



Territories Legislation Amendment Act 2020

No. 154, 2020

**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
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Territories Legislation Amendment Act 2020

No. 154, 2020

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

[Assented to 17 December 2020]

The Parliament of Australia enacts:

1 Short title

This Act is the *Territories Legislation Amendment Act 2020*.

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
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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.	17 December 2020
2. Schedule 1, Parts 1 and 2	The day after this Act receives the Royal Assent.	18 December 2020
3. Schedule 1, Part 3	A single day to be fixed by Proclamation. However, the Proclamation must not specify a day that occurs before the later of: (a) the first day on which no person holds office as a Judge of the Supreme Court of Norfolk Island; and (b) the day a State or Territory is prescribed by the regulations for the purposes of subsection 60AA(1) of the <i>Norfolk Island Act 1979</i> .	
4. Schedule 2, Part 1, Division 1	The later of: (a) the first Monday to occur after the end of the period of 6 months after the day this Act receives the Royal Assent; and (b) 2 August 2021.	2 August 2021 (paragraph (b) applies)
5. Schedule 2, Part 1, Division 2	The day after this Act receives the Royal Assent.	18 December 2020
6. Schedule 2, Part 2	The day after this Act receives the Royal Assent.	18 December 2020
7. Schedule 2, Part 3	The later of: (a) immediately after the commencement of the provisions covered by table item 4; and (b) immediately after the commencement of Schedule 2 to the <i>Federal Circuit and Family Court of Australia</i>	

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
	<i>(Consequential Amendments and Transitional Provisions) Act 2020.</i>	
	However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	
8. Schedule 3, Part 1	The later of: (a) the first Monday to occur after the end of the period of 6 months after the day this Act receives the Royal Assent; and (b) 2 August 2021.	2 August 2021 (paragraph (b) applies)
9. Schedule 3, Parts 2 and 3	A day or days to be fixed by Proclamation. However, if any of the provisions 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.	
10. Schedule 3, Part 4	The day after this Act receives the Royal Assent.	18 December 2020
11. Schedule 4, Part 1	The day after the end of the period of 6 months beginning on the day this Act receives the Royal Assent.	17 June 2021
12. Schedule 4, Part 2	The day after this Act receives the Royal Assent.	18 December 2020

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—Amendments of Territory Acts

Part 1—Applied laws, delegations and other matters

Division 1—Amendments

Christmas Island Act 1958

1 Subsection 4(1)

Insert:

amended: for when an applied Western Australian law is *amended*, see subsection 8GA(4).

applied Western Australian law means a Western Australian law as in force in the Territory under section 8A.

authority includes a body corporate, or an unincorporated body, established for a public purpose.

2 Subsection 4(1) (definition of *jurisdiction*)

Omit “or functions”.

3 Subsection 4(1)

Insert:

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

Western Australian law: see subsection 8A(6).

4 Section 7

Omit “On”, substitute “(1) On”.

5 Paragraph 7(d)

Repeal the paragraph, substitute:

(d) applied Western Australian laws.

6 At the end of section 7

Add:

- (2) To avoid doubt, subsection (1) does not prevent any other law, including a law of a State, from applying in the Territory of its own force.

7 Subsection 8A(1)

Omit “the provisions of the law of Western Australia (whether made before or after this section’s commencement) as in force in Western Australia from time to time”, substitute “Western Australian laws”.

8 At the end of subsection 8A(1)

Add:

Note: A Western Australian law as in force in the Territory under this section is an *applied Western Australian law* (see the definition in subsection 4(1)).

9 Subsection 8A(6)

Repeal the subsection, substitute:

- (6) A *Western Australian law*:
- (a) is a law in force in Western Australia from time to time; and
 - (b) includes a principle or rule of common law or equity that is part of the law of Western Australia; and
 - (c) does not include:
 - (i) a Commonwealth Act or a provision of a Commonwealth Act; or
 - (ii) an instrument (however described) made under a Commonwealth Act, or a provision of such an instrument.

10 Section 8G (heading)

Omit “and functions”.

11 Subsections 8G(1) and (2)

Repeal the subsections, substitute:

- (1) If, by an applied Western Australian law, a power is vested in:
- (a) a Minister of Western Australia; or
 - (b) the Governor of Western Australia; or
 - (c) the Governor-in-Council of Western Australia;

that power is, in relation to the Territory, vested in the Minister instead of the person or authority mentioned in paragraph (a), (b) or (c) of this subsection.

(2) If:

(a) by an applied Western Australian law, a power is vested in a person (other than a court officer of Western Australia) or an authority (other than a court of Western Australia); and

(b) subsection (1) does not apply to that power;

the power is, in relation to the Territory, vested in the Minister instead of the person or authority mentioned in paragraph (a) of this subsection.

(2A) To avoid doubt, a reference in subsection (1) or (2) to a power vested in a person or authority by an applied Western Australian law does not include a reference to a power so vested, whether directly or indirectly, because of an Ordinance made for the purposes of subsection 8A(2).

Note: Under subsection 8A(2), an Ordinance may provide for the incorporation, amendment or repeal of an applied Western Australian law.

12 Paragraph 8G(3)(a)

Omit “specified”.

13 Paragraph 8G(3)(b)

Omit “specified person”, substitute “person or authority”.

14 Subsections 8G(4) to (6)

Repeal the subsections, substitute:

(4) A direction or delegation under subsection (3) is subject to such conditions as may be specified:

(a) in the direction or delegation; or

(b) in the case of a deemed direction under subsection (5A) or (5B)—in writing, by the Minister.

(5) A person or authority in whom a power is vested by a direction under paragraph (3)(a) may delegate the power, in writing, to another person or authority:

(a) if authorised to do so by the direction; or

- (b) in the case of a deemed direction under subsection (5A) or (5B)—if authorised to do so, in writing, by the Minister.

Deemed vesting of powers—Western Australian persons and authorities exercising powers in Christmas Island

- (5A) If a power is vested in the Minister under paragraph (1)(a) or subsection (2), the Minister is taken to have directed under paragraph (3)(a) that the power is also vested in another person or authority in the circumstances that:
- (a) the person or authority is subject to an arrangement under section 8H and is:
 - (i) an officer or employee of Western Australia; or
 - (ii) an authority established by or under a Western Australian law; or
 - (iii) an officer or employee of such an authority; and
 - (b) the power corresponds to a power that the person or authority is authorised, under a Western Australian law, to exercise in, or in a part of, Western Australia:
 - (i) whether in the person's or authority's own right; or
 - (ii) whether in the capacity of a delegate; or
 - (iii) whether in any other way.

Deemed vesting of powers—other persons and authorities exercising powers in Christmas Island

- (5B) If a power mentioned in column 1 of an item of the following table is vested in the Minister under paragraph (1)(a) or subsection (2), the Minister is taken to have directed under paragraph (3)(a) that the power is also vested in a person or authority mentioned in column 2 of the item.

Deemed vesting of powers—other persons and authorities exercising powers in Christmas Island

Item	Column 1	Column 2
1	A power that corresponds to a power vested by a Western Australian law in a police force (however described)	The Australian Federal Police
2	A power that corresponds to a power vested by a Western Australian law in a police officer	A member or special member of the

Schedule 1 Amendments of Territory Acts
Part 1 Applied laws, delegations and other matters

Deemed vesting of powers—other persons and authorities exercising powers in Christmas Island

Item	Column 1	Column 2
	(however described) holding, occupying or exercising the powers of a particular kind of office or position	Australian Federal Police holding, occupying or exercising the powers of a corresponding office or position in the Territory
3	A power that corresponds to a power vested by a Western Australian law in a body (a <i>local government body</i>) responsible for local government under such a law	The Christmas Island Shire
4	A power that corresponds to a power vested by a Western Australian law in a person holding, occupying or exercising the powers of a particular kind of office or position on or with a local government body	A person holding, occupying or exercising the powers of a corresponding office or position on or with the Christmas Island Shire
5	A power that corresponds to a power, vested by a Western Australian law, that is prescribed by an Ordinance for the purposes of this item	A person or authority prescribed by that Ordinance

- (6) The Minister may, in writing, direct that subsection (5A) or (5B) does not apply to a specified power.

15 Subsection 8G(9)

Repeal the subsection, substitute:

- (9) The validity of the exercise of a power under an applied Western Australian law by a person or authority under this section is unaffected by the failure of the person or authority to hold a qualification required of a person or authority exercising that power under a Western Australian law.

16 After subsection 8G(10)

Insert:

- (10A) Subject to any direction or delegation under this section, if a power vested by an applied Western Australian law in a person or authority (the ***first mentioned person or authority***) is vested in another person or authority under this section, each reference in any applied Western Australian law to the first mentioned person or authority is taken to include a reference to the other person or authority.

17 Subsection 8G(12)

Repeal the subsection.

18 After section 8G

Insert:

8GA Applied Western Australian laws—effect of directions or delegations

Scope

- (1) This section applies if:
- (a) the Minister directs, under paragraph 8G(3)(a), that all the powers of a person or authority (the ***first mentioned person or authority***) under an applied Western Australian law are vested in another person or authority; or
 - (b) the Minister delegates to a person or authority, under paragraph 8G(3)(b), all the powers of a person or authority (also the ***first mentioned person or authority***) under an applied Western Australian law; or
 - (c) a person or authority delegates to another person or authority, under subsection 8G(5), all of the powers of a person or authority (also the ***first mentioned person or authority***) under an applied Western Australian law.

Addition of powers

- (2) If:
- (a) the applied Western Australian law is amended to give the first mentioned person or authority one or more additional powers under the law; and
 - (b) the direction or delegation is in force immediately before the amendment takes effect;

then, on and after the amendment taking effect, the direction or delegation is taken to include the additional powers.

Alteration of powers

- (3) If:
- (a) the applied Western Australian law is amended to alter the scope of one or more of the powers of the first mentioned person or authority under the law; and
 - (b) the direction or delegation is in force immediately before the amendment takes effect;

then, on and after the amendment taking effect, the direction or delegation is taken to include the powers as altered.

Amendments of applied Western Australian laws

- (4) An applied Western Australian law is **amended** if:
- (a) the law is amended by an Ordinance; or
 - (b) the corresponding Western Australian law is amended.

19 Subsection 8H(2)

Omit “or the performance of functions or duties”.

20 Paragraphs 8H(2)(b) and (c)

Omit “(within the meaning of section 8G)”, substitute “established under a Western Australian law”.

21 Paragraph 10D(1A)(b)

Omit “a Western Australian law as in force in the Territory under section 8A”, substitute “an applied Western Australian law”.

22 Paragraph 11A(b)

Omit “or duty”.

23 Paragraph 11A(b)

Omit “or the performance of that duty”.

24 Paragraph 14E(c)

Omit “or power”.

25 Subparagraphs 14E(d)(i) and (ii) and (e)(i) and (ii)

Omit “and functions”.

26 After section 22

Insert:

22A Ordinances—incorporation of matters by reference

- (1) Despite subsection 14(2) of the *Legislation Act 2003*, an Ordinance, or a law made under such an Ordinance, may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a provision of a Western Australian law (whether or not the law is an applied Western Australian law), as in force at a particular time or as in force from time to time.
- (2) Subsection (1) applies to a provision of a Western Australian law that is not an Act of the Western Australian Parliament only if the provision is subject to disallowance (however described) in Western Australia.

Cocos (Keeling) Islands Act 1955

27 Subsection 4(1)

Insert:

amended: for when an applied Western Australian law is ***amended***, see subsection 8GA(4).

applied Western Australian law means a Western Australian law as in force in the Territory under section 8A.

authority includes a body corporate, or an unincorporated body, established for a public purpose.

28 Subsection 4(1) (definition of *jurisdiction*)

Omit “or functions”.

29 Subsection 4(1)

Insert:

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

Western Australian law: see subsection 8A(6).

30 Section 7A

Omit “On”, substitute “(1) On”.

31 Paragraph 7A(d)

Repeal the paragraph, substitute:

(d) applied Western Australian laws.

32 At the end of section 7A

Add:

- (2) To avoid doubt, subsection (1) does not prevent any other law, including a law of a State, from applying in the Territory of its own force.

33 Subsection 8A(1)

Omit “the provisions of the law of Western Australia (whether made before or after this section’s commencement) as in force in Western Australia from time to time”, substitute “Western Australian laws”.

34 At the end of subsection 8A(1)

Add:

Note: A Western Australian law as in force in the Territory under this section is an *applied Western Australian law* (see the definition in subsection 4(1)).

35 Subsection 8A(6)

Repeal the subsection, substitute:

- (6) A *Western Australian law*:
- (a) is a law in force in Western Australia from time to time; and
 - (b) includes a principle or rule of common law or equity that is part of the law of Western Australia; and
 - (c) does not include:
 - (i) a Commonwealth Act or a provision of a Commonwealth Act; or

- (ii) an instrument (however described) made under a Commonwealth Act, or a provision of such an instrument.

36 Section 8G (heading)

Omit “and functions”.

37 Subsections 8G(1) and (2)

Repeal the subsections, substitute:

- (1) If, by an applied Western Australian law, a power is vested in:
 - (a) a Minister of Western Australia; or
 - (b) the Governor of Western Australia; or
 - (c) the Governor-in-Council of Western Australia;that power is, in relation to the Territory, vested in the Minister instead of the person or authority mentioned in paragraph (a), (b) or (c) of this subsection.
- (2) If:
 - (a) by an applied Western Australian law, a power is vested in a person (other than a court officer of Western Australia) or an authority (other than a court of Western Australia); and
 - (b) subsection (1) does not apply to that power;the power is, in relation to the Territory, vested in the Minister instead of the person or authority mentioned in paragraph (a) of this subsection.
- (2A) To avoid doubt, a reference in subsection (1) or (2) to a power vested in a person or authority by an applied Western Australian law does not include a reference to a power so vested, whether directly or indirectly, because of an Ordinance made for the purposes of subsection 8A(2).

Note: Under subsection 8A(2), an Ordinance may provide for the incorporation, amendment or repeal of a law in force in the Territory under section 8A.

38 Paragraph 8G(3)(a)

Omit “specified”.

39 Paragraph 8G(3)(b)

Omit “specified person”, substitute “person or authority”.

40 Subsections 8G(4) to (6)

Repeal the subsections, substitute:

- (4) A direction or delegation under subsection (3) is subject to such conditions as may be specified:
 - (a) in the direction or delegation; or
 - (b) in the case of a deemed direction under subsection (5A) or (5B)—in writing, by the Minister.
- (5) A person or authority in whom a power is vested by a direction under paragraph (3)(a) may delegate the power, in writing, to another person or authority:
 - (a) if authorised to do so by the direction; or
 - (b) in the case of a deemed direction under subsection (5A) or (5B)—if authorised to do so, in writing, by the Minister.

Deemed vesting of powers—Western Australian persons and authorities exercising powers in Cocos (Keeling) Islands

- (5A) If a power is vested in the Minister under paragraph (1)(a) or subsection (2), the Minister is taken to have directed under paragraph (3)(a) that the power is also vested in another person or authority in the circumstances that:
 - (a) the person or authority is subject to an arrangement under section 8H and is:
 - (i) an officer or employee of Western Australia; or
 - (ii) an authority established by or under a Western Australian law; or
 - (iii) an officer or employee of such an authority; and
 - (b) the power corresponds to a power that the person or authority is authorised, under a Western Australian law, to exercise in, or in a part of, Western Australia:
 - (i) whether in the person’s or authority’s own right; or
 - (ii) whether in the capacity of a delegate; or
 - (iii) whether in any other way.

*Deemed vesting of powers—other persons and authorities
exercising powers in Cocos (Keeling) Islands*

- (5B) If a power mentioned in column 1 of an item of the following table is vested in the Minister under paragraph (1)(a) or subsection (2), the Minister is taken to have directed under paragraph (3)(a) that the power is also vested in a person or authority mentioned in column 2 of the item.

Deemed vesting of powers—other persons and authorities exercising powers in Cocos (Keeling) Islands		
Item	Column 1	Column 2
1	A power that corresponds to a power vested by a Western Australian law in a police force (however described)	The Australian Federal Police
2	A power that corresponds to a power vested by a Western Australian law in a police officer (however described) holding, occupying or exercising the powers of a particular kind of office or position	A member or special member of the Australian Federal Police holding, occupying or exercising the powers of a corresponding office or position in the Territory
3	A power that corresponds to a power vested by a Western Australian law in a body (a <i>local government body</i>) responsible for local government under such a law	The Cocos (Keeling) Islands Shire
4	A power that corresponds to a power vested by a Western Australian law in a person holding, occupying or exercising the powers of a particular kind of office or position on or with a local government body	A person holding, occupying or exercising the powers of a corresponding office or position on or with the Cocos (Keeling) Islands Shire
5	A power that corresponds to a power, vested by a Western Australian law, that is prescribed by an Ordinance for the purposes of this item	A person or authority prescribed by that Ordinance

- (6) The Minister may, in writing, direct that subsection (5A) or (5B) does not apply to a specified power.

41 Subsection 8G(9)

Repeal the subsection, substitute:

- (9) The validity of the exercise of a power under an applied Western Australian law by a person or authority under this section is unaffected by the failure of the person or authority to hold a qualification required of a person or authority exercising that power under a Western Australian law.

42 After subsection 8G(10)

Insert:

- (10A) Subject to any direction or delegation made under this section, if a power vested by an applied Western Australian law in a person or authority (the *first mentioned person or authority*) is vested in another person or authority under this section, each reference in any applied Western Australian law to the first mentioned person or authority is taken to include a reference to the other person or authority.

43 Subsection 8G(12)

Repeal the subsection.

44 After section 8G

Insert:

8GA Applied Western Australian laws—effect of directions or delegations

Scope

- (1) This section applies if:
- (a) the Minister directs, under paragraph 8G(3)(a), that all the powers of a person or authority (the *first mentioned person or authority*) under an applied Western Australian law are vested in another person or authority; or
 - (b) the Minister delegates to a person or authority, under paragraph 8G(3)(b), all the powers of a person or authority (also the *first mentioned person or authority*) under an applied Western Australian law; or

- (c) a person or authority delegates to another person or authority, under subsection 8G(5), all of the powers of a person or authority (also the *first mentioned person or authority*) under an applied Western Australian law.

Addition of powers

- (2) If:
- (a) the applied Western Australian law is amended to give the first mentioned person or authority one or more additional powers under the law; and
 - (b) the direction or delegation is in force immediately before the amendment takes effect;
- then, on and after the amendment taking effect, the direction or delegation is taken to include the additional powers.

Alteration of powers

- (3) If:
- (a) the applied Western Australian law is amended to alter the scope of one or more of the powers of the first mentioned person or authority under the law; and
 - (b) the direction or delegation is in force immediately before the amendment takes effect;
- then, on and after the amendment taking effect, the direction or delegation is taken to include the powers as altered.

Amendments of applied Western Australian laws

- (4) An applied Western Australian law is **amended** if:
- (a) the applied Western Australian law is amended by an Ordinance; or
 - (b) the corresponding Western Australian law is amended.

45 Subsection 8H(2)

Omit “or the performance of functions or duties”.

46 Paragraphs 8H(2)(b) and (c)

Omit “(within the meaning of section 8G)”, substitute “established under a Western Australian law”.

47 Paragraph 13D(1A)(b)

Omit “a Western Australian law as in force in the Territory under section 8A”, substitute “an applied Western Australian law”.

48 Subparagraphs 15AAE(c)(i) and (ii) and (d)(i) and (ii)

Omit “and functions”.

49 Paragraph 15AAE(f)

Omit “or duties”.

50 Paragraph 16(1)(c)

Omit “or duty”.

51 Paragraph 16(1)(c)

Omit “, or the performance of the duty,”.

52 After section 19

Insert:

19A Ordinances—incorporation of matters by reference

- (1) Despite subsection 14(2) of the *Legislation Act 2003*, an Ordinance, or a law made under such an Ordinance, may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a provision of a Western Australian law (whether or not the law is an applied Western Australian law), as in force at a particular time or as in force from time to time.
- (2) Subsection (1) applies to a provision of a Western Australian law that is not an Act of the Western Australian Parliament only if the provision is subject to disallowance (however described) in Western Australia.

Norfolk Island Act 1979

53 Subsection 4(1)

Insert:

amended: for when an applied law is **amended**, see subsection 18E(4).

applied law means:

- (a) an applied State law; or
- (b) an applied Territory law.

applied law jurisdiction: see section 5.

applied State law means a law of an applied law jurisdiction that is a State, as in force in Norfolk Island under section 18A.

applied Territory law means a law of an applied law jurisdiction that is a Territory, as in force in Norfolk Island under section 18A.

authority includes a body corporate, or an unincorporated body, established for a public purpose.

54 Subsection 4(1)

Repeal the following definitions:

- (a) definition of **court officer of New South Wales**;
- (b) definition of **court of New South Wales**.

55 Subsection 4(1)

Insert:

court officer, of a State or Territory that is an applied law jurisdiction, means a person holding, occupying or exercising the powers of:

- (a) any of the following offices in a court of that jurisdiction:
 - (i) Judge;
 - (ii) Magistrate (however described);
 - (iii) Master;
 - (iv) Registrar (however described);
 - (v) Clerk (however described);
 - (vi) Sheriff (however described);
 - (vii) Bailiff (however described); or
- (b) any other office, prescribed by the regulations for the purposes of this paragraph, of a court of that jurisdiction.

law of an applied law jurisdiction: see subsection 18A(6).

Norfolk Island: see the definition of *Territory*.

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

56 Subsection 4(1) (definition of *Territory*)

Repeal the definition, substitute:

Territory, or *Norfolk Island*, means the Territory of Norfolk Island and, when used in a geographical sense, means the area described in Schedule 1.

57 At the end of Part I

Add:

5 Meaning of *applied law jurisdiction*

- (1) Subject to any regulations made for the purposes of paragraph (2)(b), each of the following States or Territories is an *applied law jurisdiction*:
 - (a) New South Wales;
 - (b) a State or Territory (if any) prescribed for the purposes of paragraph (2)(a).
- (2) The regulations may provide for:
 - (a) a State or Territory (other than Norfolk Island) to be an applied law jurisdiction; or
 - (b) a State (including New South Wales) or a Territory to stop being an applied law jurisdiction.
- (3) Without limiting subsection (2), the regulations may prescribe matters of a transitional nature (including any saving or application provisions) relating to regulations made for the purposes of paragraph (2)(b).

58 Section 15

Omit “After the final transition time, the”, substitute “(1) The”.

59 Paragraph 15(e)

Repeal the paragraph, substitute:

- (e) applied laws.
-

60 At the end of section 15

Add:

- (2) To avoid doubt, subsection (1) does not prevent any other law, including a law of a State or of another Territory, from applying in the Territory of its own force.

61 Section 18A

Repeal the section, substitute:

18A Application of laws of applied law jurisdictions

- (1) Subject to this section and sections 18B and 18D, the laws of an applied law jurisdiction are in force in Norfolk Island.
- (2) To the extent that a law is in force in Norfolk Island under subsection (1) it may be incorporated, amended or repealed by a section 19A Ordinance or a law made under a section 19A Ordinance.
- (3) A section 19A Ordinance may suspend the operation in Norfolk Island of a law in force in Norfolk Island under subsection (1) for such period as is specified in the Ordinance.
- (4) To the extent that a law of an applied law jurisdiction is in force in Norfolk Island under subsection (1), it has no effect to the extent that it is inconsistent with:
 - (a) the Constitution; or
 - (b) an Act; or
 - (c) an enactment; or
 - (d) a law of another applied law jurisdiction in force in Norfolk Island under this section that has a higher order of priority under regulations made for the purposes of this paragraph.
- (5) For the purposes of subsection (4), a law of an applied law jurisdiction (the *first applied law*) is taken to be consistent with any of the following other laws:
 - (a) an Act;
 - (b) an enactment;
 - (c) a law of another applied law jurisdiction;

to the extent that the first applied law is capable of operating concurrently with the other law.

- (6) A *law of an applied law jurisdiction*:
- (a) is a law in force in an applied law jurisdiction from time to time; and
 - (b) includes a principle or rule of common law or equity that is part of the law of that jurisdiction; and
 - (c) does not include:
 - (i) a Commonwealth Act or a provision of a Commonwealth Act; or
 - (ii) an instrument (however described) made under a Commonwealth Act, or a provision of such an instrument.

62 Section 18B (heading)

Repeal the heading, substitute:

18B Powers under applied State laws

63 Subsections 18B(1) and (2)

Repeal the subsections, substitute:

Vesting of powers

- (1) If, by an applied State law, a power is vested in:
- (a) a Minister of the State; or
 - (b) the Governor of the State; or
 - (c) the Governor-in-Council of the State;
- that power is, in relation to Norfolk Island, vested in the responsible Commonwealth Minister instead of the person or authority mentioned in paragraph (a), (b) or (c) of this subsection.
- (2) If:
- (a) by an applied State law, a power is vested in a person (other than a court officer of the State) or an authority (other than a court of the State); and
 - (b) subsection (1) does not apply to that power;

the power is, in relation to Norfolk Island, vested in the responsible Commonwealth Minister instead of the person or authority mentioned in paragraph (a) of this subsection.

- (2A) To avoid doubt, a reference in subsection (1) or (2) to a power vested in a person or authority by an applied State law does not include a reference to a power so vested, whether directly or indirectly, because of a section 19A Ordinance made for the purposes of subsection 18A(2).

Note: Under subsection 18A(2), a section 19A Ordinance may provide for the incorporation, amendment or repeal of an applied State law.

64 Paragraph 18B(3)(a)

Omit “specified”.

65 Paragraph 18B(3)(b)

Omit “specified person”, substitute “person or authority”.

66 Subsections 18B(4) to (6)

Repeal the subsections, substitute:

- (4) A direction or delegation under subsection (3) is subject to such conditions as may be specified:
- (a) in the direction or delegation; or
 - (b) in the case of a deemed direction under subsection (5A) or (5B)—in writing, by the responsible Commonwealth Minister.
- (5) A person or authority in whom a power is vested by a direction under paragraph (3)(a) may delegate the power, in writing, to another person or authority:
- (a) if authorised to do so by the direction; or
 - (b) in the case of a deemed direction under subsection (5A) or (5B)—if authorised to do so, in writing, by the responsible Commonwealth Minister.

Deemed vesting of powers—State persons and authorities exercising powers in Norfolk Island

- (5A) If a power under an applied State law is vested in the responsible Commonwealth Minister under paragraph (1)(a) or subsection (2),

that Minister is taken to have directed under paragraph (3)(a) that the power is also vested in another person or authority in the circumstances that:

- (a) the person or authority is subject to an arrangement under section 18C with the State and is:
 - (i) an officer or employee of the State; or
 - (ii) an authority established by or under a law of the State; or
 - (iii) an officer or employee of such an authority; and
- (b) the power corresponds to a power that the person or authority is authorised, under a law of the State, to exercise in, or in a part of, the State:
 - (i) whether in the person’s or authority’s own right; or
 - (ii) whether in the capacity of a delegate; or
 - (iii) whether in any other way.

Deemed vesting of powers—Norfolk Island persons and authorities

- (5B) If a power under an applied State law mentioned in column 1 of an item of the following table is vested in the responsible Commonwealth Minister under paragraph (1)(a) or subsection (2), the Minister is taken to have directed under paragraph (3)(a) that the power is also vested in a person or authority mentioned in column 2 of the item.

Deemed vesting of powers—Norfolk Island persons and authorities		
Item	Column 1	Column 2
1	A power that corresponds to a power vested by a law of the State in a police force (however described)	The Australian Federal Police
2	A power that corresponds to a power vested by a law of the State in a police officer (however described) holding, occupying or exercising the powers of a particular kind of office or position	Both of the following: (a) a member of the Police Force of Norfolk Island holding, occupying or exercising the powers of a corresponding office or position; (b) a member or special

Deemed vesting of powers—Norfolk Island persons and authorities		
Item	Column 1	Column 2
		member of the Australian Federal Police holding, occupying or exercising the powers of a corresponding office or position in Norfolk Island
3	A power that corresponds to a power vested by a law of the State in a body (a local government body) responsible for local government under such a law	The Norfolk Island Regional Council
4	A power that corresponds to a power vested by a law of the State in a person holding, occupying or exercising the powers of a particular kind of office or position on or with a local government body	A person holding, occupying or exercising the powers of a corresponding office or position on or with the Norfolk Island Regional Council
5	A power that corresponds to a power, vested by a law of the State, that is prescribed by an Ordinance for the purposes of this item	A person or authority prescribed by that Ordinance

- (6) The responsible Commonwealth Minister may, in writing, direct that subsection (5A) or (5B) does not apply to a specified power.

67 Subsections 18B(9) to (12)

Repeal the subsections, substitute:

- (9) The validity of the exercise of a power under an applied State law by a person or authority under this section is unaffected by the failure of the person or authority to hold a qualification required of a person or authority exercising that power under a law of the State.
- (10) This section does not affect the operation of section 18A in relation to the application in or in relation to Norfolk Island of a law (a **subordinate law**) made under a law of an applied law jurisdiction

(whether the subordinate law is made before or after the final transition time).

- (11) Subject to any direction or delegation made under this section, if a power vested by an applied State law in a person or authority (the *first mentioned person or authority*) is vested in another person or authority under this section, each reference in any applied State law of that State to the first mentioned person or authority is taken to include a reference to the other person or authority.
- (12) A reference in this section to a law of a State that is an applied law jurisdiction is taken to be a reference to a law of the applied law jurisdiction (within the meaning of subsection 18A(6)).

Note: Subsection 18A(6) gives an extended meaning to *law of an applied law jurisdiction*.

- (13) An instrument under this section is not a legislative instrument.

68 Section 18C (heading)

Repeal the heading, substitute:

18C Arrangements with the Government of a State

69 Subsection 18C(1)

Omit “New South Wales”, substitute “a State”.

70 Subsection 18C(1)

Omit “the Territory”, substitute “Norfolk Island”.

71 Subsection 18C(2)

Repeal the subsection, substitute:

- (2) Without limiting the generality of subsection (1), such an arrangement may provide for the exercise of powers in, or in relation to, Norfolk Island by:
- (a) an officer or employee of the State; or
 - (b) an authority established by or under a law of the State; or
 - (c) an officer or employee of an authority established by or under a law of the State.

72 At the end of Division 1 of Part IV

Add:

18D Powers under applied Territory laws

Vesting of powers

- (1) If, by an applied Territory law, a power is vested in:
 - (a) a person (other than a court officer of that Territory); or
 - (b) an authority (other than a court of that Territory);that power is vested in, and may be exercised by, that person or authority in relation to Norfolk Island.
- (2) A reference in subsection (1) to a power that is vested in a person or authority by an applied Territory law includes a reference to a power that is otherwise exercisable under that law (for example, under a delegation made under that law, or under an authorisation).
- (3) To avoid doubt, a reference in subsection (1) to a power vested in a person or authority by an applied Territory law does not include a reference to a power so vested, whether directly or indirectly, because of a section 19A Ordinance made for the purposes of subsection 18A(2).

Note: Under subsection 18A(2), a section 19A Ordinance may provide for the incorporation, amendment or repeal of an applied Territory law.

Vesting directions etc.

- (4) If a power under an applied Territory law is vested in a person or authority under subsection (1), the responsible Commonwealth Minister may, in writing, direct that the power is, in relation to Norfolk Island:
 - (a) also vested in a person or authority (which may be that Minister); or
 - (b) vested instead in another person or authority (which may be that Minister).
- (5) A direction under subsection (4) is subject to such conditions as may be specified in the direction.

- (6) A person or authority in whom a power is vested by a direction under subsection (4) may, if authorised by the direction, delegate the power, in writing, to another person or authority.

Effect of solely vesting powers in other persons or authorities

- (7) If the responsible Commonwealth Minister gives a direction under paragraph (4)(b) in relation to a power, the power stops being vested in relation to Norfolk Island under subsection (1) at the start of the day after the direction is given.

Other matters

- (8) An instrument under this section may identify a power by reference to a class of powers.
- (9) The validity of the exercise of a power under an applied Territory law by a person or authority under this section is unaffected by the failure of the person or authority to hold a qualification required of a person or authority exercising that power under a law of that Territory.
- (10) This section does not affect the operation of section 18A in relation to the application in or in relation to Norfolk Island of a law (a **subordinate law**) made under a law of an applied law jurisdiction (whether the subordinate law is made before or after the commencement of this section).
- (11) Subject to any direction or delegation made under this section, if a power vested by an applied Territory law in a person or authority (the **first mentioned person or authority**) is vested in another person or authority under this section, each reference in any applied Territory law of that Territory to the first mentioned person or authority is taken to include a reference to the other person or authority.
- (12) A reference in this section to a law of a Territory that is an applied law jurisdiction is taken to be a reference to a law of the applied law jurisdiction (within the meaning of subsection 18A(6)).

Note: Subsection 18A(6) gives an extended meaning to **law of an applied law jurisdiction**.

- (13) An instrument under this section is not a legislative instrument.
-

18E Applied laws—effect of directions and delegations

Scope

- (1) This section applies if:
- (a) the responsible Commonwealth Minister directs, under paragraph 18B(3)(a) or subsection 18D(4), that all the powers of a person or authority (the ***first mentioned person or authority***) under an applied law are vested in another person or authority; or
 - (b) the responsible Commonwealth Minister delegates to a person or authority, under paragraph 18B(3)(b), all the powers of a person or authority (also the ***first mentioned person or authority***) under an applied law; or
 - (c) a person or authority delegates to another person or authority, under subsection 18B(5) or 18D(6), all the powers of a person or authority (also the ***first mentioned person or authority***) under an applied law.

Addition of powers

- (2) If:
- (a) the applied law is amended to give the first mentioned person or authority one or more additional powers under the law; and
 - (b) the direction or delegation is in force immediately before the amendment takes effect;
- then, on and after the amendment taking effect, the direction or delegation is taken to include the additional powers.

Alteration of powers

- (3) If:
- (a) the applied law is amended to alter the scope of one or more of the powers of the first mentioned person or authority under the law; and
 - (b) the direction or delegation is in force immediately before the amendment takes effect;
- then, on and after the amendment taking effect, the direction or delegation is taken to include the powers as altered.

Amendments of applied laws

- (4) An applied law is **amended** if:
- (a) the applied law is amended by a section 19A Ordinance; or
 - (b) the corresponding law of the applied law jurisdiction is amended.

73 After section 66

Insert:

66A Ordinances—incorporation of matters by reference

- (1) Despite subsection 14(2) of the *Legislation Act 2003*, a section 19A Ordinance, or a law made under such an Ordinance, may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, a provision of a law of an applied law jurisdiction (whether or not the law is an applied law), as in force at a particular time or as in force from time to time.
- (2) Subsection (1) applies to a provision of a law of an applied law jurisdiction that is not an Act of the Parliament of the applied law jurisdiction only if the provision is subject to disallowance (however described) in that jurisdiction.

74 Part IX

Repeal the Part.

Division 2—Application, saving and transitional provisions

75 Amendments relating to Christmas Island

Application of amendments

- (1) Sections 8G and 8GA of the new law apply in relation to:
- (a) Western Australian laws, whether in force before or after the commencement time; and
 - (b) applied Western Australian laws, whether in force before or after the commencement time; and

- (c) powers vested in a person or authority, whether vested before or after the commencement time; and
- (d) directions and delegations, whether made before or after the commencement time.

Saving of certain delegations

- (2) Subject to subitem (3), a delegation made under subsection 8G(4) of the old law that was in force immediately before the commencement time continues in force, on and after that time, as if it had been made under subsection 8G(5) of the new law.

Certain directions and delegations cease to have effect

- (3) A direction or delegation made under subsection 8G(3) or (4) of the old law that was in force immediately before the commencement time ceases to have effect if:
 - (a) at the commencement time, the Minister is taken, under subsection 8G(5B) of the new law, to have directed that a power is also vested in a person or authority; and
 - (b) the direction or delegation is in respect of that power.

Arrangements with Western Australia

- (4) A reference in section 8G or 8H of the new law to an arrangement with Western Australia is taken, after the commencement time, to include a reference to an arrangement with Western Australia entered into under section 8H of the old law that was in force immediately before that time.

Definitions

- (5) In this item:
 - commencement time*** means the time this Part commences.
 - new law*** means the *Christmas Island Act 1958*, as amended by Division 1 of this Part.
 - old law*** means the *Christmas Island Act 1958*, as in force immediately before the commencement time.

76 Amendments relating to Cocos (Keeling) Islands

Application of amendments

- (1) Sections 8G and 8GA of the new law apply in relation to:
- (a) Western Australian laws, whether in force before or after the commencement time; and
 - (b) applied Western Australian laws, whether in force before or after the commencement time; and
 - (c) powers vested in a person or authority, whether vested before or after the commencement time; and
 - (d) directions and delegations, whether made before or after the commencement time.

Saving of certain delegations

- (2) Subject to subitem (3), a delegation made under subsection 8G(4) of the old law that was in force immediately before the commencement time continues in force, on and after that time, as if it had been made under subsection 8G(5) of the new law.

Certain directions and delegations cease to have effect

- (3) A direction or delegation made under subsection 8G(3) or (4) of the old law that was in force immediately before the commencement time ceases to have effect if:
- (a) at the commencement time, the Minister is taken, under subsection 8G(5B) of the new law, to have directed that a power is also vested in a person or authority; and
 - (b) the direction or delegation is in respect of that power.

Arrangements with Western Australia

- (4) A reference in section 8G or 8H of the new law to an arrangement with Western Australia is taken, after the commencement time, to include a reference to an arrangement with Western Australia entered into under section 8H of the old law that was in force immediately before that time.

Definitions

- (5) In this item:

commencement time means the time this Part commences.

new law means the *Cocos (Keeling) Islands Act 1955*, as amended by Division 1 of this Part.

old law means the *Cocos (Keeling) Islands Act 1955*, as in force immediately before the commencement time.

77 Amendments relating to Norfolk Island

Application of amendments

- (1) Sections 18A to 18E of the new law apply in relation to:
 - (a) laws of an applied law jurisdiction, whether in force before or after the commencement time; and
 - (b) applied laws, whether in force before or after the commencement time; and
 - (c) powers vested in a person or authority, whether vested before or after the commencement time; and
 - (d) directions and delegations, whether made before or after the commencement time.

Saving of Ordinances that incorporate, amend, repeal or suspend applied New South Wales laws

- (2) A section 19A Ordinance made for the purposes of subsection 18A(2) or (3) of the old law that was in force immediately before the commencement time continues in force, on and after that time, as if it had been made for the purposes of subsection 18A(2) or (3) (as applicable) of the new law.

Saving of certain delegations

- (3) Subject to subitem (4), a delegation made under subsection 18B(4) of the old law that was in force immediately before the commencement time continues in force, on and after that time, as if it had been made under subsection 18B(5) of the new law.

Certain directions and delegations cease to have effect

- (4) A direction or delegation made under subsection 18B(3) or (4) of the old law that was in force immediately before the commencement time ceases to have effect if:

- (a) at the commencement time, the Minister is taken, under subsection 18B(5B) of the new law, to have directed that a power is also vested in a person or authority; and
- (b) the direction or delegation is in respect of that power.

Arrangements with New South Wales

- (5) A reference in section 18B or 18C of the new law to an arrangement with a State is taken, at and after the commencement time, to include a reference to an arrangement with New South Wales entered into under section 18C of the old law that was in force immediately before that time.

Definitions

- (6) In this item:

commencement time means the time this Part commences.

new law means the *Norfolk Island Act 1979*, as amended by Division 1 of this Part.

old law means the *Norfolk Island Act 1979*, as in force immediately before the commencement time.

Part 2—Jurisdiction of Norfolk Island courts

Division 1—Main amendments

Norfolk Island Act 1979

78 Subsection 4(1)

Insert:

prescribed State or Territory means a State or Territory prescribed for the purposes of subsection 60AA(1).

79 Before section 52

Insert:

Division 1—The Supreme Court of Norfolk Island

80 Before section 60

Insert:

Division 2—Establishment of courts and tribunals

81 At the end of Part VII

Add:

Division 3—Conferral of jurisdiction on prescribed State or Territory courts

60AA Conferral of jurisdiction on prescribed State or Territory courts

Conferral of jurisdiction

- (1) A State or a Territory (the *prescribed State or Territory*), other than Norfolk Island, may be prescribed by the regulations for the purposes of this subsection.

- (2) The courts of the prescribed State or Territory have jurisdiction (including appellate jurisdiction) to hear and determine matters arising under laws in force in Norfolk Island as if Norfolk Island were part of the prescribed State or Territory.

Note: For the transfer of jurisdiction from the courts of Norfolk Island to the courts of the prescribed State or Territory, see Division 3 of Part 2 of Schedule 1 to the *Territories Legislation Amendment Act 2020*.

Places at which court may sit

- (3) A court of the prescribed State or Territory may, in exercising jurisdiction under this section, sit in Norfolk Island or the prescribed State or Territory.

Application of laws of procedure etc. in criminal proceedings

- (4) Section 68 of the *Judiciary Act 1903* applies to a court exercising jurisdiction under this section in relation to a matter that concerns an offence as if:
- (a) a reference in that section to the laws of a State or Territory were a reference to the laws of the prescribed State or Territory; and
 - (b) a reference in that section to offences against the laws of the Commonwealth were a reference to offences against the laws in force in Norfolk Island; and
 - (c) a reference in that section to the conferral of jurisdiction on the courts of a State or Territory by that section were a reference to the conferral of jurisdiction on the courts of the prescribed State or Territory by this section; and
 - (d) the reference in subsection (5A) of that section to another State (which includes a Territory) does not include a reference to Norfolk Island.

State or Territory laws to govern where applicable

- (5) The laws of the prescribed State or Territory, including the laws relating to procedure, evidence and the competency of witnesses, are binding on all courts exercising jurisdiction under this section in that State or Territory, or in Norfolk Island, in all cases to which they are applicable.

Other matters

- (6) This section is subject to:
- (a) the Constitution; and
 - (b) any law in force in Norfolk Island.

Note: Paragraph (6)(b) has the effect that subsections (3), (4) and (5) of this section are subject to the provisions of Part VIIA of this Act.

- (7) A suspension of a law under subsection 18A(4) does not, by virtue of that suspension alone, affect the application of that law under subsection (4) and (5) of this section.

Division 2—Consequential amendments

Coral Sea Islands Act 1969

82 Subsection 2(1)

Insert:

prescribed State or Territory has the meaning given by the *Norfolk Island Act 1979*.

83 Before subsection 8(1)

Insert:

- (1A) Subject to subsection (3), the courts of the prescribed State or Territory also have jurisdiction in and in relation to the Territory.
- (1B) In the exercise of its jurisdiction under this section, a court of the prescribed State or Territory may sit in the Coral Sea Islands Territory, in Norfolk Island or in the prescribed State or Territory.

84 Subsection 8(1)

After “subsection (3)”, insert “of this section and Part VII of the *Norfolk Island Act 1979*”.

85 Subsection 8(3)

Omit “Subsection (1) does not confer jurisdiction on the courts of Norfolk Island”, substitute “This section does not confer jurisdiction on any court”.

Criminal Code Act 1995

86 Dictionary in the Criminal Code (paragraphs (h) and (i) of the definition of *Commonwealth judicial officer*)

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

Designs Act 2003

87 At the end of section 84

Add:

- (3) This section, so far as it relates to the Supreme Court of Norfolk Island, has effect subject to section 60AA of the *Norfolk Island Act 1979*.

Environment Protection (Sea Dumping) Act 1981

88 After subsection 33(4)

Insert:

- (4A) This section, so far as it relates to the Supreme Court of Norfolk Island, has effect subject to section 60AA of the *Norfolk Island Act 1979*.

Fisheries Management Act 1991

89 After subsection 54(5)

Insert:

- (5A) This section, so far as it relates to the Supreme Court of Norfolk Island, has effect subject to section 60AA of the *Norfolk Island Act 1979*.

Olympic Insignia Protection Act 1987

90 At the end of section 68

Add:

- (3) This section, so far as it relates to the Supreme Court of Norfolk Island, has effect subject to section 60AA of the *Norfolk Island Act 1979*.

Patents Act 1990

91 At the end of section 155

Add:

- (3) This section, so far as it relates to the Supreme Court of Norfolk Island, has effect subject to section 60AA of the *Norfolk Island Act 1979*.

Trade Marks Act 1995

92 At the end of section 192

Add:

- (4) This section, so far as it relates to the Supreme Court of Norfolk Island, has effect subject to section 60AA of the *Norfolk Island Act 1979*.

Division 3—Application, saving and transitional provisions

93 Definitions

In this Division:

Coroner has the same meaning as in the *Coroners Act 1993* (Norfolk Island).

Court of Petty Sessions means the court established by section 5 of the *Court of Petty Sessions Act 1960* (Norfolk Island).

judicial transition time: see item 96.

new law means the *Norfolk Island Act 1979*, as amended by Division 1 of this Part.

new procedural provisions means section 60C and sections 60F to 60L of the *Norfolk Island Act 1979*, as amended by Division 1 of Part 3 of this Schedule.

transition period: see item 95.

94 Application of procedural etc. laws of prescribed State or Territory

Subsections 60AA(3) to (7) of the new law apply to a court exercising jurisdiction under this Division as if references in those subsections to a court hearing and determining matters, or exercising jurisdiction, under section 60AA of the new law were a reference to a court hearing and determining matters, or exercising jurisdiction, under this Division.

95 Application of certain procedural laws in transition period

- (1) The new procedural provisions apply during the transition period, as if they were in force during that period, in relation to a court exercising jurisdiction under:
 - (a) section 60AA of the new law; or
 - (b) this Division.
- (2) The *transition period* is the period:
 - (a) starting on the day a State or Territory is prescribed by the regulations for the purposes of subsection 60AA(1) of the new law; and
 - (b) ending immediately before the commencement of Part 3 of this Schedule.

96 Transfer of Supreme Court jurisdiction—new proceedings

Scope

- (1) This item applies to the jurisdiction to hear and determine matters arising under laws in force in Norfolk Island vested in the Supreme Court of Norfolk Island immediately before the judicial transition time, except in relation to matters for which:
 - (a) proceedings were pending in that court immediately before that time; or
 - (b) proceedings had been completed in that court before that time.
- (2) The *judicial transition time* is the time prescribed by the regulations for the purposes of this item.

Transfer of jurisdiction

- (3) Subject to the Constitution, after the judicial transition time the jurisdiction:
- (a) ceases to be vested in the Supreme Court of Norfolk Island; and
 - (b) is vested in:
 - (i) if a court prescribed for the purposes of subitem (4) would, apart from this subitem, have the jurisdiction under subsection 60AA(2) of the new law—that court; or
 - (ii) in any other case—the Supreme Court of the prescribed State or Territory.
- (4) A court of the prescribed State or Territory may be prescribed by the regulations for the purposes of this subitem.

97 Transfer of Supreme Court jurisdiction—pending proceedings

Parties may apply to transfer proceedings

- (1) After the judicial transition time, the parties to proceedings in a matter pending in the Supreme Court of Norfolk Island may apply to that court to transfer the proceedings to:
- (a) if the proceedings relate only to a matter of a kind that is within the jurisdiction of a court prescribed for the purposes of subitem 96(4) (the *prescribed court*)—the prescribed court; or
 - (b) in any other case—the Supreme Court of the prescribed State or Territory.

Transfer to prescribed court of prescribed State or Territory

- (2) If the Supreme Court of Norfolk Island decides that it is not contrary to the interests of justice to grant an application under paragraph (1)(a), the Supreme Court must transfer the proceedings to the prescribed court.
- (3) If the proceedings are so transferred:
- (a) the prescribed court may hear and determine the proceedings; and

- (b) all documents filed in the Supreme Court of Norfolk Island in the proceedings are to be transmitted to the prescribed court; and
- (c) any money lodged with the Supreme Court of Norfolk Island in relation to the proceedings:
 - (i) is to be transferred to the prescribed court; and
 - (ii) is taken to be money lodged with the prescribed court in relation to the proceedings; and
- (d) everything done in or in relation to the proceedings in the Supreme Court of Norfolk Island is taken to have been done in the prescribed court.

Transfer to Supreme Court of prescribed State or Territory

- (4) If the Supreme Court of Norfolk Island decides that it is not contrary to the interests of justice to grant an application under paragraph (1)(b), the Supreme Court must transfer the proceedings to the Supreme Court of the prescribed State or Territory.
- (5) If the proceedings are so transferred:
 - (a) the Supreme Court of the prescribed State or Territory may hear and determine the proceedings; and
 - (b) all documents filed in the Supreme Court of Norfolk Island in the proceedings are to be transmitted to the Supreme Court of the prescribed State or Territory; and
 - (c) any money lodged with the Supreme Court of Norfolk Island in relation to the proceedings:
 - (i) is to be transferred to the Supreme Court of the prescribed State or Territory; and
 - (ii) is taken to be money lodged with the Supreme Court of the prescribed State or Territory in relation to the proceedings; and
 - (d) everything done in or in relation to the proceedings in the Supreme Court of Norfolk Island is taken to have been done in the Supreme Court of the prescribed State or Territory.

98 Action to be taken before abolition of Supreme Court

Registrar must transfer proceedings

- (1) As soon as practicable after the first day on which no person holds office as a Judge of the Supreme Court of Norfolk Island, the Registrar of the court must transfer all proceedings in the court (including completed proceedings) to:
- (a) if the proceedings relate only to a matter of a kind that is within the jurisdiction of a court prescribed for the purposes of subitem 96(4) (the *prescribed court*)—the prescribed court; or
 - (b) in any other case—the Supreme Court of the prescribed State or Territory.

Transfer to prescribed court of prescribed State or Territory

- (2) If proceedings are transferred to the prescribed court under paragraph (1)(a):
- (a) all documents filed in the Supreme Court of Norfolk Island in the proceedings are to be transmitted to the prescribed court; and
 - (b) any money lodged with the Supreme Court of Norfolk Island in relation to the proceedings:
 - (i) is to be transferred to the prescribed court; and
 - (ii) is taken to be money lodged with the prescribed court in relation to the proceedings; and
 - (c) everything done in or in relation to the proceedings in the Supreme Court of Norfolk Island is taken to have been done in the prescribed court.
- (3) If proceedings transferred to the prescribed court under paragraph (1)(a) are not completed before the transfer, the prescribed court may:
- (a) hear, or further hear, the proceedings; and
 - (b) determine the proceedings; and
 - (c) have regard to any evidence or argument in the proceedings in the Supreme Court of Norfolk Island.

Transfer to Supreme Court of prescribed State or Territory

- (4) If proceedings are transferred to the Supreme Court of the prescribed State or Territory under paragraph (1)(b):
- (a) all documents filed in the Supreme Court of Norfolk Island in the proceedings are to be transmitted to the Supreme Court of the prescribed State or Territory; and
 - (b) any money lodged with the Supreme Court of Norfolk Island in relation to the proceedings:
 - (i) is to be transferred to the Supreme Court of the prescribed State or Territory; and
 - (ii) is taken to be money lodged with the Supreme Court of the prescribed State or Territory in relation to the proceedings; and
 - (c) everything done in or in relation to the proceedings in the Supreme Court of Norfolk Island is taken to have been done in the Supreme Court of the prescribed State or Territory.
- (5) If proceedings transferred to the Supreme Court of the prescribed State or Territory under paragraph (1)(b) are not completed before the transfer, the Supreme Court of the prescribed State or Territory may:
- (a) hear, or further hear, the proceedings; and
 - (b) determine the proceedings; and
 - (c) have regard to any evidence or argument in the proceedings in the Supreme Court of Norfolk Island.

99 Transfer of Court of Petty Sessions jurisdiction—new proceedings

Scope

- (1) This item applies to the jurisdiction to hear and determine matters arising under laws in force in Norfolk Island vested in the Court of Petty Sessions immediately before the judicial transition time, except in relation to matters for which:
- (a) proceedings were pending in that court immediately before that time; or
 - (b) proceedings had been completed in that court before that time.

Transfer of jurisdiction

- (2) Subject to the Constitution, after the judicial transition time the jurisdiction:
- (a) ceases to be vested in the Court of Petty Sessions; and
 - (b) is vested in:
 - (i) if a court prescribed for the purposes of subitem (3) would, apart from this subitem, have the jurisdiction under subsection 60AA(2) of the new law—that court; or
 - (ii) in any other case—the Supreme Court of the prescribed State or Territory.
- (3) A court of a prescribed State or Territory may be prescribed by the regulations for the purposes of this subitem.

**100 Transfer of Court of Petty Sessions jurisdiction—
pending proceedings**

Parties may apply to transfer proceedings

- (1) After the judicial transition time, the parties to proceedings in a matter pending in the Court of Petty Sessions may apply to that court to transfer the proceedings to:
- (a) if the proceedings relate only to a matter of a kind that is within the jurisdiction of a court prescribed for the purposes of subitem 99(3) (the *prescribed court*)—the prescribed court; or
 - (b) in any other case—the Supreme Court of the prescribed State or Territory.

Transfer to prescribed court of prescribed State or Territory

- (2) If the Court of Petty Sessions decides that it is not contrary to the interests of justice to grant an application under paragraph (1)(a), the court must transfer the proceedings to the prescribed court.
- (3) If the proceedings are so transferred:
- (a) the prescribed court may hear and determine the proceedings; and
 - (b) all documents filed in the Court of Petty Sessions in the proceedings are to be transmitted to the prescribed court; and

- (c) any money lodged with the Court of Petty Sessions in relation to the proceedings:
 - (i) is to be transferred to the prescribed court; and
 - (ii) is taken to be money lodged with the prescribed court in relation to the proceedings; and
- (d) everything done in or in relation to the proceedings in the Court of Petty Sessions is taken to have been done in the prescribed court.

Transfer to Supreme Court of the prescribed State or Territory

- (4) If the Court of Petty Sessions decides that it is not contrary to the interests of justice to grant an application under paragraph (1)(b), the court must transfer the proceedings to the Supreme Court of the prescribed State or Territory.
- (5) If the proceedings are so transferred:
 - (a) the Supreme Court of the prescribed State or Territory may hear and determine the proceedings; and
 - (b) all documents filed in the Court of Petty Sessions in the proceedings are to be transmitted to the Supreme Court of the prescribed State or Territory; and
 - (c) any money lodged with the Court of Petty Sessions in relation to the proceedings:
 - (i) is to be transferred to the Supreme Court of the prescribed State or Territory; and
 - (ii) is taken to be money lodged with the Supreme Court of the prescribed State or Territory in relation to the proceedings; and
 - (d) everything done in or in relation to the proceedings in the Court of Petty Sessions is taken to have been done in the Supreme Court of the prescribed State or Territory.

101 Action to be taken before abolition of Court of Petty Sessions

Clerk must transfer proceedings

- (1) As soon as practicable after the first day on which no person holds office as a Magistrate of the Court of Petty Sessions, the Clerk of the

court must transfer all proceedings in the court (including completed proceedings) to:

- (a) if the proceedings relate only to a matter of a kind that is within the jurisdiction of a court prescribed for the purposes of subitem 99(3) (the *prescribed court*)—the prescribed court; or
- (b) in any other case—the Supreme Court of the prescribed State or Territory.

Transfer to prescribed court of prescribed State or Territory

- (2) If proceedings are transferred to the prescribed court under subitem (1):
 - (a) all documents filed in the Court of Petty Sessions in the proceedings are to be transmitted to the prescribed court; and
 - (b) any money lodged with the Court of Petty Sessions in relation to the proceedings:
 - (i) is to be transferred to the prescribed court; and
 - (ii) is taken to be money lodged with the prescribed court in relation to the proceedings; and
 - (c) everything done in or in relation to the proceedings in the Court of Petty Sessions is taken to have been done in the prescribed court.
- (3) If proceedings transferred to the prescribed court under subitem (1) are not completed before the transfer, the prescribed court may:
 - (a) hear, or further hear, the proceedings; and
 - (b) determine the proceedings; and
 - (c) have regard to any evidence or argument in the proceedings in the Court of Petty Sessions.

Transfer to Supreme Court of prescribed State or Territory

- (4) If proceedings are transferred to the Supreme Court of the prescribed State or Territory under subitem (1):
 - (a) all documents filed in the Court of Petty Sessions in the proceedings are to be transmitted to the Supreme Court of the prescribed State or Territory; and
 - (b) any money lodged with the Court of Petty Sessions in relation to the proceedings:
 - (i) is to be transferred to the Supreme Court of the prescribed State or Territory; and

- (ii) is taken to be money lodged with the Supreme Court of the prescribed State or Territory in relation to the proceedings; and
 - (c) everything done in or in relation to the proceedings in the Court of Petty Sessions is taken to have been done in the Supreme Court of the prescribed State or Territory.
- (5) If proceedings transferred to the Supreme Court of the prescribed State or Territory under subitem (1) are not completed before the transfer, the Supreme Court of the prescribed State or Territory may:
 - (a) hear, or further hear, the proceedings; and
 - (b) determine the proceedings; and
 - (c) have regard to any evidence or argument in the proceedings in the Court of Petty Sessions.

102 Court of Petty Sessions of Norfolk Island

A section 19A Ordinance must not repeal the *Court of Petty Sessions Act 1960* (Norfolk Island) while any person holds office as a Magistrate of the Court of Petty Sessions.

103 Norfolk Island Coroner's Court

- (1) The Coroner must not begin an inquest under section 11 of the *Coroners Act 1993* (Norfolk Island) after the judicial transition time.
- (2) The Coroner must not begin an inquiry under section 13 of the *Coroners Act 1993* (Norfolk Island) after the judicial transition time.
- (3) A section 19A Ordinance must not repeal the *Coroners Act 1993* (Norfolk Island) while any person holds office as Coroner or Deputy Coroner of Norfolk Island.

104 Power to make Ordinances

Subject to items 102 and 103, this Division does not, by implication, limit the matters that can be dealt with by a section 19A Ordinance.

Part 3—Supreme Court of Norfolk Island

Division 1—Amendments

Norfolk Island Act 1979

105 Subsection 4(1)

Repeal the following definitions:

- (a) definition of *Chief Justice*;
- (b) definition of *civil matter*;
- (c) definition of *host jurisdiction*.

106 Subsection 4(1)

Insert:

issuing officer: a person is an *issuing officer* for the purposes of issuing a warrant or a summons on the order, under this Act, of a court of a prescribed State or Territory if the person is:

- (a) an officer of the court duly authorised by the court to issue the warrant or summons; or
- (b) a magistrate of the prescribed State or Territory.

107 Subsection 4(1)

Repeal the following definitions:

- (a) definition of *Judge*;
- (b) definition of *Supreme Court*;

108 Divisions 1 and 2 of Part VII

Repeal the Divisions.

109 Division 3 of Part VII (heading)

Repeal the heading.

110 Subdivision B of Division 1 of Part VIIA (heading)

Repeal the heading, substitute:

Subdivision B—Hearing criminal matters in prescribed State or Territory

111 Section 60B

Repeal the section.

112 Section 60C

Repeal the section, substitute:

60C Criminal trials in prescribed State or Territory

- (1) Subject to this section, a court of a prescribed State or Territory may, in exercising jurisdiction under this Act in respect of a person accused of an offence, sit in the prescribed State or Territory if to do so would not be contrary to the interests of justice.
- (2) The court may, in accordance with subsection (3), order that:
 - (a) if the trial of the accused has not begun—the trial be held in the prescribed State or Territory at a time and place specified in the order; and
 - (b) if the trial of the accused has begun, with the court sitting in Norfolk Island:
 - (i) the trial be discontinued; and
 - (ii) the jury (if any) be discharged; and
 - (iii) a new trial be held in the prescribed State or Territory at a time and place specified in the order.
- (3) The court may make an order under subsection (2):
 - (a) at any time after the prosecution of the accused for the offence commences and before the verdict is delivered; and
 - (b) at a sitting of the court in Norfolk Island or in the prescribed State or Territory; and
 - (c) if the court is sitting in the prescribed State or Territory—whether or not the accused is present.
- (4) However, the court may make an order under subsection (2) only if:
 - (a) the court is satisfied that the interests of justice require it; and
 - (b) in the circumstance that the court is sitting in the prescribed State or Territory and the accused is not present:

- (i) the accused is represented; and
 - (ii) the court is satisfied that the accused understands the effect of the order.
- (5) If the court makes an order under subsection (2), the court may order that:
- (a) on the warrant of an issuing officer, the accused be removed to the place specified in the order and held there for the purposes of the trial and for any related proceedings; and
 - (b) by summons of an issuing officer, all persons required to attend to give evidence in the trial or proceedings attend at a time and place specified in the order.

113 Sections 60D and 60E

Repeal the sections.

114 Section 60F (heading)

Repeal the heading, substitute:

60F Removal of accused to stand trial in prescribed State or Territory

115 Subsections 60F(1) to (3)

Repeal the subsections, substitute:

- (1) If a court of a prescribed State or Territory makes an order under subsection 60C(5) in respect of a person accused of an offence, an issuing officer may:
 - (a) by warrant directed to all constables, require the accused to be conveyed in custody from Norfolk Island to the prison specified in the warrant and delivered into the custody of the officer for the time being in charge of that prison; and
 - (b) by warrant directed to that officer, require the officer to detain the accused in that prison under this section.
- (2) The warrant may be executed by any constable.
- (3) An accused delivered into custody at a prison in the prescribed State or Territory under a warrant under subsection (1) may, subject to any order of the court, be detained in that prison or any other prison in the prescribed State or Territory for so long as the

accused's detention is necessary for the execution of the order under subsection 60C(5).

116 Subsections 60F(4) and (5)

Omit "host jurisdiction", substitute "prescribed State or Territory".

117 Subsection 60G(1)

Repeal the subsection, substitute:

- (1) If an accused has been removed to a prescribed State or Territory under this Act, a court of the prescribed State or Territory may order that the accused be conveyed to the court for the purposes of trial in the State or Territory, and any related proceedings.

118 Subsection 60G(2)

Omit "a judge of the Supreme Court", substitute "a court".

119 Subsection 60G(2)

Omit "the Court", substitute "the court".

120 Section 60H

Repeal the section, substitute:

60H Return of accused to Norfolk Island for particular purposes

- (1) A court of a prescribed State or Territory that is, in exercising jurisdiction under this Act in respect of a person accused of an offence, sitting in the prescribed State or Territory may, for a purpose covered by subsection (3), order that:
 - (a) the trial of the accused be adjourned for such time as the court considers reasonable and necessary, and be continued in Norfolk Island for so long as is necessary for the purpose; and
 - (b) on the warrant of an issuing officer, the accused be returned to Norfolk Island for the purposes of the continuation of the trial and any related proceedings; and
 - (c) any jurors empanelled for the trial go to Norfolk Island and remain there for such time as the court directs for the purpose of continuing to attend as jurors in the trial.

- (2) However, the court may make an order under subsection (1) only if the court is satisfied that the interests of justice require it.
- (3) The following purposes are covered by this subsection:
 - (a) viewing a place in Norfolk Island;
 - (b) taking evidence from a person in Norfolk Island;
 - (c) a purpose prescribed by regulations made for the purposes of this paragraph.
- (4) If an order is made under subsection (1), an issuing officer may:
 - (a) by warrant directed to all constables, require the accused to be conveyed in custody from the prescribed State or Territory to the prison specified in the warrant and delivered into the custody of the officer for the time being in charge of that prison; and
 - (b) by warrant directed to that officer, require the officer to detain the accused in that prison under this section.
- (5) The warrant may be executed by any constable.

121 Paragraph 60J(1)(a)

Omit “a law of the Territory by the Supreme Court sitting in a host jurisdiction”, substitute “a law of Norfolk Island by a court of a prescribed State or Territory sitting in the prescribed State or Territory”.

122 Paragraph 60J(2)(b)

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

123 Subsection 60K(1)

Omit “host jurisdiction”, substitute “prescribed State or Territory”.

124 Paragraph 60K(2)(b)

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

125 Section 60L (heading)

Repeal the heading, substitute:

60L Repatriation of person tried in prescribed State or Territory

126 Paragraphs 60L(a) and (b)

Repeal the paragraphs, substitute:

- (a) a person has been removed to a prescribed State or Territory under this Act; and
- (b) the trial of the person in a court of the prescribed State or Territory has concluded; and

127 Section 60L

Omit “the Territory”, substitute “Norfolk Island”.

128 Division 2 of Part VIIA

Repeal the Division.

129 Subsection 66(1)

Omit “by a court of the Territory exercising criminal jurisdiction”, substitute “by a court of a prescribed State or Territory exercising criminal jurisdiction in relation to Norfolk Island”.

130 Paragraph 67(a)

Omit “subsection 60C(2)”, substitute “paragraph 60C(3)(a)”.

Division 2—Application, saving and transitional provisions

131 Definitions

In this Division:

commencement time means the time when this Part commences.

new law means the *Norfolk Island Act 1979*, as amended by Division 1 of this Part.

old law means the *Norfolk Island Act 1979*, as in force immediately before the commencement time.

132 Saving—power to abolish tribunals

- (1) This item applies in relation to a tribunal of Norfolk Island established by or under an enactment before the commencement time.
-

- (2) To avoid doubt, despite the repeal of Division 2 of Part VII of the old law by this Schedule, the tribunal may be abolished by an enactment made under the new law.

133 Saving—hearing of criminal matters in host jurisdictions

Subdivision B of Division 1 of Part VIIA of the old law continues to apply after the commencement time in relation to proceedings for an offence if:

- (a) a trial in respect of the offence is being, or has been, held in a host jurisdiction; and
- (b) the proceedings are not finally determined immediately before that time.

134 Saving—hearing of civil matters in host jurisdictions

Division 2 of Part VIIA of the old law continues to apply after the commencement time in relation to proceedings in respect of a civil matter if:

- (a) the proceedings are being, or have been, held in a host jurisdiction; and
- (b) the proceedings are not finally determined immediately before that time.

135 Prosecutions for historical offences—continuity of regulations

The amendment of section 67 of the *Norfolk Island Act 1979* made by Division 1 of this Part does not affect the continuity of regulations that were made for the purposes of that section and were in force immediately before the commencement of this item.

136 References to the Supreme Court of Norfolk Island

A reference in any Act, or in an instrument under any Act, to the Supreme Court of Norfolk Island is taken, after the commencement of this item, to be a reference to the Supreme Court of the prescribed State or Territory.

Schedule 2—Amendments of Treasury Acts

Part 1—Acts administered by ASIC

Division 1—Acts administered by ASIC: amendments

ASIC Supervisory Cost Recovery Levy Act 2017

1 Section 3

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

ASIC Supervisory Cost Recovery Levy (Collection) Act 2017

2 Subsection 4(1)

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

Australian Securities and Investments Commission Act 2001

3 Subsections 4(1A) and (1B)

Repeal the subsections.

4 Subsection 4(3)

Repeal the subsection, substitute:

- (3) If an external Territory is prescribed for the purposes of paragraph (1)(c), in a provision of this Act that applies (either generally or in particular circumstances) in the external Territory, a reference to a term covered by subsection (4) includes a reference to that external Territory (including its coastal sea).
- (4) For the purposes of subsection (3), the following terms are covered:
 - (a) “Australia”;
 - (b) “Commonwealth”;
 - (c) “Territory”;
 - (d) “this jurisdiction”;

- (e) a term the definition of which includes a term mentioned in paragraphs (a) to (d).

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

Repeal the definition, substitute:

Australia means the Commonwealth of Australia and, when used in a geographical sense, includes each Territory.

Note 1: The Australian Capital Territory, the Jervis Bay Territory, the Northern Territory, Norfolk Island and the Territories of Christmas Island and of Cocos (Keeling) Islands are covered by the definition of ***Territory*** in this subsection.

Note 2: The meaning of ***Australia*** is affected by subsection 4(3) (when used in a provision applying in an external Territory).

6 Subsection 5(1)

Insert:

Commonwealth means the Commonwealth of Australia and, when used in a geographical sense, includes each Territory.

Note: The Australian Capital Territory, the Jervis Bay Territory, the Northern Territory, Norfolk Island and the Territories of Christmas Island and of Cocos (Keeling) Islands are covered by the definition of ***Territory*** in this subsection.

external Territory:

- (a) means a Territory referred to in section 122 of the Constitution, where an Act makes provision for the government of the Territory as a Territory; but
- (b) does not include a Territory covered by the definition of ***Territory*** in this subsection.

Note: The Australian Capital Territory, the Jervis Bay Territory, the Northern Territory, Norfolk Island and the Territories of Christmas Island and of Cocos (Keeling) Islands are covered by the definition of ***Territory*** in this subsection.

7 Subsection 5(1) (definition of *Territory*)

Repeal the definition, substitute:

Territory:

- (a) means the following:
 - (i) the Australian Capital Territory;

- (ii) the Jervis Bay Territory;
- (iii) the Northern Territory;
- (iv) Norfolk Island;
- (v) the Territory of Christmas Island;
- (vi) the Territory of Cocos (Keeling) Islands; and
- (b) when used in a geographical sense——includes the Territory's coastal sea (if any).

Note 1: The term *external Territory* is defined in this subsection to be any Territory, other than a Territory covered by this definition, that is referred to in section 122 of the Constitution, where an Act makes provision for the government of the Territory as a Territory.

Note 2: The meaning of *Territory* is affected by subsection 4(3) (when used in a provision applying in an external Territory).

8 Subsection 5(1) (definition of *this jurisdiction*)

Repeal the definition, substitute:

this jurisdiction means:

- (a) each referring State (including, when used in a geographical sense, its coastal sea); and
- (b) each Territory.

Note 1: *Territory*, when used in a geographical sense, includes the Territory's coastal sea, but the term does not include an external Territory. See the definitions of *Territory* and *external Territory* in this subsection.

Note 2: The meaning of *this jurisdiction* is affected by subsection 4(3) (when used in a provision applying in an external Territory).

9 Subsection 12GNA(1)

Omit “, the Australian Capital Territory or the Northern Territory”, substitute “or Territory”.

10 Paragraph 95(1)(a)

Repeal the paragraph, substitute:

- (a) must establish a regional office in each referring State, the Australian Capital Territory and the Northern Territory; and

11 Subsection 127(2)

Omit “internal”.

Corporations Act 2001

12 Subsection 3(2)

Omit “in the Northern Territory and the Capital Territory”, substitute “in the Territories”.

13 Subsection 3(2)

Omit “those territories”, substitute “those Territories”.

14 Paragraph 3(3)(c)

Omit “those Territories”, substitute “the external Territories”.

15 Paragraphs 5(1)(b) and (c)

Repeal the paragraphs, substitute:

(b) each Territory (including its coastal sea, if any); and

16 Subsection 5A(2)

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

17 Paragraph 5A(3)(b)

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

18 Section 9 (definition of *Australia*)

Repeal the definition (including the note), substitute:

Australia means the Commonwealth of Australia and, when used in a geographical sense, includes each Territory.

Note: The Australian Capital Territory, the Jervis Bay Territory, the Northern Territory, Norfolk Island and the Territories of Christmas Island and of Cocos (Keeling) Islands are covered by the definition of *Territory* in this section.

19 Section 9 (definition of *Capital Territory*)

Repeal the definition.

20 Section 9

Insert:

Commonwealth means the Commonwealth of Australia and, when used in a geographical sense, includes each Territory.

Note: The Australian Capital Territory, the Jervis Bay Territory, the Northern Territory, Norfolk Island and the Territories of Christmas Island and of Cocos (Keeling) Islands are covered by the definition of ***Territory*** in this section.

21 Section 9 (paragraph (c) of the definition of *Corporations legislation*)

Omit “Capital Territory”, substitute “Australian Capital Territory”.

22 Section 9 (paragraph (d) of the definition of *Corporations legislation*)

After “Northern Territory”, insert “or of Norfolk Island,”.

23 Section 9

Insert:

external Territory:

- (a) means a Territory referred to in section 122 of the Constitution, where an Act makes provision for the government of the Territory as a Territory; but
- (b) does not include a Territory covered by the definition of ***Territory*** in this section.

Note: The Australian Capital Territory, the Jervis Bay Territory, the Northern Territory, Norfolk Island and the Territories of Christmas Island and of Cocos (Keeling) Islands are covered by the definition of ***Territory*** in this section.

24 Section 9 (paragraph (a) of the definition of *insolvent under administration*)

Omit “or the law of an external Territory”.

25 Section 9 (paragraph (b) of the definition of *insolvent under administration*)

Omit “the law of an external Territory or”.

26 Section 9 (subparagraphs (c)(ii), (d)(ii) and (e)(ii) of the definition of *insolvent under administration*)

Omit “the law of an external Territory or”.

27 Section 9 (definition of *national newspaper*)

Repeal the definition, substitute:

national newspaper: see subsection 254Q(4A).

28 Section 9 (paragraph (b) of the definition of *rules*)

Omit “the Supreme Court of a State or internal Territory”, substitute “a State or Territory Supreme Court”.

29 Section 9 (definition of *State or Territory court*)

Repeal the definition, substitute:

State or Territory court means:

- (a) a court of a State, the Australian Capital Territory or the Northern Territory; or
- (b) the Supreme Court of Norfolk Island.

30 Section 9 (definition of *State or Territory Supreme Court*)

Repeal the definition, substitute:

State or Territory Supreme Court means any of the following:

- (a) the Supreme Court of a State;
- (b) the Supreme Court of the Australian Capital Territory;
- (c) the Supreme Court of the Northern Territory;
- (d) the Supreme Court of Norfolk Island.

31 Section 9 (definition of *Territory*)

Repeal the definition, substitute:

Territory:

- (a) means the following:
 - (i) the Australian Capital Territory;
 - (ii) the Jervis Bay Territory;
 - (iii) the Northern Territory;
 - (iv) Norfolk Island;

- (v) the Territory of Christmas Island;
- (vi) the Territory of Cocos (Keeling) Islands; and
- (b) when used in a geographical sense—includes the Territory’s coastal sea (if any).

Note: The term *external Territory* is defined in this subsection to be any Territory, other than a Territory covered by this definition, that is referred to in section 122 of the Constitution, where an Act makes provision for the government of the Territory as a Territory.

32 Section 9 (paragraphs (b) and (c) of the definition of *this jurisdiction*)

Repeal the paragraphs, substitute:

- (b) each Territory (including its coastal sea, if any); and

33 Subsection 254Q(3)

Omit “daily newspaper circulating generally throughout Australia”, substitute “national newspaper”.

34 Subsection 254Q(4)

Omit “daily newspaper circulating generally in Australia”, substitute “national newspaper”.

35 After subsection 254Q(4)

Insert:

- (4A) A *national newspaper* is a daily newspaper that circulates generally, either in printed form or online, in Australia.

Note: For *daily newspaper*, see section 9.

36 Section 527

Omit “Capital Territory”, substitute “Australian Capital Territory”.

37 Subparagraph 581(2)(a)(i)

Repeal the subparagraph.

38 Subsections 581(3) and (4)

Omit “an external Territory, or of a country other than Australia”, substitute “a country other than Australia”.

39 Paragraphs 900A(1)(b) and (c)

Repeal the paragraphs, substitute:

- (b) a Territory; or
- (c) an external Territory, or another place outside Australia.

40 Paragraph 916G(7)(a)

Omit “an external Territory or of a country outside Australia and the external Territories”, substitute “a country outside Australia”.

41 Subsection 1044B(1)

Omit “, the Australian Capital Territory or the Northern Territory”, substitute “or Territory”.

42 Subsections 1337B(2) and (3)

Repeal the subsections, substitute:

- (2) Subject to section 9 of the *Administrative Decisions (Judicial Review) Act 1977*, jurisdiction is conferred on each State or Territory Supreme Court with respect to civil matters arising under the Corporations legislation.
- (3) Despite section 9 of the *Administrative Decisions (Judicial Review) Act 1977*, jurisdiction is conferred on each State or Territory Supreme Court with respect to matters arising under that Act involving or related to decisions made, or proposed or required to be made, under the Corporations legislation by a Commonwealth authority or an officer of the Commonwealth.

Note 1: The Federal Court also has jurisdiction with respect to these matters under that Act.

Note 2: A State or Territory Supreme Court may be required to transfer a proceeding with respect to such a matter to the Federal Court: see subsection 1337H(3).

43 Paragraph 1337D(5)(b)

Omit “the Supreme Court of a State, the Capital Territory or the Northern Territory”, substitute “a State or Territory Supreme Court”.

44 Subsection 1337E(1)

Repeal the subsection, substitute:

- (1) Subject to section 9 of the *Administrative Decisions (Judicial Review) Act 1977*, jurisdiction is conferred on each State or Territory court that is a lower court with respect to civil matters (other than superior court matters) arising under the Corporations legislation.

45 Subsection 1337F(2)

Omit all the words before paragraph (b), substitute:

- (2) An appeal may not be instituted from a decision of a court of the Australian Capital Territory or from the Supreme Court of Norfolk Island to:
- (a) a court of a State or a court of another Territory; or

46 Paragraph 1337P(1)(a)

Omit “or in an external Territory”.

47 Subsection 1337P(3) (paragraph (b) of the definition of *relevant jurisdiction*)

Omit “court of a State, the Capital Territory or the Northern Territory”, substitute “court of a State or Territory”.

48 Subsections 1337T(1) and (2)

Before “Capital Territory”, insert “Australian”.

49 Subsection 1338B(1)

Omit “the several courts of each State, the Capital Territory and the Northern Territory”, substitute “a court of a State or Territory”.

50 Paragraph 1338B(1)(a)

Omit “the laws of the State, the Capital Territory or the Northern Territory”, substitute “the laws of the State or Territory concerned”.

51 Subsection 1338B(1)

Omit “have the equivalent jurisdiction”, substitute “has the equivalent jurisdiction”.

52 Subsection 1338B(3)

Omit “a State, the Capital Territory or the Northern Territory”, substitute “the State or Territory concerned”.

53 Paragraph 1338B(3)(a)

Omit “a relevant law”, substitute “the relevant law”.

54 Subsection 1338B(8)

Omit “court of a State, the Capital Territory or the Northern Territory”, substitute “State or Territory court”.

55 Subsection 1338C(1)

Omit “, the Capital Territory or the Northern Territory”, substitute “or Territory”.

National Consumer Credit Protection Act 2009

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

Repeal the definition (including the note).

57 Subsection 5(1) (definition of *Territory*)

Repeal the definition, substitute:

Territory:

- (a) means the following:
 - (i) the Australian Capital Territory;
 - (ii) the Jervis Bay Territory;
 - (iii) the Northern Territory;
 - (iv) Norfolk Island;
 - (v) the Territory of Christmas Island;
 - (vi) the Territory of Cocos (Keeling) Islands; and
- (b) when used in a geographical sense—includes the Territory’s coastal sea (if any).

58 Paragraph 73(10)(a)

Omit “an external Territory or of a country outside Australia and the external Territories”, substitute “a country outside Australia”.

59 Subsection 187(1) (table item 3)

Repeal the item, substitute:

3	A superior court of a State or Territory	The court's general jurisdictional limits, including limits as to locality and subject matter.
4	A lower court of a State, or of a Territory other than Norfolk Island	The court's general jurisdictional limits, including limits as to locality and subject matter.

60 Section 189 (at the end of the table)

Add:

6	The Supreme Court of Norfolk Island	(a) the Federal Circuit Court; (b) a court of a State; (c) a court of another Territory.
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61 After subsection 204(2)

Insert:

- (2A) However, this section does not apply in relation to the jurisdiction of a lower court of Norfolk Island.

62 Subsection 204(1) of the *National Credit Code*

Repeal the following definitions:

- (a) definition of *Australia*;
- (b) definition of *Commonwealth*.

63 Subsection 204(1) of the *National Credit Code*

Insert:

***Territory*:**

- (a) means the following:
 - (i) the Australian Capital Territory;
 - (ii) the Jervis Bay Territory;
 - (iii) the Northern Territory;
 - (iv) Norfolk Island;
 - (v) the Territory of Christmas Island;
 - (vi) the Territory of Cocos (Keeling) Islands; and

- (b) when used in a geographical sense——includes the Territory's coastal sea (if any).

Division 2—Acts administered by ASIC: application, saving and transitional provisions

Australian Securities and Investments Commission Act 2001

64 In the appropriate position

Insert:

Part 35—Transitional provisions relating to the Territories Legislation Amendment Act 2020

334 Transitional rules

- (1) ASIC may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments of this Act made by Division 1 of Part 1 of Schedule 2 to the *Territories Legislation Amendment Act 2020*.
- (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.

335 Repeal of this Part

This Part is repealed at the end of the first Monday after the period of 12 months beginning on the day Division 1 of Part 1 of

Schedule 2 to the *Territories Legislation Amendment Act 2020* commences.

Corporations Act 2001

65 In the appropriate position in Chapter 10

Insert:

Part 10.51—Transitional provisions relating to the Territories Legislation Amendment Act 2020

1678 Definitions

In this Part:

amending Act means the *Territories Legislation Amendment Act 2020*.

commencement means the commencement of Division 1 of Part 1 of Schedule 2 to the amending Act.

commencement day means the day on which commencement occurs.

eligible: a corporation is ***eligible*** for registration as a company under Part 5B.1 of this Act if:

- (a) it is a registered company under the Norfolk Island Companies Act, other than a foreign company registered under Part 25 of that Act; and
- (b) the corporation is not a Chapter 5 body corporate; and
- (c) no application to wind up the corporation has been made to the Supreme Court of Norfolk Island that has not been dealt with; and
- (d) no application to approve a compromise or arrangement between the corporation and another person has been made to the Supreme Court of Norfolk Island that has not been dealt with.

Norfolk Island Companies Act means the *Companies Act 1985* of Norfolk Island.

personal information has the same meaning as in the *Privacy Act 1988*.

1678A Registration of Norfolk Island companies—general

Scope of section

- (1) This section applies to a corporation that is eligible for registration as a company under Part 5B.1.

Registration

- (2) ASIC must register the corporation as a company under Part 5B.1 on the commencement day, as if it had received an application for registration from the corporation in accordance with section 601BC.
- (3) ASIC must register the corporation:
- (a) as a type of company corresponding to whichever of the types covered by subsection (4) corresponds to its type under the Norfolk Island Companies Act immediately before commencement; and
 - (b) with the same characteristics and attributes as the corporation had immediately before commencement.

Note: Most eligible corporations will retain the same name, registered office, directors and members. However, for whether the corporation retains the same name and directors, see subsections 1678B(4) and (8).

- (4) This subsection covers the following types of company:
- (a) a proprietary company limited by shares;
 - (b) an unlimited proprietary company;
 - (c) a proprietary company limited both by shares and by guarantee;
 - (d) a public company limited by shares;
 - (e) an unlimited public company;
 - (f) a company limited by guarantee;
 - (g) a public company limited both by shares and by guarantee;
 - (h) a no liability company.

Note: This list includes some types of company not covered by subsection 601BA(1).

- (5) However, the corporation must not be registered if, immediately before commencement, it is no longer eligible for registration as a company under Part 5B.1.

Note: The corporation is no longer eligible for registration if it has ceased to be registered under the Norfolk Island Companies Act, if it has started to be a Chapter 5B body corporate or if an application for winding up or to approve a compromise or arrangement had been made to the Supreme Court of Norfolk Island.

References to companies in this and other laws

- (6) On and after commencement, in this and any other Act, and any instrument under an Act, a reference to a company registered under a Territory law, or under a law of Norfolk Island, is taken not to include a reference to a corporation registered as a company under Part 5B.1 for the purposes of this section.

1678B Registration of Norfolk Island companies—registration process and other matters

Scope

- (1) This section applies to an eligible corporation that is registered as a company under Part 5B.1 for the purposes of section 1678A.
- (2) ASIC must comply with subsections (3) and (4) of this section to the extent practicable, having regard to any information disclosed under section 1678C.

Registration process

- (3) On the registration of the company, ASIC must:
- (a) give the company an ACN; and
 - (b) issue a certificate that states:
 - (i) the company's name (see subsection (4) of this section); and
 - (ii) the company's ACN; and
 - (iii) the company's type (see subsection 1678A(4)); and
 - (iv) that the company is registered as a company under this Act; and
-

- (v) that the company is taken to be registered in Norfolk Island; and
- (vi) the date of the company's registration.

Note: The date of the company's registration is the commencement day (see subsection 1678A(2)).

Company name

- (4) Despite section 601BF, ASIC must register the company with a name consisting of:
 - (a) either:
 - (i) the corporation's name immediately before commencement; or
 - (ii) if that name is prescribed by regulations made for the purposes of paragraph 147(1)(c) as unacceptable for registration—a name that consists of the expression “Australian Company Number” followed by the company's ACN; and
 - (b) the words required by subsection 148(2) or (3).
- (5) If the company is registered with a name that is identical or nearly identical to a name that is reserved or registered for another body or entity under an Act covered by subsection (6), the company's registration with that name does not affect the availability of the name to the company or to the other body or entity under such an Act, despite any provision of such an Act to the contrary.
- (6) The Acts covered by this subsection are:
 - (a) this Act;
 - (b) the *Business Names Registration Act 2011*;
 - (c) the *Business Names Registration (Transitional and Consequential Provisions) Act 2011*.

Company constitution

- (7) The company's constitution on registration is the memorandum and articles of association of the corporation as in force immediately before commencement.

Note: Section 601BG (which deals with the constitutions of companies registered under Part 5B.1) does not apply to the company. But within 3 months after the date of registration, the company must modify its constitution to give effect to Part 5B.1 (see section 601BH).

Company directors

- (8) If, immediately before commencement, a person who is a director of the corporation does not meet the requirements of section 201B, that person does not become a director of the company on its registration.

1678C Registration of Norfolk Island companies—provision of information

- (1) For the purposes of ASIC performing functions or duties, or exercising powers, under this Part, or any rules made under section 1678D:
- (a) the Registrar of Companies under the Norfolk Island Companies Act (the *Norfolk Island Registrar*) may disclose to ASIC information (including personal information) obtained for the purposes of that Act; and
 - (b) ASIC may record or use information disclosed under paragraph (a); and
 - (c) ASIC may disclose to the Norfolk Island Registrar information (including personal information) obtained for the purposes of this Act; and
 - (d) the Norfolk Island Registrar may record or use information disclosed under paragraph (c).
- (2) In addition, for the purposes mentioned in subsection (1):
- (a) ASIC may, by written notice given to an eligible corporation, request the corporation to provide specified information (including personal information) in relation to the registration of the corporation as a company under Part 5B.1; and
 - (b) the eligible corporation may disclose the requested information to ASIC; and
 - (c) ASIC may record or use information disclosed under paragraph (b).

Note: This section constitutes an authorisation for the purposes of the *Privacy Act 1988* and other laws (including the common law).

1678D Transitional rules

- (1) ASIC may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) in relation to the following:
 - (a) the amendments of this Act made by Division 1 of Part 1 of Schedule 2 to the *Territories Legislation Amendment Act 2020*;
 - (b) the amendments of this and any other Act made by the *Treasury Laws Amendment (Registries Modernisation and Other Measures) Act 2020*;
 - (c) if the Norfolk Island Companies Act is repealed—the repeal of that Act.

Note 1: The amendments mentioned in paragraph (a) included the insertion of this Part.

Note 2: The Norfolk Island Companies Act may be repealed by an amendment of the *Norfolk Island Continued Laws Ordinance 2015*.

- (2) Without limiting subsection (1), rules under that subsection may include:
 - (a) rules providing for the Registrar under this Act to exercise powers, or perform functions, of ASIC under this Part; and
 - (b) rules in relation to the registration of a particular corporation or corporations under Part 5B.1.
- (3) A rule of the kind mentioned in paragraph (2)(b) must specify a period, ending no later than the end of the day that is 2 years after the commencement day, during which it is to remain in force for the purposes of subsection 1678E(1).
- (4) 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.

- (5) This section is repealed at the end of the first Monday after the period of 12 months beginning on the commencement day.

1678E Saving of rules in relation to particular corporations

- (1) Despite the repeal of section 1678D by subsection (5) of that section, a rule of the kind mentioned in paragraph 1678D(2)(b) continues in force until the earlier of the following times:
- (a) the end of the period specified under subsection 1678D(3) for the rule;
 - (b) when the rule is repealed under subsection (2).

Note: Paragraph 1678D(2)(b) provides that ASIC may make rules under subsection 1678D(1) in relation to the registration of a particular corporation or corporations.

- (2) A rule of the kind mentioned in paragraph 1678D(2)(b) may, under this subsection, be repealed before the end of the period specified under subsection 1678D(3).

1678F Director identification numbers—Norfolk Island company directors

Scope

- (1) This section applies if commencement (within the meaning of this Part) occurs on or after the application day within the meaning of subsection 1653(1).
- (2) This section applies in relation to a person who:
- (a) is not an eligible officer immediately before commencement; and
 - (b) becomes an eligible officer because of the registration of a company under Part 5B.1 for the purposes of section 1678A (which deals with the registration of former Norfolk Island companies).

Note: When such a company is registered, the former directors of the Norfolk Island company generally become directors of the registered company (see subsection 1678A(3)). Such a director is an eligible officer (see section 1272B).

*Transitional application period for Norfolk Island company
directors to apply for director identification numbers*

- (3) If a period (the **transitional application period**) is specified under subsection (5) of this section, section 1272C applies to the person as if:
- (a) the reference in subparagraph 1272C(2)(a)(ii) to an application period specified by regulations were instead a reference to the transitional application period; and
 - (b) the reference in subparagraph 1272C(2)(a)(ii) to the start of the application period specified by regulations were instead a reference to when the transitional application period came into effect; and
 - (c) the reference in subparagraph 1272C(2)(a)(iii) to the start of a longer period (if any) allowed by the Registrar under section 1272E were instead a reference to when the transitional application period came into effect.
- (4) Until a transitional application period comes into effect, section 1272C does not apply to the person.
- (5) The Minister may, by legislative instrument, specify a transitional application period for the purposes of subsection (3).
- (6) Subsection 1653(4) does not apply to the person.

Note: Section 1272C requires an eligible officer to have a director identification number, but allows a certain time (an application period) within which an application can be made for a director identification number.

Note: Subsection 1653(4) applies a default period of 28 days under section 1272C within which an application can be made for a director identification number.

***National Consumer Credit Protection (Transitional and
Consequential Provisions) Act 2009***

66 In the appropriate position

Insert:

Schedule 18—Application and transitional provisions for the Territories Legislation Amendment Act 2020

1 Transitional rules

- (1) ASIC may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments of the National Credit Act made by Division 1 of Part 1 of Schedule 2 to the *Territories Legislation Amendment Act 2020*.
- (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 National Credit Act.

2 Repeal of this Schedule

This Schedule is repealed at the end of the first Monday after the period of 12 months beginning on the day Division 1 of Part 1 of Schedule 2 to the *Territories Legislation Amendment Act 2020* commences.

Part 2—Other Treasury Acts

Competition and Consumer Act 2010

67 Subsection 4(1) (definition of *authority*)

Omit “(including an external Territory),”, substitute “, and each external Territory,”.

68 Subsection 4(1) (at the end of the definition of *authority*)

Add:

Note: See also the definitions of *Commonwealth authority* and *State or Territory authority* in subsection 95A(1) (which apply in relation to Part VIIA).

69 Subsection 4(1) (at the end of the definition of *authority of the Commonwealth*)

Add:

Note: See also the definitions of *Commonwealth authority* and *State or Territory authority* in subsection 95A(1) (which apply in relation to Part VIIA).

70 Subsection 4(1)

Insert:

external Territory:

- (a) means a Territory referred to in section 122 of the Constitution, where an Act makes provision for the government of the Territory as a Territory; but
- (b) does not include a Territory covered by the definition of *Territory* in this subsection.

Note: The Australian Capital Territory, the Jervis Bay Territory, the Northern Territory, Norfolk Island and the Territories of Christmas Island and of Cocos (Keeling) Islands are covered by the definition of *Territory* in this subsection.

71 Subsection 4(1) (definition of *Territory*)

Repeal the definition, substitute:

Territory means the following:

- (a) the Australian Capital Territory;
- (b) the Jervis Bay Territory;
- (c) the Northern Territory;
- (d) Norfolk Island;
- (e) the Territory of Christmas Island;
- (f) the Territory of Cocos (Keeling) Islands.

72 Paragraph 4N(1)(b)

Repeal the paragraph, substitute:

- (b) the offshore area, within the meaning of the *Offshore Petroleum and Greenhouse Gas Storage Act 2006*, of a State, a Territory or an external Territory.

73 Subsection 95A(1) (paragraph (b) of the definition of Commonwealth authority)

Repeal the paragraph, substitute:

- (b) an authority, institution or other body (other than a society, association or incorporated company) established for a public purpose by or under:
 - (i) a law of the Commonwealth, other than the *Northern Territory (Self-Government) Act 1978* (or a law made under, or continued in force by, that Act); or
 - (ii) another law as in force in Norfolk Island, the Territory of Christmas Island or the Territory of Cocos (Keeling) Islands; or

74 Subsection 95A(1) (definition of law of the Commonwealth)

Repeal the definition.

75 Subsection 95C(1)

Omit “(1) This”, substitute “This”.

76 Paragraph 95C(1)(e)

Omit “or Norfolk Island”.

77 Paragraphs 95C(1)(f) and (g)

Repeal the paragraphs, substitute:

- (f) in a Territory (other than the Northern Territory); or
- (g) in the course of, or in connection with, trade or commerce:
 - (i) among the States; or
 - (ii) between a State and a Territory; or
 - (iii) between 2 Territories;

78 Subsection 95C(2)

Repeal the subsection.

79 Subsection 137(1)

Omit “, the Australian Capital Territory or the Northern Territory”, substitute “or Territory”.

Cross-Border Insolvency Act 2008

80 Section 4

Repeal the section.

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

Repeal the definition.

82 Subsection 5(1)

Insert:

external Territory: see subsection 19(6).

83 Subsection 7(1)

Omit “(1) In”, substitute “In”.

84 Subsection 7(2)

Repeal the subsection (including the note).

85 At the end of section 19

Add:

Definition

- (6) In this section:

external Territory does not include Norfolk Island, the Territory of Christmas Island or the Territory of the Cocos (Keeling) Islands.

Part 3—Contingent amendments

National Consumer Credit Protection Act 2009

86 Section 189 (table item 6)

Omit “the Federal Circuit Court”, substitute “Federal Circuit and Family Court of Australia (Division 2)”.

Schedule 3—Amendments of Attorney-General's Department Acts

Part 1—Bankruptcy

Division 1—Amendments

Bankruptcy Act 1966

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

Repeal the definition.

2 Subsection 5(1)

Insert:

authority, in relation to a Territory, means an authority established by or under a law of the Territory, and includes the holder of an office established by or under a law of the Territory.

law, in relation to a Territory, means a law in force in the Territory.

Example: A law in force in a Territory that is an applied law of a State or another Territory.

3 Subsection 5(1) (definitions of *Territory* and *Territory of the Commonwealth*)

Repeal the definitions.

4 Paragraph 7(2)(b)

Omit “, or of a Territory of the Commonwealth”, substitute “or of a Territory”.

5 Section 9A

Repeal the section.

6 Subsection 20D(8) (paragraph (e) of the definition of *public securities*)

Omit “of the Commonwealth”.

7 Subsection 54H(1)

Omit “, or of a Territory of the Commonwealth”, substitute “or of a Territory”.

8 Subsection 128(2)

After “officer”, insert “or authority”.

9 Paragraph 139G(1)(b)

Omit “, or of a Territory of the Commonwealth,”, substitute “or of a Territory”.

10 Subsections 139ZN(4) and (5) and 139ZR(4) and (5)

After “officer”, insert “or authority”.

11 Subsection 262(2)

Omit “Territories of the Commonwealth”, substitute “Territories”.

12 Amendments of listed provisions—Territory of the Commonwealth

In the following provisions, omit “Territory of the Commonwealth” (wherever occurring), substitute “Territory”:

- (a) paragraph (b) of the definition of *company* in subsection 5(1);
- (b) paragraph (c) of the definition of *magistrate* in subsection 5(1);
- (c) paragraph (a) of the definition of *maintenance order* in subsection 5(1);
- (d) subsections 20D(6) and (7);
- (e) subparagraph (b)(iv) of the definition of *public securities* in subsection 20D(8);
- (f) paragraph (c) of the definition of *public securities* in subsection 20D(8);
- (g) subsections 58(2), 59(5), 74(7) and 91(5);
- (h) the definition of *charge* in subsection 118(12);
- (i) subsections 122(4A) and 128(1);
- (j) paragraph 129(4A)(a);
- (k) subsections 132(3) and 133(1) and (3);
- (l) paragraph 133(11)(a);

- (m) subsections 136(2) and 139(2);
- (n) sub-subparagraph (b)(iv)(A) of the definition of *income* in subsection 139L(1);
- (o) subparagraph 153(2)(a)(ii);
- (p) paragraph 185F(1)(c);
- (q) subsections 220(6), 249(2), 250(5) and 262(1);
- (r) paragraph 262(2)(a).

Division 2—Application, saving and transitional provisions

13 Definitions

In this Part:

Commonwealth Bankruptcy Act means the *Bankruptcy Act 1966*, as amended by Division 1 of this Part.

Commonwealth Official Trustee means the Official Trustee (within the meaning of the Commonwealth Bankruptcy Act).

Norfolk Island Bankruptcy Act means the *Bankruptcy Act 2006* (Norfolk Island).

Norfolk Island official trustee means the official trustee (within the meaning of the Norfolk Island Bankruptcy Act, as in force immediately before the transition time).

transitional bankrupt: see item 14.

transition time means the commencement of this item.

14 Scope

This Part applies in relation to a person (a *transitional bankrupt*) if:

- (a) a determination of bankruptcy was made against the person under the Norfolk Island Bankruptcy Act; and
- (b) immediately before the transition time, both:
 - (i) the person had not obtained a certificate of discharge of that bankruptcy; and
 - (ii) the determination had not been annulled.

15 Transitional—general

Application of amendments

- (1) The amendments of the Commonwealth Bankruptcy Act made by Division 1 of this Part apply in relation to a transitional bankrupt.

How the Commonwealth Bankruptcy Act applies

- (2) Anything done before the transition time by a person mentioned in column 1 of an item of the following table under or for the purposes of a provision of the Norfolk Island Bankruptcy Act in relation to a transitional bankrupt is taken to have been done by the person mentioned in column 2 of the item under, or for the purposes of, the corresponding provision (if any) of the Commonwealth Bankruptcy Act.

Persons acting under or for the purposes of bankruptcy Acts		
Item	Column 1	Column 2
	Norfolk Island	Commonwealth
1	A Judge (or Judges) of the Supreme Court of Norfolk Island	A Judge (or Judges) of the Federal Court of Australia
2	The registrar (within the meaning of the Norfolk Island Bankruptcy Act, as in force immediately before the transition time)	Whichever of the following persons has the function of doing things of that kind under the Commonwealth Bankruptcy Act: (a) the Chief Executive Officer and Principal Registrar of the Federal Court of Australia; (b) the Official Receiver; (c) any other person.
3	The Norfolk Island official trustee	The Commonwealth Official Trustee
4	Any other person	A person who has the function of doing things of that kind under the Commonwealth Bankruptcy Act

Determinations of bankruptcy

- (3) Without limiting subitem (2) of this item, the Commonwealth Bankruptcy Act applies to a determination of bankruptcy under the Norfolk Island Bankruptcy Act in relation to a transitional bankrupt:

- (a) as if the determination of bankruptcy were a sequestration order made under the Commonwealth Bankruptcy Act; and
 - (b) as if the date of the bankruptcy, in relation to the transitional bankrupt, for the purposes of the Commonwealth Bankruptcy Act, were the date of the order of the determination of bankruptcy.
- (4) For the purposes of the application of the Commonwealth Bankruptcy Act to a determination of bankruptcy as mentioned in subitem (3) of this item, the Official Receiver must enter the following information on the National Personal Insolvency Index:
- (a) particulars of the transitional bankrupt, to the extent that these are disclosed on the determination;
 - (b) the date of the bankruptcy;
 - (c) the name of the petitioning creditor;
 - (d) the name of the transitional bankrupt's trustee;
 - (e) the date the transitional bankrupt provided the statement required for the purposes of paragraph 51(b) of the Norfolk Island Bankruptcy Act;
 - (f) any other available information required to be entered on that Index, in relation to a sequestration order, by the Commonwealth Bankruptcy Act and regulations made under the Commonwealth Bankruptcy Act.
- Note: When this item commenced, regulation 13.03 of the *Bankruptcy Regulations 1996* and Schedule 8 to those regulations required certain information to be entered on that Index in relation to a sequestration order.
- (5) On written notice from the Official Receiver, either or both of the following must provide information required under subitem (4) to be entered on the National Personal Insolvency Index:
- (a) the Registrar of the Norfolk Island Supreme Court;
 - (b) the Norfolk Island official trustee.

Discharge from bankruptcy

- (6) A transitional bankrupt is discharged from bankruptcy at the transition time if the date of the determination of the bankruptcy occurred 3 years or more before the transition time.

16 Transitional—transfer of records

The Norfolk Island official trustee must, as soon as practicable after the transition time, give to the Commonwealth Official Trustee:

- (a) any accounts in relation to a transitional bankrupt transmitted to the Norfolk Island official trustee before the transition time under section 12 of the Norfolk Island Bankruptcy Act; and
- (b) any books in relation to a transitional bankrupt kept by the Norfolk Island official trustee under section 16 of the Norfolk Island Bankruptcy Act immediately before the transition time;
- (c) a copy of the statement (if any) delivered before the transition time by a transitional bankrupt as required by paragraph 51(b) of the Norfolk Island Bankruptcy Act in compliance with an order of determination of bankruptcy.

17 Transitional rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) in relation to:
 - (a) the amendments of the *Bankruptcy Act 1966* made by Division 1 of this Part; and
 - (b) if the Norfolk Island Bankruptcy Act is repealed—the repeal of that Act.

Note: The Norfolk Island Bankruptcy Act may be repealed by an amendment of the *Norfolk Island Continued Laws Ordinance 2015*.

- (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) This Part (apart from this item) has effect subject to the rules.

Part 2—Freedom of information

Division 1—Amendments

Freedom of Information Act 1982

18 Subsection 4(1) (definition of *Australia*)

Repeal the definition.

19 Subsection 4(1) (definition of *Norfolk Island authority*)

Repeal the definition, substitute:

Norfolk Island authority means any of the following bodies or persons, other than a body or person prescribed by the regulations for the purposes of subsection 7(2AB):

- (a) a body (whether incorporated or not) established for a public purpose by or under a Norfolk Island law, other than a law providing for the incorporation of associations or companies;
- (b) a person holding or performing the duties of:
 - (i) an office established by or under a Norfolk Island law;
or
 - (ii) an appointment made under a Norfolk Island law.

20 Subsection 4(1) (definition of *Norfolk Island enactment*)

Repeal the definition.

21 Subsection 4(1)

Insert:

Norfolk Island law means a law in force in the Territory of Norfolk Island other than:

- (a) an Act; or
- (b) an instrument made under an Act.

22 Subsection 4(1) (paragraph (c) of the definition of *principal officer*)

Repeal the paragraph, substitute:

- (c) in relation to a Norfolk Island authority—the person responsible for the day-to-day management of the authority.

23 Subsection 4(3A)

Omit “Norfolk Island enactment”, substitute “Norfolk Island law”.

24 Paragraph 4(3B)(d)

Omit “Norfolk Island enactment”, substitute “Norfolk Island law”.

25 Section 4B

Repeal the section.

26 Subparagraph 5(2)(c)(ii)

Repeal the subparagraph, substitute:

- (ii) the office is established by a Norfolk Island law;

27 After subsection 7(2AA)

Insert:

- (2AB) A body or person may be prescribed by the regulations for the purposes of this subsection if:
- (a) the body or person would, if not so prescribed, be a Norfolk Island authority; and
 - (b) the Minister is satisfied that the body or person is subject to a law that provides equivalent, or substantially similar, requirements relating to freedom of information as are provided by this Act.

28 Subparagraph 8(2)(d)(ii)

Repeal the subparagraph, substitute:

- (ii) appointments of officers of the agency that are made under Norfolk Island laws (other than appointments of officers providing services at a level equivalent to those provided by APS employees);

29 Subsection 8(5)

After “enactment”, insert “or a Norfolk Island law”.

30 Subsection 8(6)

Repeal the subsection (including the heading, but not including the notes).

31 Subsection 8C(2)

Repeal the subsection (not including the heading), substitute:

- (2) If an enactment, or a Norfolk Island law, restricts or prohibits the publication of particular information, an agency is not required under this Part to publish the information otherwise than as permitted or required by the enactment or law.

32 Subsection 8C(4)

Repeal the subsection.

33 Paragraph 12(1)(b)

Repeal the paragraph, substitute:

- (b) a document that is open to public access, as part of a public register or otherwise, in accordance with an enactment or a Norfolk Island law, where that access is subject to a fee or other charge; or

34 Subsection 12(3)

Repeal the subsection.

35 Paragraph 38(1)(a)

After "enactment", insert "or a Norfolk Island law".

36 Subparagraph 38(1)(b)(ii)

Omit "that or any other enactment", substitute "that enactment or law or any other enactment or Norfolk Island law".

37 Subsection 38(1A)

Omit "the enactment concerned or any other enactment", substitute "the enactment or law concerned or any other enactment or Norfolk Island law".

38 Subsection 38(4)

Repeal the subsection.

39 Paragraphs 47B(d) and (f)

Omit “an authority of Norfolk Island (wherever occurring)”, substitute “a Norfolk Island authority”.

40 Paragraph 55M(2)(a)

After “enactment”, insert “or a Norfolk Island law”.

41 Subsection 55M(3)

Repeal the subsection.

42 Paragraph 58AA(2)(a)

After “enactment”, insert “or a Norfolk Island law”.

43 Subsection 58AA(3)

Repeal the subsection.

44 Paragraph 74(1)(b)

Omit “Norfolk Island enactment”, substitute “Norfolk Island law”.

45 Subsection 74(6)

Omit “Norfolk Island enactment”, substitute “Norfolk Island law”.

46 Paragraph 89D(3)(a)

After “enactment”, insert “or a Norfolk Island law”.

47 Subsection 89D(4)

Repeal the subsection.

48 Paragraph 89J(2)(a)

After “enactment”, insert “or a Norfolk Island law”.

49 Subsection 89J(3)

Repeal the subsection.

Division 2—Application, saving and transitional provisions

50 Application of amendments

Information publication scheme

- (1) The amendments of the *Freedom of Information Act 1982* made by Division 1 of this Part apply in relation to the publication of information under Division 2 of Part II of that Act after the commencement time.

Requests and applications

- (2) The amendments of the *Freedom of Information Act 1982* made by Division 1 of this Part apply in relation to the following:
- (a) requests for access to documents made under section 15 of that Act after the commencement time;
 - (b) applications made under section 48 of that Act after the commencement time.
- (3) In this item:
commencement time means the time this Part commences.

Part 3—Privacy

Division 1—Amendments

Privacy Act 1988

51 Subsection 6(1) (after paragraph (c) of the definition of agency)

Insert:

- (ca) a body (whether incorporated or not), or a tribunal, established for a public purpose by or under a law (other than a law providing for the incorporation of companies, societies or associations) of a State or Territory as in force in an external Territory, other than a body exempted by the Minister under subsection (5A); or

52 Subsection 6(1) (after paragraph (e) of the definition of agency)

Insert:

- (ea) a person holding or performing the duties of an office established by or under, or an appointment made under, a law of a State or Territory as in force in an external Territory, other than an office or appointment exempted by the Minister under subsection (5A); or

53 Subsection 6(1) (paragraph (ha) of the definition of agency)

Repeal the paragraph, substitute:

- (ha) a court of Norfolk Island; or

54 Subsection 6(1) (paragraph (c) of the definition of Australian law)

Repeal the paragraph, substitute:

- (c) any other law in force in the Jervis Bay Territory or an external Territory; or

55 Subsection 6(1) (definition of *Commonwealth enactment*)

Repeal the definition.

56 Subsection 6(1)

Insert:

Commonwealth law means the following:

- (a) an Act other than:
 - (i) the *Northern Territory (Self-Government) Act 1978*; or
 - (ii) an Act providing for the administration or government of an external Territory; or
 - (iii) the *Australian Capital Territory (Self-Government) Act 1988*;
- (b) an Ordinance of the Australian Capital Territory or of an external Territory;
- (c) a law continued in force by section 16 or 16A of the *Norfolk Island Act 1979*;
- (d) an instrument (including rules, regulations or by-laws) made under:
 - (i) an Act to which paragraph (a) applies; or
 - (ii) an Ordinance to which paragraph (b) applies; or
 - (iii) a law to which paragraph (c) applies;
- (e) any other legislation that applies as a law of the Commonwealth, other than legislation in so far as it is applied:
 - (i) by an Act referred to in subparagraph (a)(i) or (ii); or
 - (ii) as a law of the Australian Capital Territory, to the extent that it operates as such a law.

57 Subsection 6(1)

Repeal the following definitions:

- (a) definition of *enactment*;
- (b) definition of *Norfolk Island agency*;
- (c) definition of *Norfolk Island enactment*.

58 Paragraphs 6(5)(c) and (ca)

Repeal the paragraphs, substitute:

- (c) an office established by or under a Commonwealth law, or a law of a State or Territory that applies in an external Territory, for the purposes of an agency;

59 Paragraphs 6(5)(e) and (f)

Repeal the paragraphs, substitute:

- (e) an office of a member of a tribunal:
- (i) that is established by or under a Commonwealth law, or a law of a State or Territory that applies in an external Territory; and
 - (ii) that is prescribed by the regulations for the purposes of this subparagraph.

60 After subsection 6(5)

Insert:

- (5A) The Minister may, by legislative instrument, exempt a body, office or appointment for the purposes of paragraph (ca) or (ea) of the definition of *agency* in subsection (1).

61 Paragraphs 7(1)(d) and (e)

Omit “a Norfolk Island agency or”.

62 Paragraph 8(1)(b)

Omit “Commonwealth enactment or a Norfolk Island enactment”, substitute “Commonwealth law, or a law of a State or Territory that applies in an external Territory,”.

63 Subsection 11(3)

Omit “Commonwealth enactment or a Norfolk Island enactment”, substitute “Commonwealth law, or a law of a State or Territory that applies in an external Territory,”.

64 Section 37 (table items 5A and 5B)

Repeal the items, substitute:

5A	A body or tribunal referred to in paragraph (ca) of the definition of <i>agency</i> in	The person responsible for the day-to-day management of the agency
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subsection 6(1)

65 Subparagraph 50(2)(a)(iia)

Omit "particular Norfolk Island enactment", substitute "law in force in an external Territory other than the *Ombudsman Act 1976*".

66 Subparagraph 50(3)(a)(iia)

Omit "Norfolk Island enactment concerned", substitute "law mentioned in subparagraph 50(2)(a)(iia)".

67 Subsection 60(2B)

Repeal the subsection.

68 Subsection 80G(1) (definition of *secrecy provision*)

Omit "a law of the Commonwealth (including a provision of this Act), or of a Norfolk Island enactment," substitute "a Commonwealth law (including a provision of this Act)".

69 Subsection 80P(7) (paragraphs (d) and (e) of the definition of *designated secrecy provision*)

Omit "a law of the Commonwealth", substitute "a Commonwealth law".

70 Subsection 80R(1)

Omit "law of the Commonwealth", substitute "Commonwealth law".

71 Subsection 80R(1A)

Repeal the subsection.

72 Paragraph 89(c)

Omit "a Norfolk Island enactment that is in force", substitute "a law in force in an external Territory".

73 Paragraph 7.8(c) of Schedule 1

Omit "a Norfolk Island enactment", substitute "a law in force in an external Territory".

74 Subparagraph 12.2(b)(ii) of Schedule 1

Omit “a Norfolk Island enactment”, substitute “a law in force in an external Territory”.

75 Amendments of listed provisions

Further amendments			
Item	Provision	Omit	Substitute
1	Subsection 6(1), paragraphs (c), (d), (e) and (f) of the definition of <i>agency</i>	enactment	law
2	Subsection 6(1A)	enactment (second occurring)	law
3	Paragraph 28A(2)(a)	enactment	Commonwealth law
4	Paragraph 28A(2)(c)	enactment	law
5	Section 31 (heading)	enactment	law
6	Subsection 31(1)	enactment	Commonwealth law
7	Subsections 31(2), (3) and (4)	enactment (wherever occurring)	law
8	Paragraph 33(2)(h)	enactment	Commonwealth law
9	Subsections 44(4) and (5)	enactment	Commonwealth law

Division 2—Application, saving and transitional provisions

76 Application of amendments

- (1) The amendments of the *Privacy Act 1988* made by Division 1 of this Part apply in relation to the following:
- (a) the collection, holding, use, correction or disclosure of personal information after the commencement time;
 - (b) complaints made under section 36 of that Act after the commencement time;
 - (c) government contracts entered into after the commencement time.

- (2) In this item:
commencement time means the time this Part commences.

Part 4—Other Attorney-General's Department Acts

Division 1—Amendments

Administrative Decisions (Judicial Review) Act 1977

77 Subsection 3(1) (paragraph (a) of the definition of *decision to which this Act applies*)

Omit “(c) or (d)”, substitute “(c), (d) or (e)”.

78 Subsection 3(1) (paragraph (b) of the definition of *decision to which this Act applies*)

Omit “(ca) or (cb)”, substitute “(ca), (cb) or (f)”.

79 Subsection 3(1) (after paragraph (d) of the definition of *enactment*)

Insert:

; or (e) a law continued in force in Norfolk Island by section 16 or 16A of the *Norfolk Island Act 1979* (including such a law as amended in accordance with section 17 of that Act); or

(f) a law of a State or Territory applied in the Jervis Bay Territory or an external Territory;

80 Subsection 3(1) (definition of *enactment*)

Omit “(ca) or (cb)”, substitute “(ca), (cb), (e) or (f)”.

81 Section 3B

Repeal the section.

82 Subparagraph 17(d)(i)

Omit “(c) or (d)”, substitute “(c), (d), (e) or (f)”.

Criminal Code Act 1995

83 Dictionary in the Criminal Code (subparagraphs (n)(iv) and (r)(iv) of the definition of *Commonwealth public official*)

Repeal the subparagraphs.

84 Dictionary in the Criminal Code (paragraph (s) of the definition of *Commonwealth public official*)

Repeal the paragraph, substitute:

- (s) an individual who exercises powers, or performs functions, conferred on the person under a law in force in the Territory of Christmas Island, the Territory of Cocos (Keeling) Islands or the Territory of Norfolk Island; or

Division 2—Application, saving and transitional provisions

85 Application of amendments of the *Administrative Decisions (Judicial Review) Act 1977*

- (1) The amendments of the *Administrative Decisions (Judicial Review) Act 1977* made by Division 1 of this Part apply in relation to the following:
 - (a) a decision made after the commencement time;
 - (b) conduct engaged in, or proposed to be engaged in, after the commencement time for the purpose of making a decision.
- (2) In this item:
commencement time means the time this Part commences.

Schedule 4—Amendments of other Acts

Part 1—Broadcasting services

Division 1—Amendments

Broadcasting Services Act 1992

1 Section 10AA

Repeal the section.

Division 2—Application, saving and transitional provisions

2 Norfolk Island Radio VL2NI

- (1) For the purposes of the *Broadcasting Services Act 1992*:
- (a) a community radio broadcasting licence is allocated to the Norfolk Island Regional Council to provide the broadcasting services provided immediately before the commencement time by the radio broadcast service established by Part 2 of the *Norfolk Island Broadcasting Act 2001* (Norfolk Island) (known as Norfolk Island Radio VL2NI); and
 - (b) the licence is taken to be a broadcasting services bands licence allocated under Part 6 of the *Broadcasting Services Act 1992*; and
 - (c) the licence area for the licence is the area defined by the Australia Bureau of Statistics for the purposes of the Census taken in 2016 that includes the Territory of Norfolk Island; and
 - (d) the community interest that the Norfolk Island Regional Council is taken to represent at the time the licence is allocated is the general geographic area of the Territory of Norfolk Island.

Note 1: For paragraph (b), the *Radiocommunications Act 1992* provides for the issue of a transmitter licence to a person to whom a broadcasting services bands licence is allocated under Part 6 of the *Broadcasting Services Act 1992*.

Note 2: For paragraph (d), see paragraph 9(2)(b) of Schedule 2 to the *Broadcasting Services Act 1992*.

Schedule 4 Amendments of other Acts

Part 1 Broadcasting services

- (2) Sections 26, 29, 80, 81, 83 and 84 of the *Broadcasting Services Act 1992* do not apply in relation to the following:
- (a) the allocation of the licence under subitem (1);
 - (b) the designation of the area mentioned in paragraph (1)(c) as the licence area for the licence.

- (3) The licence allocated to the Norfolk Island Regional Council under subitem (1):
- (a) starts to be in force at the commencement time; and
 - (b) remains in force for 2 years (despite section 89 of the *Broadcasting Services Act 1992*); and
 - (c) cannot be renewed on an application by the Norfolk Island Regional Council (despite sections 90 and 91 of that Act).

Note: The Norfolk Island Regional Council may apply for the licence to be transferred to another person: see section 91A of the *Broadcasting Services Act 1992*. The transferee may make an application for the licence to be renewed under section 90 of that Act.

- (4) Subject to subitem (5), ACMA may, by written notice to the licensee, extend the period mentioned in paragraph (3)(b) by a specified period of no more than 2 years.
- (5) ACMA may extend the period mentioned in paragraph (3)(b) only if, before the end of that period, the licence has been transferred to another person, or the Norfolk Island Regional Council has made an application under section 91A of the *Broadcasting Services Act 1992* for approval of the transfer of the licence to another person.
- (6) The power to extend the period under subitem (4) may be exercised only once.
- (7) In this item:
commencement time means the time this Part commences.

Part 2—Other Acts

Copyright Act 1968

3 Paragraph 10(3)(n)

Omit “and Norfolk Island”.

4 Paragraph 10(3)(n)

Omit “or Norfolk Island”.

5 At the end of subsection 144(2)

Add “or Territory”.

6 Subsection 182B(1) (note to the definition of *government*)

Repeal the note, substitute:

Note: State includes the Australian Capital Territory and the Northern Territory: see paragraph 10(3)(n).

Education Services for Overseas Students Act 2000

7 Section 4B (heading)

Before “Christmas”, insert “Norfolk Island,”.

8 Subsection 4B(1)

After “in relation to”, insert “Norfolk Island,”.

9 Paragraph 4B(1)(a)

After “a reference to”, insert “Norfolk Island,”.

10 Section 4C

Repeal the section.

*[Minister's second reading speech made in—
House of Representatives on 7 October 2020
Senate on 9 December 2020]*

(122/20)

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Territories Legislation Amendment Act 2020

No. 154, 2020