



Territories Legislation Amendment Act 2016

No. 33, 2016

**An Act to amend the law relating to Territories,
and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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Territories Legislation Amendment Act 2016

No. 33, 2016

An Act to amend the law relating to Territories, and for related purposes

[Assented to 23 March 2016]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Territories Legislation Amendment Act 2016*.

2 Commencement

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

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	23 March 2016
2. Schedules 1 and 2	The day after this Act receives the Royal Assent.	24 March 2016
3. Schedule 3, Part 1	Immediately after the commencement of Part 1 of Schedule 2 to the <i>Norfolk Island Legislation Amendment Act 2015</i> .	1 July 2016
4. Schedule 3, Part 2	The day after this Act receives the Royal Assent.	24 March 2016
5. Schedule 4, Part 1	At the same time as Part 1 of Schedule 2 to the <i>Norfolk Island Legislation Amendment Act 2015</i> commences.	1 July 2016
6. Schedule 4, Part 2	The day after this Act receives the Royal Assent.	24 March 2016
7. Schedule 5	1 July 2016.	1 July 2016
8. Schedule 6	The day after this Act receives the Royal Assent.	24 March 2016

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—New Zealand citizens residing on Norfolk Island

Norfolk Island Legislation Amendment Act 2015

1 Item 323 of Schedule 2

Repeal the item.

Schedule 2—Claims for assistance made by Norfolk Island residents before 1 July 2016

Norfolk Island Legislation Amendment Act 2015

1 Paragraph 381(a) of Schedule 2

Omit “4-week”, substitute “8-week”.

2 After subitem 382(1) of Schedule 2

Insert:

(1A) If:

- (a) an application for acceptance by the Registrar of an agreement made in relation to a child was made during the 8-week period ending at the final transition time; and
- (b) when the application was made:
 - (i) the applicant was ordinarily resident on Norfolk Island; or
 - (ii) the child was ordinarily resident on Norfolk Island; or
 - (iii) a parent of the child was ordinarily resident on Norfolk Island; and
- (c) assuming that the agreement had been entered into and made at the time (the *deemed agreement time*) immediately after the final transition time, the agreement would have been a child support agreement at the deemed agreement time; and
- (d) assuming that the application had been made immediately after the deemed agreement time, it would have been in accordance with Division 3 of Part 6 of the *Child Support (Assessment) Act 1989*;

the agreement is taken to have been entered into and made at the deemed agreement time, and the application is taken to have been made immediately after the deemed agreement time.

(1B) Subsection 92(3) of the *Child Support (Assessment) Act 1989* does not apply in relation to an agreement and an application taken under subitem (1A) to have been made in relation to a child if an application for administrative assessment of child support in respect of the child is

taken under subitem (1) to have been made immediately after the final transition time.

- (1C) Subitems (1), (1A) and (1B) do not apply in relation to:
- (a) an application that was properly made under the *Child Support (Assessment) Act 1989* before the final transition time; or
 - (b) an agreement that was a child support agreement before the final transition time.

3 Subitem 382(2) of Schedule 2

Insert:

child support agreement has the same meaning as in the *Child Support (Assessment) Act 1989*.

Registrar has the same meaning as in the *Child Support (Assessment) Act 1989*.

Schedule 3—Child support for Indian Ocean Territory residents

Part 1—Amendments

Child Support (Assessment) Act 1989

1 Section 10

Omit “(other than a person who is a resident of Australia solely because the definition of *Australia* in that Act includes an external Territory other than Norfolk Island)”.

Child Support (Registration and Collection) Act 1988

2 Subsection 4(1) (paragraph (a) of the definition of *resident of Australia*)

Omit “(other than a person who is a resident of Australia solely because the definition of *Australia* in that Act includes an external Territory other than Norfolk Island)”.

Part 2—Transitional provisions

3 Early claims

- (1) If:
- (a) an application for administrative assessment of child support in respect of a child is made during the 8-week period ending at the start of 1 July 2016; and
 - (b) when the application is made:
 - (i) the applicant is ordinarily resident in the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands; or
 - (ii) the child is ordinarily resident in the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands; or
 - (iii) a parent of the child is ordinarily resident in the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands; and
 - (c) assuming that the application had been made immediately after the commencement of Part 1 of this Schedule, it would have been in accordance with Division 1 of Part 4 of the *Child Support (Assessment) Act 1989*;
- the application is taken to be made immediately after that commencement.
- (2) If:
- (a) an application for acceptance by the Registrar of an agreement made in relation to a child is made during the 8-week period ending at the start of 1 July 2016; and
 - (b) when the application is made:
 - (i) the applicant is ordinarily resident in the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands; or
 - (ii) the child is ordinarily resident in the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands; or
 - (iii) a parent of the child is ordinarily resident in the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands; and
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- (c) assuming that the agreement had been entered into and made at the time (the *deemed agreement time*) immediately after the commencement of Part 1 of this Schedule, the agreement would have been a child support agreement at the deemed agreement time; and
- (d) assuming that the application had been made immediately after the deemed agreement time, it would have been in accordance with Division 3 of Part 6 of the *Child Support (Assessment) Act 1989*;

the agreement is taken to be entered into and made at the deemed agreement time, and the application is taken to be made immediately after the deemed agreement time.

- (3) Subsection 92(3) of the *Child Support (Assessment) Act 1989* does not apply in relation to an agreement and an application taken under subitem (2) to have been made in relation to a child if an application for administrative assessment of child support in respect of the child is taken under subitem (1) to have been made immediately after the commencement of Part 1 of this Schedule.
 - (4) Subitems (1), (2) and (3) do not apply in relation to:
 - (a) an application that is properly made under the *Child Support (Assessment) Act 1989* before 1 July 2016; or
 - (b) an agreement that is a child support agreement before 1 July 2016.
 - (5) In this item:
 - administrative assessment* has the same meaning as in the *Child Support (Assessment) Act 1989*.
 - child support* has the same meaning as in the *Child Support (Assessment) Act 1989*.
 - child support agreement* has the same meaning as in the *Child Support (Assessment) Act 1989*.
 - Registrar* has the same meaning as in the *Child Support (Assessment) Act 1989*.
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Schedule 4—Norfolk Island electoral arrangements

Part 1—Amendments

Commonwealth Electoral Act 1918

1 Subsection 4(1) (definition of *Australian Capital Territory*)

After “includes”, insert “Norfolk Island and”.

2 Subsection 4(1) (definition of *Controller-General of Prisons*)

Repeal the definition, substitute:

Controller-General of Prisons:

- (a) of a State, the Australian Capital Territory (not including a non-self-governing Territory) or the Northern Territory (not including a non-self-governing Territory)—means the principal officer (however described) having control of the prisons and gaols of the State or Territory; and
- (b) of a non-self-governing Territory—means the principal officer (however described) having control of the prisons and gaols of the non-self-governing Territory.

3 Subsection 4(1)

Insert:

non-self-governing Territory means Norfolk Island, the Jervis Bay Territory, the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands.

4 Subsection 4(1) (definition of *Registrar-General*)

Repeal the definition, substitute:

Registrar-General:

- (a) of a State, the Australian Capital Territory (not including a non-self-governing Territory) or the Northern Territory (not including a non-self-governing Territory)—means the principal officer (however described) who is charged with the

duty of registering births, deaths and marriages occurring in the State or Territory; and

- (b) of a non-self-governing Territory—means the principal officer (however described) who is charged with the duty of registering births, deaths and marriages occurring in the non-self-governing Territory.

5 Section 4B

Omit “, of the Northern Territory and of Norfolk Island”, substitute “and of the Northern Territory”.

6 Section 38A

Insert:

Australian Capital Territory includes the Jervis Bay Territory but does not include Norfolk Island.

7 Section 38A (definition of Territory)

Omit “other than Norfolk Island”.

8 After subsection 40(6)

Insert:

- (6A) Until Norfolk Island becomes entitled to separate representation in the Senate under subsection (5), this section has effect as if Norfolk Island were a part of the Australian Capital Territory.

9 Subsection 45(1)

Omit “(1)”.

10 Subsection 45(2)

Repeal the subsection.

11 After paragraph 46(1)(d)

Insert:

- (da) Norfolk Island;

12 After paragraph 46(1B)(c)

Insert:

(ca) the population of Norfolk Island;

13 Subsection 46(2)

Repeal the subsection.

14 Paragraph 48(1)(b)

After “(2B),”, insert “(2BA),”.

15 Subsection 48(2A)

After “(2B),”, insert “(2BA),”.

16 After subsection 48(2B)

Insert:

(2BA) Subject to subsection (2F), if the Electoral Commissioner determines that, at a general election, no member of the House of Representatives is to be chosen in Norfolk Island, the following provisions have effect:

- (a) the ascertainment under section 46, and the determinations under this section, in respect of Norfolk Island, and in respect of the Australian Capital Territory, are taken never to have been made;
- (b) Norfolk Island is taken to be part of the Australian Capital Territory;
- (c) subject to subsection (2G), the Electoral Commissioner must, as soon as possible:
 - (i) ascertain, under section 46, the number of the people of the Australian Capital Territory; and
 - (ii) determine, under this section, the number of members of the House of Representatives to be chosen in the Australian Capital Territory at a general election.

(2BB) To avoid doubt, subsection 46(1A) does not apply to the ascertainment of the number of the people of the Australian Capital Territory under subparagraph (2BA)(c)(i) of this section.

Note: Subsection 46(1A) might otherwise require the fresh ascertainment of the number of the people of the Australian Capital Territory under subparagraph (2BA)(c)(i) of this section to be made immediately after the end of the 12 month period referred to in subsection 46(1).

17 After subparagraph 48(2F)(a)(i)

Insert:

(ia) subparagraph (2BA)(c)(ii); or

18 Subsection 48(2F) (note)

Repeal the note, substitute:

Note: In certain circumstances, the number of the people of the Australian Capital Territory or the Northern Territory will have been re-ascertained in accordance with section 46 because of the operation of subsection (2BA) or (2C).

19 Subsection 48(2G)

After “paragraphs”, insert “(2BA)(c),”.

20 After sub-subparagraph 49(1)(a)(i)(D)

Insert:

(DA) Norfolk Island;

21 Subsection 49(1) (note)

Omit “to the subsection 4(1) definition of the *Australian Capital Territory*, to subsection 45(2), to subsection 46(2) or to subsection 48(2C)”, substitute “to subsection 48(2BA), (2C)”.

22 Section 51

Omit “Subject to subsection 95AA(3), a”, substitute “A”.

23 After section 56

Insert:

56AA Inclusion of Territories in Australian Capital Territory Divisions

- (1) Any distribution or redistribution of the Australian Capital Territory into Electoral Divisions under this Act must be such that the whole of the Jervis Bay Territory is included in one Electoral Division.
- (2) Until the Electoral Commissioner, under subsection 48(2A), determines that a member of the House of Representatives be chosen in Norfolk Island at a general election, any distribution or

redistribution of the Australian Capital Territory into Electoral Divisions under this Act must be such that:

- (a) the whole of Norfolk Island is included in one Electoral Division; and
- (b) if there is more than one Electoral Division—Norfolk Island and the Jervis Bay Territory are included in different Electoral Divisions.

24 Section 56A (heading)

Repeal the heading, substitute:

56A Inclusion of Territories in Northern Territory Divisions

25 Subsection 66(4)

Repeal the subsection.

26 At the end of section 66

Add:

Note: See also sections 56AA and 56A in relation to redistributions of the Australian Capital Territory and the Northern Territory.

27 At the end of subsection 73(1)

Add:

Note: See also sections 56AA and 56A in relation to redistributions of the Australian Capital Territory and the Northern Territory.

28 Subsection 73(5)

Repeal the subsection.

29 Subsections 94(16) and 95(17)

Repeal the subsections.

30 Sections 95AA, 95AB and 95AC

Repeal the sections.

31 Subsection 96(13) (definition of *Australia*)

Repeal the definition.

32 Paragraph 98AA(2)(a)

After “Territory”, insert “, or a law in force in Norfolk Island”.

33 Subsection 99(3)

Omit “95AA,”.

34 Subsection 101(1)

Omit “Subject to subsection (5A), every”, substitute “Every”.

35 Subsection 101(1A)

Repeal the subsection.

36 Subsection 101(4)

Omit “Subject to subsection (5A), every”, substitute “Every”.

37 Subsection 101(5)

Omit “Subject to subsection (5A), if”, substitute “If”.

38 Subsection 101(5A)

Repeal the subsection.

39 Section 108

Omit “shall”, substitute “of a State must”.

40 At the end of section 108

Add:

Note: For the application of this section to the Australian Capital Territory, the Northern Territory and the non-self-governing Territories, see section 112.

41 Section 109 (note 2)

Repeal the note, substitute:

Note 2: For the application of this section to the Australian Capital Territory, the Northern Territory and the non-self-governing Territories, see section 112.

42 Section 112

Omit “This Part”, substitute “(1) This Part”.

43 At the end of section 112

Add:

Application of sections 108 and 109 to the Australian Capital Territory

- (2) For the purposes of the application of sections 108 and 109 in relation to the Australian Capital Territory:
 - (a) the Australian Capital Territory does not include Norfolk Island or the Jervis Bay Territory; and
 - (b) subject to subsections (3) and (5), those sections apply in relation to Norfolk Island as if references in those sections to a State were references to Norfolk Island; and
 - (c) subject to subsections (4) and (5), those sections apply in relation to the Jervis Bay Territory as if references in those sections to a State were references to the Jervis Bay Territory.
- (3) For the purposes of the application of section 108 in relation to Norfolk Island, the reference in paragraph 108(b) to a Minister of the State is taken to be a reference to the responsible Commonwealth Minister (within the meaning of the *Norfolk Island Act 1979*).
- (4) For the purposes of the application of section 108 in relation to the Jervis Bay Territory, the reference in paragraph 108(b) to a Minister of the State is taken to be a reference to the Minister administering the *Jervis Bay Territory Acceptance Act 1915*.
- (5) For the purposes of the application of subsection 109(2) in relation to Norfolk Island or the Jervis Bay Territory, the reference in that subsection to an election for a Division in a State is taken to be a reference to an election for a Division in the Australian Capital Territory.

Application of sections 108 and 109 to the Northern Territory

- (6) For the purposes of the application of sections 108 and 109 in relation to the Northern Territory:
 - (a) the Northern Territory does not include the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands; and

- (b) subject to subsections (7) and (9), those sections apply in relation to the Territory of Christmas Island as if references in those sections to a State were references to the Territory of Christmas Island; and
 - (c) subject to subsections (8) and (9), those sections apply in relation to the Territory of Cocos (Keeling) Islands as if references in those sections to a State were references to the Territory of Cocos (Keeling) Islands.
- (7) For the purposes of the application of section 108 in relation to the Territory of Christmas Island, the reference in paragraph 108(b) to a Minister of the State is taken to be a reference to the Minister administering the *Christmas Island Act 1958*.
 - (8) For the purposes of the application of section 108 in relation to the Territory of Cocos (Keeling) Islands, the reference in paragraph 108(b) to a Minister of the State is taken to be a reference to the Minister administering the *Cocos (Keeling) Islands Act 1955*.
 - (9) For the purposes of the application of subsection 109(2) in relation to the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands, the reference in that subsection to an election for a Division in a State is taken to be a reference to an election for a Division in the Northern Territory.

44 Subsection 227(4A)

Omit “State or Territory”, substitute “place”.

45 Section 394

Repeal the section, substitute:

394 No State or Territory vote to be held on polling day

- (1) On the day appointed as polling day for an election of the Senate or a general election of the House of Representatives, no election, referendum or vote of the electors of a State or Territory or part of a State or Territory may, without the authority of the Governor-General, be held or taken under a law of the State or Territory.

Schedule 4 Norfolk Island electoral arrangements

Part 1 Amendments

(2) On the day appointed as polling day for an election of the Senate or a general election of the House of Representatives, no election, referendum or vote of the electors of Norfolk Island may, without the authority of the Governor-General, be held or taken under a law in force in Norfolk Island.

(3) In subsection (1):

Territory means:

- (a) the Australian Capital Territory, not including Norfolk Island; or
- (b) the Northern Territory.

Referendum (Machinery Provisions) Act 1984

46 Subsection 3(1) (definition of *Australian Capital Territory*)

After “includes”, insert “Norfolk Island and”.

47 Section 3B

Omit “, of the Northern Territory and of Norfolk Island”, substitute “and of the Northern Territory”.

48 Section 98A

Repeal the section.

Part 2—Transitional provisions

49 Definitions

In this Part:

commencement time means the commencement of Part 1 of this Schedule.

responsible Commonwealth Minister has the same meaning as in the *Norfolk Island Act 1979*.

rules means rules made under subitem 60(1).

50 Norfolk Island taken to be included in Australian Capital Territory Division

Until the first distribution or redistribution of the Australian Capital Territory that is determined under subsection 73(1) or 76(6) of the *Commonwealth Electoral Act 1918*, and that takes effect on or after the commencement time, the whole of Norfolk Island is taken to be included in the Division in the Australian Capital Territory that does not include the Jervis Bay Territory.

51 Action in relation to enrolments on State and Northern Territory Rolls

- (1) This item applies if, immediately before the commencement time, a person's name is on the Roll (the **old Roll**) for a Division in a State or the Northern Territory because of subsection 95AA(2) or (3) of the *Commonwealth Electoral Act 1918* (as in force immediately before the commencement time).
- (2) The Electoral Commissioner must:
 - (a) transfer the person's name by:
 - (i) deleting the person's name from the old Roll; and
 - (ii) deleting the annotation made under section 95AC of the *Commonwealth Electoral Act 1918* (as in force immediately before the commencement time) in respect of the person's name from the old Roll; and
 - (iii) entering the person's name and other particulars required by section 83 of the *Commonwealth Electoral Act 1918* on the Roll (the **new Roll**) for the Division in

- the Australian Capital Territory that does not include the Jervis Bay Territory; and
- (b) notify the person in writing of the actions taken under paragraph (a).
- (3) However, if the Electoral Commissioner is satisfied that the person is not entitled to be enrolled on the new Roll:
- (a) subitem (2) does not apply; and
 - (b) the Electoral Commissioner must delete the annotation made under section 95AC of the *Commonwealth Electoral Act 1918* (as in force immediately before the commencement time) in respect of the person's name from the old Roll; and
 - (c) if the rules require or permit the Electoral Commissioner to take specified action in relation to the person's enrolment, the Electoral Commissioner must or may (as the case may be) take that action; and
 - (d) the Electoral Commissioner must notify the person in writing of:
 - (i) the action taken under paragraph (b); and
 - (ii) any action taken under paragraph (c).
- (4) Despite subitem (2), the Electoral Commissioner must not take an action under paragraph (2)(a) within a period:
- (a) starting at 8 pm on the day of the close of the new Roll for an election to be held in the Division in the Australian Capital Territory that does not include the Jervis Bay Territory; and
 - (b) ending on the close of the poll for the election.
- (5) Despite subitem (3), the Electoral Commissioner must not take an action under paragraph (3)(b) or (c) in relation to a Roll for a Division within a period:
- (a) starting at 8 pm on the day of the close of the Roll for an election to be held in the Division; and
 - (b) ending on the close of the poll for the election.

52 Action in relation to enrolments on Australian Capital Territory Roll

- (1) This item applies if, immediately before the commencement time, a person's name is on the Roll for the Division in the Australian Capital Territory that does not include the Jervis Bay Territory because of
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subsection 95AA(3) of the *Commonwealth Electoral Act 1918* (as in force immediately before the commencement time).

- (2) The Electoral Commissioner:
- (a) must alter the person's enrolment by deleting the annotation made under section 95AC of the *Commonwealth Electoral Act 1918* (as in force immediately before the commencement time) in respect of the person's name from the Roll; and
 - (b) may make any additions, alterations or corrections to the Roll that are necessary to ensure that the Roll contains the person's particulars as required by section 83 of the *Commonwealth Electoral Act 1918*; and
 - (c) must notify the person in writing of:
 - (i) the action taken under paragraph (a); and
 - (ii) any action taken under paragraph (b).
- (3) However, if the Electoral Commissioner is satisfied that the person is not entitled to be enrolled for the Division in the Australian Capital Territory that does not include the Jervis Bay Territory:
- (a) subitem (2) does not apply; and
 - (b) the Electoral Commissioner must delete the annotation made under section 95AC of the *Commonwealth Electoral Act 1918* (as in force immediately before the commencement time) in respect of the person's name from the Roll; and
 - (c) if the rules require or permit the Electoral Commissioner to take specified action in relation to the person's enrolment, the Electoral Commissioner must or may (as the case may be) take that action; and
 - (d) the Electoral Commissioner must notify the person in writing of:
 - (i) the action taken under paragraph (b); and
 - (ii) any action taken under paragraph (c).
- (4) Despite subitem (2), the Electoral Commissioner must not take an action under paragraph (2)(a) or (b) within a period:
- (a) starting at 8 pm on the day of the close of the Roll for an election to be held in the Division in the Australian Capital Territory that does not include the Jervis Bay Territory; and
 - (b) ending on the close of the poll for the election.

- (5) Despite subitem (3), the Electoral Commissioner must not take an action under paragraph (3)(b) or (c) in relation to a Roll for a Division within a period:
- (a) starting at 8 pm on the day of the close of the Roll for an election to be held in the Division; and
 - (b) ending on the close of the poll for the election.

53 Electronic notification—notices under items 51 and 52

A notice may be given under item 51 or 52 of this Schedule by an electronic communication as defined in the *Electronic Transactions Act 1999*, whether or not the person consents as described in paragraph 9(2)(d) of that Act. This does not limit the ways in which the notice may be given.

54 Delegation by Electoral Commissioner

- (1) The Electoral Commissioner may, in writing, delegate all or any of his or her powers or functions under item 51 or 52 of this Schedule to any of the following:
- (a) any officer;
 - (b) any other member of the staff of the Electoral Commission.

Note: The definition of *officer* covers Australian Electoral Officers and Divisional Returning Officers, as well as various other people.

- (2) In exercising powers or performing functions delegated under subitem (1), the delegate must comply with any directions of the Electoral Commissioner.

55 Early claims for enrolment

If:

- (a) a claim for enrolment is made during the 8-week period ending at the commencement time; and
- (b) when the claim is made, the claimant lives in Norfolk Island; and
- (c) assuming that the claim had been made immediately after the commencement time, it would have been in accordance with the *Commonwealth Electoral Act 1918*;

the claim is taken to have been made immediately after the commencement time.

56 Additions etc. to new Rolls

Section 87 of the *Commonwealth Electoral Act 1918* applies as if the reference in that section to action taken under section 103A or 103B of that Act included a reference to action taken under item 51 or 52 of this Schedule.

57 Disclosures or communications to courts

Section 390 of the *Commonwealth Electoral Act 1918* applies as if:

- (a) the reference in paragraph 390(1)(a) to a copy of a notice given under section 103A or 103B or anything received in response to a notice given under subsection 103A(2) or 103B(2) of that Act included a reference to a copy of a notice given under item 51 or 52 of this Schedule or anything received in response to a notice given under item 51 or 52 of this Schedule; and
- (b) the reference in subparagraph 390(1)(b)(ii) to anything done under subsection 103A(2), (3), (4) or (6), or subsection 103B(2), (3), (4) or (6) of that Act included a reference to anything done under item 51 or 52 of this Schedule.

58 Notices relating to enrolment etc. not to be subject to warrants

Section 390A of the *Commonwealth Electoral Act 1918* applies as if the reference in subsection 390A(1) to a copy of a notice given under section 103A or 103B, or anything received in response to a notice given under subsection 103A(2) or 103B(2) of that Act, included a reference to a copy of a notice given under item 51 or 52 of this Schedule or anything received in response to a notice given under item 51 or 52 of this Schedule.

59 Changes to rolls for voting at referendums

For the purposes of voting at a referendum, a name must not be deleted from a Roll or entered on a Roll under item 51 or 52 of this Schedule during a suspension period for the referendum (within the meaning of subsection 4(2) of the *Referendum (Machinery Provisions) Act 1984*).

60 Transitional rules

- (1) The responsible Commonwealth Minister may, by legislative instrument, make rules prescribing matters:
 - (a) required or permitted by this Part to be prescribed by the rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The rules may prescribe matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by Part 1 of this Schedule.
- (3) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.
- (4) This Act (other than subitem (3)) does not limit the rules that may be made under subitem (1).

Schedule 5—Application of Acts to Norfolk Island

Part 1—General amendments

Division 1—Amendments

Acts Interpretation Act 1901

1 Section 2B (definition of *Australia*)

After “includes”, insert “Norfolk Island,”.

2 Section 2B (definition of *Commonwealth*)

After “includes”, insert “Norfolk Island,”.

Norfolk Island Act 1979

3 Section 18

Repeal the section, substitute:

18 Application of Commonwealth Acts

- (1) An Act or a provision of an Act extends to the Territory of its own force except so far as the Act or another Act expressly provides otherwise.
- (2) Except as provided by this Act, an enactment has no effect so far as it purports to affect the application of an Act or a provision of an Act in or in relation to the Territory.
- (3) Subsections (1) and (2) apply to Acts passed before, on or after 1 July 2016.

Division 2—Transitional provisions

4 Definitions

In this Division:

responsible Commonwealth Minister has the same meaning as in the *Norfolk Island Act 1979*.

transitional rules means rules made under item 5.

5 Transitional rules

- (1) The responsible Commonwealth Minister may, by legislative instrument, make rules (*transitional rules*) prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Schedule.
- (2) To avoid doubt, the transitional rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.
- (3) Transitional rules made before 1 July 2017 may provide that this Act or any other Act or instrument has effect with any modifications prescribed by the transitional rules.
- (4) Subsection 12(2) (retrospective application of legislative instruments) of the *Legislation Act 2003* does not apply to transitional rules made before 1 July 2017.

6 Constitutional safety net

- (1) If the operation of this Schedule or the transitional rules would result in an acquisition of property (within the meaning of paragraph 51(xxxi) of the Constitution) from a person otherwise than on just terms (within the meaning of that paragraph), the Commonwealth is liable to pay a reasonable amount of compensation to the person.
 - (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.
-

7 Constitutional limits

This Schedule has no effect to the extent (if any) to which it imposes taxation.

8 Power to make Ordinances

This Division does not, by implication, limit the matters that may be dealt with by Ordinances under section 19A of the *Norfolk Island Act 1979*.

Part 2—Specific amendments

Agricultural and Veterinary Chemicals Act 1994

9 Section 4 (after paragraph (a) of the definition of *participating Territory*)

Insert:

(aa) Norfolk Island; or

10 Section 4 (definition of *Territory*)

Omit “Norfolk Island,”.

Australian Capital Territory (Self-Government) Act 1988

11 Subsection 69(1)

After “the Northern Territory,”, insert “Norfolk Island,”.

Australian National Preventive Health Agency Act 2010

12 Section 5

Omit “other than Norfolk Island”.

Australian Postal Corporation Act 1989

13 Section 8 (heading)

Repeal the heading, substitute:

8 Extension of Act to external Territories

14 Section 8

Omit “(other than Norfolk Island)”.

15 Subsection 9(4) (definition of *Territory*)

Repeal the definition.

16 Subsection 27(5) (definition of *Australia*)

After “includes”, insert “Norfolk Island,”.

Australian Securities and Investments Commission Act 2001

17 After subsection 4(1)

Insert:

- (1A) Subject to paragraph (1)(c), this Act does not apply in Norfolk Island, the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands.
- (1B) For the purposes of subsection (1A), it does not matter whether paragraph (1)(c) operates because of regulations made before, on or after the commencement of that subsection.

Bankruptcy Act 1966

18 Subsection 5(1)

Insert:

Australia, when used in a geographical sense, does not include Norfolk Island.

Territory of the Commonwealth means a Territory referred to in section 122 of the Constitution, other than Norfolk Island.

19 At the end of Part IB

Add:

9A Act does not extend to Norfolk Island

This Act does not extend to Norfolk Island.

Bankruptcy (Estate Charges) Act 1997

20 After section 3

Insert:

3A Act does not extend to Norfolk Island

This Act does not extend to Norfolk Island.

Broadcasting Services Act 1992

21 After section 10

Insert:

10AA Operation in relation to Norfolk Island

The operation of this Act in relation to Norfolk Island is not affected by the amendments made by Division 1 of Part 1 of Schedule 5 to the *Territories Legislation Amendment Act 2016*.

Broadcasting Services (Transitional Provisions and Consequential Amendments) Act 1992

22 At the end of Part 1

Add:

3A Act does not extend to Norfolk Island

This Act does not extend to Norfolk Island.

Business Names Registration Act 2011

23 Section 3 (after paragraph (b) of the definition of *affected Territory*)

Insert:

(ba) Norfolk Island; and

24 Section 3 (definition of *Australia*)

Repeal the definition.

Competition and Consumer Act 2010

25 Section 151AC

Before “This Part”, insert “(1)”.

26 At the end of section 151AC

Add:

- (2) The operation of this Part, and the other provisions of this Act so far as they relate to this Part, in relation to Norfolk Island is not affected by the amendments made by Division 1 of Part 1 of Schedule 5 to the *Territories Legislation Amendment Act 2016*.

27 Section 152AE

Before “This Part”, insert “(1)”.

28 At the end of section 152AE

Add:

- (2) The operation of this Part, and the other provisions of this Act so far as they relate to this Part, in relation to Norfolk Island is not affected by the amendments made by Division 1 of Part 1 of Schedule 5 to the *Territories Legislation Amendment Act 2016*.

Copyright Act 1968

29 Subsection 152(1) (definition of *Australia*)

After “external Territories”, insert “other than Norfolk Island”.

Cross-Border Insolvency Act 2008

30 Section 4

After “extend to”, insert “Norfolk Island,”.

31 Subsection 5(1) (definition of *Australia*)

After “include”, insert “Norfolk Island,”.

32 Subsection 7(2) (note)

After “includes”, insert “Norfolk Island,”.

Customs Licensing Charges Act 1997

33 After section 3

Insert:

3A Act does not extend to Norfolk Island

This Act does not extend to Norfolk Island.

Customs Securities (Penalties) Act 1981

34 After section 3

Insert:

3A Act does not extend to Norfolk Island

This Act does not extend to Norfolk Island.

Customs Tariff Act 1995

35 After section 3

Insert:

3A Act does not extend to Norfolk Island

This Act does not extend to Norfolk Island.

Customs Tariff (Anti-Dumping) Act 1975

36 After section 6

Insert:

6A Act does not extend to Norfolk Island

This Act does not extend to Norfolk Island.

Customs Undertakings (Penalties) Act 1981

37 After section 3

Insert:

3A Act does not extend to Norfolk Island

This Act does not extend to Norfolk Island.

Do Not Call Register Act 2006

38 Section 4 (definition of *Australia*)

Repeal the definition, substitute:

Australia means the Commonwealth of Australia and, when used in a geographical sense, includes the eligible Territories, but does not include any other external Territory.

39 Section 8

Before “This Act”, insert “(1)”.

40 At the end of section 8

Add:

(2) This Act does not extend to Norfolk Island unless it is prescribed.

Education Services for Overseas Students Act 2000

41 After section 4B

Insert:

4C Act does not extend to Norfolk Island

This Act does not extend to Norfolk Island.

Equal Employment Opportunity (Commonwealth Authorities) Act 1987

42 Subsection 3(1) (definition of *Australia*)

Repeal the definition.

43 Section 4

Repeal the section.

Excise Act 1901

44 Subsection 4(1) (before paragraph (a) of the definition of *Australia*)

Insert:

(aa) Norfolk Island; or

Export Control Act 1982

45 Before paragraph 4A(1)(a)

Insert:

(aa) Norfolk Island;

46 Subsection 4A(2)

Omit “either or both of the Territories”, substitute “one or more of the Territories”.

47 Subsection 23(1A) (definition of *Australia*)

After “does not include”, insert “Norfolk Island,”.

48 Subsection 23(1AA)

After “goods to be exported from”, insert “Norfolk Island,”.

49 Subsection 23(1AA)

After “goods are from”, insert “the ‘Australian Territory of Norfolk Island’,”.

Fair Entitlements Guarantee Act 2012

50 At the end of Part 1

Add:

9A Rules may modify application of this Act in Norfolk Island

- (1) The Minister may, by legislative instrument, make rules prescribing modifications of this Act or the regulations for their application in relation to Norfolk Island.
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act or the regulations.
- (3) If the rules prescribe modifications of this Act or the regulations for their application in relation to Norfolk Island, then this Act or the regulations have effect as so modified in relation to Norfolk Island.

Note: This Act and the regulations would, in the absence of any such rules, apply in relation to Norfolk Island in the same way as they apply in relation to the rest of Australia.

Fair Work Act 2009

51 Section 12

Insert:

Australia means the Commonwealth of Australia and, when used in a geographical sense, includes Norfolk Island, the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands, but does not include any other external Territory.

Commonwealth means the Commonwealth of Australia and, when used in a geographical sense, includes Norfolk Island, the Territory

of Christmas Island and the Territory of Cocos (Keeling) Islands,
but does not include any other external Territory.

52 Section 12 (note at the end of the definition of *connected with a Territory*)

Repeal the note, substitute:

Note: In this context, *Australia* includes Norfolk Island, the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands (see the definition of *Australia*).

53 Subsection 14(1) (note 1)

Repeal the note, substitute:

Note 1: In this context, *Australia* includes Norfolk Island, the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands (see the definition of *Australia* in section 12).

54 Subsection 31(1) (note 1)

Repeal the note, substitute:

Note 1: In this context, *Australia* includes Norfolk Island, the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands and the coastal sea (see the definition of *Australia* in section 12 of this Act and section 15B of the *Acts Interpretation Act 1901*).

55 After section 32

Insert:

32A Rules may modify application of this Act in Norfolk Island

- (1) The Minister may, by legislative instrument, make rules prescribing modifications of this Act for its application in relation to Norfolk Island.
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;

(e) directly amend the text of this Act.

- (3) If the rules prescribe modifications of this Act for its application in relation to Norfolk Island, then this Act has effect as so modified in relation to Norfolk Island.

Note: This Act would, in the absence of any such rules, apply in relation to Norfolk Island in the same way as it applies in relation to the rest of Australia.

56 Subsection 792(1)

After “under this Act”, insert “(except under section 32A)”.

Federal Proceedings (Costs) Act 1981

57 Subsection 3(1) (definition of *Territory*)

Omit “or Norfolk Island”.

58 Section 5

Omit “except Norfolk Island”.

Gene Technology Act 2000

59 Section 7

Omit “other than Norfolk Island”.

Health Insurance Commission (Reform and Separation of Functions) Act 1997

60 Section 8

Omit “, of the Northern Territory and of Norfolk Island”, substitute “and of the Northern Territory”.

Hearing Services and AGHS Reform Act 1997

61 Section 7

Omit “, of the Northern Territory and of Norfolk Island”, substitute “and of the Northern Territory”.

Imported Food Charges (Collection) Act 2015

62 Section 5

After “does not extend to”, insert “Norfolk Island,”.

Imported Food Charges (Imposition—Customs) Act 2015

63 Section 4

After “does not extend to”, insert “Norfolk Island,”.

Imported Food Charges (Imposition—Excise) Act 2015

64 Section 4

After “does not extend to”, insert “Norfolk Island,”.

Imported Food Charges (Imposition—General) Act 2015

65 Section 4

After “does not extend to”, insert “Norfolk Island,”.

Imported Food Control Act 1992

66 At the end of section 4

Add:

- (3) This Act does not extend to Norfolk Island unless regulations made for the purposes of this subsection provide that the Act is to extend to that Territory.

Import Processing Charges Act 2001

67 After section 3

Insert:

3A Act does not extend to Norfolk Island

This Act does not extend to Norfolk Island.

Independent Contractors Act 2006

68 At the end of Part 1

Add:

5A Rules may modify application of this Act in Norfolk Island

- (1) The Minister may, by legislative instrument, make rules prescribing modifications of this Act or the regulations for their application in relation to Norfolk Island.
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act or the regulations.
- (3) If the rules prescribe modifications of this Act or the regulations for their application in relation to Norfolk Island, then this Act or the regulations have effect as so modified in relation to Norfolk Island.

Note: This Act and the regulations would, in the absence of any such rules, apply in relation to Norfolk Island in the same way as they apply in relation to the rest of Australia.

Industry Research and Development Act 1986

69 Subsection 4(1)

Insert:

Australia has the same meaning as in the *Income Tax Assessment Act 1997*.

70 Section 5

Repeal the section, substitute:

5 Application

This Act extends to every external Territory referred to in the definition of *Australia*.

71 Paragraph 28D(2)(a)

Omit “or an external Territory”.

72 Subsection 28D(4)

Omit “or the external Territories” (wherever occurring).

73 Paragraphs 28D(5)(b) and (d)

Omit “and the external Territories”.

Insurance Contracts Act 1984

74 Subsection 6(1)

Omit “an external Territory”, substitute “Norfolk Island, the Territory of Christmas Island and the Territory of Cocos (Keeling) Islands, and to any other external Territory”.

Motor Vehicle Standards Act 1989

75 Subsection 5(1) (before paragraph (a) of the definition of *Australia*)

Insert:

(aa) Norfolk Island; or

National Land Transport Act 2014

76 Subsection 4(1) (definition of *Indian Ocean Territory*)

Repeal the definition.

77 Subsection 4(1)

Insert:

relevant external Territory means:

(a) Norfolk Island; or

- (b) the Territory of Christmas Island; or
- (c) the Territory of Cocos (Keeling) Islands.

78 Paragraphs 10(a), (c), (e) and (f)

Omit “Indian Ocean Territory”, substitute “relevant external Territory”.

Passenger Movement Charge Collection Act 1978

79 Section 3 (definition of *Australia*)

Repeal the definition.

80 Section 3 (before paragraph (a) of the definition of *external Territory*)

Insert:

- (aa) Norfolk Island; or

Plant Breeder’s Rights Act 1994

81 After section 9A

Insert:

9B Extension to Norfolk Island

This Act does not extend to Norfolk Island unless the regulations prescribe.

Protection of Movable Cultural Heritage Act 1986

82 Subsection 3(1) (definition of *Australia*)

Omit “other than Norfolk Island”.

83 Section 6

Omit “other than Norfolk Island”.

Public Order (Protection of Persons and Property) Act 1971

84 Subsection 4(1) (after paragraph (a) of the definition of Territory)

Insert:

- (aa) Norfolk Island; or

Road Safety Remuneration Act 2012

85 After section 15

Insert:

15A Rules may modify application of this Act in Norfolk Island

- (1) The Minister may, by legislative instrument, make rules prescribing modifications of this Act or the regulations for their application in relation to Norfolk Island.
- (2) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act or the regulations.
- (3) If the rules prescribe modifications of this Act or the regulations for their application in relation to Norfolk Island, then this Act or the regulations have effect as so modified in relation to Norfolk Island.

Note: This Act and the regulations would, in the absence of any such rules, apply in relation to Norfolk Island in the same way as they apply in relation to the rest of Australia.

Telecommunications Act 1997

86 Section 10

Before “This Act”, insert “(1)”.

87 At the end of section 10

Add:

- (2) The operation of this Act in relation to Norfolk Island is not affected by the amendments made by Division 1 of Part 1 of Schedule 5 to the *Territories Legislation Amendment Act 2016*.

Telecommunications (Carrier Licence Charges) Act 1997

88 Section 4

Before “This Act”, insert “(1)”.

89 At the end of section 4

Add:

- (2) The operation of this Act in relation to Norfolk Island is not affected by the amendments made by Division 1 of Part 1 of Schedule 5 to the *Territories Legislation Amendment Act 2016*.

Telecommunications (Industry Levy) Act 2012

90 Section 4B

Before “This Part”, insert “(1)”.

91 Section 4B

Omit “section 10”, substitute “subsection 10(1)”.

92 At the end of section 4B

Add:

- (2) The operation of this Act in relation to Norfolk Island is not affected by the amendments made by Division 1 of Part 1 of Schedule 5 to the *Territories Legislation Amendment Act 2016*.

Telecommunications (Interception and Access) Act 1979

93 At the end of Part 1-1

Add:

4B Application to Norfolk Island

- (1) This Act does not extend to Norfolk Island.
- (2) Subsection (1) ceases to be in force when the *Telecommunications Act 1992* (Norfolk Island) is repealed.

Note: Once subsection (1) ceases to be in force this Act will extend to Norfolk Island because of section 18 of the *Norfolk Island Act 1979*.

Telecommunications (Numbering Charges) Act 1997

94 Section 4

Before “This Act”, insert “(1)”.

95 At the end of section 4

Add:

- (2) The operation of this Act in relation to Norfolk Island is not affected by the amendments made by Division 1 of Part 1 of Schedule 5 to the *Territories Legislation Amendment Act 2016*.

Telecommunications (Transitional Provisions and Consequential Amendments) Act 1991

96 At the end of section 3

Add:

- (3) The operation of this Part in relation to Norfolk Island is not affected by the amendments made by Division 1 of Part 1 of Schedule 5 to the *Territories Legislation Amendment Act 2016*.

***Telecommunications (Transitional Provisions and
Consequential Amendments) Act 1997***

97 At the end of Part 1

Add:

2A Application in relation to Norfolk Island

The operation of this Act in relation to Norfolk Island is not affected by the amendments made by Division 1 of Part 1 of Schedule 5 to the *Territories Legislation Amendment Act 2016*.

Tradex Duty Imposition (Customs) Act 1999

98 After section 2

Insert:

2A Act does not extend to Norfolk Island

This Act does not extend to Norfolk Island.

Tradex Duty Imposition (Excise) Act 1999

99 After section 2

Insert:

2A Act does not extend to Norfolk Island

This Act does not extend to Norfolk Island.

Tradex Duty Imposition (General) Act 1999

100 After section 2

Insert:

2A Act does not extend to Norfolk Island

This Act does not extend to Norfolk Island.

Water Efficiency Labelling and Standards Act 2005

101 Section 5

Omit “other than Norfolk Island”.

Workplace Gender Equality Act 2012

102 Subsection 3(3)

Repeal the subsection.

103 Section 4

Repeal the section.

Schedule 6—Nature of Norfolk Island Regional Council

Norfolk Island Legislation Amendment Act 2015

1 Item 17 of Schedule 2 (definition of *Norfolk Island Regional Council*)

Omit “corporate”.

*[Minister’s second reading speech made in—
House of Representatives on 24 February 2016
Senate on 16 March 2016]*

(18/16)
