EXPLANATORY STATEMENT

Ordinance No. 2, 2015

Issued by the authority of the Assistant Minister for Infrastructure and Regional Development

Norfolk Island Act 1979

Norfolk Island Continued Laws Amendment Ordinance 2015

Authority
The Governor-General has made this Ordinance in accordance with the power granted to him under section 19A of the Norfolk Island Act 1979, to make Ordinances for the peace, order and good government of the Territory.

The Norfolk Island Continued Laws Amendment Ordinance 2015 is a legislative instrument for the purpose of the Legislative Instruments Act 2003.

Background
The governance arrangements for the Territory of Norfolk Island are established under the Norfolk Island Act 1979 (Cth). The Norfolk Island Legislation Amendment Act 2015 amends the Norfolk Island Act 1979 to provide for the reform of governance arrangements in the Territory in two phases:

1. **Interim transition time**, to commence on the commencement of Part 1 of Schedule 1 to the Norfolk Island Legislation Amendment Act 2015, the date of which is to be 18 June 2015. At the interim transition time, the Act will:
   a. abolish the Executive Council and Legislative Assembly,
   b. establish the Norfolk Island Advisory Council,
   c. retain the Administration and the Administrator, who will be subject to the direction of the Commonwealth Minister,
   d. retain current juridical arrangements for Norfolk Island, and
   e. return legislative power for the Territory to the Governor-General.

2. **Final transition time**, to commence on 1 July 2016. At the final transition time, the Act will:
   a. remove from primary legislation the position of Administrator,
   b. abolish the Administration of Norfolk Island,
   c. provide for the general application of NSW laws to the Territory (with modifications as necessary and appropriate, and with provision for Commonwealth oversight and control of the Territory), and
   d. apply a range of Commonwealth laws to the Territory consistently (as far as appropriate) with their application to mainland States and Territories, including a range of social security, health and immigration laws.
The Norfolk Island Act 1979, as amended by the Norfolk Island Legislation Amendment Act 2015, provides that after the interim transition time, the laws in force in the Territory are:

- Commonwealth Acts to the extent that they are in force from time to time in, or in relation to, the Territory,
- laws made under Commonwealth Acts to the extent that those laws are in force from time to time in, or in relation to, the Territory,
- section 19A Ordinances as in force from time to time, and
- laws continued in force under section 16 or 16A of the Norfolk Island Act, including such a law as amended in accordance with s 17:
  - Ordinances made under, and laws continued in force by, the Norfolk Island Act 1957 and laws made under such an Ordinance or law, in force immediately before 7 August 1979 in or in relation to the Territory (s 16),
  - laws of the Norfolk Island Legislative Assembly in force immediately before the interim transition time (s 16A), including a law made under a Legislative Assembly law, and
  - Ordinances made under the Norfolk Island Act, and laws made under such an Ordinance, in force immediately before the interim transition time (s 16A).

Relevantly, the Norfolk Island Act 1979 (Cth) provides that subject to the Act, a law continued in force by s 16 or s 16A:

- may be amended or repealed by a s 19A Ordinance or by a law made under a s 19A Ordinance, and
- may be suspended by a s 19A Ordinance for a specified period.

This Ordinance is a s 19A Ordinance to amend the Interpretation Act 1979 (NI) and other Norfolk Island enactments continued in force by sections 16 and 16A of the Norfolk Island Act 1979.

**Purpose and Operation**

The purpose of this Ordinance is to ensure that existing Norfolk Island laws (continued in force under s 16 and new 16A of the Norfolk Island Act 1979) function effectively under the new governance arrangements established by the Norfolk Island Amendment Act 2015. It does this by establishing general interpretive rules that will apply to the majority of Norfolk Island enactments, and making specific amendments to other Norfolk Island laws where the application of the general rules was not appropriate. The ‘general rules’ approach was designed to avoid the need to individually amend each Norfolk Island enactment, where generally applicable rules could provide for an effective outcome for administering the continuing laws.

The new general interpretive rules are inserted in a new Schedule 1 to the Interpretation Act 1979 (NI). The primary general rule is contained in new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI). This general rule provides that for the operation of an enactment at or after the interim transition time, references to the Norfolk Island Minister or the Administrator are taken to be references to the Commonwealth Minister. This is to allow the Commonwealth Minister to exercise powers and perform functions or duties that were
previously exercised or performed by Norfolk Island Ministers or the Administrator. The Commonwealth Minister may then delegate, under subclause 10(1), functions, powers and duties to the Norfolk Island Administrator, the Executive Director, and certain other classes of Norfolk Island officials. Provisions relating to the delegation of the Commonwealth Minister’s role under enactments are contained in clauses 10 to 12 (inclusive) in Schedule 1 to the Interpretation Act 1979 (NI). Exceptions to this general rule and other special rules for the administration of enactments are contained in new clauses 6 to 9 (inclusive) in Schedule 1 to the Interpretation Act 1979 (NI), and deal with prerequisites for the exercise of powers, functions and duties; the payment of money, situations in which the Commonwealth Minister may otherwise be required to interact with himself or herself, and special rules relating to the Legislative Assembly.

The Interpretation Act 1979 (NI) has also been amended to harmonise the Interpretation Act 1979 (NI) with the Acts Interpretation Act 1901 (Cth).

In addition to those changes made to the Interpretation Act 1979 (NI), the Ordinance makes a number of specific amendments to other enactments for a range of reasons. For example, specific amendments are made where the interpretation of an enactment in light of the interpretive rules would have produced an uncertain or anomalous outcome. Specific amendments to enactments have also been made where the general rule contained in new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI) has been disapplied in relation to an enactment to ensure the Commonwealth Minister is not responsible for reviewing his or her own decisions. In other cases, specific amendments have also been made to modernise provisions, enhance consistency with mainland arrangements, and to make other changes consequential to the amendment of the Norfolk Island Act 1979 (Cth) by the Norfolk Island Legislation Amendment Act 2015 (Cth).

Consistent with section 11B of the Acts Interpretation Act 1901 (Cth), which is applied in relation to enactments by virtue of new s 8A of the Interpretation Act 1979 (NI), the amendments made to individual enactments, including the Interpretation Act 1979 (NI), must be construed with and as part of the enactment amended.

The Ordinance also repeals three Norfolk Island Acts continued in force by section 16A which have no further use or function under the new governance arrangements. The Acts repealed are:

- Legislative Assembly Act 1979 (NI)
- Legislative Assembly (Register of Members’ Interests) Act 2004 (NI).
- Referendum Act 1964 (NI)

Consultation

The amendments are largely machinery in nature and designed to give effect to the arrangements introduced by the Norfolk Island Legislation Amendment Act 2015 (Cth). Consultation was focussed on the Administrator of Norfolk Island.
Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Norfolk Island Continued Laws Amendment Ordinance 2015

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Overview of the Legislative Instrument

This Ordinance amends existing Norfolk Island laws to reflect the governance changes contained in the Norfolk Island Legislation Amendment Act 2015 and to confer powers, functions and duties under Norfolk Island laws currently held by Norfolk Island Ministers and the Administrator on the responsible Commonwealth Minister. Certain non-legislative functions of the Legislative Assembly that are to remain operative after the interim transition time have also been transferred to the Commonwealth Minister. The Ordinance will allow the Commonwealth Minister to delegate these powers, functions and duties, as needed, to the Norfolk Island Administrator, the Executive Director, and certain other classes of Norfolk Island officials. The Ordinance also repeals several laws related to self-government which are no longer needed or appropriate.

Human rights implications

This Instrument engages two particular rights:

(i) The right to an effective remedy
(ii) The right to take part in public affairs

Right to an effective remedy

The right to an effective remedy is contained in article 2(3) of the International Covenant on Civil and Political Rights (ICCPR). This right is engaged through the change to some appeal mechanisms under Norfolk Island enactments, particularly in the areas of immigration and social security.

Prior to the commencement of the interim transition time, certain decisions made by a Norfolk Island Minister under the Immigration Act 1980 (NI) were subject to review by the Commonwealth Minister with responsibility for Territories. The application of the general rule in subclause 5(1) of Schedule 1 to the Interpretation Act 1979 (NI) would have made the Commonwealth Minister the primary decision-maker under the Immigration Act 1980 (NI), and his or her decisions would have been reviewable by the Commonwealth Minister.

Given the position of Norfolk Island Minister ceases to exist, in order to preserve this avenue of appeal, while preventing the Commonwealth Minister from being responsible for reviewing his or her own decisions, the Ordinance amends the Immigration Act 1980 (NI) so that the Administrator of Norfolk Island will generally be the primary decision-maker under
the relevant provisions, and the Commonwealth Minister will have the ability to review the decisions made by the Administrator.

Similarly in section 33 of the Social Services Act 1980 (NI), the Administrator currently has a review function. The operation of the general rule in subclause 5(1) of Schedule 1 to the Interpretation Act 1979 (NI) would have made the Commonwealth Minister responsible for reviewing decisions of the Commonwealth Minister. The Ordinance disappplies the general rule; generally confers the Norfolk Island Minister’s decision-making functions on the Administrator; and provides a right of appeal to the Commonwealth Minister. If an appellant is dissatisfied with the decision of the Commonwealth Minister, it remains open to them to appeal to the Administrative Appeals Tribunal for a further review.

Although these changes alter appeal rights, they do not limit or reduce them. There is therefore no limitation of the right to an effective remedy. These arrangements are interim arrangements only, to have effect until the extension of Commonwealth social security and immigration law and associated appeal mechanisms from 1 July 2016, as set out in the Norfolk Island Legislation Amendment Act 2015.

An existing review function in the Education Act 1931 (NI) is also preserved. The Administrator will remain the relevant decision maker in relation to the registration of teachers, and these decisions can be appealed to the Commonwealth Minister. Other decisions currently reviewable in the Norfolk Island Administrative Review Tribunal will remain reviewable in that Tribunal after the interim transition time despite changes to the decision-maker made by this Ordinance.

**Right to take part in public affairs**

This right is engaged through the repeal of the Referendum Act 1964 (NI) (‘the Referendum Act’). The UN Human Rights Committee (the UNHRC) in its General Comment 25, Article 25 of the ICCPR, recognises and protects the right of every citizen to take part in the conduct of public affairs, the right to vote and to be elected and the right to have access to public service. General Comment 25 provides guidance on these rights. Paragraph 6 of General Comment 25 provides that Citizens participate directly in the conduct of public affairs when they choose or change their constitution or decide public issues through a referendum.

Referenda provided for in the Referendum Act are non-binding, and while they may ascertain the opinion of electors on the question put to them, the referenda themselves do not actually decide public issues. Referenda under the Referendum Act on the introduction of seatbelts, and mobile phones were defeated, only for these things to be subsequently introduced, contrary to the expressed opinion of the electors.

To provide a method of consultation and a means of establishing the wishes of the community, the Norfolk Island Act 1979 (Cth), as amended by the Norfolk Island Legislation Amendment Act 2015 (Cth) provides for the establishment of an Advisory Council for the duration of the interim transition time. From 1 July 2016, an elected local council will operate on Norfolk Island as a means of giving expression to the views of electors. As these mechanisms are being established and resourced for the purposes of community consultation,
and there is a significant cost and administrative burden associated with the holding of referenda, including referenda initiated by one third of electors under section 6 of the Referendum Act, the repeal of the Referendum Act represents a reasonable and proportionate limitation on the right to take part in public affairs.

Conclusion

The Legislative Instrument is compatible with human rights because to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate.

Assistant Minister for Infrastructure and Regional Development,
the Hon Jamie Briggs MP
Detailed Description of the Ordinance

Part 1 – Preliminary

Section 1 Explanation – Name of Ordinance
This is the formal section providing the title of the Ordinance.

Section 2 Explanation – Commencement
This section provides the Ordinance is to commence at the same time as the commencement of Part 1 of Schedule 1 to the Norfolk Island Legislation Amendment Act 2015.

Section 3 Explanation – Authority
This section cites the Act granting the authority to make the Ordinance.

Section 4 Explanation – Schedules
This section provides that the Schedules to the Ordinance amend the enactments specified in the Schedules.

Section 5 Explanation – Interpretation
This section provides that the Acts Interpretation Act 1901 (Cth) does not apply to Schedules 1 and 2 of the Ordinance. The Interpretation Act 1979 (NI) applies to these Schedules. However it should be noted that new section 8A of the Interpretation Act 1979 (NI) applies the Acts Interpretation Act 1901 (Cth) (with the exception of some provisions) to Norfolk Island enactments, including the Interpretation Act 1979 (NI).

Schedule 1 - Amendments

Part 1—Amendments

Administration and Probate Act 2006 (Norfolk Island)

Item 1 Explanation
This Item repeals subsection 83(3) of the Administration and Probate Act 2006 (NI) which specifies a determination made under subsection 83(1) of the Act is a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

Administrative Review Tribunal Act 1996 (Norfolk Island)

Item 2 Explanation
This Item inserts a new provision (section 1A) clarifying that subsection 15(1), which prohibits an enactment from providing for a review of a decision of the Commonwealth
Minister by the Norfolk Island Administrative Review Tribunal, does not operate to prevent a review in circumstances where the Commonwealth Minister is the decision maker under an enactment because of the effect of Schedule 1 to the Interpretation Act 1979 on the enactment.

**Annual Reports Act 2004 (Norfolk Island)**
The Ordinance makes a number of specific amendments to the Annual Reports Act (2004) (NI), such as removing references to the Legislative Assembly and replacing references to ‘Minister’ with ‘Commonwealth Minister’. These amendments do not affect the operation of Schedule 1 to the Interpretation Act 1979 in relation to those amended provisions or the rest of the enactment.

**Item 3 Explanation**
This Item inserts a provision requiring the Chief Executive Officer and any Norfolk Island public sector agencies to give an annual report to the Commonwealth Minister.

**Item 4 Explanation**
This Item removes a requirement for consultation with the Legislative Assembly in relation to the issuing of an annual report direction. As the Legislative Assembly will no longer exist after the commencement of the interim transition time, and also given the application of new clause 9 in Part 2 of Schedule 1 to the Interpretation Act 1979 (NI), this requirement for interaction with the Legislative Assembly is no longer relevant and is repealed.

**Items 5 Explanation**
This Item substitutes a reference to ‘Minister’ with a reference to the ‘Commonwealth Minister’ for clarity, as the position of Norfolk Island Minister ceases to exist from the interim transition time.

**Item 6 Explanation**
This Item removes a requirement for the Minister to have regard to a recommendation received under section 7 of the Act. This amendment is consequential to the repeal of section 7 by Item 4.

**Item 7 Explanation**
This Item substitutes a reference to ‘Minister’ with a reference to the ‘Commonwealth Minister’ for clarity, as the position of Norfolk Island Minister ceases to exist from the interim transition time.

**Item 8 Explanation**
This Item removes clauses to the effect that an annual report direction is a disallowable instrument, and removes a reference to the Norfolk Island Legislative Assembly. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister,
the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Item 9 Explanation**
This Item repeals Part 3 and Part 4 of the Act. These parts contain provisions relating to Norfolk Island Ministers and the presentation of reports to the Norfolk Island Legislative Assembly. As the position of Norfolk Island Minister and the Legislative Assembly will no longer exist after the commencement of the interim transition time, these Parts are largely redundant and therefore repealed by this Ordinance. Annual reports will be given to the Commonwealth Minister as provided for in subsections 5(1) and 6(1) of the Act (as amended by this Ordinance).

**Item 10 Explanation**
This Item substitutes references to ‘Minister’ with references to the ‘Commonwealth Minister’ for clarity, as the position of Norfolk Island Minister ceases to exist from the interim transition time.

**Item 11 Explanation**
This Item removes a clause to the effect that a declaration of a public authority is a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979* (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Item 12 Explanation**
This Item removes a reference to the presentation of a report to the Legislative Assembly. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, this reference is no longer relevant and therefore repealed by this Ordinance. The Item also improves the clarity of the wording in the provision.

**Item 13 Explanation**
This Item repeals section 17, which has expired, from the Act.

**Items 14 and 15 Explanation**
These Items remove a reference in the definition of ‘annual report’ to the Auditor’s report under section 13. This change is consequential to Item 9 which repeals section 13. This does not affect the auditing of financial statements of the Administration and each Territory authority by the Commonwealth Auditor-General, which will still occur in accordance with section 48C of the *Norfolk Island Act 1979* (Cth).
Item 16 Explanation
This Item replaces the definition of ‘financial year’ to ensure consistency with the definition of ‘financial year’ in the Public Moneys Act 1979 (NI) and to take account of the fact the Public Sector Management Act 2000 (NI) has been superseded by the Public Service Act 2014 (NI).

Items 17 and 18
These Items remove a reference to the Public Service Board, which is a Board that exists only to handle certain transitional matters and will soon be disbanded.

Items 19 and 20 Explanation
These Items repeal the definition of ‘responsible Minister’ and ‘Speaker’, as these positions no longer exist after the interim transition time.

Item 21 Explanation
This Item inserts words to make it clear that appointments made to an instrumentality on behalf of the Crown, the Administration, or the Legislative Assembly, may refer to appointments that were made in the past.

Item 22 Explanation
This Item substitutes a reference to ‘Minister’ with a reference to the ‘Commonwealth Minister’, as the position of Norfolk Island Minister ceases to exist from the interim transition time.

Bookmakers and Betting Exchange Act 1998 (Norfolk Island)
Item 23 Explanation
This Item removes a reference to the powers of the Norfolk Island Legislative Assembly. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, these words are removed to avoid any doubt that the Act continues to apply to its full extent despite the abolition of the Legislative Assembly. This amendment is not intended to alter the application or effect of the enactment, but merely to remove a reference to the Legislative Assembly.

Item 24 Explanation
This Item removes a clause to the effect that a declaration under subsection 19(1) is a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.
**Business Transactions (Administration) Act 2006 (Norfolk Island)**

**Items 25, 26 and 27 Explanation**
These Items repeal a requirement that revenues raised by virtue of the Act can only be expended for purposes specified in Schedule 2 of the *Norfolk Island Act 1979* (Cth). This change is consequential on the repeal of Schedule 2 and subsection 47(4) of the *Norfolk Island Act 1979* (Cth) from the interim transition time.

**Business Transactions (Levy Imposition) Act 2006 (Norfolk Island)**

**Item 28 Explanation**
This Item repeals a requirement that revenues raised by virtue of the Act can only be expended for purposes specified in Schedule 2 of the *Norfolk Island Act 1979* (Cth). This change is consequential on the repeal of Schedule 2 and subsection 47(4) of the *Norfolk Island Act 1979* (Cth) from the interim transition time.

**Child Welfare Act 2009 (Norfolk Island)**

**Item 29 Explanation**
This Item removes a reference to section 36 of the *Interpretation Act 1979* (NI). This is consequential to the repeal of section 36 by Item 183.

**Item 30 Explanation**
This Item removes a reference to section 36 of the *Interpretation Act 1979* (NI). This is consequential to the repeal of section 36 by Item 183.

**Item 31 Explanation**
This Item replaces references to provisions of the *Interpretation Act 1979* (NI), repealed by Item 178, with references to equivalent provisions in the *Acts Interpretation Act 1901* (Cth), which will apply by virtue of new section 8A of the *Interpretation Act 1979* (NI).

**Item 32, 33 and 34 Explanation**
This Item removes references to certain instruments under the Act being disallowable. Due to the operation of new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979* (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Item 35 Explanation**
This Item removes a note stating that legislative instruments must be notified in the Legislative Assembly. As the Legislative Assembly ceases to exist from the interim transition time this requirement is redundant and therefore repealed.
Item 36 Explanation
This Item removes a reference to s 41A of the Interpretation Act 1979 (NI) which defines disallowable instruments. As this Ordinance removes references to instruments made under the Act being disallowable, this example is no longer relevant for the purposes of the note.

Item 37 Explanation
This Item removes a reference to the definition of ‘Minister’ in the Norfolk Island Act 1979 (Cth), as this definition was removed from that Act by the Norfolk Island Legislation Amendment Act 2015 (Cth).

Companies Act 1985 (Norfolk Island)
Item 38 Explanation
This Item removes a reference to the powers of the Norfolk Island Legislative Assembly. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, these words are removed to avoid any doubt that the Act continues to apply to its full extent despite the abolition of the Legislative Assembly. This amendment is not intended to alter the application or effect of the enactment, but merely to remove a reference to the Legislative Assembly.

Items 39, 40, 41 and 42 Explanation
These Items remove references to various instruments made under the Act being disallowable. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

Coroners Act 1993 (Norfolk Island)
Item 43 Explanation
This Item removes a reference to the Norfolk Island Executive Council, as the Executive Council ceases to exist from the interim transition time. This amendment does not affect the operation of Schedule 1 to the Interpretation Act 1979 (NI), in relation to the amended provision or on the rest of the enactment.

Court Procedures Act 2007 (Norfolk Island)
Item 44 Explanation
This Item removes a reference to ‘s. 20B’ of the Interpretation Act 1979 (NI). This amendment is consequential to the repeal of section 20B of the Interpretation Act 1979 (NI) by Item 168.

Items 45 and 46 Explanation
These Items remove words stating an approved form made under the section is a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation
Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

Item 47 Explanation
The Item replaces references to provisions of the Interpretation Act 1979 (NI), repealed by Item 178, with references to equivalent provisions in the Acts Interpretation Act 1901 (Cth), which will apply by virtue of new section 8A of the Interpretation Act 1979 (NI).

Item 48 Explanation
The Item removes words stating a determination in relation to fees under the section is a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

Items 49, 50 and 51 Explanation
These Items repeal notes containing references to the Interpretation Act 1979 (NI). These changes are consequential to amendments made to the Interpretation Act 1979 (NI) in this Ordinance.

Crimes (Forensic Procedures) Act 2002 (Norfolk Island)
Item 52 Explanation
This Item removes a reference to the Norfolk Island Executive Council, as the Executive Council ceases to exist from the interim transition time. This amendment does not affect the operation of Schedule 1 to the Interpretation Act 1979 (NI), in relation to this amended provision or on the rest of the enactment.

Criminal Code 2007 (Norfolk Island)
Item 53 Explanation
This Item repeals a note containing a reference to the Interpretation Act 1979 (NI). This change is consequential to amendments made to the Interpretation Act 1979 (NI) in this Ordinance.

Item 54 Explanation
The Item replaces a reference to the Interpretation Act 1979 (NI) with a reference to an equivalent provision in the Acts Interpretation Act 1901 (Cth), which will apply by virtue of new section 8A of the Interpretation Act 1979 (NI).
**Item 55 Explanation**
The Item removes words stating an approved form made under the section is a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979* (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Item 56 Explanation**
These Items repeals a note containing a reference to the *Interpretation Act 1979* (NI). This change is consequential to amendments made to the *Interpretation Act 1979* (NI) in this Ordinance.

**Criminal Procedure Act 2007 (Norfolk Island)**

**Item 57 Explanation**
This Item removes a reference to the powers of the Norfolk Island Legislative Assembly. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, these words are removed to avoid any doubt that the Act continues to apply to its full extent despite the abolition of the Legislative Assembly. This amendment is not intended to alter the application or effect of the enactment, but merely to remove a reference to the Legislative Assembly.

**Items 58 and 59 Explanation**
These Items remove references to various instruments made under the Act being disallowable. Due to the operation of new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979* (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minster to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Item 60 Explanation**
This Item removes a reference to a regulation being presented to the Norfolk Island Legislative Assembly. As the Legislative Assembly ceases to exist from the interim transition time this note is no longer relevant. This amendment does not affect the operation of Schedule 1 to the *Interpretation Act 1979* (NI), in relation to those amended provisions or on the rest of the enactment.

**Crown Lands Act 1996 (Norfolk Island)**

**Item 61 Explanation**
This Item removes a reference to an instrument made under subsection 6(5) being a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979* (NI), the maker of the instrument will be the Commonwealth
Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Customs Act 1913 (Norfolk Island)**

**Item 62 Explanation**
This Item replaces a reference to the Interpretation Act 1979 (NI) with a reference to an equivalent provision in the Acts Interpretation Act 1901 (Cth), which applies by virtue of section 8A of the Interpretation Act 1979 (NI).

**Disaster and Emergency Management Act 2001 (Norfolk Island)**
The Ordinance makes a number of specific amendments to Disaster and Emergency Act 2001 (NI), including removing provisions relating to the Legislative Assembly. These amendments do not affect the operation of Schedule 1 to the Interpretation Act 1979 (NI) in relation to those amended provisions or the rest of the enactment.

**Item 63 Explanation**
This Item removes a reference to section 10 of the Disaster and Emergency Management Act 2001 (NI). This change is consequential to Item 67 which repeals section 10.

**Item 64 Explanation**
This Item is amended to ensure that section 41A of the Interpretation Act 1979 (NI) is attracted to allow the Commonwealth Minister to disallow the Disaster and Emergency Plan.

**Item 65 Explanation**
This Item removes a prohibition on extending a declaration of a state of emergency or disaster past 72 hours without a resolution of the Norfolk Island Legislative Assembly. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, this provision is inoperable and therefore repealed by this Ordinance.

**Item 66 Explanation**
This Item removes a provision allowing for an emergency meeting of the Legislative Assembly after a declaration of disaster or emergency has been made. As the Legislative Assembly ceases to exist from the interim transition time, this provision is redundant and is therefore repealed.

**Item 67 Explanation**
This Item repeals section 10, which allows the Minister to spend money without further appropriation in relation to a plan made under section 8 of the Act, following a resolution of the Legislative Assembly. Section 10 is repealed as the Legislative Assembly no longer exists to make the resolution.
**Item 68 Explanation**
This Item removes a reference to section 10 of the *Disaster and Emergency Management Act 2001* (NI). This change is consequential to Item 67 which repeals section 10.

**Item 69 Explanation**
This Item removes a requirement that a document be tabled before the Norfolk Island Legislative Assembly. As the Legislative Assembly ceases to exist from the interim transition time this provision is no longer operable.

**Item 70 Explanation**
This Item is repealed to remove a reference to the Legislative Assembly appropriating funds for the purposes of the Act. This provision is unnecessary as the Governor-General may continue to make appropriations as necessary under s 19A of the *Norfolk Island Act 1979* (Cth).

*Dogs Registration Regulations 1994 (Norfolk Island)*
**Items 71 and 72 Explanation**
These Items remove a provision to the effect that a declaration under subsection 3(1) is a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979* (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

*Education Act 1931 (Norfolk Island)*
In order to preserve an existing appeal mechanism, and to prevent the Commonwealth Minister from being responsible for reviewing his or her own decisions, the general rule contained in new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979* (NI) does not apply in respect of this Act. Functions previously performed by the Administrator will be retained by the Administrator to ensure that a person aggrieved by a decision made by the Administrator is able to appeal to the Commonwealth Minister.

**Item 73 Explanation**
This Item amends section 21 of the Act to confer regulation making powers on the Commonwealth Minister in place of the Administrator. As new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979* (NI) does not apply to the Act, this change ensures that powers to make regulations are vested in the Commonwealth Minister.

*Education Regulations (Norfolk Island)*
**Item 74 Explanation**
This Item substitutes references to ‘Minister’ with ‘Commonwealth Minister’ throughout the regulations. This is done to make clear the relevant person for the amended provisions is the Commonwealth Minister. This change is necessary as new subclause 5(1) in Schedule 1 to
the *Interpretation Act 1979* (NI) does not apply in respect of the *Education Regulations 1931* (NI).

**Employment Act 1988 (Norfolk Island)**

**Item 75 Explanation**
This Item removes a reference to the Norfolk Island Legislative Assembly. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, these words are removed to avoid any doubt that the Act continues to apply to its full extent despite the abolition of the Legislative Assembly. This amendment is not intended to alter the application or effect of the enactment, but merely to remove a reference to the Legislative Assembly.

**Item 76 Explanation**
This Item repeals a reference to the *Interpretation Act 1979* (NI). This change is consequential to amendments made to the *Interpretation Act 1979* (NI) by Item 183 in this Ordinance.

**Environment Act 1990 (Norfolk Island)**
The Ordinance makes a number of specific amendments to *Environment Act 1990* (NI), such as removing references to the Legislative Assembly and replacing references to ‘executive member’ with ‘Commonwealth Minister’. These amendments do not affect the operation of Schedule 1 to the *Interpretation Act 1979* (NI) in relation to those amended provisions or the rest of the enactment.

**Item 77 Explanation**
This Item removes a reference to the powers of the Norfolk Island Legislative Assembly. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, these words are removed to avoid any doubt that the Act continues to apply to its full extent despite the abolition of the Legislative Assembly. This amendment is not intended to alter the application or effect of the enactment, but merely to remove a reference to the Legislative Assembly.

**Item 78 Explanation**
This Item rewords subsection 11(2) of the Act to remove references to the Norfolk Island Legislative Assembly. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, references to the Legislative Assembly are redundant and therefore repealed.

**Item 79 Explanation**
This Item removes a reference to section 36 of the *Interpretation Act 1979* (NI). This change is consequential to amendments made to the *Interpretation Act 1979* (NI) by Item 183 in this Ordinance.
Item 80 Explanation
This Item removes a reference to ‘executive member’ and substitutes ‘Commonwealth Minister’, as the position of Norfolk Island executive member (Minister) ceases to exist from the interim transition time.

Item 81 Explanation
This Item removes subsections relating to membership of the Norfolk Island Planning Board, to improve clarity in light of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI). It inserts a new provision requiring the Commonwealth Minister to appoint a member as soon practicable, and specifies (consistent with the repealed subsections) that a person terminated under subsection (2) or (3) is not eligible for reappointment as a member of the Planning Board.

Item 82 Explanation
This Item removes a reference to section 36 of the Interpretation Act 1979 (NI). This change is consequential to amendments made to the Interpretation Act 1979 (NI) by Item 183 in this Ordinance.

Item 83 Explanation
This Item removes a reference to ‘executive member’, as the position of Norfolk Island executive member (Minister) ceases to exist from the interim transition time.

Item 84 Explanation
This Item amends a clause providing for interactions between a Norfolk Island executive member and the Legislative Assembly and substitutes a reference to the ‘Commonwealth Minister’, as the position of Norfolk Island executive member (Minister) and the Legislative Assembly cease to exist from the interim transition time.

Item 85 Explanation
This Item removes subsections relating to interactions between the Legislative Assembly and the Minister in relation to environmental impact statements, to improve clarity in light of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI). It inserts a new provision allowing the Commonwealth Minister to fulfil certain roles in relation to the preparation of an environmental impact statement.

Item 86 Explanation
This Item removes a reference to the Norfolk Island Legislative Assembly and substitutes a reference to the Commonwealth Minister. This change is made because the Norfolk Island Legislative Assembly ceases to exist on commencement of the interim transition time.

Item 87 Explanation
This Item removes a reference to the Norfolk Island Legislative Assembly and substitutes a reference to the Commonwealth Minister. This change is made because the Norfolk Island Legislative Assembly ceases to exist on commencement of the interim transition time.
**Item 88 Explanation**
This Item repeals a subsection providing for the tabling of an instrument made under subsection 29(3) in the Norfolk Island Legislative Assembly. This clause is inoperable because the Norfolk Island Legislative Assembly ceases to exist on commencement of the interim transition time.

**Item 89 Explanation**
This Item repeals section 150, which empowers the Administrator to make changes to the Norfolk Island Planning Code by regulations, and substitutes a new section 150, which allows for the Code to be amended by regulations (subject to section 151). Section 153 provides a general regulation making power under the Act meaning the limited power in section 150 is not required. Section 153 is amended by Item 95 to make it clear the Commonwealth Minister will be the maker of regulations under the Act.

**Items 90 and 91 Explanation**
These Items remove references to an ‘executive member’ of Norfolk Island and substitutes references to the Commonwealth Minister. This change is made because the position of Norfolk Island executive member (Minister) ceases to exist on commencement of the interim transition time.

**Item 92 Explanation**
This Item repeals subsections 152(2), (3), (4) and (5), which provide for interactions between an executive member and the Legislative Assembly, to improve the ease of interpreting these sections in light of new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979* (NI). It substitutes a new clause clarifying that a failure to comply with subsection (1) (relating to publication of the Regulations before making and community consultation) does not affect the validity the Regulations made for the purposes of section 150. This mirrors a similar provision in repealed subsection 152(5). Notwithstanding these changes, the Commonwealth Minister is obliged under the amended Act to publish Regulations before they are made and take reasonable steps to ascertain the views of the Community, as set out in subsection 152(1).

**Item 93 Explanation**
This Item removes a reference to the Norfolk Island Legislative Assembly. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, these words are removed to avoid any doubt that the Act continues to apply to its full extent despite the abolition of the Legislative Assembly. This amendment is not intended to alter the application or effect of the enactment, but merely to remove a reference to the Legislative Assembly.

**Item 94 Explanation**
The Item repeals a number of subsections dealing with interactions between an executive member and the Legislative Assembly in relation to a review of the Norfolk Island Planning
Code, as both the position of executive member and the Legislative Assembly cease to exist from the interim transition time. The changes improve the ease of interpreting this section in light of Schedule 1 to the Interpretation Act 1979 (NI). The Item substitutes new sections requiring the Commonwealth Minister to conduct a review of the code according to the terms inserted by the Item, including (as set out in new subsection 152(3)) that the commencement of the review be publicised in the Gazette and that submissions or representations be invited.

**Item 95 Explanation**
This Item amends subsection 153(1) to make it clear that the Commonwealth Minister is the maker of regulations for the purposes of section 150 and the person who makes other regulations.

*Evidence Act 2004 (Norfolk Island)*

**Item 96 Explanation**
This Item inserts words making it clear that section 15AB of the Acts Interpretation Act 1901 (Cth) also applies to the interpretation of provisions in the Act.

**Item 97 Explanation**
This Item removes a reference to the Norfolk Island Legislative Assembly. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, these words are removed to avoid any doubt that the Act continues to apply to its full extent despite the abolition of the Legislative Assembly. This amendment is not intended to alter the application or effect of the enactment, but merely to remove a reference to the Legislative Assembly.

*Fuel Levy Act 1987 (Norfolk Island)*

**Item 98 Explanation**
This Item repeals a requirement that revenues raised by virtue of the Act can only be expended for purposes specified in Schedule 2 of the Norfolk Island Act 1979 (Cth), because Schedule 2 of the Act is repealed from the interim transition time.

*Gaming Act 1998 (Norfolk Island)*

**Item 99 Explanation**
This Item removes a reference to the Norfolk Island Legislative Assembly. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, these words are removed to avoid any doubt that the Act continues to apply to its full extent despite the abolition of the Legislative Assembly. This amendment is not intended to alter the application or effect of the enactment, but merely to remove a reference to the Legislative Assembly.

**Item 100 Explanation**
This Item removes a clause to the effect that an instrument made under subsection 18(1) is a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth
Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

_Gaming Supervision Act 1998 (Norfolk Island)_

**Item 101 Explanation**

The Item replaces a reference to the Norfolk Island Executive Council, which ceases to exist from commencement of the interim transition time, with a reference to the Administrator.

_Goods and Services Tax Act 2007 (Norfolk Island)_

**Item 102 Explanation**

This Item repeals a requirement that revenues raised by virtue of the Act can only be expended for purposes specified in Schedule 2 of the _Norfolk Island Act 1979_ (Cth), because Schedule 2 of the Act and subsection 47(4) of the _Norfolk Island Act 1979_ (Cth) are repealed from the interim transition time.

**Item 103 Explanation**

This Item removes a reference to the Norfolk Island Legislative Assembly. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, these words are removed to avoid any doubt that the Act continues to apply to its full extent despite the abolition of the Legislative Assembly. This amendment is not intended to alter the application or effect of the enactment, but merely to remove a reference to the Legislative Assembly.

**Items 104 and 105 Explanation**

These Items remove words to the effect that directions issued under subsection 4B(2) is a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the _Interpretation Act 1979_ (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Item 106 Explanation**

This Item removes the word ‘disallowable’ in relation to guidelines issued under subsection 14(1) is a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the _Interpretation Act 1979_ (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.
**Healthcare Act 1989 (Norfolk Island)**

**Item 107 Explanation**
The Item repeals paragraphs providing for a member of the Legislative Assembly to be a member of the Claims Committee, as the Legislative Assembly will cease to exist from the interim transition time. A new paragraph is inserted allowing the Commonwealth Minister to appoint a person to the Claims Committee.

**Item 108 Explanation**
This Item inserts a provision expressly providing that an appointment under new paragraph 22(2)(b) can be terminated at any time.

**Healthcare Levy Act 1990 (Norfolk Island)**

**Item 109 Explanation**
This Item removes a requirement for the Legislative Assembly to be apprised of and approve a proposal to increase a levy under section 6. These changes are made as the Legislative Assembly will cease to exist from the interim transition time and the provisions are therefore inoperable. The Item also inserts words requiring a notification of the increased amount in the Gazette.

**Heritage Act 2002 (Norfolk Island)**

**Item 110 Explanation**
The Item removes a provision stating that instrument made under section 7 is disallowable. Due to the operation of new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979* (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Item 111 Explanation**
This Item removes a requirement for a statement to be laid before the Norfolk Island Legislative Assembly in relation to certain heritage matters. As the Legislative Assembly will no longer exist, the provision is no longer relevant. This amendment does not affect the operation of Schedule 1 to the *Interpretation Act 1979* (NI), in relation to those amended provisions or on the rest of the enactment.

**Immigration Act 1980 (Norfolk Island)**
In order to preserve an existing appeal mechanism, and to prevent the Commonwealth Minister from being responsible for reviewing his or her own decisions, the general rule contained in new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979* (NI) does not apply in respect of this Act. Functions previously performed by a Norfolk Island Minister are in general conferred on the Administrator (rather than the Commonwealth Minister) to ensure that a person aggrieved by a decision made by the Administrator is able to appeal to the Commonwealth Minister.
Item 112 Explanation
This Item omits a reference to ‘Minister’ and substitutes ‘Administrator’, as the position of Norfolk Island Minister ceases to exist on commencement of the interim transition time, and new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI) is excluded from applying to the Immigration Act 1980 (NI), this change ensures that people can continue to be appointed to the position of ‘authorised person’ by the Administrator.

Item 113 Explanation
This Item omits a reference to ‘Minister’ and substitutes ‘Administrator’, as the position of Norfolk Island Minister ceases to exist on commencement of the interim transition time, and new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI) is excluded from applying to the Immigration Act 1980 (NI), this change ensures that individuals can continue to be appointed to the position of ‘officer’ by the Administrator.

Item 114 Explanation
This Item omits ‘Minister’ wherever occurring in sections 5, 13 and 14 and substitutes ‘Administrator’. As the position of Norfolk Island Minister ceases to exist on commencement of the interim transition time, and new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI) is excluded from applying to the Immigration Act 1980 (NI), these changes ensure the sections reflect the new arrangements which exist from the start of the interim transition time.

Item 115 Explanation
This Item repeals subsection 14A(5) by omitting ‘Minister’ and substituting ‘Commonwealth Minister’. As the Immigration Act 1980 (NI) is intended to be repealed by 1 July 2016, there is no need for a 5 year review of the effect of section 14A.

Item 116 Explanation
This Item omits ‘Minister’ wherever occurring in sections 15, 16, and 17, and substitutes ‘Administrator’. As the position of Norfolk Island Minister ceases to exist on commencement of the interim transition time, and new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI) is excluded from applying to the Immigration Act 1980 (NI), these changes ensure the sections reflect the new arrangements which exist from the start of the interim transition time.

Items 117, 118 and 119 Explanation
These Items remove ‘a permanent resident of Pitcairn Island’ and ‘a person who has been authorised by a resolution of the Legislative Assembly’ from the categories of individuals who are able to apply for a permit under sections 18 or 19 of the Act. This special exemption allowing a resident of a Pitcairn Island to apply for such a permit is repealed to promote further alignment between Norfolk Island and Australian immigration arrangements. The provision relating to the Legislative Assembly will be inoperable from commencement of the interim transition time.
Item 120 Explanation
This Item omits ‘Minister’ wherever occurring in sections 18, 19, and 20, and substitutes ‘Administrator’. As the position of Norfolk Island Minister ceases to exist on commencement of the interim transition time, and new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI) is excluded from applying to the Immigration Act 1980 (NI), these changes ensure the sections reflect the new arrangements which exist from the start of the interim transition time.

Items 121 and 122 Explanation
These Items omits ‘Minister’ from heading of section 21, and substitutes ‘Administrator’ and makes a minor stylistic change to the heading. As the position of Norfolk Island Minister ceases to exist on commencement of the interim transition time, and new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI) is excluded from applying to the Immigration Act 1980 (NI), these change ensures the sections remain operable.

Item 123 Explanation
This Item removes a requirement that the power to fix a quota under section 21 be exercised in accordance with a resolution of the Legislative Assembly. As the Legislative Assembly ceases to exist from commencement of the interim transition time, this requirement is inoperable and is therefore removed.

Item 124 Explanation
This Item omits ‘Minister’ wherever occurring in sections 21A to 23, 26 to 28A and 30 to 33A, and substitutes ‘Administrator’. As the position of Norfolk Island Minister ceases to exist on commencement of the interim transition time, and new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI) is excluded from applying to the Immigration Act 1980 (NI), these changes ensure the sections reflect the new arrangements which exist from the start of the interim transition time.

Item 125 Explanation
This Item repeals a subsection exempting a certain class of applicant from usual requirements relating to the granting of certain general entry permits. These special exemptions are inconsistent with Australian immigration arrangements and are therefore repealed.

Item 126 Explanation
This Item omits ‘Minister’ wherever occurring in sections 30 and 3, and substitutes ‘Administrator’. As the position of Norfolk Island Minister ceases to exist on commencement of the interim transition time, and new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI) is excluded from applying to the Immigration Act 1980 (NI), these changes ensure the sections reflect the new arrangements which exist from the start of the interim transition time.
Items 127 and 128 Explanation
This Item replaces references to ‘Minister’ with ‘Administrator’ in the heading of section 32 and sections 32 to 33A, and substitutes ‘Administrator’. As the position of Norfolk Island Minister ceases to exist on commencement of the interim transition time, and new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI) is excluded from applying to the Immigration Act 1980 (NI), these changes ensure the sections reflect the new arrangements which exist from the start of the interim transition time.

Item 129 Explanation
This Item repeals requirements that certain immigration decisions be published in the gazette or tabled in the assembly, or a record of decisions be kept for public inspection. These requirements are repealed to ensure the privacy of applicants.

Item 130 Explanation
This Item omits ‘Minister’ wherever occurring in sections 35 to 38, 40 and 42 to 45, and substitutes ‘Administrator’. As the position of Norfolk Island Minister ceases to exist on commencement of the interim transition time, and new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI) is excluded from applying to the Immigration Act 1980 (NI), these changes ensure the sections reflect the new arrangements which exist from the start of the interim transition time.

Item 131 Explanation
This Item repeals a requirement that the relevant Norfolk Island Minister provide the Administrator with a copy of each deportation order issued by him, with the added requirement that the Administrator inform the Commonwealth Minister. As the position of Norfolk Island Minister will cease to exist from the interim transition time, this provision is no longer operable. It is therefore repealed and replaced with a requirement that the Administrator give directly to the Commonwealth Minister a copy of each deportation order the Administrator makes.

Item 132 Explanation
This Item omits ‘Minister’ wherever occurring in a number of sections and substitutes ‘Administrator’. As the position of Norfolk Island Minister ceases to exist on commencement of the interim transition time, and new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI) is excluded from applying to the Immigration Act 1980 (NI), these changes ensure the sections reflect the new arrangements which exist from the start of the interim transition time.

Item 133 Explanation
This Item amends the clause relating to review of decisions by substituting ‘Minister’ with ‘Administrator in subsection 84(1), to reflect the fact that the other amendments to the Act in this Ordinance will make the Administrator the relevant decision maker under the Act.
Item 134 Explanation
This Item replaces references to ‘the Administrator’ with references to the ‘Commonwealth Minister’. This enables a review of a decision by the Administrator to be sought from the Commonwealth Minister.

Items 135 and 136 Explanation
These Items amend provisions relating to review of decisions by substituting ‘Minister’ with ‘Administrator in subsections 84(6), (7) and (8), to reflect the fact that the other amendments to the Act in this Ordinance will make the Administrator the relevant decision maker under the Act.

Items 137 and 138 Explanation
These Items amend section 85 to remove a redundant reference to Minister of Norfolk Island and to allow a right of review to the Administrator for persons aggrieved by the decision of the authorised person.

Item 139 Explanation
This Item omits ‘Minister’ in section 88 and substitutes ‘Administrator’. As the position of Norfolk Island Minister ceases to exist on commencement of the interim transition time, and new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI) is excluded from applying to the Immigration Act 1980 (NI), these changes ensure the sections reflect the new arrangements which exist from the start of the interim transition time.

Item 140 Explanation
This Item amends subsection 90(1) of the Act to confer regulation making powers on the Commonwealth Minister in place of the Administrator.

Immigration Regulations 1984 (Norfolk Island)
Items 141 to 148 (Inclusive) Explanation
These Items omit specific references in the Regulation to the position of Minister of Norfolk Island, and substitute ‘Administrator’. As the position of Norfolk Island Minister ceases to exist on commencement of the interim transition time, and new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), is excluded from applying to the Immigration Regulations 1984 (NI) to ensure the Regulations can be read consistently with the Act they are made under (Immigration Act 1980 (NI)), these changes ensure the Regulation reflects the new arrangements which exist from the start of the interim transition time. Item 142 removes a reference to a provision in the Interpretation Act 1979 (NI) which is repealed by this Ordinance.

Interpretation Act 1979 (Norfolk Island)
Item 149 Explanation
Item 149 repeals section 3 of the Interpretation Act 1979 (NI). This amendment is consequential to Item 190 which repeals the Schedule to the Interpretation Act 1979 (NI) and substitutes a new schedule to that Act.
Item 150 Explanation
The Item repeals sections in the Interpretation Act 1979 (NI) which contain general interpretation provisions. The provisions are superseded by equivalent provisions contained in the Acts Interpretation Act 1901 (Cth) which will apply to Norfolk Island enactments by virtue of new Section 8A.

New subsection 8A(1) applies the Acts Interpretation Act 1901 (Cth) to enactments, including the Interpretation Act 1979 (NI). The provision provides that the Acts Interpretation Act 1901 (Cth) applies to enactments whether they were made before, at or after the interim transition time. Enactment is defined in new subsection 12(2).

New subsection 8A(2) exempts certain provisions of the Acts Interpretation Act 1901 (Cth) from applying to enactments. The primary reason for this is because they are not relevant to the operation of the Acts Interpretation Act 1901 as it relates to enactments. Provisions appropriate to Norfolk Island will apply to enactments under the Interpretation Act 1979 (NI).

Item 151 Explanation
This Item removes subsection 10D(1) which relates to the use of extrinsic material in the interpretation of an enactment. This section is no longer required as equivalent provisions in the Acts Interpretation Act 1901 (Cth) apply by virtue of new section 8A of the Interpretation Act 1979 (NI).

Item 152 Explanation
This Item omits a reference to the Interpretation Act 1979 (NI) and replaces it with a reference to equivalent provision in the Acts Interpretation Act 1901 (Cth), which applies by virtue of new section 8A of the Interpretation Act 1979 (NI).

Item 153 Explanation
This Item inserts words to make it clear that subsection 10D(2) applies to enactments made before the interim transition time.

Item 154 Explanation
The Item removes subsection 10D(3) which relates to the use of extrinsic material in the interpretation of an enactment. This section is no longer required due to the application of the Acts Interpretation Act 1901 (Cth) by virtue of new section 8A of the Interpretation Act 1979 (NI).

Item 155 Explanation
This Item inserts notes to assist the reader in navigating the changes to the Interpretation Act 1979 (NI) made by this Ordinance.
Item 156 Explanation
This Item repeals a provision defining an ‘enactment’. A new definition on ‘enactment’ is inserted by Item 160.

Item 157 Explanation
This Item inserts words clarifying that the definitions in subsection 12(2) also apply in respect of the Interpretation Act 1979 (NI).

Item 158 Explanation
This Item inserts a definition clarifying that the term ‘Administrator’ has a meaning affected by Part 2 of Schedule 1 to the Interpretation Act 1979 (NI), including the general rule in new subclause 5(1) of the Schedule.

Item 159 Explanation
This Item repeals definitions for consistency with the Interpretation Act 1901 (Cth).

Item 160 Explanation
The Item inserts a new definition of ‘enactment’ to reflect the changes to the range of laws in force in Norfolk Island as a result of the Norfolk Island Legislation Amendment Act 2015. The definition is consistent with the definition in the Norfolk Island Act 1979 (Cth), except that it does not include certain laws made under laws in force in Norfolk Island. These laws are not included in the definition of enactment because the Interpretation Act 1979 (NI) will apply to them by virtue of s 7 of that Act.

Item 161 Explanation
This Item repeals a definition to ensure consistency with the Interpretation Act 1901 (Cth).

Item 162 Explanation
This Item inserts a new definition of ‘Executive Council’ to make it clear that references to the ‘Executive Council’ in enactments refer to the body which existed before the interim transition time.

Item 163 Explanation
This Item repeals definitions no longer required after the application of the Interpretation Act 1901 (Cth).

Item 164 Explanation
This Item inserts a definition clarifying that the term ‘Minister’ has a meaning affected by Part 2 of Schedule 1, including the general rule in new subclause 5(1) of Schedule 1 to the Interpretation Act 1979 (NI).

Item 165 Explanation
This Item repeals definitions no longer required after the application of the Interpretation Act 1901 (Cth).
**Item 166 Explanation**
This Item repeals the existing definition of enactment as a new definition of the term has been inserted by Item 160.

**Item 167 Explanation**
This Item repeals a reference to a Norfolk Island Minister and substitutes a reference to the Commonwealth Minister. As the position of Norfolk Island Minister ceases to exist from the interim transition time, this change is made to make it clear the Commonwealth Minister will be responsible for publishing the dollar amounts of all fees in the Gazette.

**Items 168 and 169 Explanation**
These Items repeal provisions in the *Interpretation Act 1979 (NI)* not required after the application of the *Acts Interpretation Act 1901 (Cth)*.

**Item 170 Explanation**
This Item removes a reference to the laws of a State or Territory. The reference is redundant given the application of subsection 25B(1A) of the Acts Interpretation Act 1901 (Cth) by new section 8A of the *Interpretation Act 1979 (NI)*.

**Items 171, 172 and 173 Explanation**
These Items repeal provisions in the *Interpretation Act 1979 (NI)* not required after the application of the *Acts Interpretation Act 1901 (Cth)*.

**Items 174 and 175 Explanation**
These Items omit a reference to a provision in the *Interpretation Act 1979 (NI)* and replace it with a reference to the equivalent provision in the *Acts Interpretation Act 1901 (Cth)*, which applies by virtue of new section 8A of the *Interpretation Act 1979 (NI)*.

**Item 176 Explanation**
This Item repeals a provision in the *Interpretation Act 1979 (NI)* not required after the application of the *Acts Interpretation Act 1901 (Cth)*.

**Item 177 Explanation**
This Item omits a reference to a provision in the *Interpretation Act 1979 (NI)* and replaces it with a reference to an equivalent provision in the *Acts Interpretation Act 1901 (Cth)*, which applies by virtue of new section 8A of the *Interpretation Act 1979 (NI)*.

**Item 178 Explanation**
This Item repeals provisions in the *Interpretation Act 1979 (NI)* not required after the application of the *Acts Interpretation Act 1901 (Cth)*.

**Item 179 Explanation**
This Item inserts a note to alert the reader that a reference to the Administrator is affected by Schedule 1.

**Items 180 and 181 Explanation**
These Items repeal provisions in the *Interpretation Act 1979* (NI) not required after the application of the *Acts Interpretation Act 1901* (Cth).

**Item 182 Explanation**
This Item inserts words to clarify that paragraphs 29(1)(a) and (b) are relevant to references in enactments to Commonwealth Acts.

**Item 183, 184, 185 and 186 Explanation**
These Items repeal provisions in the *Interpretation Act 1979* (NI) not required after the application of the *Acts Interpretation Act 1901* (Cth).

**Item 187 Explanation**
This Item repeals provisions relating to the Legislative Assembly’s role in disallowing legislative instruments. As there will be no Legislative Assembly after the interim transition time, these sections are no longer relevant.

The Item substitutes new section 41A which relates to disallowable instruments that are ‘key instruments’. Key instruments will be instruments not made by the Commonwealth Minister, and the disallowance power for these instruments is conferred on the Commonwealth Minister by this section.

**Subsection 41A(1)** states the section applies to an instrument that an enactment confers the power to make and is expressed to be a disallowable instrument for the purposes of the section.

**Subsection 41A(2)** provides that if the instrument is not a legislative instrument (within the meaning of the *Legislative Instruments Act 2003* (Cth) or the *Legislation Act 2003* (Cth), section 12 of that Act still applies to the instrument, as if it were a legislative instrument, by virtue of this subsection. Section 12 of that Act contains provisions relating to commencement of instruments and includes a clause relating to negative retrospectivity which applies to instruments encompassed by this subsection.

**Subsections 41A(3) and (4)** require an instrument to be given to the Commonwealth Minister within 14 days after it is made. If a copy is not given to the Commonwealth Minister within the timeframe, the instrument ceases to have effect at the end of that timeframe.

**Subsection 41A(5)** empowers the Commonwealth Minister to disallow an instrument (or a part of an instrument) by notice in the gazette within 65 days of having been given a copy of the instrument.
Subsection 41A(6) provides that if an instrument (or part of it) is disallowed, that instrument (or part of an instrument) ceases to have effect in the same way as it would if that instrument (or part of an instrument) had been repealed.

Subsection 41A(7) relates to situations where an instrument (or part of it) ceases to have effect by either disallowance or through not being given to the Commonwealth Minister within 14 days after it is made. It provides that in such a case, any instrument or part of an instrument which may have been repealed by the instrument (or part of an instrument) which ceased to have effect will be revived as if it had not been repealed.

Subsections 41A(8) and (9) these subsections prevent an instrument (or a part of an instrument) which has ceased to have effect under this section from being remade in the same substance within the timeframes detailed in paragraph 41A(8)(b). Subsection 41A(9) provides that an instrument made in contravention of these requirements has no effect.

**Item 188 Explanation**
This Item replaces a reference to ‘Minister’ with ‘Commonwealth Minister’. As the position of Norfolk Island Minister ceases to exist from the commencement of the interim transition time, references to the position of Minister are no longer relevant.

**Item 189 Explanation**
This Item inserts a new section 43, which gives effect to the interpretive rules in Schedule 1 to the Interpretation Act 1979 (NI). Those rules are intended to enable the effective administration, after the interim transition time, of enactments that contain provisions relating to Norfolk Island Ministers, the Executive Council, the Administrator and the Legislative Assembly. This ‘general rules’ approach has been designed to avoid a need to amend each enactment individually (although separate, specific amendments have been made in this Ordinance where it has been identified that the general rules do not provide for an effective outcome).

Section 43 provides for Schedule 1 to affect the interpretation of all other enactments, despite their express terms, aside from s 19A Ordinances and the Interpretation Act itself.

Section 19A Ordinances are Ordinances made under s19A of the Norfolk Island Act (that is, Ordinances made at or after the interim transition time). Those Ordinances will be drafted consistently with the new governance arrangements for Norfolk Island, and the Schedule 1 rules will not be necessary.

Section 43(b) clarifies that where Schedule 1 applies to an enactment, s 8 of the Interpretation Act 1979 (NI) does not apply. Section 8 provides that the application of the Interpretation Act (in which Schedule 1 is contained) to another enactment is subject to a contrary intention in that other enactment. The exclusion of s 8 is necessary to enable Schedule 1 to effectively operate on other enactments.
Item 190 Explanation
This Item repeals the Schedule and substitutes a new Schedule 1 entitled ‘Administration of enactments at and after the interim transition time’.

Part 1—Introduction

New Clause 1 is a formal clause stating the object of Schedule 1.

New Clause 2 inserts a definition for Schedule 1 which provides that ‘Minister’ has the same meaning in the Schedule as the term had in the Interpretation Act 1979 immediately before the interim transition time.

New clause 3 provides that Schedule 1 does not affect a section 19A Ordinance. This clause has been included to allow for situations where a section 19A Ordinance needs to refer to the Administrator or to a Norfolk Island Minister without the reference being read as a reference to the Commonwealth Minister by virtue of new subclause 5(1).

New Clause 4 provides that Schedule 1 does not affect provisions of the Acts Interpretation Act 1901 (Cth) as they apply in relation to enactments because of section 8A of this Act.

Part 2—Commonwealth Minister’s roles
Division 1—Commonwealth Minister’s roles
Subdivision A—General rule

New clause 5 establishes a general rule in relation to roles belonging to a Minister or the Administrator before the interim transition time.

New subclause 5(1) provides that for the operation of an enactment at or after the interim transition time, a reference in an enactment to either the Minister (however described) or the Administrator is taken to be a reference to the Commonwealth Minister.

New subclause 5(2) provides that subclause 5(1) has effect subject to Subdivision B of the Schedule (containing exceptions to the general rule and other special rules). This means that the provisions in Subdivision B which deal with specific issues, take precedence over the general rule in subclause 5(1).

New subclause 5(3) lists enactments and regulations to which subclause 5(1) does not apply. These enactments and associated regulations have been individually amended to reflect the new governance arrangements, and excluded from the application of subclause 5(1), to preserve existing appeal mechanisms to the Commonwealth minister contained within the Acts.

New subclause 5(4) states that subclause 5(1) applies to an enactment, even if that enactment contains one or more references to the Commonwealth Minister (whether or not any of those
references were included in the enactment before, at or after the interim transition time). The insertion of a reference to the Commonwealth Minister into an enactment at or after the interim transition time does not affect the operation of Schedule 1 to the *Interpretation Act 1979* (NI) in relation to those amended provisions or on the rest of the enactment.

**New subclause 5(5)** is a transitional provision which provides that, in the circumstances set out in that provision, anything done by or in relation to a Minister or the Administrator before the interim transition time shall be treated as if it had been done by or in relation to the Commonwealth Minister. The relevant circumstances are that the exercise of a power, or performance of a function or duty after the interim transition time would be affected by the doing of anything before that time, and the power, function or duty has been conferred on the Commonwealth Minister because of the effect of subclause 5(1) on an enactment. This subclause is intended to allow, for example, a licence application made to the Norfolk Island Minister under an enactment to which subclause 5(1) applies to be determined by the Commonwealth Minister.

**New subclause 5(6)** provides that the clause does not affect the validity at or after the interim transition time of anything done before the interim transition time by a Minister or the Administrator.

**Subdivision B—Exceptions to general rule, and other special rules**

**New Clause 6** modifies any prerequisites or precondition which may exist for the Commonwealth Minister to take action under clause 5. It provides that where enactments stipulate that certain prerequisites or preconditions must be met before actions can be taken by the Minister or Administrator under those enactments, and the Commonwealth Minister may now take those actions because of subclause 5(1), the Commonwealth Minister is not required to comply with the relevant prerequisite or precondition. This clause will also apply to a delegate if the relevant power, function or duty has been delegated under clause 10.

**New Clause 7** requires that where an enactment is expressed to require or permit an amount of money to be paid or given to a Minister or the Administrator, the enactment has effect as if it required or permitted the money to be paid to the Administration instead.

**New Clause 8** provides that where, due to the operation of subclause 5(1) (or for any other reason), an enactment requires the Commonwealth Minister to interact with himself or herself, the Commonwealth Minister need not comply with this requirement. Subclause 5(2) confirms that the validity of an action is not affected merely because the Commonwealth Minister did not comply with the requirement that the Commonwealth Minister interact with himself or herself. This clause will also apply to a delegate if the relevant power, function or duty has been delegated under clause 10.
New Clause 9 contains special rules relating to the Legislative Assembly. These rules enable the continued operation of enactments that are still relevant after the abolition of the Legislative Assembly but which provide a role for the Legislative Assembly.

New Subclause 9(1) provides that where an enactment imposes a requirement on a person or body to give a thing to the Legislative Assembly (or a committee, officer or member of the Legislative Assembly) or to act in accordance with a resolution or recommendation of the Legislative Assembly, the person or body is not required to adhere to those requirements. The failure to give a thing to the Legislative Assembly (or a committee, officer or member of the Legislative Assembly) or act in accordance with its resolutions or recommendations does not affect the validity of any act.

New Subclause 9(2) provides that where an enactment provides for a thing to be done by or in relation to the Legislative Assembly before, or in connection with, the exercise of a power, or the performance of a function or duty by an authority, the thing need not be done before the power can be exercised or the function or duty performed.

Division 2—Delegation by Commonwealth Minister

New subclause 10(1) provides that the Commonwealth Minister may delegate in writing any or all of the powers, functions and duties that he or she has because of the operation of subclause 5(1) or because of an amendment of an enactment made by this Ordinance. The Commonwealth Minister may only delegate powers, functions or duties to persons listed in paragraphs (a) through (e) inclusive.

New subclause 10(2) provides that the Commonwealth Minister may, in writing, allow subdelegation of any powers, functions or duties mentioned in subclause 10(1), but a delegate may only subdelegate to those persons listed in paragraphs (a) through (e) inclusive of subclause 10(1).

New subclause 10(3) is a transitional provision which provides that delegations made by a Minister of Norfolk Island or the Administrator before the interim transition time continue in force and will be taken to have been made by the Commonwealth Minister. The Commonwealth Minister may amend or revoke such delegations.

New clause 11 provides that a person delegated a power, function or duty by the Commonwealth Minister under clause 10 must comply with any written directions of the Commonwealth Minister under clause 11, and that such directions may be either general or specific in nature. The power to issue a specific direction is intended to allow the Commonwealth Minister to issue a direction as to the exercise of a power, or the performance of a function or duty in a particular case. Subclause (3) confirms the Commonwealth Minister’s power to require a delegate to give him or her advance notice of the delegate’s intention to exercise a delegated power, function or duty before doing so. This subclause is
intended to enable the Commonwealth Minister to then issue a specific direction about a particular case, or to choose to personally exercise the power or perform the function or duty. The ability of the Commonwealth Minister to issue binding directions to delegates applies to delegations to which subclause 10(3) applies as well as delegations under subclause 10(1). Such directions would also apply in relation to subdelegations under subclause 10(2)).

New clause 12 provides that things which are done under a delegation under clause 10 are taken to have been actions of the Commonwealth Minister. If a delegate is exercising a power or performing a function or duty that depends on the Commonwealth Minister’s opinion, belief or state of mind, the delegate may exercise that duty in accordance with the delegate’s own opinion, belief or state of mind.

**Land Titles Act 1996 (Norfolk Island)**

**Item 191 Explanation**

This Item removes the word ‘disallowable’ in relation to an exemption issued under subsection 55B(3) is a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Land Valuation Act 2012 (Norfolk Island)**

**Items 192 and 193 Explanation**

These Items repeal a note which contains a reference to a provision in the Interpretation Act 1979 (NI) which is no longer relevant. This change is consequential to Item 170.

**Legal Aid Act 1995 (Norfolk Island)**

**Items 194 and 195 Explanation**

These Items repeal a provision relating to disallowable instruments. This change is consequential to Item 197 which repeals the only reference to disallowable instruments in the Act.

**Items 196 and 197 Explanation**

These Items repeal a provision stating that guidelines used under subsection 14(1) are a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Legal Profession Act 1993 (Norfolk Island)**

**Items 198 and 199 Explanation**
These Items relate to removing a reference to ‘disallowable instrument’ from the Act. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Liquor Act 2005 (Norfolk Island)**

**Items 200, 201 and 202 Explanation**

These Items remove references to instruments under the Act being disallowable. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Marine Safety Act 2013 (Norfolk Island)**

**Item 203 Explanation**

This Item removes a reference to the Norfolk Island Legislative Assembly. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, these words are removed to avoid any doubt that the Act continues to apply to its full extent despite the abolition of the Legislative Assembly. This amendment is not intended to alter the application or effect of the enactment, but merely to remove a reference to the Legislative Assembly.

**Item 204 Explanation**

This Item removes a reference to rules made under the Act being a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Mediation Act 2005 (Norfolk Island)**

**Item 205 Explanation**

This Item removes a reference a declaration made under the Act being a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.
Norfolk Island Broadcasting Regulations 2002 (Norfolk Island)
Item 206 Explanation
This Item removes a reference to the Legislative Assembly of Norfolk Island from a form prescribed in the regulations. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, the form would not be correct and is therefore amended.

Norfolk Island Hospital Act 1985 (Norfolk Island)
Items 207 and 208
These Items repeal a provision from the definitions section of the Act relating to disallowable instruments as the references in the provision are no longer relevant due to changes made to the Interpretation Act 1979 (NI) by this Ordinance.

Item 209 Explanation
This Item inserts words clarifying that by-laws made by the Hospital Director are a disallowable instrument for the purposes of section 41A of the Interpretation Act 1979 (NI) and are therefore subject to disallowance by the Commonwealth Minister.

Official Survey Act 1978 (Norfolk Island)
Item 210 Explanation
This Item omits references to the Interpretation Act 1979 (NI) which are repealed by Item 178, and replaces them with references to equivalent provisions in the Acts Interpretation Act 1901 (Cth), which applies by virtue of new section 8A of the Interpretation Act 1979 (NI).

Ombudsman Act 2012 (Norfolk Island)
Item 211 Explanation
This Item inserts words to make it clear that appointments made to an instrumentality on behalf of the Crown, the Administration, or the Legislative Assembly, may refer to appointments that were made in the past.

Planning Act 2002 (Norfolk Island)
The Ordinance makes a number of specific amendments to the Planning Act 2002 (NI), such as removing references to the Legislative Assembly and replacing references to ‘Minister’ with ‘Commonwealth Minister’. These amendments do not affect the operation of Schedule 1 to the Interpretation Act 1979 (NI) in relation to those amended provisions or on the rest of the enactment.

Item 212 Explanation
This Item substitutes a new definition of ‘approved plan’ to remove inoperable references to the Norfolk Island Legislative Assembly, as the Legislative Assembly ceases to exist from the commencement of the interim transition time. An ‘approved plan’ will now be approved by the Commonwealth Minister rather than the Legislative Assembly.
Item 213 Explanation
This item substitutes a new definition of ‘approved scheme’ to remove inoperable references to the Norfolk Island Legislative Assembly, as the Legislative Assembly ceases to exist from the commencement of the interim transition time. An ‘approved scheme’ will now be approved by the Commonwealth Minister rather than the Legislative Assembly.

Item 214 Explanation
This Item changes a reference. This is consequential to amendments made by Items 224 and 225.

Item 215 Explanation
This Item repeals a section relating to a requirement to give notice of refusal to act on application or variation of the plan. As the clause provides for various interactions between the Norfolk Island Legislative Assembly and the Minister, the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), would effectively mean the clause is of no effect. It is repealed for this reason.

Item 216 Explanation
This Item removes a requirement for a draft plan to be laid before the Norfolk Island Legislative Assembly by the Minister. As the Legislative Assembly ceases to exist from commencement of the interim transition time, this provision is redundant and therefore repealed.

Item 217 Explanation
This Item repeals a section which requires Legislative Assembly approval for a draft plan. As the Norfolk Island Legislative Assembly ceases to exist from commencement of the interim transition time, this provision is effectively redundant and it is therefore repealed. In its place, the Item substitutes a new section, allowing the Commonwealth Minister to approve a draft plan. The new clause provides the Commonwealth Minister can only approve a plan if it has been subject to consultation. The Item also requires a notice be placed in the Norfolk Island Gazette specifying the date the approved plan commences and include a statement indicating where and when the Plan is available for inspection.

Items 218 and 219 Explanation
These Items omit references to the Legislative Assembly of Norfolk Island. As the Legislative Assembly ceases to exist from commencement of the interim transition time, references to the Assembly are redundant and therefore repealed.

Item 220 Explanation
This Item repeals section 14 (requiring notice of commencement of an approved plan be published in the Gazette), as an equivalent provision has now been inserted in section 12 by Item 217.
**Item 221 Explanation**
This Item rewords subsections 12(2), (3), and (4) to remove references to the Norfolk Island Legislative Assembly. As the Legislative Assembly ceases to exist from commencement of the interim transition time, references to the Assembly are redundant and therefore repealed.

**Item 222 Explanation**
This Item repeals a section requiring Legislative Assembly approval for a draft development contribution scheme. As the Norfolk Island Legislative Assembly ceases to exist from commencement of the interim transition time, this provision is inoperable and therefore repealed. In its place, the Item substitutes a new section, allowing the Commonwealth Minister to approve a draft development contribution scheme. The new clause provides the Commonwealth Minister can only approve a draft development contribution scheme if it has been subject to consultation. The Item also requires a notice be placed in the Norfolk Island Gazette specifying the date the approved development contribution commences and include a statement indicating where and when the scheme is available for inspection.

**Items 223 and 224 Explanation**
These Items reword subsections 68(1) and 68(2) to remove references to the Norfolk Island Legislative Assembly. As the Legislative Assembly ceases to exist from commencement of the interim transition time, references to the Assembly are redundant and therefore repealed.

**Item 225 Explanation**
This Item repeals section 69 (requiring notice of commencement of an approved development contribution scheme be published in the Gazette), as an equivalent provision has now been inserted in section 67 by Item 222.

**Item 226, 227 and 228 Explanation**
These Items reword subsection 91(2) to remove references to the Norfolk Island Legislative Assembly. As the Legislative Assembly ceases to exist from commencement of the interim transition time, references to the Assembly are redundant and therefore repealed.

**Items 229 and 230 Explanation**
These Items correct references as a consequence of other changes made to the Act by the Ordinance.

**Planning Regulations 2004 (Norfolk Island)**
**Items 231 and 232 Explanation**
These Items repeal a number of regulations which are redundant as a consequence of changes in the Ordinance to the Planning Act 2002 (NI).

**Protection of Movable Cultural Heritage Act 1987 (Norfolk Island)**
The Ordinance makes a number of specific amendments to the Protection of Moveable Cultural Heritage Act 1987 (NI), such as removing references to the Legislative Assembly and replacing references to ‘Minister’ with ‘Commonwealth Minister’. These amendments
do not affect the operation of Schedule 1 to the *Interpretation Act 1979* (NI) in relation to those amended provisions or on the rest of the enactment.

**Items 233 to 258 (inclusive) Explanation**

These Items amend or repeal a number of provisions relating to the Legislative Assembly and Minister. Because of the structure of the *Protection of Moveable Cultural Heritage Act 1987* (NI), the interpretation of the Act in light of new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979* (NI), inserted by this Ordinance would be particularly complex. For this reason, specific amendments have been made to relevant provisions to make clear the Commonwealth Minister is the relevant person for many of the provisions and that he or she is not required to interact with himself or herself in discharging functions under the Act.

*Provident Account Act 1958 (Norfolk Island)*

**Item 259 Explanation**

This Item inserts a provision clarifying that instructions given by the Minister to the Official Trustee of the Provident Account should be written.

**Item 260 Explanation**

This Item repeals a clause providing that an instruction issued under subsection 4A(5) is a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979* (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

*Public Health Act 1996 (Norfolk Island)*

The Ordinance makes a number of specific amendments to the *Public Health Act 1996* (NI), such as removing references to the Legislative Assembly and replacing references to ‘Minister’ with ‘Commonwealth Minister’. These amendments do not affect the operation of Schedule 1 to the *Interpretation Act 1979* (NI) in relation to those amended provisions or on the rest of the enactment.

**Item 261 Explanation**

This Item repeals a clause relating to the Legislative Assembly of Norfolk Island. As the Legislative Assembly ceases to exist from commencement of the interim transition time, this reference to the Assembly is redundant and therefore repealed.

**Item 262 Explanation**

This Item repeals a section providing for Legislative Assembly approval of a Public Health Code. As the Legislative Assembly ceases to exist from commencement of the interim transition time, references to the Assembly are redundant and therefore repealed.
**Item 263 Explanation**
This Item repeals references to the Legislative Assembly approval of the draft Public Health code. As the Legislative Assembly ceases to exist from commencement of the interim transition time, these references are redundant. The Item substitutes new sections which allow the Commonwealth Minister to make and amend the Public Health Code, once the required notification period of the draft Public Health Code is satisfied.

**Public Moneys Act 1979 (Norfolk Island)**
The Ordinance makes a number of specific amendments to the Public Moneys Act 1979 (NI), such as removing references to the Legislative Assembly. These amendments do not affect the operation of Schedule 1 to the Interpretation Act 1979 in relation to those amended provisions or on the rest of the enactment.

**Item 264 Explanation**
This Item removes a reference to money set aside by the Legislative Assembly of Norfolk Island. As the Legislative Assembly ceases to exist from commencement of the interim transition time, references to the Assembly are inoperable and therefore repealed.

**Item 265 Explanation**
This Item removes the word ‘disallowable’ in relation to the establishment of a reserve fund 14(1). Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Item 266 Explanation**
This Item removes a reference to a head of the Reserve Fund being expressed in a resolution of the Legislative Assembly and to the means of altering the Reserve Fund where the Reserve Fund is established by an instrument. As the Legislative Assembly ceases to exist from commencement of the interim transition time, references to the Assembly are redundant and therefore repealed.

**Item 267 Explanation**
This Item removes a reference to the Legislative Assembly. As the Legislative Assembly ceases to exist from commencement of the interim transition time, references to the Assembly are inoperable and therefore repealed.

**Item 268 Explanation**
This Item removes a provision allowing the Legislative Assembly being able to alter a Reserve Fund. As the Legislative Assembly ceases to exist from commencement of the interim transition time, references to the Assembly are inoperable and therefore repealed.
Items 269, 270, 271 and 272 Explanation
These Items amend section 21 and repeal section 22, to reduce the scope for moneys to go to a Minister (noting the position of ‘Minister’ would be read as the Commonwealth Minister by virtue of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI)). It is intended for any monies payable to be paid to the holder of an office under an enactment or to the Administration of Norfolk Island.

Item 273 Explanation
This Item repeals provisions which require the Legislative Assembly to approve the terms of a direction under section 32D, 32E, 32EA or 32EB. As the Legislative Assembly ceases to exist from commencement of the interim transition time, these provisions relating to the Assembly are redundant.

Public Reserves Act 1997 (Norfolk Island)
Item 274 Explanation
This Item repeals provisions relating to Legislative Assembly approval of a draft plan and the making of a plan following Legislative Assembly approval of a draft plan. As the Legislative Assembly ceases to exist from commencement of the interim transition time, these particular provisions relating to the Assembly are redundant and therefore repealed. The Item inserts a new section allowing the Commonwealth Minister to make a plan of management after the notification requirements of section 11 are fulfilled.

Item 275 Explanation
This Item repeals subsections 16(2), (3) and (4), which provide for interactions between the Minister, Administrator and Legislative Assembly in respect of a draft management plan. Due to the Operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the roles of Minister and Administrator will both be filled by the Commonwealth Minister. To provide clarity, these sections are repealed and replaced with a new provision for varying a plan of management, which is equivalent to the process mandated for preparing a draft plan of management.

Item 276 Explanation
This Item omits a reference to a provision in the Interpretation Act 1979 (NI) which is repealed by Item 183 and replaces it with a reference to the relevant provision of the Acts Interpretation Act 1901 (Cth), which applies by virtue of new section 8A of the Interpretation Act 1979 (NI).

Public Sector Remuneration Tribunal Act 1992 (Norfolk Island)
Item 277 Explanation
This Item omits a term from the list of defined expressions which is no longer necessary given the repeal of the relevant definition by Item 290.
**Items 278, 279 and 280 Explanation**
These Items remove references to a member of the Legislative Assembly and the member of the Public Service Board from the list of people who cannot be appointed to the Public Sector Remuneration Tribunal. As the Legislative Assembly and Public Service Board will cease to exist these exclusions are no longer relevant. Item 280 removes reference to section 36 of the *Interpretation Act 1979* (NI). This is consequential to Item 183.

**Item 281 Explanation**
This Item removes provisions stating that a person is taken to resign from the Public Sector Remuneration Tribunal if they become a member of the Legislative Assembly or the Public Service Board. As these bodies will cease to exist, these provisions are inoperable and repealed. It will remain the case that if an appointee to the Tribunal should become an employee of the Administration, that employee will be taken to have resigned from the Tribunal.

**Item 282 Explanation**
This Item removes a provision which allows a person to be removed from the Tribunal on an address by the Legislative Assembly praying for the person’s removal on the grounds of proved misbehaviour or incapacity. As the Legislative Assembly will cease to exist from the interim transition time the provision is inoperable. A person may still be removed from the Tribunal by the Commonwealth Minister due to proven misbehaviour or incapacity.

**Items 283, 284 and 285 Explanation**
These Items amend section 8 to remove functions relating to the Legislative Assembly and Executive Council from the defined functions of the Public Sector Remuneration Tribunal. As the Norfolk Island Legislative Assembly and Executive Council cease to exist from the interim transition time these functions are no longer required to be performed by the Tribunal, so references to them have been removed.

**Items 286 and 287 Explanation**
These Items remove a requirement to lay a determination of the Tribunal before the Legislative Assembly. As the Norfolk Island Legislative Assembly ceases to exist from the interim transition time this section is inoperable. The requirement that a determination of the Tribunal be provided to affected employees as soon as practicable remains.

**Item 288 Explanation**
This Item removes from the Act the requirement for a standing appropriation in respect remuneration of Assembly members and Executive Council Members. As the Norfolk Island Legislative Assembly and Executive Council cease to exist from the interim transition time, this section is no longer required.

**Item 289 Explanation**
This Item makes an amendment to clarify that a disallowable instrument under the Act means a disallowable instrument for the purposes of section 41A of the *Interpretation Act 1979* (NI).
This means the Commonwealth Minister will have the power to disallow a disallowable instrument under the Act, including a determination made by the Public Sector Remuneration Tribunal under section 10 of the Act, which is a disallowable instrument (as provided for in subsection 13(5)).

**Item 290 Explanation**
This Item repeals the definition of ‘employer’. The definition was required by virtue of paragraph 8(1)(c). As this paragraph is repealed by Item 284, the definition is no longer required and is therefore repealed.

**Public Service Act 2014 (Norfolk Island)**
**Item 291 Explanation**
This Item inserts words to make it clear that appointments made to an instrumentality on behalf of the Crown, the Administration, or the Legislative Assembly, may refer to appointments that were made in the past.

**Item 292 Explanation**
This Item removes a provision providing that an instrument under section 2 of Schedule 1 to the Public Service Act 2014 (NI) is a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Removal of Prisoners Act 2004 (Norfolk Island)**
**Items 293 and 294 Explanation**
These Items remove references to an instrument under the Act being a notifiable instrument for the purposes of the Interpretation Act 1979 (NI). As a consequence of amendments made to the Interpretation Act 1979 (NI) these provisions are redundant and therefore repealed.

**Sale of Goods (Vienna Convention) Act 1987 (Norfolk Island)**
**Item 295 Explanation**
This Item removes a reference to the Legislative Assembly. As the Legislative Assembly will cease to exist after the interim transition time, these words are removed to avoid any doubt that the Act continues to apply to its full extent despite the abolition of the Legislative Assembly. This amendment is not intended to alter the application or effect of the enactment, but merely to remove a reference to the Legislative Assembly.

**Sale of Tobacco Act 2004 (Norfolk Island)**
**Items 296 and 297 Explanation**
These Items repeal references to instruments made under the Act being disallowable instruments. Due to the operation of new subclause 5(1) in Schedule 1 to the Interpretation Act 1979 (NI), the maker of the instrument will be the Commonwealth Minister. As an
instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Social Services Act 1980 (Norfolk Island)**

In order to preserve an existing appeal mechanism, and to prevent the Commonwealth Minister from being responsible for reviewing his or her own decisions, the general rule contained in new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979* (NI) does not apply in respect of this Act. Functions previously performed by a Norfolk Island Minister are in general conferred on the Administrator. This ensures that a person aggrieved by a decision made by the Administrator is able to appeal to the Commonwealth Minister.

**Item 298 Explanation**

This Item substitutes a reference to ‘Minister’ with ‘Administrator’. As the position of Norfolk Island Minister ceases to exist from the interim transition time, this Item confers the function of appointing an authorised officer on the Administrator.

**Items 299 and 300 Explanation**

These Items change references from ‘chairman’ to ‘chair’ in order to conform to modern gender neutral drafting standards.

**Item 301 Explanation**

This Item repeals the definition of ‘community member’ as other amendments to the Act made by this Ordinance mean the concept of ‘community member’ is no longer applicable.

**Item 302 Explanation**

This Item substitutes a reference to ‘Minister’ with ‘Administrator’, as the position of Norfolk Island Minister ceases to exist from the interim transition time. This amendment allows the function of determining a payment to be in the nature of income to be exercised by the Administrator (or the authorised officer).

**Item 303 Explanation**

The Item repeals the definition of ‘Legislative Assembly member’ of the Social Services Board. This is one of a number of amendments which removes the concept of a ‘Legislative Assembly member’ from the Act. As the Legislative Assembly ceases to exist from the interim transition time, there will be no members of the Assembly to serve on the Social Services Board, meaning the functions previously performed by the Legislative Assembly member will be performed by another member of the Board, to be appointed by the Commonwealth Minister.

**Item 304 and 305 Explanation**

These Items amend section 4 of the Act and repeal sections 5 and 6 to enable the Commonwealth Minister to appoint members of the Social Services Board, subject to the list
of persons who may not be appointed in subsection 4(4). Item 305 provides for the end of appointments to the Board. It allows for a board member to resign his or her appointment, and for the Commonwealth Minister to terminate the appointment of a member of the Board.

**Items 306, 307 and 308 Explanation**
These Items change references from ‘chairman’ to ‘chair’ in order to conform to modern gender neutral drafting standards.

**Item 309 Explanation**
The Item substitutes a reference to ‘Minister’ with ‘Administrator’, as the position of Norfolk Island Minister ceases to exist from the interim transition time, this amendment provides that the Administrator may convene a meeting of the Board should the Chair be unable to do so.

**Item 310 Explanation**
This Item changes references from ‘chairman’ to ‘chair’ in order to conform to modern gender neutral drafting standards.

**Item 311 Explanation**
This is one of a number of amendments to the Act which removes the concept of a ‘Legislative Assembly member’ from the Act. As the Legislative Assembly ceases to exist from the interim transition time, there will be no members of the Assembly to serve on the Social Services Board, meaning the functions previously performed by the Legislative Assembly member will be performed by another member of the Board, to be appointed by the Commonwealth Minister.

**Item 312 Explanation**
This Item changes a reference from ‘chairman’ to ‘chair’ in order to conform to modern gender neutral drafting standards.

**Item 313 Explanation**
This Item removes a requirement for a copy of minutes of proceedings of the Social Services Board be given to the Minister. As the position of Minister of Norfolk Island ceases to exist this requirement is no longer operable. The Act will still require minutes to be kept and furnished to the Administrator.

**Items 314, 315 and 316 Explanation**
These Items amend section 11 of the Act, to remove references to ‘Minister’ and substitute them with ‘Administrator’. As the position of Norfolk Island Minister ceases to exist from the interim transition time, the Administrator will be the relevant person for the purposes of those provisions. Item 315 repeals subsection 11(3), which allows the Administrator to make a request to the Minister to obtain a board report or recommendation. This provision is no longer required, as the Administrator can directly request a report or recommendation from the Board under subsection 11(4).
**Item 317 Explanation**
This Item changes references from ‘chairman’ to ‘chair’ in order to conform to modern gender neutral drafting standards.

**Items 318 to 323 (Inclusive) Explanation**
These Items amend the Act to removes reference to ‘Minister’ and substitute them with ‘Administrator’. As the position of Norfolk Island Minister ceases to exist from the interim transition time, the Administrator will be the relevant person for the purposes of those provisions. Item 322 removes a reference to a determination being disallowable. As an instrument made by the Administrator can also be repealed or amended by the Administrator, the ability of the Administrator to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Item 324 Explanation**
This Item removes a reference preventing the person issuing a determination referred to in subsection 26A(1) unless the determination is in accordance with a recommendation of the Board.

**Items 325 and 326**
These Items amend the Act, to removes reference to ‘Minister’ and substitute them with ‘Administrator’. As the position of Norfolk Island Minister ceases to exist from the interim transition time, the Administrator will be the relevant person for the purposes of those provisions.

**Item 327 to Item 334 (Inclusive)**
These Items amend the review of decision provisions in the Act. Previously a person was able to appeal the decision of a Norfolk Island Minister to the Administrator. In order to preserve a comparable avenue of appeal, the amendments this Ordinance makes to the Act has the effect of making the Administrator the decision maker under the provisions relevant to section 33. If dissatisfied with the decision of the Administrator, a person is able to appeal that decision to the Commonwealth Minister who is empowered by these amendments to undertake a review. If an appellant is dissatisfied with the decision of the Commonwealth Minister, it remains open to them to appeal to the Administrative Appeals Tribunal for a further review as set out in the *Administrative Appeals Tribunal Regulations 1976*.

**Social Services Regulations (Norfolk Island)**
**Item 335 Explanation**
The Item substitutes a reference to ‘Minister’ with a reference to ‘Administrator’ to ensure consistency between the Regulations and the *Social Services Act 1980* (NI).

**Supreme Court Act 1960 (Norfolk Island)**
**Item 336 Explanation**
The Item inserts a provision for clarity specifying that Item 41A of the *Interpretation Act 1979* (NI) applies to this instrument. The note confirms this and is included to assist readers.
**Telecommunications Act 1992 (Norfolk Island)**

**Item 337 Explanation**
This Item removes the word ‘disallowable’ from the list of defined terms. As references to disallowable instruments are repealed by other changes to the Act, the definition is no longer required.

**Item 338 Explanation**
The Item removes a reference to the intentions of the Norfolk Island Legislative Assembly. As the Legislative Assembly will cease to exist after the commencement of the interim transition time, these words are removed to avoid any doubt that the Act continues to apply to its full extent despite the abolition of the Legislative Assembly. This amendment is not intended to alter the application or effect of the enactment, but merely to remove a reference to the Legislative Assembly.

**Items 339, 340 and 341 Explanation**
These Items remove references to an instrument being disallowable. Due to the operation of new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979 (NI)*, the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Trees Act 1997 (Norfolk Island)**

**Items 342 and 343 Explanation**
These Items remove a provision stating that a determination made under section 11 is a disallowable instrument. Due to the operation of new subclause 5(1) in Schedule 1 to the *Interpretation Act 1979 (NI)*, the maker of the instrument will be the Commonwealth Minister. As an instrument made by the Commonwealth Minister can also be repealed or amended by the Commonwealth Minister, the ability of the Commonwealth Minister to disallow an instrument made by himself or herself is not required, so the words relating to the instrument being disallowable are omitted.

**Part 2—Application, saving and transitional provisions**

**Division 1—General saving provision**

**Item 344 Explanation**
This Item is a general saving provision, which provides that amendments made by the Schedule do not affect the validity at or after the interim transition time of anything done more the interim transition time. An example has been included to assist readers to understand the intended operation of the provision.
Subitem 344(2) clarifies that subitem 344(1) does not prevent the variation or revocation, consistently with an enactment, of something done under that enactment before the interim transition time.

Subitem 344(3) provides that the general saving provision in subitem 344(1) is subject to the specific application, saving and transitional provisions contained in Division 2 of Part 2 of Schedule 1 to the Interpretation Act 1979 (NI).

**Item 345 Explanation**
This Item is a general transitional provision which provides that, in the circumstances set out in that provision, anything done by or in relation to a Minister or the Administrator before the interim transition time shall be treated as if it had been done by or in relation to the Commonwealth Minister. The relevant circumstances are that the exercise of a power, or performance of a function or duty by the Commonwealth Minister at or after the interim transition time is affected by the doing of anything before that time, and the power, function or duty has been conferred on the Commonwealth Minister under an enactment amended by Schedule 1 to the Ordinance.

**Division 2—Specific application, saving and transitional provisions**

**Item 346 Explanation**
This Item provides that the amendments to the Annual Reports Act 2004 (NI) only apply to annual reports in respect of the financial year which began on 1 July 2014 and later years.

**Item 347 Explanation**
Subitem 347(1) provides that at the interim transition time, the member of the Planning Board who was appointed by virtue of being a Legislative Assembly member will cease to be a member of the Planning Board (as they are no longer a member of the Legislative Assembly). The notes refer to the Commonwealth Minister’s power to appoint a replacement member, and clarify that the other members of the Planning Board will continue to be members of the Planning Board.

Subitem 347(2) provides that where the Legislative Assembly had approved a proposal that an environmental impact statement be prepared in relation to an application, subsections 26(3) and 29(4), as amended by this Schedule, apply in relation to the application as if the Commonwealth Minister had determined an environmental impact statement be prepared.

**Item 348 Explanation**
This Item provides that at the interim transition time, the member of the Claims Committee who was appointed by virtue of being a Legislative Assembly member will cease to be a member of the Claims Committee (as they are no longer a member of the Legislative Assembly). The note refers to the Commonwealth Minister’s power to appoint a replacement member.
Item 349 Explanation
This Item clarifies that the provision for review of decisions of the Administrator under subsections 84(1) and 85(1) as amended by this Ordinance apply to decisions made at or after the interim transition time.

Subitem 349(2) provides that subsections 84(6), (7) and (8) which provide for the requesting and giving of information and documents, apply as amended by this Ordinance, in relation to a review of relevant decisions at or after interim transition time, irrespective of whether the decisions were made before, at or after that time.

Item IA350 Explanation
Subitem 350(1) provides that section 41A of the Interpretation Act 1979 (NI) (the disallowance provision for key instruments), as amended by this Ordinance, applies to instruments made at or after the interim transition time.

Subitem 350(2) provides that section 41A applies (with the modifications set out in Subitem 3) to certain instruments, namely, disallowable instruments made before the interim transition time by an authority other than a Minister or the Administrator under an enactment, which may not have commenced fully by the interim transition time, and had either not been tabled before the interim transition time or had been tabled but not disallowed before that time.

Subitem 350(3) modifies the way that section 41A of the Interpretation Act 1979 (NI) applies to instruments made before the interim transition time in certain circumstances.

Item 351 Explanation
Subitem 351(1) provides that a person who was appointed as the Legislative Assembly member of the Social Services Board, including if they were chairman of the Board, ceases to be a member at the commencement of the interim transition time (as they are no longer a member of the Legislative Assembly).

Subitem 351(2) provides that amendments of section 33 of the Act (relating to appeals) apply in relation to decisions made at or after the interim transition time.

Schedule 2—Repeals

Part 1—Repeals of Acts

Item 1 Explanation
This Item repeals a number of Acts which are not required from the interim transition time.

Legislative Assembly Act 1979 (NI)
This Act is repealed as it relates to the Legislative Assembly. As the Legislative Assembly ceases to exist from the commencement of the interim transition time, the Act is no longer required.

*Legislative Assembly (Register of Members’ Interests) Act 2004 (NI)*

This Act is repealed as it relates to the Legislative Assembly. As the Legislative Assembly ceases to exist from the commencement of the interim transition time, the Act is no longer required.

*Referendum Act 1964 (NI)*

This Act is repealed as the establishment of the Advisory Council provides for a means of ongoing community consultation and engagement during the interim transition time, after which a Regional Council will be established.

**Part 1—Repeals of Regulations**

**Item 2 Explanation**

This Item repeals a number of Regulations which are not required from the commencement of the interim transition time.

*Legislative Assembly (Register of Members’ Interests) Regulations 2005 (No.4 of 2005)*

These Regulations are repealed as they relate to the Legislative Assembly. As the Legislative Assembly ceases to exist from the commencement of the interim transition time, the Regulations are no longer required.