



# Fact Sheet

## *Norfolk Island Legislation Amendment (Criminal and Civil Matters) Ordinance 2021*

July 2021

### Aim

The *Norfolk Island Legislation Amendment (Criminal and Civil Matters) Ordinance 2021* (the Ordinance) amends a number of continued Norfolk Island laws to improve the Norfolk Island justice system and ensure protections for people living on Norfolk Island are equivalent to those in other Australian jurisdictions.

### Overview of amendments

The Ordinance amends the following continued Norfolk Island laws:

- *Bail Act 2005* (NI)
- *Court of Petty Sessions Act 1960* (NI)
- *Criminal Code 2007* (NI)
- *Criminal Procedure Act 2007* (NI)
- *Dangerous Drugs Act 1927* (NI)
- *Interpretation Act 1979* (NI)
- *Sentencing Act 2007* (NI)
- *Supreme Court Act 1960* (NI)
- *Traffic Act 2010* (NI).

The Ordinance also repeals the redundant *Criminal Law Act 1960* (NI) (the Criminal Law Act) and makes a minor technical amendment to the *Norfolk Island Applied Laws Ordinance 2016* (the Applied Laws Ordinance) in relation to the domestic and personal violence provisions that were unsuspending in Norfolk Island in 2018.

The amendments continue the work of the Australian Government on improving the Norfolk Island justice system to ensure protections for people living on Norfolk Island are equivalent to those in other Australian jurisdictions, and that Norfolk Island police and courts can take action against people who commit crime. The amendments also aim to improve court processes and access to justice for the Norfolk Island community.

# Consultation

Between 2017 and 2019, the Department of Infrastructure, Transport, Regional Development and Communications undertook a broad consultation process about the measures included in the Ordinance. Consultation occurred with members of the Norfolk Island community and included a range of legal and health care professionals.

## Key changes

### ***Bail Act 2005 (NI) (the Bail Act)***

The Ordinance amends the Bail Act to enhance the 'show cause' provisions of the Bail Act by expanding the range of offences for which there is a presumption against bail. It also clarifies the powers of the Supreme Court of Norfolk Island with respect to the review of bail decisions.

### ***Court of Petty Sessions Act 1960 (NI) (the Court of Petty Sessions Act)***

The Ordinance amends the Court of Petty Sessions Act to increase the limit of the civil jurisdiction of the Court of Petty Sessions to claims with a value of \$60,000. Amendments have also been made to allow for the summary disposal of offences involving money or property (other than motor vehicles) with a value of \$60,000. Summary disposal allows for cases to be dealt with quickly by the court, without the need to hold a trial.

### ***Criminal Code 2007 (NI) (the Criminal Code)***

The Ordinance amends the Criminal Code to restrict the defence of marriage for certain sexual offences where the defendant is in a position of trust or authority, to valid and genuine marriages where the other person was at least 16 years of age when the marriage was entered into. It also amends the Criminal Code to insert a definition of 'controlled plant' and prescribe the different quantities of 'commercial quantity', 'large commercial quantity' and 'trafficable quantity' for a 'controlled drug' or a 'controlled plant'.

### ***Criminal Procedure Act 2007 (NI) (the Criminal Procedure Act)***

The Ordinance amends the Criminal Procedure Act to provide that the Court of Petty Sessions may order that an accused be assessed by a medical practitioner or psychiatrist, at any time during a proceeding (including a bail hearing), when determining if an accused is mentally dysfunctional or mentally impaired. The Criminal Procedure Act was also amended to strengthen existing prohibitions against the publication of the identity of a complainant in a sexual offence proceeding, including requiring the leave of the court in certain circumstances.

### ***Sentencing Act 2007 (NI) (the Sentencing Act)***

The Ordinance amends the Sentencing Act to clarify existing provisions dealing with the powers of a court to impose fines, including when an offence would otherwise only be punishable by imprisonment and clarifies the operation of the Act with respect to offences under all laws in force in Norfolk Island, including applied laws.

### ***Supreme Court Act 1960 (NI) (the Supreme Court Act)***

The Ordinance amends the Supreme Court Act to allow, with the leave of Full Federal Court, the Attorney-General or the Commonwealth Director of Public Prosecutions to appeal to that Court against sentences passed in relation to a person's conviction on indictment before the Supreme Court.

### ***Other Acts***

Minor amendments have also been made to the *Dangerous Drugs Act 1927 (NI)*, *Interpretation Act 1979 (NI)* and *Traffic Act 2010 (NI)*.

## Further information

Further information can be found on the Federal Register of Legislation at [www.legislation.gov.au](http://www.legislation.gov.au).