

NORFOLK ISLAND GOVERNMENT TOURIST BUREAU (AMENDMENT) BILL 2011

EXPLANATORY MEMORANDUM

The intent of this Bill is to change the organisation structure of the Norfolk Island Government Tourist Bureau as established under the *Norfolk Island Government Tourist Bureau Act 1980*. The revised structure will resemble that established for the Norfolk Island Hospital Enterprise under the *Norfolk Island Hospital Act 1985*. To that end the Norfolk Island Government Tourist Bureau will retain its name and corporate identity but the powers (including employment) of the Bureau and day to day management of Bureau activities will be exercised by a general manager. There will be an Advisory Board, of 6 persons nominated by the Minister in accordance with a resolution of the Legislative Assembly (two of whom may be nominated to the Minister by a recognised association). These members will hold office for 2 years and may be re-appointed. The Minister will appoint the chairperson. The general manager will be appointed by the Minister on the recommendation of the Advisory Board. The NIGTB Advisory Board will act in relation to the Bureau in the same way as does the Hospital Advisory Board to the Hospital Enterprise. The Advisory Board will be a source of advice on strategy and direction regarding the Bureau and development of the tourism industry.

Clauses 1-3 of the Bill provide the usual short title, commencement and cross reference to the principal Act being amended.

Clause 4 adopts a Schedule that sets out the various amendments to be made to the principal Act.

Clause 5 changes all references to “executive member” in the principal Act to “Minister” following passage of the *Territories Law Reform Act 2010* (Commonwealth).

Clause 6 makes some consequential amendments to the *Public Sector Remuneration Tribunal Act 1992* by changing a section reference in the definition of a “public sector employee” to conform with the changes by the Bill and also takes the opportunity to correct, in the same definition, an incorrect section reference in the *Norfolk Island Hospital Act*.

The Schedule sets out the changes made by clause 4.

Item 1 inserts into the principal Act definitions of “Advisory Board”, “member”, and “recognised association”.

Item 2 permits the Tourist Bureau to use the name “Norfolk Island Tourism” as a business name without registration under the *Business Names Act 1976* while making it clear that the use of the name does not have any effect upon the powers, rights and responsibilities of the Bureau.

Item 3 repeals section 4 of the principal Act and substitutes a new section 4 as follows—

Section 4 establishes the Norfolk Island Government Tourist Bureau Advisory Board (abbreviated as the “Advisory Board”). This provides that the Advisory Board has 6 members appointed by the Minister on the advice of the Legislative Assembly; that the general manager and employees of the Bureau, cannot be members (it is left open that members of the Legislative Assembly, including Ministers, are eligible for appointment but there is no requirement that any be appointed); that the Advisory Board can still act if there is a vacancy in membership; that except for half of the first term members, members hold office for 2 years and are eligible to be re-appointed; and that if a vacancy occurs for any reason the vacancy must be filled only for the remainder of the term of the person being replaced in accordance with a

resolution of the Legislative Assembly. The first members are appointed in a staggered way so that half will be appointed for only 18 months following which their replacements will be appointed for 2 years thereby establishing a staggered board with half being replaced every 2 years for the full 2 year term.

Item 4 established that a recognised association to be declared as such by the Minister, must be incorporated as an association, be established to promote tourism in Norfolk Island (and for related purposes – such as organising tourist events), and have at least the prescribed number of members. The amendments also alter the number of members who may be nominated by a recognised association to 2 (at present 1 or 2), and replaces a reference to the “Bureau” to the “Advisory Board”.

Item 5 repeals sections 6, 7, 8, and 9 of the principal Act and substitutes new sections as follows—

Section 6 empowers the Minister to appoint delegates (previously “deputies”) to act for a member who is absent from a meeting or unable to discharge official duties: if a member ceases for any reason to be a member the appointment of the deputy lapses. The amendments require that a member nominated by a recognised association can only be represented by a delegate also nominated by the same association and similarly a member who is a member of the Legislative Assembly can only be represented by a delegate who is also a member of the Assembly.

Section 6A provides for the chairperson to be appointed by the Minister and sets out the powers of the chairperson. It is made clear that the chairperson has no executive powers (meaning that he or she cannot act on behalf of or bind the Bureau in any way) but is responsible for the conduct of meetings, acting as a conduit between the Advisory Board and the Minister and for the issue of reports of the Bureau. A member appointed by the Minister (other than a member who is a member of the Legislative Assembly) to be Deputy Chairperson may exercise the powers of the Chairperson.

Section 7 provides for members to resign or for a member or delegate to be removed by the Minister for misconduct or incapacity.

Section 8 provides for meetings of the Advisory Board as determined by the Chairperson or upon request from the Minister or the other 2 members of the Board. Three members of the Advisory Board constitute a quorum and decisions must be by majority. The chairperson has no casting vote. The Advisory Board must keep minutes of its meetings and may determine its own procedures.

Section 9 provides for the appointment by the Minister, upon the recommendation of the Advisory Board, of a general manager of the Bureau and upon such terms and conditions, not otherwise provided for in the Act, as determined by the Minister upon the Advisory Board’s recommendation. If the general manager is absent, not able to perform his or her duties or the position is vacant, the Minister may appoint an acting general manager but such appointment cannot extend for an aggregate time of more than 6 months in any continuous period of 12 months.

New section 9A sets out the duties of the general manager. He or she has the day to day management and control of the business of the Bureau: confidentiality in relation to matters set out in subsection (1) and requires that he or she keep the Advisory Board informed about the operations of the Bureau. The amendments make it clear that the general manager has a duty to be timely frank and honest in his dealings with the Advisory Board.

New section 9B. sets out the powers that may be exercised by the general manager in carrying out his or her duties. These are things necessary or convenient in connection with or incidental to the performance of the Bureau's powers and functions (which means that he or she cannot do anything that the Bureau is not competent to do lawfully). The various powers that may be exercised are those of the Bureau set out in section 11 of the principal Act; the employment of officers and staff for the Bureau and their duties and responsibilities and in making any such appointments the general manager must conform to Human Resource Policies adopted by the Bureau.

New section 9C authorises the Minister upon the advice of the general manager and the Advisory Board to appoint a deputy general manager and the deputy may act in the office of the general manager if the Minister has not appointed an acting general manager in accordance with subsection 9(3).

Item 6 inserts several new sections setting out the principles to be adhered to by the Bureau, the functions and powers of the Advisory Board and a requirement on the Board to provide reports, as follows—

New section 11A sets out the broad principles to be complied with by the Bureau as a corporate entity. These generally reflect the principles applicable to the Norfolk Island Hospital and have particular reference to the development of the tourist industry, the preservation of the ecology of the Island and recognition that the place of the Island as a home for its residents is of paramount importance.

New section 11B sets out the functions and powers of the Advisory Board that are also reflective of the functions and powers of the Hospital Advisory Board and in particular are to provide advice to the Minister and guidance to the general manager in his or her day to day management of the Bureau in accordance with government guidelines.

New section 11C requires the Advisory Board to provide the Minister with an annual report (each financial year) for presentation to the Legislative Assembly and such other reports as may be required. It is expected that the members of the Advisory Board who represent a recognised association will regularly report to and keep the association informed of the activities of the Board as well as keep the Board informed of the views of the association and its members.

Item 7 repeals section 12 of the principal Act which provides for the employment of persons by the Bureau (to be replaced by the provisions of the new section 9D empowering the general manager to employ staff).

Item 8 inserts an additional power (in subsection 15(1)) for the Minister to give directions to the Bureau concerning the financial and accounting procedures of the Bureau.

Item 9 inserts a new section 15A to empower the Minister to notify the Bureau of general policies of government that are to apply to the Bureau.