

1979

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

AMENDMENTS TO THE NORFOLK ISLAND BILL 1978

EXPLANATORY MEMORANDUM

(Circulated by the Minister for Home Affairs,
the Hon. Robert James Ellicott, Q.C., M.P.)

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- Number 1 Provides a new preamble to the Bill which outlines the legislation and other formal acts that have determined the status of Norfolk Island since 1843, recognises the special relationship of the descendants of the Pitcairn settlers with Norfolk Island, and expresses the Parliament's desire, over a period of time, to confer internal self-government on Norfolk Island.
- Number 2 Drafting change.
- Number 3 Definition. Will enable the Legislative Assembly to decide how its laws will be named. The new definition necessitates numerous consequential changes to the Bill. The relevant changes are set out in amendment numbers 4, 11-27, 29-72, 74-76, 78-94, 96, 98, 100-103 and 111-113.
- Number 4 Consequential on number 3.
- Number 5 Definition. Provides that the official name of the Territory will be preserved, viz "Norfolk Island", not the "Territory of Norfolk Island".
- Number 6 This change ensures consistency with the wording of the Order in Council of 30 March 1914 and the Norfolk Island Act 1913, cited in the preamble.

- Number 7 Consequential on number 8.
- Number 8 Rewords the existing sub-clause 7(3) to overcome an objection by the Norfolk Island Council that the sub-clause might permit executive action on Schedule 3 matters to be taken by the Administrator, at the direction of the Minister, independently of any advice of the Executive Council.
- Number 9 Gives explicit effect to a necessary power of the Executive Council.
- Number 10 Ensures that meetings of the Executive Council will be called as necessary.
- Numbers 11 to 27 Consequential on number 3.
- Number 28 Gives the Legislative Assembly a discretion whether to proceed with a proposed enactment on Schedule 2 or Schedule 3 matters which has been returned to the Assembly with amendments recommended by the Administrator.
- Numbers 29 to 72 Consequential on number 3.
- Number 73 Allows the number of members of the Assembly to be increased or decreased by regulations.
- Numbers 74 to 76 Consequential on number 3.
- Number 77 Extends sub-clause 39(2) to provide that a member of the Legislative Assembly vacates his office if he accepts any "reward" for his services as an Assembly member, otherwise than in accordance with clause 65.

Number 78
to 94

Consequential on number 3.

Number 95

Drafting change.

Number 96

Consequential on number 3.

Number 97

Ensures that the views of the Norfolk Island Executive Council are taken into account in the appointment of Judges of the Supreme Court of Norfolk Island.

Number 98

Consequential on number 3.

Number 99

Drafting change.

Numbers 100
to 103

Consequential on number 3.

Number 104

New clause inserting section 27 of the Norfolk Island Act 1957 relating to the Governor-General's power to grant pardons and remit sentences, which is legally required to confer the necessary power on the Governor-General.

Number 105

Provides that regulations may be made to allow hearings of the Supreme Court (other than criminal hearings) to be held outside Norfolk Island when a Judge considers that it is not contrary to the interests of justice. Under the present Act, such hearings can only be held outside of Norfolk Island on the decision of the senior Judge.

- Number 106 Reinforces the existing provision in the Bill by ensuring that the specific legislative and executive powers in Schedule 2 cannot be repealed or altered without the consent of the Legislative Assembly.
- Number 107 Drafting change.
- Number 108 Drafting change to ensure that a reference to Schedule 2 or 3 includes a reference to either Schedule as varied from time to time.
- Number 109 Drafting change.
- Number 110 Will ensure that provision can be made in the one Ordinance for all matters relating to the Legislative Assembly.
- Numbers 111 to 113 Consequential on number 3.
- Number 114 Ensures that rights and liabilities which do not arise as result of a contract or agreement (e.g. rights and liabilities under a statute) are transferred to the Administration.
- Number 115 Drafting change, partly consequential on number 112.
- Number 116 Drafting change, partly consequential on number 112.
- Number 117 New clause, ensuring that all accounts of the Territory in respect of any period before the commencing date are subject to audit by the Commonwealth Auditor-General. Also includes a transitional regulation-making power (effective until 30 June 1980) to facilitate the establishment of the Administration as a body politic.