply in relation to a casual vacancy that occurs after the
26 commencement of this item.

1

2 **Part 3—Amendments relating to finance**

3 *Norfolk Island Act 1979*

4 **85 Subsection 4(1) (definition of *accounts of the Territory*)**

5 Repeal the definition.

6 **86 Subsection 4(1) (definition of *Auditor*)**

7 Repeal the definition.

8 **87 Subsection 4(1)**

9 Insert:

10 *Chief Executive Officer* has the same meaning as in the *Public*
11 *Sector Management Act 2000* of Norfolk Island.

12 **88 Subsection 4(1)**

13 Insert:

14 *Commonwealth Finance Minister's Orders* means Orders made
15 under section 48T.

16 **89 Subsection 4(1)**

17 Insert:

18 *Commonwealth Financial Officer for Norfolk Island* means the
19 Commonwealth Financial Officer for Norfolk Island appointed
20 under regulations made for the purposes of section 51D.

21 **90 Subsection 4(1)**

22 Insert:

23 *Federal Court* means the Federal Court of Australia.

24 **91 Subsection 4(1)**

25 Insert:

26 *financial management and accountability provisions* means:
27 (a) the provisions of Divisions 2, 3 and 4 of Part VI; or

- 1 (b) regulations made for the purposes of a provision of
2 Division 2 of Part VI; or
3 (c) the Commonwealth Finance Minister's Orders.

4 **92 Subsection 4(1)**

5 Insert:

6 *money of a Territory authority* means:

- 7 (a) money in the custody or under the control of a Territory
8 authority; or
9 (b) money in the custody or under the control of any person
10 acting for or on behalf of a Territory authority in respect of
11 the custody or control of the money;
12 and includes such money that is held on trust for, or otherwise for
13 the benefit of, a person other than a Territory authority.

14 **93 Subsection 4(1)**

15 Insert:

16 *performance audit* has the same meaning as in the
17 *Auditor-General Act 1997*.

18 **94 Subsection 4(1)**

19 Insert:

20 *property of a Territory authority* means:

- 21 (a) property in the custody or under the control of a Territory
22 authority; or
23 (b) property in the custody or under the control of any person
24 acting for or on behalf of a Territory authority in respect of
25 the custody or control of the property;
26 including such property that is held on trust for, or otherwise for
27 the benefit of, a person other than a Territory authority.

28 **95 Subsection 4(1)**

29 Insert:

30 *Public Account of Norfolk Island* means the Public Account of
31 Norfolk Island established by subsection 47(1).

32 **96 Subsection 4(1)**

1 Insert:

2 ***public money of the Territory*** means:

- 3 (a) money in the custody or under the control of the
4 Administration; or
5 (b) money in the custody or under the control of any person
6 acting for or on behalf of the Administration in respect of the
7 custody or control of the money;

8 and includes such money that is held on trust for, or otherwise for
9 the benefit of, a person other than the Administration, but does not
10 include money standing to the credit of the Norfolk Island
11 Provident Account established under the *Provident Account Act*
12 1958 of Norfolk Island.

13 **97 Subsection 4(1) (definition of *public moneys of the***
14 ***Territory*)**

15 Repeal the definition.

16 **98 Subsection 4(1)**

17 Insert:

18 ***public property of the Territory*** means:

- 19 (a) property in the custody or under the control of the
20 Administration; or
21 (b) property in the custody or under the control of any person
22 acting for or on behalf of the Administration in respect of the
23 custody or control of the property;

24 including such property that is held on trust for, or otherwise for
25 the benefit of, a person other than the Administration.

26 **99 Subsection 4(1)**

27 Insert:

28 ***responsible manager***, in relation to a Territory authority, means an
29 individual who is responsible for the finances of the Territory
30 authority.

31 **100 Subsection 4(1)**

32 Insert:

33 ***Territory authority*** means:

- 1 (a) a body corporate established for a public purpose by or under
2 an enactment; or
3 (b) a body, entity, organisation or group of persons specified in
4 the regulations; or
5 (c) a body corporate in which:
6 (i) the Administration; or
7 (ii) a body corporate referred to in paragraph (a); or
8 (iii) a body, entity, organisation or group of persons referred
9 to in paragraph (b);
10 has a controlling interest.

11 For the purposes of this definition, *entity* has the same meaning as
12 in the *Income Tax Assessment Act 1997*, but does not include an
13 individual.

14 **101 Section 25**

15 Omit “, vote, resolution or question, the object or effect of which is to
16 dispose of or charge any public moneys”, substitute “for the
17 appropriation of public money”.

18 Note: The heading to section 25 is altered by omitting “votes” and substituting “Bills”.

19 **102 At the end of section 25**

20 Add:

21 Note: See also section 48 (withdrawals from the Public Account of Norfolk
22 Island).

23 **103 Paragraph 27(3)(a)**

24 Omit “moneys”, substitute “money”.

25 **104 Section 46**

26 Repeal the section.

27 **105 Before section 47**

28 Insert:

29 **Division 1—Public Account of Norfolk Island**

30 **106 Subsections 47(1) and (2)**

31 Omit “public moneys”, substitute “public money”.

1 **107 Subsection 47(4)**

2 After “Public Account”, insert “of Norfolk Island”.

3 **108 Subsection 47(4)**

4 Omit “moneys” (first occurring), substitute “money”.

5 **109 Subsection 47(4)**

6 Omit “those moneys”, substitute “that money”.

7 **110 Subsection 47(5)**

8 After “Public Account”, insert “of Norfolk Island”.

9 **111 Subsection 47(5)**

10 Omit “moneys” (first occurring), substitute “money”.

11 **112 Subsection 47(5)**

12 Omit “those moneys”, substitute “that money”.

13 **113 Subsection 48(1)**

14 Omit “moneys”, substitute “money”.

15 **114 Subsection 48(1)**

16 After “by”, insert “an appropriation made by”.

17 **115 At the end of subsection 48(1)**

18 Add:

19 Note: See also section 25 (proposal of money Bills).

20 **116 Subsection 48(2)**

21 Omit “moneys”, substitute “money”.

22 **117 After section 48**

23 Insert:

1 **Division 2—Financial management and accountability**

2 **48A Preparation of annual budgets by the Minister for Finance**

- 3 (1) The Minister for Finance must prepare annual budgets in relation
4 to:
5 (a) the Administration; and
6 (b) each Territory authority.
- 7 (2) Annual budgets must be prepared in accordance with:
8 (a) the regulations; and
9 (b) the Commonwealth Finance Minister's Orders.
- 10 (3) Annual budgets must be prepared within the period ascertained in
11 accordance with:
12 (a) the regulations; or
13 (b) if no regulations are in force for the purposes of
14 paragraph (a)—the Commonwealth Finance Minister's
15 Orders.
- 16 (4) The Minister for Finance must cause a copy of each annual budget
17 to be tabled in the Legislative Assembly as soon as practicable
18 after it is prepared.
- 19 (5) The Minister for Finance must give a copy of each annual budget
20 to the Administrator as soon as practicable after it is prepared.
- 21 (6) As soon as practicable after receiving a copy of an annual budget,
22 the Administrator must send a copy of the annual budget to the
23 responsible Commonwealth Minister.

24 **48B Preparation of annual financial statements by the Minister for**
25 **Finance**

- 26 (1) As soon as practicable after the end of each financial year, the
27 Minister for Finance must prepare annual financial statements in
28 relation to:
29 (a) the Administration; and
30 (b) each Territory authority.
- 31 (2) The statements must be prepared in accordance with:
32 (a) the regulations; and

- 1 (b) the Commonwealth Finance Minister's Orders.
- 2 (3) The Minister for Finance must give the statements to the
3 Auditor-General as soon as practicable after they are prepared.
- 4 (4) If the Minister for Finance has not given the statements to the
5 Auditor-General within 5 months after the end of the financial
6 year, the Minister for Finance must cause to be tabled in the
7 Legislative Assembly a statement of the reasons why the
8 statements were not given to the Auditor-General within that
9 period.

10 **48C Audit of annual financial statements**

- 11 (1) As soon as practicable after receiving financial statements under
12 section 48B, the Auditor-General must examine the statements and
13 prepare an audit report.
- 14 (2) Instead of preparing a single report, the Auditor-General may
15 prepare an initial report and one or more supplementary reports.
- 16 (3) The Auditor-General must give a copy of each report to:
17 (a) the Minister for Finance; and
18 (b) the responsible Commonwealth Minister; and
19 (c) the Administrator.
- 20 (4) The Minister for Finance must cause a copy of each report to be
21 tabled in the Legislative Assembly as soon as practicable after
22 receiving the copy of the report. Except in the case of a
23 supplementary report, the copy that is tabled must be accompanied
24 by a copy of the annual financial statements.
- 25 (5) As soon as practicable after receiving a copy of a report, the
26 responsible Commonwealth Minister must cause:
27 (a) a copy of the report; and
28 (b) a copy of the annual financial statements to which the report
29 relates;
30 to be tabled in each House of the Parliament.

31 **48D Audit fees for statement audits**

- 32 (1) If financial statements relating to the Administration are audited as
33 mentioned in section 48C, the Administration is liable to pay audit

- 1 fees for the audit, based on a scale of fees determined by the
2 Auditor-General.
- 3 (2) If financial statements relating to a Territory authority are audited
4 as mentioned in section 48C, the authority is liable to pay audit
5 fees for the audit, based on a scale of fees determined by the
6 Auditor-General.
- 7 (3) Fees are payable within 30 days after issue of a payment claim.
8 Payment claims for instalments may be issued before the audit is
9 completed.
- 10 (4) The Auditor-General, on behalf of the Commonwealth, may
11 recover unpaid fees as a debt in a court of competent jurisdiction.
- 12 (5) In the annual report under section 28 of the *Auditor-General Act*
13 *1997*, the Auditor-General must include details of the basis on
14 which the Auditor-General determined the audit fees that applied
15 during the financial year concerned.
- 16 (6) This section does not authorise the imposition of taxation within
17 the meaning of section 55 of the Constitution.

18 **48E Performance audits**

- 19 (1) The Auditor-General may at any time conduct a performance audit
20 of:
21 (a) the Administration; or
22 (b) a Territory authority.
- 23 (2) As soon as practicable after completing the report of an audit under
24 this section, the Auditor-General must:
25 (a) cause a copy of the report to be tabled in each House of the
26 Parliament; and
27 (b) give a copy of the report to:
28 (i) the Minister for Finance; and
29 (ii) the responsible Commonwealth Minister; and
30 (iii) the Administrator; and
31 (c) if the report relates to the Administration—give a copy of the
32 report to the Chief Executive Officer; and

- 1 (d) if the report relates to a Territory authority—give a copy of
2 the report to the responsible manager or managers of the
3 authority.
- 4 (3) The Auditor-General may give a copy of, or an extract from, the
5 report to any person (including a Norfolk Island Minister or a
6 Commonwealth Minister) who, or any body that, in the
7 Auditor-General’s opinion, has a special interest in the report or
8 the content of the extract.
- 9 (4) As soon as practicable after receiving a copy of the report, the
10 Minister for Finance must cause a copy of the report to be tabled in
11 the Legislative Assembly.

12 **48F Comments on proposed performance audit report**

- 13 (1) After preparing a proposed report on an audit of the Administration
14 under section 48E, the Auditor-General must give a copy of the
15 proposed report to the Chief Executive Officer.
- 16 (2) After preparing a proposed report on an audit of a Territory
17 authority under section 48E, the Auditor-General must give a copy
18 of the proposed report to the responsible manager or managers of
19 the authority.
- 20 (3) After preparing a proposed report on an audit under section 48E,
21 the Auditor-General may give a copy of, or an extract from, the
22 proposed report to any person (including a Norfolk Island Minister
23 or a Commonwealth Minister) who, or any body that, in the
24 Auditor-General’s opinion, has a special interest in the report or
25 the content of the extract.
- 26 (4) If the recipient of the proposed report, or the extract from the
27 proposed report, gives written comments to the Auditor-General
28 within 28 days after receiving the proposed report, or the extract
29 from the proposed report, the Auditor-General must consider those
30 comments before preparing a final report.
- 31 (5) The Auditor-General must, in the final report, include all written
32 comments received under subsection (4).

33 **48G Audits—application of the *Auditor-General Act 1997***

- 34 (1) The *Auditor-General Act 1997* extends to Norfolk Island.
-

- 1 (2) The *Auditor-General Act 1997* has effect as if:
- 2 (a) a reference in section 24 or 26 of that Act to Division 1 of
- 3 Part 4 of that Act included a reference to section 48C of this
- 4 Act; and
- 5 (b) a reference in section 23A or 24 of that Act to Division 2 of
- 6 Part 4 of that Act included a reference to section 48E of this
- 7 Act; and
- 8 (c) a reference in section 30 of that Act to laws of the
- 9 Commonwealth included a reference to an enactment; and
- 10 (d) a reference in section 30 of that Act to a House of the
- 11 Parliament included a reference to the Legislative Assembly;
- 12 and
- 13 (e) a reference in section 33 of that Act to the Commonwealth
- 14 included a reference to the Administration; and
- 15 (f) a reference in section 33 of that Act to a Commonwealth
- 16 authority included a reference to a Territory authority.
- 17 (3) Section 37 of the *Auditor-General Act 1997* has effect, in relation
- 18 to a report that relates to:
- 19 (a) the Administration; or
- 20 (b) a Territory authority;
- 21 as if:
- 22 (c) a reference in that section to the Attorney-General were a
- 23 reference to the Minister who is responsible, or principally
- 24 responsible, for the administration of the *Interpretation Act*
- 25 1979 of Norfolk Island; and
- 26 (d) a reference in that section to the Cabinet included a reference
- 27 to a body that:
- 28 (i) consists of Ministers of Norfolk Island; and
- 29 (ii) corresponds to the Cabinet; and
- 30 (e) a reference in paragraph (2)(c) or (d) of that section to the
- 31 Commonwealth included a reference to Norfolk Island; and
- 32 (f) a reference in that section to the Crown in right of the
- 33 Commonwealth included a reference to the Administration;
- 34 and
- 35 (g) a reference in that section to a House of the Parliament
- 36 included a reference to the Legislative Assembly; and
- 37 (h) a reference in that section to the Prime Minister were a
- 38 reference to the Chief Minister; and

- 1 (i) a reference in that section to the Finance Minister were a
2 reference to the Minister for Finance; and
3 (j) a reference in that section to a responsible Minister were a
4 reference to both:
5 (i) a Minister of Norfolk Island; and
6 (ii) the responsible Commonwealth Minister.

7 **48H Preparation of periodic financial statements by the Minister for**
8 **Finance**

- 9 (1) The Minister for Finance must prepare periodic financial
10 statements in relation to:
11 (a) the Administration; and
12 (b) each Territory authority.
- 13 (2) The statements must be prepared in accordance with:
14 (a) the regulations; and
15 (b) the Commonwealth Finance Minister's Orders.
- 16 (3) The statements must be prepared within the period ascertained in
17 accordance with:
18 (a) the regulations; or
19 (b) if no regulations are in force for the purposes of
20 paragraph (a)—the Commonwealth Finance Minister's
21 Orders.
- 22 (4) The Minister for Finance must cause a copy of the statements to be
23 tabled in the Legislative Assembly as soon as practicable after the
24 statements are prepared.
- 25 (5) The Minister for Finance must give a copy of the statements to the
26 Administrator as soon as practicable after they are prepared.
- 27 (6) As soon as practicable after receiving a copy of the statements, the
28 Administrator must send a copy of the statements to the
29 responsible Commonwealth Minister.

30 **48J Preparation of annual report by Chief Executive Officer**

- 31 (1) The Chief Executive Officer must, as soon as practicable after the
32 end of each financial year, prepare and give to the Chief Minister a
33 report on the operations of:

- 1 (a) the Administration; and
2 (b) Territory authorities;
3 during that year.
- 4 (2) The report must be prepared in accordance with:
5 (a) the regulations; and
6 (b) the Commonwealth Finance Minister's Orders.
- 7 (3) The Chief Minister must cause a copy of the report to be tabled in
8 the Legislative Assembly as soon as practicable after receiving the
9 report.
- 10 (4) As soon as practicable after receiving the report, the Chief Minister
11 must give a copy to the Administrator.
- 12 (5) As soon as practicable after receiving a copy of the report, the
13 Administrator must send a copy of the report to the responsible
14 Commonwealth Minister.

15 **48K Minister for Finance may obtain information from the**
16 **responsible manager or managers of a Territory**
17 **authority**

18 *Scope*

- 19 (1) This section applies to a Territory authority if the Minister for
20 Finance believes on reasonable grounds that the authority has
21 information that is relevant to the performance of a function, or the
22 exercise of a power, conferred on the Minister for Finance by:
23 (a) section 48A; or
24 (b) section 48B; or
25 (c) section 48H; or
26 (d) regulations made for the purposes of this Part; or
27 (e) the Commonwealth Finance Minister's Orders.

28 *Requirement*

- 29 (2) The Minister for Finance may, by written notice given to the
30 responsible manager or managers of the Territory authority, require
31 the responsible manager or managers to give to the Minister for
32 Finance, within the period and in the manner and form specified in
33 the notice, any such information.

- 1 (3) A period specified under subsection (2) must not be shorter than 14
2 days after the notice is given.

3 *Compliance*

- 4 (4) The responsible manager or managers must comply with a
5 requirement under subsection (2) to the extent that the responsible
6 manager is, or the managers are, capable of doing so.

7 **48L Chief Executive Officer may obtain information from the**
8 **responsible manager or managers of a Territory**
9 **authority**

10 *Scope*

- 11 (1) This section applies to a Territory authority if the Chief Executive
12 Officer believes on reasonable grounds that the authority has
13 information that is relevant to the performance of a function, or the
14 exercise of a power, conferred on the Chief Executive Officer by:
15 (a) this Part; or
16 (b) regulations made for the purposes of this Part; or
17 (c) the Commonwealth Finance Minister's Orders.

18 *Requirement*

- 19 (2) The Chief Executive Officer may, by written notice given to the
20 responsible manager or managers of the Territory authority, require
21 the responsible manager or managers to give to the Chief
22 Executive Officer, within the period and in the manner and form
23 specified in the notice, any such information.
- 24 (3) A period specified under subsection (2) must not be shorter than 14
25 days after the notice is given.

26 *Compliance*

- 27 (4) The responsible manager or managers must comply with a
28 requirement under subsection (2) to the extent that the responsible
29 manager is, or the managers are, capable of doing so.

1 **48M Promoting efficient, effective and ethical use etc. of**
2 **Administration resources**

- 3 (1) The Chief Executive Officer must manage the affairs of the
4 Administration in a way that promotes proper use of the
5 Administration resources for which the Chief Executive Officer is
6 responsible.
- 7 (2) In doing so, the Chief Executive Officer must comply with this
8 Act, the regulations, the Commonwealth Finance Minister's Orders
9 and any other law.
- 10 (3) In this section:

11 *proper use* means efficient, effective and ethical use that is not
12 inconsistent with the policies of the Administration.

13 **48N Promoting efficient, effective and ethical use etc. of the**
14 **resources of Territory authorities**

- 15 (1) The responsible manager or managers of a Territory authority must
16 manage the affairs of the authority in a way that promotes the
17 proper use of the resources of the authority for which the
18 responsible manager or managers is or are responsible.
- 19 (2) In doing so, the responsible manager or managers must comply
20 with this Act, the regulations, the Commonwealth Finance
21 Minister's Orders and any other law.
- 22 (3) In this section:

23 *proper use* means efficient, effective and ethical use that is not
24 inconsistent with the policies of the Administration.

25 **48P Accounts and records of the Administration**

- 26 (1) The Minister for Finance must ensure that there are prepared and
27 kept accounts and records that properly record and explain the
28 transactions and financial position of the Administration.
- 29 (2) The accounts and records must be prepared and kept in accordance
30 with:
31 (a) the regulations; and
32 (b) the Commonwealth Finance Minister's Orders.

- 1 (3) The Minister for Finance must ensure that the accounts and records
2 are retained for the period ascertained in accordance with:
3 (a) the regulations; or
4 (b) if no regulations are in force for the purposes of
5 paragraph (a)—the Commonwealth Finance Minister’s
6 Orders.

7 **48Q Accounts and records of Territory authorities**

- 8 (1) The responsible manager or managers of a Territory authority must
9 ensure that there are prepared and kept accounts and records that
10 properly record and explain the transactions and financial position
11 of the authority.
- 12 (2) The accounts and records must be prepared and kept in accordance
13 with:
14 (a) the regulations; and
15 (b) the Commonwealth Finance Minister’s Orders.
- 16 (3) The responsible manager or managers of a Territory authority must
17 ensure that the accounts and records are retained for the period
18 ascertained in accordance with:
19 (a) the regulations; or
20 (b) if no regulations are in force for the purposes of
21 paragraph (a)—the Commonwealth Finance Minister’s
22 Orders.

23 **48R Regulations about financial management and accountability—**
24 **Administration**

- 25 (1) The regulations may make provision in relation to the following
26 matters:
27 (a) public money of the Territory;
28 (b) public property of the Territory;
29 (c) other resources of the Administration.
- 30 (2) Regulations made for the purposes of subsection (1) may make
31 provision in relation to the following matters:
32 (a) the control and management of public money of the
33 Territory;
34 (b) financial and accounting systems in relation to:

- 1 (i) public money of the Territory; or
2 (ii) public property of the Territory; or
3 (iii) other resources of the Administration;
4 (c) the control and management of grants of public money of the
5 Territory;
6 (d) the control and management of public property of the
7 Territory;
8 (e) the procurement of property and services by the
9 Administration;
10 (f) the disposal of public property of the Territory;
11 (g) the audit of the annual financial statements prepared under
12 section 48B in relation to the Administration.
- 13 (3) Regulations made for the purposes of subsection (1) may make
14 provision for ensuring or promoting the following:
15 (a) the proper use and management of:
16 (i) public money of the Territory; or
17 (ii) public property of the Territory; or
18 (iii) other resources of the Administration;
19 (b) proper accountability for the use and management of:
20 (i) public money of the Territory; or
21 (ii) public property of the Territory; or
22 (iii) other resources of the Administration.
- 23 (4) Regulations made for the purposes of subsection (1) may confer
24 functions or powers on:
25 (a) the Auditor-General; or
26 (b) the Minister for Finance; or
27 (c) the Chief Executive Officer; or
28 (d) the responsible manager or managers of a Territory authority.
- 29 (5) Subsections (2), (3) and (4) do not limit subsection (1).
- 30 (6) If an enactment is inconsistent with regulations made for the
31 purposes of subsection (1), the enactment has no effect to the
32 extent of the inconsistency.

1 **48S Regulations about financial management and accountability—**
2 **Territory authorities**

- 3 (1) The regulations may make provision in relation to the following
4 matters:
- 5 (a) money of a Territory authority;
 - 6 (b) property of a Territory authority;
 - 7 (c) other resources of a Territory authority.
- 8 (2) Regulations made for the purposes of subsection (1) may make
9 provision in relation to the following matters:
- 10 (a) the control and management of money of a Territory
11 authority;
 - 12 (b) financial and accounting systems in relation to:
 - 13 (i) money of a Territory authority; or
 - 14 (ii) property of a Territory authority; or
 - 15 (iii) other resources of a Territory authority;
 - 16 (c) the control and management of grants of money of a
17 Territory authority;
 - 18 (d) the control and management of property of a Territory
19 authority;
 - 20 (e) the procurement of property and services by a Territory
21 authority;
 - 22 (f) the disposal of property of a Territory authority;
 - 23 (g) the audit of the annual financial statements prepared under
24 section 48B in relation to a Territory authority.
- 25 (3) Regulations made for the purposes of subsection (1) may make
26 provision for ensuring or promoting the following:
- 27 (a) the proper use and management of:
 - 28 (i) money of a Territory authority; or
 - 29 (ii) property of a Territory authority; or
 - 30 (iii) other resources of a Territory authority;
 - 31 (b) proper accountability for the use and management of:
 - 32 (i) money of a Territory authority; or
 - 33 (ii) property of a Territory authority; or
 - 34 (iii) other resources of a Territory authority.
- 35 (4) Regulations made for the purposes of subsection (1) may confer
36 functions or powers on:
-

- 1 (a) the Auditor-General; or
2 (b) the Minister for Finance; or
3 (c) the Chief Executive Officer; or
4 (d) the responsible manager or managers of a Territory authority.
- 5 (5) Subsections (2), (3) and (4) do not limit subsection (1).
- 6 (6) If an enactment is inconsistent with regulations made for the
7 purposes of subsection (1), the enactment has no effect to the
8 extent of the inconsistency.

9 **48T Commonwealth Finance Minister's Orders**

- 10 (1) The Commonwealth Finance Minister may, by legislative
11 instrument, make Orders:
12 (a) on any matter on which this Act requires or permits
13 Commonwealth Finance Minister's Orders to be made; and
14 (b) on any matter on which regulations may be made for the
15 purposes of:
16 (i) subsection 48R(1); or
17 (ii) subsection 48S(1).
- 18 (2) An Order cannot create offences or impose penalties.
- 19 (3) If an enactment is inconsistent with an Order, the enactment has no
20 effect to the extent of the inconsistency.

21 **118 Before section 49**

22 Insert:

23 **Division 3—Borrowing etc.**

24 **119 Sections 51, 51A, 51B, 51C, 51D, 51E, 51F and 51G**

25 Repeal the sections, substitute:

1 **Division 4—Commonwealth Ministers to be kept informed**

2 **51 Minister for Finance must keep responsible Commonwealth**
3 **Minister informed**

- 4 (1) The Minister for Finance must give the responsible
5 Commonwealth Minister such reports, documents and information
6 in relation to the operations of the Administration as the
7 responsible Commonwealth Minister requires.
- 8 (2) A report, document or information required under subsection (1)
9 must be relevant to:
10 (a) this Part; or
11 (b) regulations made for the purposes of this Part; or
12 (c) the Commonwealth Finance Minister's Orders.
- 13 (3) The Minister for Finance must comply with requirements under
14 subsection (1) within the time limits set by the responsible
15 Commonwealth Minister.

16 **51A Minister for Finance must keep Commonwealth Finance**
17 **Minister informed**

- 18 (1) The Minister for Finance must give the Commonwealth Finance
19 Minister such reports, documents and information in relation to the
20 operations of the Administration as the Commonwealth Finance
21 Minister requires.
- 22 (2) A report, document or information required under subsection (1)
23 must be relevant to:
24 (a) this Part; or
25 (b) regulations made for the purposes of this Part; or
26 (c) the Commonwealth Finance Minister's Orders.
- 27 (3) The Minister for Finance must comply with requirements under
28 subsection (1) within the time limits set by the Commonwealth
29 Finance Minister.

1 **51B Responsible manager or managers of Territory authority must**
2 **keep responsible Commonwealth Minister informed**

- 3 (1) The responsible manager or managers of a Territory authority must
4 give the responsible Commonwealth Minister such reports,
5 documents and information in relation to the operations of the
6 authority as the responsible Commonwealth Minister requires.
- 7 (2) A report, document or information required under subsection (1)
8 must be relevant to:
9 (a) this Part; or
10 (b) regulations made for the purposes of this Part; or
11 (c) the Commonwealth Finance Minister's Orders.
- 12 (3) The responsible manager or managers must comply with
13 requirements under subsection (1) within the time limits set by the
14 responsible Commonwealth Minister.

15 **51C Responsible manager or managers of Territory authority must**
16 **keep Commonwealth Finance Minister informed**

- 17 (1) The responsible manager or managers of a Territory authority must
18 give the Commonwealth Finance Minister such reports, documents
19 and information in relation to the operations of the authority as the
20 Commonwealth Finance Minister requires.
- 21 (2) A report, document or information required under subsection (1)
22 must be relevant to:
23 (a) this Part; or
24 (b) regulations made for the purposes of this Part; or
25 (c) the Commonwealth Finance Minister's Orders.
- 26 (3) The responsible manager or managers must comply with
27 requirements under subsection (1) within the time limits set by the
28 Commonwealth Finance Minister.

1 **Division 5—Commonwealth Financial Officer for Norfolk**
2 **Island**

3 **51D Commonwealth Financial Officer for Norfolk Island**

- 4 (1) The regulations may provide that there is to be a Commonwealth
5 Financial Officer for Norfolk Island.
- 6 (2) If the regulations do so, the regulations must provide that the
7 Commonwealth Financial Officer for Norfolk Island is to:
8 (a) be appointed by the Governor-General; and
9 (b) hold office during the pleasure of the Governor-General.
- 10 (3) The regulations may:
11 (a) provide that the Commonwealth Financial Officer for
12 Norfolk Island is entitled at all reasonable times to full and
13 free access to all accounts, records, documents and papers
14 relating directly or indirectly to:
15 (i) the receipt or payment of money by the Administration
16 or a Territory authority; or
17 (ii) the acquisition, receipt, custody or disposal of assets by
18 the Administration or a Territory authority; and
19 (b) provide that the Commonwealth Financial Officer for
20 Norfolk Island is entitled to make copies of, or take extracts
21 from, any such accounts, records, documents or papers.
- 22 (4) If an enactment is inconsistent with regulations made for the
23 purposes of subsection (3), the enactment has no effect to the
24 extent of the inconsistency.
- 25 (5) Regulations made for the purposes of subsection 48R(1) or 48S(1)
26 may confer functions and powers on the Commonwealth Financial
27 Officer for Norfolk Island.

1 **Division 6—Injunctions**

2 **51E Injunctions—enforcement of financial management and**
3 **accountability provisions**

4 *Restraining injunctions*

5 (1) If a person has engaged, is engaging or is proposing to engage, in
6 any conduct in contravention of any of the financial management
7 and accountability provisions, the Federal Court may, on the
8 application of the responsible Commonwealth Minister, grant an
9 injunction:

- 10 (a) restraining the person from engaging in the conduct; and
11 (b) if, in the Court’s opinion, it is desirable to do so—requiring
12 the person to do something.

13 *Performance injunctions*

14 (2) If:

- 15 (a) a person has refused or failed, or is refusing or failing, or is
16 proposing to refuse or fail, to do an act or thing; and
17 (b) the refusal or failure was, is or would be a contravention of
18 any of the financial management and accountability
19 provisions;

20 the Federal Court may, on the application of the responsible
21 Commonwealth Minister, grant an injunction requiring the person
22 to do that act or thing.

23 *Grant of interim injunction*

24 (3) If an application is made to the Federal Court for an injunction
25 under subsection (1), the Court may, before considering the
26 application, grant an interim injunction restraining a person from
27 engaging in conduct of a kind referred to in that subsection.

28 *No undertakings as to damages*

29 (4) The Federal Court is not to require an applicant for an injunction
30 under subsection (1), as a condition of granting an interim
31 injunction, to give any undertakings as to damages.

1 *Discharge or variation of injunctions*

2 (5) The Federal Court may discharge or vary an injunction granted
3 under this section.

4 *Certain limits on granting injunctions not to apply*

5 (6) The power of the Federal Court under this section to grant an
6 injunction restraining a person from engaging in conduct of a
7 particular kind may be exercised:

8 (a) if the Court is satisfied that the person has engaged in
9 conduct of that kind—whether or not it appears to the Court
10 that the person intends to engage again, or to continue to
11 engage, in conduct of that kind; or

12 (b) if it appears to the Court that, if an injunction is not granted,
13 it is likely that the person will engage in conduct of that
14 kind—whether or not the person has previously engaged in
15 conduct of that kind and whether or not there is an imminent
16 danger of substantial damage to any person if the person
17 engages in conduct of that kind.

18 (7) The power of the Federal Court under this section to grant an
19 injunction requiring a person to do an act or thing may be
20 exercised:

21 (a) if the Court is satisfied that the person has refused or failed to
22 do that act or thing—whether or not it appears to the Court
23 that the person intends to refuse or fail again, or to continue
24 to refuse or fail, to do that act or thing; or

25 (b) if it appears to the Court that, if an injunction is not granted,
26 it is likely that the person will refuse or fail to do that act or
27 thing—whether or not the person has previously refused or
28 failed to do that act or thing and whether or not there is an
29 imminent danger of substantial damage to any person if the
30 person refuses or fails to do that act or thing.

31 *Other powers of the Federal Court unaffected*

32 (8) The powers conferred on the Federal Court under this section are
33 in addition to, and not instead of, any other powers of the Court,
34 whether conferred by this Act or otherwise.

35 **120 Application—annual budgets**

1 Section 48A of the *Norfolk Island Act 1979* as amended by this Part
2 applies in relation to annual budgets for:

- 3 (a) the financial year beginning on 1 July 2011; or
4 (b) a later financial year.

5 **121 Application—annual financial statements**

6 Section 48B of the *Norfolk Island Act 1979* as amended by this Part
7 applies in relation to financial statements for:

- 8 (a) the financial year beginning on 1 July 2011; or
9 (b) a later financial year.

10 **122 Application—periodic financial statements**

11 Section 48H of the *Norfolk Island Act 1979* as amended by this Part
12 applies in relation to financial statements for periods that begin on or
13 after 1 July 2011.

14 **123 Application—annual reports**

15 Section 48J of the *Norfolk Island Act 1979* as amended by this Part
16 applies in relation to annual reports for:

- 17 (a) the financial year beginning on 1 July 2011; or
18 (b) a later financial year.

19 **124 Transitional—audit**

20 Despite the following repeals effected by this Part:

- 21 (a) the repeal of the definition of *accounts of the Territory* in
22 subsection 4(1);
23 (b) the repeal of the definition of *Auditor* in subsection 4(1);
24 (c) the repeal of sections 51, 51A, 51B, 51C, 51D, 51E, 51F and
25 51G;

26 the *Norfolk Island Act 1979* continues to apply, after the
27 commencement of this item, in relation to:

- 28 (d) an inspection and audit under section 51C of the *Norfolk*
29 *Island Act 1979* that relates to:
30 (i) the financial year that began on 1 July 2010; or
31 (ii) an earlier financial year; and
32 (e) a report on the inspection and audit;

33 as if those repeals had not been effected.

1 **125 Transitional—pre-commencement appropriation**

2 If any issue or expenditure of money was authorised by an enactment
3 that commenced before the commencement of this item, subsection
4 48(1) of the *Norfolk Island Act 1979* as amended by this Part has effect
5 as if the issue or expenditure had been authorised by an appropriation
6 made by an enactment.

1

2

Part 4—Amendments relating to the Administrative Appeals Tribunal

3

4

Administrative Appeals Tribunal Act 1975

5

126 Subsection 3(1)

6

Insert:

7

authority of Norfolk Island means an authority, tribunal or other body, whether incorporated or not, that is established by a Norfolk Island enactment.

8

9

10

127 Subsection 3(1) (paragraph (b) of the definition of enactment)

11

12

Omit “or the Australian Capital Territory”, substitute “, the Australian Capital Territory or Norfolk Island”.

13

14

128 Subsection 3(1) (at the end of the definition of enactment)

15

16

Add:

17

Note: See also subsection 25(8) (Norfolk Island enactments).

18

129 Subsection 3(1)

19

Insert:

20

Norfolk Island enactment means:

21

(a) an enactment (within the meaning of the *Norfolk Island Act 1979*); or

22

23

(b) an instrument (including rules, regulations or by-laws) made under such an enactment;

24

25

and includes a Norfolk Island enactment as amended by another Norfolk Island enactment.

26

27

130 Subsection 3(1)

28

Insert:

1 *Norfolk Island Justice Minister* means the Norfolk Island Minister
2 who is responsible, or principally responsible, for the
3 administration of the *Interpretation Act 1979* of Norfolk Island.

4 **131 Subsection 3(1)**

5 Insert:

6 *Norfolk Island Minister* means a Minister of Norfolk Island.

7 **132 After subsection 25(1)**

8 Insert:

9 (2) The regulations may provide that applications may be made to the
10 Tribunal for review of decisions made in the exercise of powers
11 conferred by a Norfolk Island enactment.

12 **133 Subsection 25(3)**

13 After “(1)”, insert “or (2)”.

14 **134 After subsection 25(5)**

15 Insert:

16 (5A) For the purposes of regulations that make provision in accordance
17 with this section for the making of applications to the Tribunal for
18 review of decisions made in the exercise of powers conferred by a
19 Norfolk Island enactment, a failure by a person to do an act or
20 thing within the period prescribed by:

- 21 (a) that Norfolk Island enactment; or
22 (b) another Norfolk Island enactment having effect under that
23 Norfolk Island enactment;

24 as the period within which that person is required or permitted to
25 do that act or thing is taken to constitute the making of a decision
26 by that person at the end of that period not to do that act or thing.

27 **135 At the end of section 25**

28 Add:

29 *Norfolk Island enactment*

30 (8) If the regulations make provision in accordance with subsection (2)
31 for the making of applications to the Tribunal for review of

1 decisions made in the exercise of powers conferred by a Norfolk
2 Island enactment (the *primary Norfolk Island enactment*), this
3 Act, other than:

- 4 (a) the definition of *authority of the Commonwealth* in
5 subsection 3(1); and
- 6 (b) subsections (1), (5) and (6) of this section; and
- 7 (c) subsection 21(1); and
- 8 (d) subsection 27(1); and
- 9 (e) paragraph 27A(2)(b); and
- 10 (f) paragraph 33(1)(a); and
- 11 (g) paragraph 43B(1)(a); and
- 12 (h) section 59;

13 has effect as if:

- 14 (i) the primary Norfolk Island enactment; and
- 15 (j) any other Norfolk Island enactment, in so far as it relates to
16 the primary Norfolk Island enactment;

17 were an enactment (within the meaning of this Act).

18 **136 Paragraph 26(1)(a)**

19 Before “the enactment”, insert “if regulations made for the purposes of
20 subsection 25(2) (which deals with Norfolk Island) did not authorise the
21 making of the application—”.

22 **137 After paragraph 26(1)(a)**

23 Insert:

- 24 (aa) if regulations made for the purposes of subsection 25(2)
25 authorised the making of the application—the Norfolk Island
26 enactment under which the decision was made expressly
27 permits the decision to be altered; or

28 **138 Subsection 27(1)**

29 After “authority of the Commonwealth”, insert “or Norfolk Island or an
30 authority of Norfolk Island”.

31 **139 At the end of subsection 27(1)**

32 Add:

33 Note: The enactment may be regulations made for the purposes of
34 subsection 25(2) (review of decisions made in the exercise of powers
35 conferred by a Norfolk Island enactment).

1 **140 Paragraph 27A(2)(a)**

2 After “25(5)”, insert “or (5A)”.

3 **141 Paragraph 29(1)(d)**

4 After “25(5)”, insert “or (5A)”.

5 **142 Subsection 29(3)**

6 After “25(5)” (wherever occurring), insert “or (5A)”.

7 **143 At the end of section 36B**

8 Add:

9 *Norfolk Island*

10 (6) In this section:

11 *Attorney-General*, in relation to Norfolk Island, means the Norfolk
12 Island Justice Minister.

13 *Cabinet*, in relation to Norfolk Island, means a body that:

14 (a) consists of Norfolk Island Ministers; and

15 (b) corresponds to the Cabinet.

16 *State* includes Norfolk Island.

17 **144 At the end of section 36C**

18 Add:

19 *Norfolk Island*

20 (4) In this section:

21 *Attorney-General*, in relation to Norfolk Island, means the Norfolk
22 Island Justice Minister.

23 *State* includes Norfolk Island.

24 **145 At the end of section 36D**

25 Add:

1 *Norfolk Island*

2 (8) In this section:

3 ***Attorney-General***, in relation to Norfolk Island, means the Norfolk
4 Island Justice Minister.

5 ***State*** includes Norfolk Island.

6 **146 At the end of subsection 43B(1)**

7 Add:

8 Note: The enactment may be regulations made for the purposes of
9 subsection 25(2) (review of decisions made in the exercise of powers
10 conferred by a Norfolk Island enactment).

11 **147 Section 59**

12 Before “If an enactment”, insert “(1)”.

13 **148 At the end of section 59**

14 Add:

15 (2) If the regulations so provide, the Tribunal may give an advisory
16 opinion on a matter or question:
17 (a) arising under a Norfolk Island enactment; and
18 (b) referred to the Tribunal in accordance with the regulations;
19 and, for the purpose of giving such an opinion, the Tribunal may
20 hold such hearings and inform itself in such manner as it thinks
21 appropriate.

22 **149 Subsection 66(4)**

23 Insert:

24 ***enactment*** includes a Norfolk Island enactment.

25 **150 Section 66A**

26 Before “If:”, insert “(1)”.

27 **151 At the end of section 66A**

28 Add:

29 (2) In this section:

1 *enactment* includes a Norfolk Island enactment.

2 **152 Section 67A**

3 Before “A notice”, insert “(1)”.

4 **153 Section 67A**

5 After “a decision”, insert “(other than a decision under a Norfolk Island
6 enactment)”.

7 **154 At the end of section 67A**

8 Add:

9 (2) A notice that is required or permitted by this Act to be given to the
10 person who made a decision under a Norfolk Island enactment may
11 be given to the Chief Executive Officer (within the meaning of the
12 *Public Sector Management Act 2000* of Norfolk Island).

1

2

Part 5—Amendments relating to freedom of information

3

4

Freedom of Information Act 1982

5

155 Subsection 3(1)

6

After “the Commonwealth”, insert “or the Government of Norfolk Island”.

7

8

156 Subsection 4(1) (definition of *agency*)

9

Omit “or a prescribed authority”, substitute “, a prescribed authority or a Norfolk Island authority”.

10

11

157 Subsection 4(1)

12

Insert:

13

Australia, when used in a geographical sense, includes Norfolk Island.

14

15

158 Subsection 4(1) (definition of *Cabinet*)

16

Repeal the definition, substitute:

17

Cabinet includes:

18

(a) a committee of the Cabinet; and

19

(b) a body that:

20

(i) consists of Norfolk Island Ministers; and

21

(ii) corresponds to the Cabinet.

22

159 Subsection 4(1) (paragraph (a) of the definition of *Commonwealth contract*)

23

After “the Commonwealth”, insert “, Norfolk Island”.

24

25

160 Subsection 4(1) (subparagraph (b)(iii) of the definition of *Commonwealth contract*)

26

After “the Commonwealth”, insert “, Norfolk Island”.

27

28

161 Subsection 4(1)

1 Insert:

2 **Minister** includes a Norfolk Island Minister.

3 **162 Subsection 4(1)**

4 Insert:

5 **Norfolk Island authority** means:

- 6 (a) a public sector agency (within the meaning of the *Public*
7 *Sector Management Act 2000* of Norfolk Island); or
8 (b) a body (whether incorporated or not) established for a public
9 purpose by or under a Norfolk Island enactment, other than a
10 body established or registered under:
11 (i) the *Companies Act 1985* of Norfolk Island; or
12 (ii) the *Associations Incorporation Act 2005* of Norfolk
13 Island; or
14 (c) a body established or appointed by:
15 (i) the Administrator of Norfolk Island; or
16 (ii) a Norfolk Island Minister;
17 otherwise than by or under a Norfolk Island enactment; or
18 (d) a person holding or performing the duties of:
19 (i) an office established by or under a Norfolk Island
20 enactment; or
21 (ii) an appointment made under a Norfolk Island enactment;
22 or
23 (e) a person holding or performing the duties of an appointment,
24 where the appointment was made by:
25 (i) the Administrator of Norfolk Island; or
26 (ii) a Norfolk Island Minister;
27 otherwise than under a Norfolk Island enactment.

28 **163 Subsection 4(1)**

29 Insert:

30 **Norfolk Island enactment** means:

- 31 (a) an enactment (within the meaning of the *Norfolk Island Act*
32 *1979*); or
33 (b) an instrument (including rules, regulations or by-laws) made
34 under such an enactment;

1 and includes a Norfolk Island enactment as amended by another
2 Norfolk Island enactment.

3 **164 Subsection 4(1)**

4 Insert:

5 *Norfolk Island Minister* means a Minister of Norfolk Island.

6 **165 Subsection 4(1) (at the end of the definition of *principal***
7 ***officer*)**

8 Add:

9 ; or (c) in relation to a Norfolk Island authority—the person holding,
10 or performing the duties of, the office of Chief Executive
11 Officer under the *Public Sector Management Act 2000* of
12 Norfolk Island.

13 **166 Subsection 4(1) (at the end of paragraph (d) of the**
14 **definition of *responsible Minister*)**

15 Add “or”.

16 **167 Subsection 4(1) (after paragraph (d) of the definition of**
17 ***responsible Minister*)**

18 Insert:

19 (e) in relation to a Norfolk Island authority—the Chief Minister
20 of Norfolk Island;

21 **168 After subsection 4(3)**

22 Insert:

23 (3A) If an unincorporated body consists of a board, council, committee,
24 sub-committee or other body established by or under a Norfolk
25 Island enactment for the purpose of assisting, or performing
26 functions connected with, a Norfolk Island authority:

- 27 (a) the unincorporated body is taken not to be a Norfolk Island
28 authority for the purposes of this Act; and
29 (b) the unincorporated body is taken to be comprised within that
30 Norfolk Island authority.

31 (3B) A person is not taken to be a Norfolk Island authority:

- 32 (a) because he or she holds:

- 1 (i) an office of member of the Legislative Assembly of
2 Norfolk Island; or
3 (ii) the office of Administrator of Norfolk Island; or
4 (iii) an office of Deputy Administrator of Norfolk Island; or
5 (iv) an office of Norfolk Island Minister; or
6 (b) because he or she holds, or performs the duties of:
7 (i) a prescribed office; or
8 (ii) an office the duties of which he or she performs as
9 duties of his or her employment as an officer of a
10 Norfolk Island authority; or
11 (iii) an office of member of a Norfolk Island authority; or
12 (iv) an office established by a Norfolk Island enactment for
13 the purposes of a Norfolk Island authority.

14 **169 After section 4A**

15 Insert:

16 **4B Extension to Norfolk Island**

17 This Act extends to Norfolk Island.

18 **170 Section 5**

19 Before “For the purposes”, insert “(1)”.

20 **171 Paragraph 5(a)**

21 After “court”, insert “(other than a court of Norfolk Island)”.

22 **172 Paragraph 5(b)**

23 After “judicial office”, insert “(other than a judicial office in a court of
24 Norfolk Island)”.

25 **173 Paragraph 5(b)**

26 After “a court”, insert “(other than a court of Norfolk Island)”.

27 **174 Paragraph 5(c)**

28 After “a court”, insert “(other than a court of Norfolk Island)”.

29 **175 At the end of section 5**

30 Add:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

- (2) For the purposes of this Act:
 - (a) a court of Norfolk Island is taken to be a Norfolk Island authority; and
 - (b) if a person is the holder of a judicial office in a court of Norfolk Island—the person, in his or her capacity as the holder of the office, is taken not to be a Norfolk Island authority and is not to be included in a Norfolk Island authority; and
 - (c) if:
 - (i) a person is the holder of an office (other than a judicial office) that relates to a court of Norfolk Island; and
 - (ii) the office is established by a Norfolk Island enactment; the person, in his or her capacity as the holder of the office, is taken not to be a Norfolk Island authority and is not to be included in a Norfolk Island authority; and
 - (d) a registry or other office of a court of Norfolk Island, and the staff of such a registry or other office when acting in a capacity as members of that staff, are taken to be a part of the court;
- but this Act does not apply to any request for access to a document of the court unless the document relates to matters of an administrative nature.

176 Paragraph 8(2)(d)

- Repeal the paragraph, substitute:
- (d) details of the following appointments:
 - (i) appointments of officers of the agency that are made under Acts (other than APS employees within the meaning of the *Public Service Act 1999*);
 - (ii) appointments of officers of the agency that are made under Norfolk Island enactments (other than officers appointed or employed under the *Public Sector Management Act 2000* of Norfolk Island);

177 At the end of paragraph 8(2)(e)

Add “or the Legislative Assembly of Norfolk Island”.

178 Paragraph 8(2)(h)

1 After “provided to the Parliament”, insert “or the Legislative Assembly
2 of Norfolk Island”.

3 **179 At the end of paragraph 8(2)(h)**

4 Add “or the Legislative Assembly of Norfolk Island, as the case may
5 be”.

6 **180 At the end of section 8 (before the notes)**

7 Add:

8 *Definition*

9 (6) In this section:

10 *enactment* includes a Norfolk Island enactment.

11 **181 At the end of section 8C**

12 Add:

13 *Definition*

14 (4) In this section:

15 *enactment* includes a Norfolk Island enactment.

16 **182 At the end of Part II**

17 Add:

18 **10B Transitional—Norfolk Island authorities**

19 This Part does not apply to a Norfolk Island authority at any time
20 during the 2-year period beginning at the commencement of this
21 section.

22 **183 After paragraph 11B(4)(a)**

23 Insert:

24 (aa) access to the document could result in embarrassment to the
25 Government of Norfolk Island or cause a loss of confidence
26 in the Government of Norfolk Island;

27 **184 Section 12**

1 Before “A person is not entitled”, insert “(1)”.

2 **185 At the end of section 12**

3 Add:

- 4 (2) A person is not entitled to obtain access under this Part to a
5 document or a part of a document that became:
6 (a) a document of a Norfolk Island agency; or
7 (b) an official document of a Norfolk Island Minister;
8 more than 5 years before the commencement of this subsection
9 unless:
10 (c) the document, or that part of the document, contains
11 information that is:
12 (i) personal information about that person; or
13 (ii) information relating to that person’s business,
14 commercial or financial affairs; or
15 (d) the document, or that part of the document, is a document or
16 a part of a document access to which is reasonably necessary
17 to enable a proper understanding of:
18 (i) a document of a Norfolk Island agency; or
19 (ii) an official document of a Norfolk Island Minister;
20 to which that person has lawfully had access.

21 (3) In this section:

22 *enactment* includes a Norfolk Island enactment.

23 **186 Subsection 15(6)**

24 After “26A,”, insert “26AA,”.

25 Note: The heading to subsection 15(6) is altered by inserting “26AA,” after “26A,”.

26 **187 Paragraph 20(3)(c)**

27 Omit “or a State”, substitute “, Norfolk Island or a State”.

28 **188 At the end of paragraphs 21(1)(a) and (b)**

29 Add “or”.

30 **189 At the end of subsection 21(1)**

31 Add:

- 1 ; or (e) if:
- 2 (i) the request is received by a Norfolk Island Minister or a
- 3 Norfolk Island authority; and
- 4 (ii) a Norfolk Island Minister considers that the document
- 5 concerned is of such general public interest that the
- 6 Legislative Assembly of Norfolk Island should be
- 7 informed of the contents of the document before the
- 8 document is otherwise made public;
- 9 until the end of 5 sitting days of the Legislative Assembly of
- 10 Norfolk Island.

11 **190 Subparagraph 26A(1)(c)(i)**

12 After “relations”, insert “etc.”.

13 **191 At the end of section 26A**

14 Add:

15 *Definition*

16 (6) In this section:

17 *State* includes Norfolk Island.

18 Note: The heading to section 26A is altered by adding at the end “etc.”.

19 **192 After section 26A**

20 Insert:

21 **26AA Consultation—documents affecting Norfolk Island**
22 **intergovernmental relations**

23 *Scope*

24 (1) This section applies if:

25 (a) either:

26 (i) arrangements have been entered into between Norfolk

27 Island and the Commonwealth about consultation under

28 this section; or

29 (ii) arrangements have been entered into between Norfolk

30 Island and a State about consultation under this section;

31 and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

- (b) if subparagraph (a)(i) applies—a request is made to a Norfolk Island authority or Norfolk Island Minister for access to a document that:
 - (i) originated with, or was received from, the Commonwealth or an authority of the Commonwealth; or
 - (ii) contains information (***Commonwealth-originated information***) that originated with, or was received from, the Commonwealth or an authority of the Commonwealth; and
- (c) if subparagraph (a)(ii) applies—a request is made to a Norfolk Island authority or Norfolk Island Minister for access to a document that:
 - (i) originated with, or was received from, the State or an authority of the State; or
 - (ii) contains information (***State-originated information***) that originated with, or was received from, the State or an authority of the State; and
- (d) if subparagraph (a)(i) applies—it appears to the Norfolk Island authority or Norfolk Island Minister that the Commonwealth may reasonably wish to contend that:
 - (i) the document is conditionally exempt under section 47B (Commonwealth-State relations etc.); and
 - (ii) access to the document would, on balance, be contrary to the public interest for the purposes of subsection 11A(5); and
- (e) if subparagraph (a)(ii) applies—it appears to the Norfolk Island authority or Norfolk Island Minister that the State may reasonably wish to contend that:
 - (i) the document is conditionally exempt under section 47B (Commonwealth-State relations etc.); and
 - (ii) access to the document would, on balance, be contrary to the public interest for the purposes of subsection 11A(5).

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

Consultation required

- (2) The Norfolk Island authority or Norfolk Island Minister must not decide to give the applicant access to the document unless consultation has taken place between:
- (a) if subparagraph (1)(a)(i) applies—Norfolk Island and the Commonwealth in accordance with the arrangements mentioned in that subparagraph; or
 - (b) if subparagraph (1)(a)(ii) applies—Norfolk Island and the State in accordance with the arrangements mentioned in that subparagraph.

Decision to give access

- (3) If, after such consultation has taken place, the Norfolk Island authority or Norfolk Island Minister decides to give the applicant access to the document, the Norfolk Island authority or Norfolk Island Minister must give written notice of the decision to:
- (a) if subparagraph (1)(a)(i) applies—the Commonwealth; and
 - (b) if subparagraph (1)(a)(ii) applies—the State; and
 - (c) in any case—the applicant.

Access not to be given until review or appeal opportunities have run out

- (4) However, the Norfolk Island authority or Norfolk Island Minister must not give the applicant access to the document unless, after all the opportunities of:
- (a) if subparagraph (1)(a)(i) applies—the Commonwealth; or
 - (b) if subparagraph (1)(a)(ii) applies—the State;
- for review or appeal in relation to the decision to give access to the document have run out, the decision still stands, or is confirmed.

Note 1: The decision to give access to the document is subject to internal review (see Part VI), review by the Information Commissioner (see Part VII) and review by the Tribunal (see Part VIIA).

Note 2: For when all opportunities for review or appeal in relation to the decision to give access to the document have *run out*, see subsection 4(1).

1 *Edited copies, Commonwealth-originated information and*
2 *State-originated information*

3 (5) This section applies:

- 4 (a) in relation to an edited copy of a document in the same way
5 as it applies to the document; and
6 (b) in relation to a document containing
7 Commonwealth-originated information—to the extent to
8 which the document contains such information; and
9 (c) in relation to a document containing State-originated
10 information—to the extent to which the document contains
11 such information.

12 **193 At the end of section 38**

13 Add:

14 (4) In this section:

15 *enactment* includes a Norfolk Island enactment.

16 **194 Subsection 45(1)**

17 Omit “or the Commonwealth”, substitute “, the Commonwealth or
18 Norfolk Island”.

19 **195 Subsection 45(2)**

20 After “prescribed authority”, insert “or Norfolk Island authority”.

21 **196 Paragraph 45(2)(b)**

22 Omit “or the Commonwealth”, substitute “, the Commonwealth or
23 Norfolk Island”.

24 **197 Subsection 47(3)**

25 After “the Commonwealth”, insert “, Norfolk Island”.

26 **198 Subsection 47A(1) (at the end of the definition of**
27 ***electoral roll*)**

28 Add:

- 29 ; or (c) an electoral roll prepared under the *Legislative Assembly Act*
30 *1979* of Norfolk Island; or
31 (d) any part of an electoral roll referred to in paragraph (c).

1 **199 At the end of section 47B (before the note)**

2 Add:

- 3 ; or (c) would, or could reasonably be expected to, cause damage to
4 relations between the Commonwealth and Norfolk Island; or
5 (d) would divulge information or matter communicated in
6 confidence by or on behalf of the Government of Norfolk
7 Island or an authority of Norfolk Island, to the Government
8 of the Commonwealth, to an authority of the Commonwealth
9 or to a person receiving the communication on behalf of the
10 Commonwealth or an authority of the Commonwealth; or
11 (e) would, or could reasonably be expected to, cause damage to
12 relations between Norfolk Island and a State; or
13 (f) would divulge information or matter communicated in
14 confidence by or on behalf of the Government of a State or
15 an authority of a State, to the Government of Norfolk Island,
16 to an authority of Norfolk Island or to a person receiving the
17 communication on behalf of Norfolk Island or of an authority
18 of Norfolk Island.

19 Note: The heading to section 47B is altered by adding at the end “etc.”.

20 **200 Subsection 47C(1)**

21 Omit all the words after “involved in”, substitute:

22 the functions of:

- 23 (a) an agency; or
24 (b) a Minister; or
25 (c) the Government of the Commonwealth; or
26 (d) the Government of Norfolk Island.

27 **201 Section 47D**

28 After “the Commonwealth”, insert “, of Norfolk Island”.

29 Note: The heading to section 47D is altered by adding at the end “**or Norfolk Island**”.

30 **202 Paragraph 47E(c)**

31 After “the Commonwealth”, insert “, by Norfolk Island”.

32 **203 Paragraph 47G(1)(b)**

33 After “to the Commonwealth”, insert “, Norfolk Island”.

1 **204 Subsection 47G(4)**

2 After “the Commonwealth”, insert “, Norfolk Island”.

3 **205 After subsection 47J(2)**

4 Insert:

5 (2A) For the purposes of paragraph (2)(b), Norfolk Island is taken to be
6 a region of Australia.

7 **206 Paragraph 47J(3)(g)**

8 After “by the Commonwealth,”, insert “Norfolk Island,”.

9 **207 Paragraph 47J(3)(g)**

10 After “of the Commonwealth”, insert “, of Norfolk Island”.

11 **208 Section 53B**

12 Before “An *access grant decision*”, insert “(1)”.

13 **209 Section 53B (note)**

14 Omit “item 1”, substitute “items 1 and 1A”.

15 **210 Section 53B (table item 1)**

16 After “relations”, insert “etc.”.

17 **211 Section 53B (after table item 1)**

18 Insert:

- | | | |
|----|---|---|
| 1A | consultation with the Commonwealth or a State under section 26AA (documents affecting Norfolk Island intergovernmental relations) is required | a decision of an agency or Minister to give the applicant access to the document (or an edited copy of the document) because:
(a) the document is not conditionally exempt under section 47B (Commonwealth-State relations etc.);
or
(b) access to the document would not, on balance, be contrary to the public interest for the purposes of subsection 11A(5). |
|----|---|---|

19 **212 At the end of section 53B**

20 Add:

1 (2) For the purposes of table item 1, *State* has the same meaning as in
2 section 26A.

3 **213 Section 53C**

4 Before “The following table”, insert “(1)”.

5 **214 Section 53C (after table item 1)**

6 Insert:

1A	consultation with the Commonwealth or a State under section 26AA (documents affecting Norfolk Island intergovernmental relations) is required	the Commonwealth or the State, as the case may be.
----	--	---

7 **215 At the end of section 53C**

8 Add:

9 (2) For the purposes of table item 1, *State* has the same meaning as in
10 section 26A.

11 **216 Paragraph 54P(1)(a)**

12 After “26A,”, insert “26AA,”.

13 **217 Paragraph 54S(2)(b)**

14 After “26A,”, insert “26AA,”.

15 **218 Subsection 54Y(2) (note)**

16 Before “27”, insert “26AA (documents affecting Norfolk Island
17 intergovernmental relations),”.

18 **219 Subsection 55G(1) (note)**

19 Before “27”, insert “26AA (documents affecting Norfolk Island
20 intergovernmental relations),”.

21 **220 At the end of section 55M**

22 Add:

23 (3) In this section:

24 *enactment* includes a Norfolk Island enactment.

1 **221 At the end of section 58AA**

2 Add:

3 (3) In this section:

4 *enactment* includes a Norfolk Island enactment.

5 **222 Subsection 60AA(1)**

6 After “26A,”, insert “26AA,”.

7 **223 Subsection 61(2)**

8 After “26A,”, insert “26AA,”.

9 **224 At the end of subsection 66(1)**

10 Add “or Norfolk Island”.

11 **225 Subsection 74(1)**

12 Omit “dealt with by the Ombudsman under the *Ombudsman Act 1976*.”,
13 substitute:

14 dealt with:

15 (a) by the Ombudsman under the *Ombudsman Act 1976*; or

16 (b) by the Ombudsman under a particular Norfolk Island
17 enactment.

18 **226 Subsection 74(5)**

19 Omit “A complaint”, substitute “If paragraph (1)(a) applies, a
20 complaint”.

21 **227 At the end of section 74 (before the note)**

22 Add:

23 (6) If paragraph (1)(b) applies, a complaint transferred under
24 subsection (3) is taken to be a complaint made to the Ombudsman
25 under the Norfolk Island enactment concerned.

26 **228 At the end of section 89D**

27 Add:

28 (4) In this section:

1 *enactment* includes a Norfolk Island enactment.

2 **229 At the end of section 89J**

3 Add:

4 (3) In this section:

5 *enactment* includes a Norfolk Island enactment.

6 **230 Subsection 90(1)**

7 After “the Commonwealth,”, insert “Norfolk Island,”.

8 **231 Subsection 91(1A)**

9 After “26A,”, insert “26AA,”.

10 **232 Subsection 91(1B)**

11 After “the Commonwealth,”, insert “Norfolk Island,”.

12 **233 Subsection 91(1B)**

13 After “26A,”, insert “26AA,”.

14 **234 After paragraph 91(1C)(a)**

15 Insert:

16 (aa) consultation with the Commonwealth or a State under
17 subsection 26AA(2);

18 **235 After paragraph 91(1C)(d)**

19 After “the Commonwealth,”, insert “Norfolk Island,”.

20 **236 After paragraph 91(2A)(a)**

21 Insert:

22 (aa) consultation with the Commonwealth or a State under
23 subsection 26AA(2);

24 **237 At the end of section 91**

25 Add:

26 (4) For the purposes of paragraphs (1C)(a) and (2A)(a), *State* has the
27 same meaning as in section 26A.

1 **238 After paragraph 92(2)(a)**

2 Insert:

3 (aa) consultation with the Commonwealth or a State under
4 subsection 26AA(2);

5 **239 At the end of section 92**

6 Add:

7 (3) For the purposes of paragraph (2)(a), *State* has the same meaning
8 as in section 26A.

1

2 **Part 6—Amendments relating to the Ombudsman**

3 *Norfolk Island Act 1979*

4 **240 After section 66**

5 Insert:

6 **66A Reports by Ombudsman**

7 *Scope*

8 (1) This section applies if an enactment:

- 9 (a) requires that the Commonwealth Ombudsman must give a
10 report to a Minister; and
11 (b) requires that the Minister must cause the report to be tabled
12 in the Legislative Assembly.

13 *Requirement*

14 (2) The Minister must give a copy of the report to the responsible
15 Commonwealth Minister.

16 (3) The responsible Commonwealth Minister must cause a copy of the
17 report to be tabled in each House of the Parliament within 15
18 sitting days of that House after the responsible Commonwealth
19 Minister receives the report.

20 Note: See also section 4 of the *Ombudsman Act 1976*.

21 *Ombudsman Act 1976*

22 **241 At the end of subsection 4(2)**

23 Add:
24 ; or (d) an enactment of Norfolk Island.

25 **242 At the end of section 4**

26 Add:

- 1 (6) The Commonwealth Ombudsman, in performing functions under
2 an enactment of Norfolk Island, may, if he or she so chooses, be
3 called the Norfolk Island Ombudsman.

1

2 **Part 7—Amendments relating to privacy**

3 *Australian Capital Territory Government Service*
4 *(Consequential Provisions) Act 1994*

5 **243 After subsection 23(1)**

6 Insert:

7 (1A) Until the day fixed for the purposes of subsection (1), the definition
8 of *enactment* in subsection 6(1) of the *Privacy Act 1988* does not
9 imply that a reference in that Act to an enactment does not include
10 a reference to an ACT enactment.

11 *Privacy Act 1988*

12 **244 Subsection 6(1) (after paragraph (h) of the definition of**
13 ***agency*)**

14 Insert:

15 (ha) a Norfolk Island agency; or

16 **245 Subsection 6(1)**

17 Insert:

18 *Cabinet*, in relation to Norfolk Island, means a body that:
19 (a) consists of Norfolk Island Ministers; and
20 (b) corresponds to the Cabinet.

21 **246 Subsection 6(1) (definition of *Commonwealth contract*)**

22 After “the Commonwealth”, insert “, Norfolk Island”.

23 **247 Subsection 6(1)**

24 Insert:

25 *enactment* includes a Norfolk Island enactment.

26 **248 Subsection 6(1)**

27 Insert:

1 **Norfolk Island agency** means:

- 2 (a) a Norfolk Island Minister; or
3 (b) a public sector agency (within the meaning of the *Public*
4 *Sector Management Act 2000* of Norfolk Island); or
5 (c) a body (whether incorporated or not), or a tribunal,
6 established for a public purpose by or under a Norfolk Island
7 enactment, other than a body established or registered under:
8 (i) the *Companies Act 1985* of Norfolk Island; or
9 (ii) the *Associations Incorporation Act 2005* of Norfolk
10 Island; or
11 (d) a body established or appointed by:
12 (i) the Administrator of Norfolk Island; or
13 (ii) a Norfolk Island Minister;
14 otherwise than by or under a Norfolk Island enactment; or
15 (e) a person holding or performing the duties of:
16 (i) an office established by or under a Norfolk Island
17 enactment; or
18 (ii) an appointment made under a Norfolk Island enactment;
19 or
20 (f) a person holding or performing the duties of an appointment,
21 where the appointment was made by:
22 (i) the Administrator of Norfolk Island; or
23 (ii) a Norfolk Island Minister;
24 otherwise than under a Norfolk Island enactment; or
25 (g) a court of Norfolk Island.

26 **249 Subsection 6(1)**

27 Insert:

28 **Norfolk Island enactment** means:

- 29 (a) an enactment (within the meaning of the *Norfolk Island Act*
30 *1979*); or
31 (b) an instrument (including rules, regulations or by-laws) made
32 under such an enactment;
33 and includes a Norfolk Island enactment as amended by another
34 Norfolk Island enactment.

35 **250 Subsection 6(1)**

1 Insert:

2 *Norfolk Island Justice Minister* means the Norfolk Island Minister
3 who is responsible, or principally responsible, for the
4 administration of the *Interpretation Act 1979* of Norfolk Island.

5 **251 Subsection 6(1)**

6 Insert:

7 *Norfolk Island Minister* means a Minister of Norfolk Island.

8 **252 At the end of paragraphs 6(5)(a), (b) and (c)**

9 Add “or”.

10 **253 After paragraph 6(5)(c)**

11 Insert:

12 (ca) an office established by or under a Norfolk Island enactment
13 for the purposes of a Norfolk Island agency; or

14 **254 At the end of subsection 6(5)**

15 Add:

16 ; or (f) an office of member of a tribunal that is established by or
17 under a Norfolk Island enactment and that is prescribed for
18 the purposes of this paragraph.

19 **255 After subsection 6(10)**

20 Insert:

21 (10A) For the purposes of this Act, the Supreme Court of Norfolk Island
22 is taken not to be a federal court.

23 **256 At the end of subparagraphs 7(1)(a)(i) and (ii)**

24 Add “or”.

25 **257 After subparagraph 7(1)(a)(ii)**

26 Insert:

27 (ia) a court of Norfolk Island; or

28 **258 At the end of subparagraph 7(1)(a)(iii)**

29 Add “or”.

1 **259 After subparagraph 7(1)(a)(iii)**

2 Insert:

3 (iiiaa) a Norfolk Island Minister; or

4 **260 After paragraph 7(1)(b)**

5 Insert:

6 (ba) an act done, or a practice engaged in, as the case may be, by a
7 court of Norfolk Island, being an act done, or a practice
8 engaged in, in respect of a matter of an administrative nature;
9 or

10 **261 Paragraphs 7(1)(d) and (e)**

11 After “other than”, insert “a Norfolk Island agency,”.

12 **262 After paragraph 7(1)(e)**

13 Insert:

14 (eaa) an act done, or a practice engaged in, as the case may be, by a
15 Norfolk Island Minister in relation to the affairs of a Norfolk
16 Island agency, not being an act done, or a practice engaged
17 in, in relation to an existing record; or

18 (eab) an act done, or a practice engaged in, as the case may be, by a
19 Norfolk Island Minister in relation to a record that is in the
20 Norfolk Island Minister’s possession in his or her capacity as
21 a Norfolk Island Minister and relates to the affairs of a
22 Norfolk Island agency; or

23 **263 Paragraph 8(1)(b)**

24 After “Commonwealth enactment”, insert “or a Norfolk Island
25 enactment”.

26 **264 Subsection 9(3)**

27 After “Commonwealth enactment”, insert “or a Norfolk Island
28 enactment”.

29 **265 Subsection 10(3)**

30 After “Commonwealth enactment”, insert “or a Norfolk Island
31 enactment”.

32 **266 Subsection 11(3)**

1 After “Commonwealth enactment”, insert “or a Norfolk Island
2 enactment”.

3 **267 After subsection 15(1)**

4 Insert:

5 (1A) Information Privacy Principles 1, 2, 3, 10 and 11 do not apply to
6 information collected by a Norfolk Island agency before the
7 commencement of this subsection.

8 **268 Before section 16**

9 Insert:

10 **15B Special provision relating to the application of the Information**
11 **Privacy Principles in relation to Norfolk Island**

12 In relation to a record-keeper that is a Norfolk Island agency, a
13 reference in Information Privacy Principle 5, 6 or 7 to a *law of the*
14 *Commonwealth* includes a reference to a Norfolk Island
15 enactment.

16 **269 Paragraph 27(1)(b)**

17 Before “) a proposed”, insert “or a Norfolk Island Minister”.

18 **270 Paragraph 27(1)(f)**

19 Before “, agency”, insert “, a Norfolk Island Minister”.

20 **271 Paragraph 27(1)(k)**

21 Before “) a proposal”, insert “or a Norfolk Island Minister”.

22 **272 Paragraph 30(3)(d)**

23 Before “responsible”, insert “or Norfolk Island Minister (if any)”.

24 **273 Subsection 30(4)**

25 Before “responsible”, insert “or Norfolk Island Minister (if any)”.

26 **274 At the end of section 33**

27 Add:

1 *Norfolk Island*

2 (5) In this section:

3 *State* includes Norfolk Island.

4 **275 At the end of Division 3 of Part IV**

5 Add:

6 **33B Copies of certain reports to be given to the Norfolk Island**
7 **Justice Minister**

8 (1) If:

9 (a) the Commissioner gives a report to the Minister under
10 section 30, 31 or 32; and

11 (b) the report relates to a Norfolk Island matter;

12 the Commissioner must, at the same time, give a copy of the report
13 to the Norfolk Island Justice Minister.

14 (2) For the purposes of this section, a report relates to a Norfolk Island
15 matter if:

16 (a) in the case of a report under section 30—the report relates to
17 an act or practice of a Norfolk Island agency; or

18 (b) in the case of a report under section 31—the report relates to
19 a proposed Norfolk Island enactment; or

20 (c) in the case of a report under section 32—the report relates to
21 an activity or audit of a Norfolk Island agency.

22 **276 Paragraph 34(2)(a)**

23 Before “, being”, insert “or a Norfolk Island Minister”.

24 **277 At the end of paragraph 34(2)(b)**

25 Add “or a Norfolk Island Minister”.

26 **278 Section 37 (after table item 5)**

27 Insert:

5A	A public sector agency (within the meaning of the <i>Public Sector Management Act 2000</i> of Norfolk Island)	The Chief Executive Officer (within the meaning of the <i>Public Sector Management Act 2000</i> of Norfolk Island)
----	---	--

Schedule 1 Amendments relating to Norfolk Island
Part 7 Amendments relating to privacy

5B	An unincorporated body, or a tribunal, referred to in paragraph (c) of the definition of <i>Norfolk Island agency</i> in subsection 6(1)	The Chief Executive Officer (within the meaning of the <i>Public Sector Management Act 2000</i> of Norfolk Island)
5C	A body referred to in paragraph (d) of the definition of <i>Norfolk Island agency</i> in subsection 6(1)	The Chief Executive Officer (within the meaning of the <i>Public Sector Management Act 2000</i> of Norfolk Island)
5D	A court of Norfolk Island	The registrar or principal registrar of the court or the person occupying an equivalent office

1 **279 Subsection 43(7)**

2 Before “that the matter”, insert “or Norfolk Island Minister (if any)”.

3 **280 Subsection 43(8)**

4 Before “concerned”, insert “or a Norfolk Island Minister”.

5 **281 Subsection 43(8A)**

6 After “a Minister”, insert “or a Norfolk Island Minister”.

7 **282 At the end of paragraph 43(9)(b)**

8 Add “or Norfolk Island Minister”.

9 **283 Subsection 50(1)**

10 Insert:

11 *Norfolk Island Public Service Board* means the Public Service
12 Board established under the *Public Sector Management Act 2000*
13 of Norfolk Island.

14 **284 After subparagraph 50(2)(a)(ii)**

15 Insert:

16 (ia) to the Ombudsman under a particular Norfolk Island
17 enactment; or

18 **285 At the end of paragraph 50(2)(b)**

19 Add “or”.

20 **286 After paragraph 50(2)(b)**

1 Insert:

2 (ba) an application with respect to that matter has been, or could
3 have been, made by the complainant to the Norfolk Island
4 Public Service Board under the *Public Sector Management*
5 *Act 2000* of Norfolk Island;

6 **287 After subparagraph 50(3)(a)(ii)**

7 Insert:

8 (iiia) to the Ombudsman under the Norfolk Island enactment
9 concerned; or

10 **288 At the end of paragraph 50(3)(b)**

11 Add “or”.

12 **289 After paragraph 50(3)(b)**

13 Insert:

14 (c) an application made to the Norfolk Island Public Service
15 Board under the *Public Sector Management Act 2000* of
16 Norfolk Island;

17 **290 Before subsection 60(3)**

18 Insert:

19 (2B) If a determination relates to a Norfolk Island agency, the reference
20 in subsection (2) to the *Commonwealth* is to be read as a reference
21 to Norfolk Island.

22 **291 At the end of section 66**

23 Add:

24 *Norfolk Island*

25 (12) In this section:

26 *Attorney-General*, in relation to Norfolk Island, means the Norfolk
27 Island Justice Minister.

28 *State* includes Norfolk Island.

29 **292 At the end of subsection 68(1)**

1 Add “or documents in respect of which the Norfolk Island Justice
2 Minister has given a certificate under subsection 70(4)”.

3 **293 At the end of section 70**

4 Add:

5 (4) If the Norfolk Island Justice Minister gives to the Commissioner a
6 certificate certifying that:

7 (a) the giving to the Commissioner of information concerning a
8 specified matter (including the giving of information in
9 answer to a question); or

10 (b) the production to the Commissioner of a specified document
11 or other record;

12 would be contrary to the public interest because it would:

13 (c) involve the disclosure of communications between a Norfolk
14 Island Minister and a Minister of the Commonwealth or of a
15 State, being a disclosure that would prejudice relations
16 between the Government of Norfolk Island and the
17 Government of the Commonwealth or of a State; or

18 (d) involve the disclosure of deliberations or decisions of the
19 Cabinet of Norfolk Island; or

20 (e) prejudice the conduct of an investigation or inquiry into
21 crime or criminal activity that is currently being pursued, or
22 prejudice the fair trial of any person; or

23 (f) disclose, or enable a person to ascertain, the existence or
24 identity of a confidential source of information in relation to
25 the enforcement of the criminal law; or

26 (g) prejudice the effectiveness of the operational methods or
27 investigative practices or techniques of agencies responsible
28 for the enforcement of the criminal law; or

29 (h) endanger the life or physical safety of any person;
30 the Commissioner is not entitled to require a person to give any
31 information concerning the matter or to produce the document or
32 other record.

33 **294 Subsection 80G(1) (definition of *secrecy provision*)**

34 Omit “, including a provision of this Act,”, substitute “(including a
35 provision of this Act), or of a Norfolk Island enactment,”.

36 **295 After subsection 80R(1)**

1 Insert:

2 (1A) The operation of this Part is not limited by a secrecy provision of a
3 Norfolk Island enactment (whether made before or after the
4 commencement of this subsection) except to the extent that the
5 secrecy provision expressly excludes the operation of this
6 subsection.

7 **296 At the end of section 89**

8 Add:

9 ; or (c) that arises under or by virtue of a Norfolk Island enactment
10 that is in force.

11 **297 Application—Commonwealth contracts**

12 To the extent that the amendment of the definition of *Commonwealth*
13 *contract* in subsection 6(1) of the *Privacy Act 1988* made by this Part is
14 relevant to section 95B of that Act, the amendment applies in relation to
15 a contract entered into after the commencement of this item.

1
2 **Schedule 2—Amendments relating to**
3 **Christmas Island**
4

5 *Christmas Island Act 1958*

6 **1 Section 8G**

7 Repeal the section, substitute:

8 **8G Powers and functions under the applied Western Australian**
9 **laws**

10 *Vesting of powers in the Minister*

- 11 (1) If a power is vested in:
12 (a) a Minister of Western Australia; or
13 (b) the Governor of Western Australia; or
14 (c) the Governor-in-Council of Western Australia;
15 by a Western Australian law in force in the Territory under
16 section 8A, the power is, in relation to the Territory, vested in the
17 Minister instead of the person or authority mentioned in
18 paragraph (a), (b) or (c).

- 19 (2) If:
20 (a) a power is vested in a person (other than a court officer of
21 Western Australia) or an authority (other than a court of
22 Western Australia) by a Western Australian law in force in
23 the Territory under section 8A; and
24 (b) subsection (1) does not apply to the power;
25 the power is, in relation to the Territory, vested in the Minister
26 instead of the person or authority mentioned in paragraph (a).

27 *Delegation etc.*

- 28 (3) If a power is vested in the Minister under subsection (1) or (2), the
29 Minister may, in writing:
30 (a) direct that the power is also vested in a specified person or
31 authority; or
32 (b) delegate the power to a specified person.

- 1 (4) A person or authority in whom a power is vested under
2 paragraph (3)(a) may, if the person is so empowered by the
3 Minister in the direction, delegate the power, in writing, to a
4 specified person.
- 5 (5) If:
6 (a) a power is vested in the Minister under subsection (2); and
7 (b) a person, or an authority, who is:
8 (i) an officer or employee of Western Australia; or
9 (ii) an authority of Western Australia; or
10 (iii) an officer or employee of an authority of Western
11 Australia;
12 is subject to an arrangement under section 8H; and
13 (c) the power corresponds to a power that the person or authority
14 is authorised, under a law in force in Western Australia, to
15 exercise in, or in a part of, Western Australia:
16 (i) whether in the person's own right or the authority's own
17 right; or
18 (ii) whether in the capacity of a delegate; or
19 (iii) whether in any other way;
20 the Minister is taken to have directed under paragraph (3)(a) that
21 the first-mentioned power is also vested in the person or authority,
22 as the case may be.
- 23 (6) The Minister may direct that subsection (5) does not apply to a
24 specified power.
- 25 (7) A direction under subsection (6) may be unconditional or subject to
26 such conditions (if any) as are specified in the direction.
- 27 *Other matters*
- 28 (8) An instrument under this section may identify a power by reference
29 to a class of powers.
- 30 (9) The validity of the exercise of a power under a law by a person or
31 authority under this section is unaffected by the failure of the
32 person or authority to hold a qualification required of a person
33 exercising that power under the law as in force in Western
34 Australia.

- 1 (10) This section does not affect the operation of section 8A in relation
2 to the application in or in relation to the Territory of a law (a
3 ***subordinate law***) made under a Western Australian law, whether
4 the subordinate law is made after this section’s commencement or
5 not.
- 6 (11) An instrument under this section is not a legislative instrument.
- 7 (12) In this section:
- 8 ***authority*** means:
- 9 (a) a body corporate, or an unincorporated body, established for
10 a public purpose; or
11 (b) an authority (within the ordinary meaning of that expression).
- 12 ***authority of Western Australia*** means an authority established by
13 or under a Western Australian law.
- 14 ***power*** includes function or duty, and, in that context, ***exercise***
15 means perform.

16 **2 Subsection 8H(2)**

17 Omit all the words after “duties”, substitute:

18 by:

- 19 (a) an officer or employee of Western Australia; or
20 (b) an authority of Western Australia (within the meaning of
21 section 8G); or
22 (c) an officer or employee of an authority of Western Australia
23 (within the meaning of section 8G);

24 in or in relation to the Territory.

25 **3 Transitional—directions under paragraph 8G(3)(a) of the**
26 ***Christmas Island Act 1958***

- 27 (1) This item applies to a direction if:
- 28 (a) the direction was given under paragraph 8G(3)(a) of the
29 *Christmas Island Act 1958*; and
30 (b) the direction was in force immediately before the
31 commencement of this item.

- 1 (2) The direction has effect, after the commencement of this item, as if it
2 had been given under paragraph 8G(3)(a) of the *Christmas Island Act*
3 *1958* as amended by this Schedule.

4 **4 Transitional—delegations under paragraph 8G(3)(b) of the**
5 ***Christmas Island Act 1958***

- 6 (1) This item applies to a delegation if:
7 (a) the delegation was made under paragraph 8G(3)(b) of the
8 *Christmas Island Act 1958*; and
9 (b) the delegation was in force immediately before the
10 commencement of this item.
- 11 (2) The delegation has effect, after the commencement of this item, as if it
12 had been made under paragraph 8G(3)(b) of the *Christmas Island Act*
13 *1958* as amended by this Schedule.

14 **5 Transitional—delegations under subsection 8G(4) of the**
15 ***Christmas Island Act 1958***

- 16 (1) This item applies to a delegation if:
17 (a) the delegation was made under subsection 8G(4) of the
18 *Christmas Island Act 1958*; and
19 (b) the delegation was in force immediately before the
20 commencement of this item.
- 21 (2) The delegation has effect, after the commencement of this item, as if it
22 had been made under subsection 8G(4) of the *Christmas Island Act*
23 *1958* as amended by this Schedule.

1
2 **Schedule 3—Amendments relating to the**
3 **Cocos (Keeling) Islands**
4

5 *Cocos (Keeling) Islands Act 1955*

6 **1 Section 8G**

7 Repeal the section, substitute:

8 **8G Powers and functions under the applied Western Australian**
9 **laws**

10 *Vesting of powers in the Minister*

- 11 (1) If a power is vested in:
12 (a) a Minister of Western Australia; or
13 (b) the Governor of Western Australia; or
14 (c) the Governor-in-Council of Western Australia;
15 by a Western Australian law in force in the Territory under
16 section 8A, the power is, in relation to the Territory, vested in the
17 Minister instead of the person or authority mentioned in
18 paragraph (a), (b) or (c).

- 19 (2) If:
20 (a) a power is vested in a person (other than a court officer of
21 Western Australia) or an authority (other than a court of
22 Western Australia) by a Western Australian law in force in
23 the Territory under section 8A; and
24 (b) subsection (1) does not apply to the power;
25 the power is, in relation to the Territory, vested in the Minister
26 instead of the person or authority mentioned in paragraph (a).

27 *Delegation etc.*

- 28 (3) If a power is vested in the Minister under subsection (1) or (2), the
29 Minister may, in writing:
30 (a) direct that the power is also vested in a specified person or
31 authority; or
32 (b) delegate the power to a specified person.

- 1 (4) A person or authority in whom a power is vested under
2 paragraph (3)(a) may, if the person is so empowered by the
3 Minister in the direction, delegate the power, in writing, to a
4 specified person.
- 5 (5) If:
6 (a) a power is vested in the Minister under subsection (2); and
7 (b) a person, or an authority, who is:
8 (i) an officer or employee of Western Australia; or
9 (ii) an authority of Western Australia; or
10 (iii) an officer or employee of an authority of Western
11 Australia;
12 is subject to an arrangement under section 8H; and
13 (c) the power corresponds to a power that the person or authority
14 is authorised, under a law in force in Western Australia, to
15 exercise in, or in a part of, Western Australia:
16 (i) whether in the person's own right or the authority's own
17 right; or
18 (ii) whether in the capacity of a delegate; or
19 (iii) whether in any other way;
20 the Minister is taken to have directed under paragraph (3)(a) that
21 the first-mentioned power is also vested in the person or authority,
22 as the case may be.
- 23 (6) The Minister may direct that subsection (5) does not apply to a
24 specified power.
- 25 (7) A direction under subsection (6) may be unconditional or subject to
26 such conditions (if any) as are specified in the direction.
- 27 *Other matters*
- 28 (8) An instrument under this section may identify a power by reference
29 to a class of powers.
- 30 (9) The validity of the exercise of a power under a law by a person or
31 authority under this section is unaffected by the failure of the
32 person or authority to hold a qualification required of a person
33 exercising that power under the law as in force in Western
34 Australia.

1 (10) This section does not affect the operation of section 8A in relation
2 to the application in or in relation to the Territory of a law (a
3 **subordinate law**) made under a Western Australian law, whether
4 the subordinate law is made after this section's commencement or
5 not.

6 (11) An instrument under this section is not a legislative instrument.

7 (12) In this section:

8 **authority** means:

- 9 (a) a body corporate, or an unincorporated body, established for
10 a public purpose; or
11 (b) an authority (within the ordinary meaning of that expression).

12 **authority of Western Australia** means an authority established by
13 or under a Western Australian law.

14 **power** includes function or duty, and, in that context, **exercise**
15 means perform.

16 **2 Subsection 8H(2)**

17 Omit all the words after “duties”, substitute:

18 by:

- 19 (a) an officer or employee of Western Australia; or
20 (b) an authority of Western Australia (within the meaning of
21 section 8G); or
22 (c) an officer or employee of an authority of Western Australia
23 (within the meaning of section 8G);

24 in or in relation to the Territory.

25 **3 Transitional—directions under paragraph 8G(3)(a) of the** 26 **Cocos (Keeling) Islands Act 1955**

27 (1) This item applies to a direction if:

- 28 (a) the direction was given under paragraph 8G(3)(a) of the
29 *Cocos (Keeling) Islands Act 1955*; and
30 (b) the direction was in force immediately before the
31 commencement of this item.

- 1 (2) The direction has effect, after the commencement of this item, as if it
2 had been given under paragraph 8G(3)(a) of the *Cocos (Keeling)*
3 *Islands Act 1955* as amended by this Schedule.

4 **4 Transitional—delegations under paragraph 8G(3)(b) of the**
5 ***Cocos (Keeling) Islands Act 1955***

- 6 (1) This item applies to a delegation if:
7 (a) the delegation was made under paragraph 8G(3)(b) of the
8 *Cocos (Keeling) Islands Act 1955*; and
9 (b) the delegation was in force immediately before the
10 commencement of this item.
- 11 (2) The delegation has effect, after the commencement of this item, as if it
12 had been made under paragraph 8G(3)(b) of the *Cocos (Keeling)*
13 *Islands Act 1955* as amended by this Schedule.

14 **5 Transitional—delegations under subsection 8G(4) of the**
15 ***Cocos (Keeling) Islands Act 1955***

- 16 (1) This item applies to a delegation if:
17 (a) the delegation was made under subsection 8G(4) of the
18 *Cocos (Keeling) Islands Act 1955*; and
19 (b) the delegation was in force immediately before the
20 commencement of this item.
- 21 (2) The delegation has effect, after the commencement of this item, as if it
22 had been made under subsection 8G(4) of the *Cocos (Keeling) Islands*
23 *Act 1955* as amended by this Schedule.