



# Norfolk Island Government Gazette

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NORFOLK ISLAND GOVERNMENT GAZETTE NO. 51

Friday 28 October 2005

**NORFOLK ISLAND ACT 1979**  
**ASSENT TO AN ACT OF THE LEGISLATIVE ASSEMBLY**

IT IS HEREBY NOTIFIED that, on 25 October 2005, acting pursuant to section 21 of the *Norfolk Island Act 1979*, I declared my assent to the following proposed laws passed by the Legislative Assembly:

<b><u>Act</u></b>	<b><u>Commencement</u></b>
Evidence (Amendment No. 2) Act 2005 (Act No. 25 of 2005)	On gazettal
Summary Offences Act 2005 (Act No. 26 of 2005)	On gazettal
Bail Act 2005 (Act No. 27 of 2005)	On gazettal

Dated 26 October 2005.

**GRANT TAMBLING**  
**ADMINISTRATOR**

**NOTIFICATION OF THE MAKING OF REGULATIONS**

IT IS HEREBY NOTIFIED, under section 33 of the *Interpretation Act 1979*, that the following Regulations have been made:

<b><u>Enactment under which the Regulations made</u></b>	<b><u>Citation of the Regulations</u></b>	<b><u>Number &amp; Year of the Regulations</u></b>
Road Traffic Act 1982	Road Traffic General (Amendment No. 2) Regulations 2005	No. 7 of 2005

Dated 25 October 2005.

**MICHAEL STEPHENS**  
**OFFICIAL SECRETARY**

**NOTICE OF PUBLIC ACCESS TO REGISTER OF ADMINISTRATOR INTERESTS**

IT IS HEREBY NOTIFIED that, from 1 November 2005, the Office of the Administrator will maintain a register of pecuniary interests of the Administrator, the Hon Grant Tambling, to promote full and transparent disclosure of such interests during the term of his appointment.

The Official Secretary will maintain a Register of Administrator's Interests, based on information submitted by the Administrator. While voluntary in nature, the return by the Administrator to the Register will adopt similar information and reporting requirements as specified for Norfolk Island Legislative Members under the *Legislative Assembly (Register of Members' Interests) Act 2004* and *Legislative Assembly (Register of Members Interests) Regulations 2005*.

The file entries as lodged by the Administrator contain copies of previous declarations made to the Chief Minister on 12 February 2004, 10 August 2004 and 14 July 2005, and to the Official Secretary dated 24 October 2005.

A person may, during normal business hours of the Office of the Administrator and at an appointed time, inspect the entries made in the Register in relation to the Administrator after first providing to the Official Secretary the person's full and correct name and address.

The Official Secretary shall record in the Register, in such manner that the information is readily available to any other person who later inspects the relevant entries, the name and address of each person who has inspected those entries and the date on which inspection is made.

Dated 24 October 2005.

**MICHAEL STEPHENS**  
**OFFICIAL SECRETARY**

**BILLS PRESENTED IN THE LEGISLATIVE ASSEMBLY ON 19 OCTOBER 2005**

The following Bills were presented:

**De Facto Relationships Bill 2005:**

This Bill proposes to make provision for determining the rights and obligations of persons who cohabit in marriage-like relationships and who, by reason of their relationship, may be seen to incur mutual obligations.

Under this Bill, two adults who are not married to each other can make:

- a cohabitation agreement, or
- a separation agreement.

A cohabitation agreement primarily provides for financial matters between partners and can be made in contemplation of entering into a de facto relationship, or during the relationship. A separation agreement is very similar but is made in contemplation of terminating a de facto relationship, or after it has ended. A de facto partner may apply to the Supreme Court for an order adjusting the property interests of the partners or for the granting of maintenance. In cases where such an application is made and the court is satisfied that:

- a cohabitation agreement or separation agreement exists
- the agreement is in writing, and
- the agreement is signed by the other de facto partner,

the court must not make an order that is inconsistent with the terms of the agreement except in certain circumstances (eg where enforcement of the agreement would lead to serious injustice between the parties).

There are some advantages for couples able to agree on how financial matters will be dealt with in the event of separation:

- the agreement can be tailored to the individual needs of the partners
- making an agreement is quicker and cheaper than going to court
- by helping couples avoid the adversarial court process, agreements may assist couples to avoid escalating levels of confrontation and maintain a civil relationship.

A person who is, or has been, in a de facto relationship can apply to the Supreme Court to make an order adjusting the property interests of either or both of the partners or for the granting of maintenance, or both. The court is able to make an order for maintenance if:

- the partners have been, or were, in a de facto relationship for not less than two years, or
- there is a child of the partners, or
- the partner applying for the order has made substantial contributions (either financial or non-financial) over the course of the relationship, or has the care and control of a child of the other partner, and the failure to make an order would result in serious injustice to that partner.

In addition, a court may not make an order for maintenance unless one or both of the partners lived in Norfolk Island on the day on which the application was made, and

- both partners lived together in Norfolk Island for not less than one third of the period of their de facto relationship, or
- the partner applying for the order has made substantial contributions while in Norfolk Island.

An application to the court for an order for maintenance has to be made within two years after the relationship's end but the court may allow a person extra time in which to apply for an order in certain circumstances.

The court may make a maintenance order if it is satisfied that the partner applying for maintenance has not married or entered into another de facto relationship and is unable to support himself or herself adequately because:

- he or she has the care and control of a child of the de facto partners, or a child of the other partner, who has not attained the age of 18 years, or
- his or her earning capacity has been adversely affected by the circumstances of the relationship, and in the opinion of the court an order for maintenance would increase his or her earning capacity by enabling him or her to undertake a course of training or education, and, having regard to all the circumstances of the case, it is reasonable to make the order.

In determining whether, and how, maintenance should be paid the court must have regard to:

- the income, property and financial resources of each partner
- the financial needs and obligations of each partner
- the capacity of each partner for employment
- the eligibility of either party for a pension, allowance or benefit payable by a State or Territory of Australia or by another country, and the rate of any such pension, allowance or benefit
- the eligibility of the party against whom the order is sought for a pension, allowance or benefit payable by the Australian or Norfolk Island Governments, and the rate of any such pension, allowance or benefit

- the responsibilities of either partner to support any other person
- any adjustment of property interests ordered by the court, and
- any child support payments made to either partner

In making a maintenance order, a court will disregard any entitlement of the party applying for maintenance to an income-tested pension or benefit payable by the Australian or Norfolk Island Government. A maintenance order will cease to have effect if either partner dies, or on the marriage of the person receiving maintenance.

#### **Land Titles (Amendment) Bill 2005**

This Bill is intended to close some avenues available for the evasion or avoidance of fees under the *Land Administration Fees Act 1996* and to correct an anomaly arising from the *Companies Act 1986*. The Bill is also intended to ensure that when a company owns an interest in land a change in shareholding of a company that is the owner of shares in another company that is the actual owner of the land must be notified. Under the present legislation it is only the change in ownership of the company that owns land that must be notified and this requirement along with the fees on the change of ownership can be avoided by having one or more additional companies interposed.

The Bill also covers the situation where a change in a beneficial interest can be made and notification of change avoided. This requires a person to inform the Registrar of beneficial interests and covers the situation of a person selling under a power of attorney to provide a statement of how the proceeds of the sale are to be applied. The intention of this is to prevent, as far as practicable, the sale of land that is not disclosed in order to avoid payment of a fee and allows the purchaser to be in a position to sell under the guise of holding a power of attorney from the registered proprietor.

Finally, the Bill requires a person seeking to effect a transfer of land to produce a certified contract of sale or if there is none a document setting out the material conditions of the sale and for it to be an offence for a person to provide a false certificate

#### **Mediation Bill 2005**

The purpose of this Bill is to provide the Supreme Court and the Federal Court with the ability to refer disputes to mediation by persons on Norfolk Island who are qualified mediators.

Mediation of disputes has over the past 20 years gained wide acceptance as a tool used by courts to resolve issue without full resort to courts and the high cost that often involves, to reduce the extent of depression, frustration, anger and relationship break-down that often results from litigation and generally reduce the cost of the legal system to the community and provide better service by the court system.

This Bill establishes a simple arrangement for agencies that train and accredit mediators to be approved and for persons who are already accredited mediators by an approved agency to apply for registration in Norfolk Island. The Registrar of the Supreme Court maintains the register of mediators.

#### **Road Traffic (Provisional Licences) Bill 2005**

This Bill has been prepared in consultation with the Road Traffic Committee and seeks to provide a more stringent regime for the licensing of young drivers through changes to the learner-driver rules and introduction of provisional licences.

The Act introduces a provisional licence and increases from 17 to 19 years the age restriction on driving vehicles. The holder of a provisional licence is not, unless the licence is endorsed otherwise, allowed to drive on public roads between 10pm and 6 am; is not allowed to act as the licensed driver when a person with a learners licence is driving; may not carry more than one passenger or having a blood/alcohol content greater than 0.02, be in control of a motor vehicle. The owner or person in control of a motor vehicle must not allow a person to drive the motor vehicle if the driver would be in breach of a condition attached to the licence.

The provisions concerning learners licences is amended to raise from 15 to 16 the age at which a learners licence can be obtained and remains in force for 12 months or until the holder attains 17 years unless the driver is eligible for and is granted a provisional licence. Learner drivers must display "L" plates inside the rear window and be visible from behind. A provisional licence is issued to a person who is at least 17 years of age and has held a learners licence for at least 6 months and lasts for 3 years after which a full licence may be granted. The holder of a provisional licence must display a "P" plate inside the rear window where it is visible from behind.

The requirements for the issue of a full drivers licence are altered to require that a person must have either held a provisional licence or a recognized licence for 3 years.

The Bill contains a transitional provision that has the effect of providing that licences already granted to persons at the time the Bill comes into law are deemed to be provisional licences until the expiration of 3 years after they were originally granted. Thus if a person has held a full licence for 2 years, the licence is deemed to be a provisional licence for the next 12 months. This transitional provision does not affect anything that has already occurred.

**Commercial Arbitration Bill 2005**

This Bill has been prepared to provide Norfolk Island with a modern Arbitration law. The Bill reflects the uniform commercial arbitration regime as it is in Australia at present and has been brought forward in the light of the non-existence of any useful law and the disadvantage such absence imposes on Norfolk Island by being unable to require that disputes within contracts into which it enters are to be resolved by arbitration in accordance with Norfolk Island law.

The Bill is divided into various parts including the appointment of arbitrators and umpires, the conduct of arbitration proceedings, awards and costs, powers of the Court, and general provisions..

**Administration and Probate Bill 2005**

This Bill is intended to replace the *Probate and Administration Act 1976*. The Bill is an adoption of the A.C.T legislation in place at the present time. Particular areas of change in the Bill relate to the provision for illegitimate children and de facto partners, but also to the distribution of property on an intestacy which more broadly and in greater detail than before makes provision for dealing with property where various interests arise.

The Bill also increases the level of fees payable for legal services in obtaining a grant for probate or administration. The testators family maintenance provisions included at Part 11 are adapted for consistency from the *Family Provisions Act 1969* of the A.C.T. and allow persons who the courts are satisfied ought to have provided for in a Will but who have been ignored or under-provided for, to be allowed to enjoy a share in an estate as the Court determines. These provisions apply to the estates of persons who died before 1 December 2005 but not if the estate has been lawfully distributed before then.

Copies of these Bills may be obtained from the Clerk Legislative Assembly on phone 22003. These Bills are also available on the internet at [www.info.gov.nf](http://www.info.gov.nf).

Dated 20 October 2005.

**ROBIN-ELEANOR ADAMS**  
**CLERK TO THE LEGISLATIVE ASSEMBLY**

**BILLS TABLED AS “EXPOSURE DRAFTS” IN THE LEGISLATIVE ASSEMBLY ON 19 OCTOBER 2005**

At the meeting of the Legislative Assembly on 19 October 2005 the Minister for Community Services, the Hon. John Brown MLA, tabled draft legislation in relation to Marine Safety – the Marine Safety Bill 2004 dated 6.9.04.

Copies of the Bill and the accompanying Marine Safety Proposals and Regulatory Impact paper may be obtained free of charge from the Clerk to the Legislative Assembly, phone 22003 or by email on [clerk@assembly.gov.nf](mailto:clerk@assembly.gov.nf). These Bills are also available on the internet at [www.info.gov.nf](http://www.info.gov.nf) under the heading “*Bills introduced into the 11<sup>th</sup> Legislative but not yet passed*”.

Dated 20 October 2005.

**ROBIN-ELEANOR ADAMS**  
**CLERK TO THE LEGISLATIVE ASSEMBLY**

**TABLING OF DISALLOWABLE INSTRUMENTS**

The following disallowable instrument was tabled at the sitting of the Legislative Assembly on Wednesday 19 October 2005:

*Associations Incorporation Regulations 2005*

Dated this 20 October 2005.

**ROBIN-ELEANOR ADAMS**  
**CLERK TO THE LEGISLATIVE ASSEMBLY**

**NOVEMBER SITTING OF THE LEGISLATIVE ASSEMBLY OF NORFOLK ISLAND**

At the sitting of the Legislative Assembly on 19 October 2005 the House resolved to adjourn until Wednesday 16 November 2005 at 10 am.

Dated 20 October 2005.

**ROBIN-ELEANOR ADAMS**  
**CLERK TO THE LEGISLATIVE ASSEMBLY**

**CAMPING IN POINT HUNTER AND GOVERNMENT HOUSE GROUNDS RESERVES**

I, Frederick William Miles Howe, Conservator of Public Reserves, hereby approve under section 37 of the public Reserves Act 1997 the areas of the Point Hunter Reserve and Government House Grounds Reserve marked on the map below to be areas which may be used for camping overnight from 12 December 2005 until 06 March 2006.

Residents wishing to camp at Kingston during December 2005, or January, February or March 2006 should apply in writing to the Conservator of Public Reserves before 18 November 2005. Applications should state the period during which it is desired to camp and the number of campers proposed at the site.

Applications already made will be considered and those applicants need not re-apply.

Applications will only be approved for tents erected on designated campsites within the approved camping areas.

For reasons of public safety no solid screens eg timber or corrugated iron may be erected

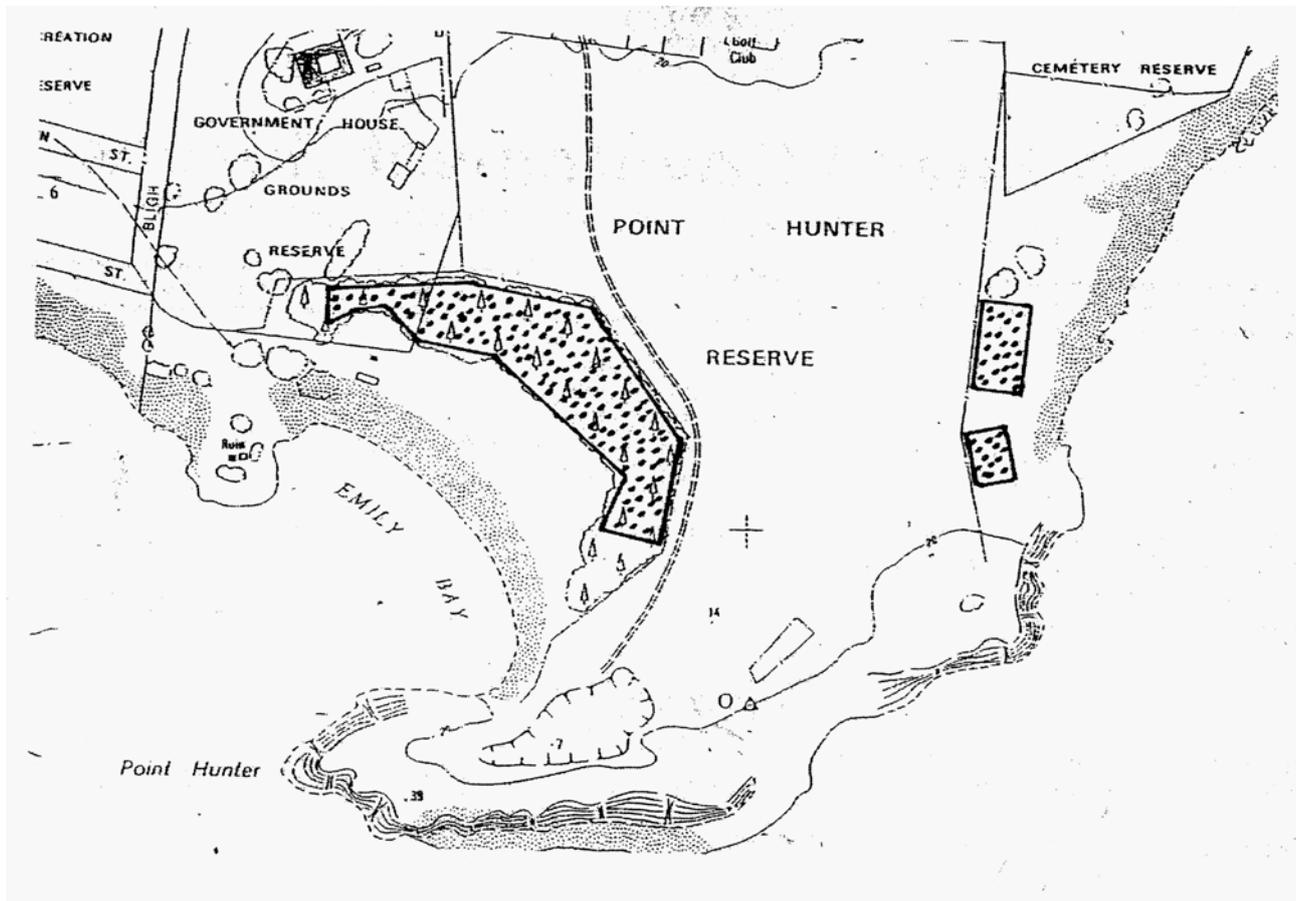
No dogs or other domestic animals will be permitted in the areas approved for camping.

Applicants should be aware that the *Public Reserves Act 1997* prohibits:

- Depositing litter, refuse and garbage;
- Lighting fires, other than in an approved fireplace or a portable gas barbecue or stove;
- Picking or removing plants; and
- Leaving or using motor vehicles in the area approved for camping, or on other parts of a public reserve not approved for that purpose (including the golf course).

20 October 2005.

**F.W. (MILES) HOWE  
CONSERVATOR OF PUBLIC RESERVES**



**COURT OF PETTY SESSIONS**

The next Sittings of the Court of Petty Sessions is set down for Tuesday 8<sup>th</sup> November 2005 at 10.00am in the Court House, Kingston.

**A.V.A. BATAILLE**  
**CLERK OF THE COURT**

**ADMINISTRATIVE REVIEW TRIBUNAL**

The next Sittings of the Administrative Review Tribunal is set down for Thursday 24<sup>th</sup> November 2005 at 10.00am in the Court House, Kingston.

**A.V.A. BATAILLE**  
**SECRETARY**

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