



**Tax and Superannuation Laws
Amendment (Norfolk Island Reforms)
Act 2015**

No. 53, 2015

**An Act to amend the law relating to taxation and
superannuation, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 53, 2015

**An Act to amend the law relating to taxation and
superannuation, and for related purposes**

[Assented to 26 May 2015]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Tax and Superannuation Laws
Amendment (Norfolk Island Reforms) Act 2015*.

2 Commencement

This Act commences on 1 July 2016.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Income tax (including the Medicare levy)

Income Tax Assessment Act 1936

1 Division 1A of Part III

Repeal the Division.

2 Paragraph 202DDB(2)(a)

Omit “or 202EF, or both”.

3 Sub-subparagraph 202DDB(2)(b)(ii)(A)

Omit “or 202EF, or both”.

4 Section 202EF

Repeal the section.

5 Paragraphs 251S(1)(a) and (b)

Omit “other than a Territory resident (within the meaning of section 24C)”.

6 At the end of paragraph 251T(a)

Add “or”.

7 Paragraph 251T(b)

Repeal the paragraph.

8 Paragraph 251U(1)(d)

Omit “, or was a resident only because the definition of *Australia* includes the prescribed Territory (within the meaning of section 24B)”.

Income Tax Assessment Act 1997

9 Section 11-15 (table item headed “foreign aspects of income taxation”)

Omit:

Territory resident company or trust, income from sources outside Australia	24F
Territory resident, income from sources in a prescribed Territory	24G

10 Section 109-60 (table item 1)

Omit “section 24P”, substitute “subsection 102-25(1) of the *Income Tax (Transitional Provisions) Act 1997*”.

11 Section 109-60 (after table item 1)

Insert:

1A	CGT event happens to Norfolk Island asset	30 June 2016	subsection 102-25(2) of the <i>Income Tax (Transitional Provisions) Act 1997</i>
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12 Section 112-97 (table item 2)

Omit “section 24P”, substitute “subsection 102-25(1) of the *Income Tax (Transitional Provisions) Act 1997*”.

13 Section 112-97 (after table item 2)

Insert:

2AA	CGT event happens to Norfolk Island asset	First element of cost base and reduced cost base	subsection 102-25(2) of the <i>Income Tax (Transitional Provisions) Act 1997</i>
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14 Section 118-1 (note 1)

Omit:

- section 24B (about External Territories);

15 Paragraph 202-45(b)

Repeal the paragraph.

16 Subsection 960-505(1) (note 1)

Omit “Note 1”, substitute “Note”.

17 Subsection 960-505(1) (note 2)

Repeal the note.

Income Tax (Transitional Provisions) Act 1997

18 At the end of Division 102

Add:

**102-25 Transitional capital gains tax provisions for certain Cocos
(Keeling) Islands and Norfolk Island assets**

(1) If:

- (a) an entity was a prescribed person (within the meaning of former Division 1A of Part III of the *Income Tax Assessment Act 1936*) because of residence in the Territory of Cocos (Keeling) Islands on or before 30 June 1991; and
- (b) the entity acquired a CGT asset on or before that day; and
- (c) the asset is not a pre-CGT asset; and
- (d) had a CGT event happened in relation to the asset immediately before 1 July 1991, and had the *Income Tax Assessment Act 1997* been in force at the time of the event, any capital gain or capital loss from the event would have been disregarded because the entity was a prescribed person;

then, for the purposes of Parts 3-1 and 3-3 of the *Income Tax Assessment Act 1997*:

- (e) the asset is taken to have been acquired by the entity on 30 June 1991; and
- (f) the first element of the asset's cost base in the hands of the entity (at the end of that day) is its market value at that time.

Note: A prescribed person was a Territory resident, a Territory company or a trustee of a Territory trust, as defined by former sections 24C, 24D and 24E of the *Income Tax Assessment Act 1936*.

(2) If:

- (a) an entity was a prescribed person (within the meaning of former Division 1A of Part III of the *Income Tax Assessment Act 1936*) because of residence in Norfolk Island on or before 30 June 2016; and

- (b) the entity acquired a CGT asset on or before that day; and
 - (c) the asset is not a pre-CGT asset; and
 - (d) had a CGT event happened in relation to the asset immediately before 1 July 2016, any capital gain or capital loss from the event would have been disregarded because the entity was a prescribed person;
- then, for the purposes of Parts 3-1 and 3-3 of the *Income Tax Assessment Act 1997*:
- (e) the asset is taken to have been acquired by the entity on 30 June 2016; and
 - (f) the first element of the asset's cost base in the hands of the entity (at the end of that day) is its market value at that time.
- (3) Despite Division 121 of the *Income Tax Assessment Act 1997*, the entity is not required to keep records of the date of acquisition of an asset in relation to which subsection (1) or (2) of this section applies, or its cost base on 30 June 1991 or 30 June 2016 (as the case requires).
- (4) However, if, as at the date on which a CGT event happens in relation to the asset, the entity has complied with Division 121 of the *Income Tax Assessment Act 1997* in relation to the asset, the entity may choose that this section does not apply in relation to the asset.

19 Application

The amendments made by this Part (other than item 18) apply in relation to the 2016-17 income year and later income years.

Schedule 2—Superannuation guarantee

Superannuation Guarantee (Administration) Act 1992

1 Paragraphs 27(1)(b) and (c)

Repeal the paragraphs, substitute:

- (b) salary or wages paid to an employee who is not a resident of Australia for work done outside Australia (except to the extent that the salary or wages relate to employment covered by a certificate under section 15C);
- (c) salary or wages paid by an employer who is not a resident of Australia to an employee who is a resident of Australia for work done outside Australia;

2 Application and transitional

(1) The amendments made by this Part apply in relation to quarters starting on or after 1 July 2016.

(2) However, for the purpose of making the calculation of an employer's individual superannuation guarantee shortfall for an employee for a quarter under section 19 of the *Superannuation Guarantee (Administration) Act 1992*, if:

- (a) some or all of the salary or wages paid by the employer to the employee for the quarter consists of Norfolk Island salary or wages; and
- (b) the quarter occurs in a financial year starting on or after 1 July 2016, and ending before 1 July 2027;

the total salary and wages paid by the employer to the employee for the quarter is taken to be reduced by an amount worked out using the formula:

$$\text{Total Norfolk Island salary or wages paid by the employer to the employee for the quarter} \times \frac{\text{Charge percentage} - \text{Norfolk Island charge percentage}}{\text{Charge percentage}}$$

where:

charge percentage is the charge percentage for the employer for the quarter, as specified in subsection 19(2) of the *Superannuation Guarantee (Administration) Act 1992*.

Norfolk Island charge percentage is:

- (a) if the quarter occurs in the financial year starting on 1 July 2016—1; or
- (b) if the quarter occurs in a later financial year—the number worked out by increasing by 1 the Norfolk Island charge percentage for a quarter that occurred in the financial year preceding that later financial year.

Example: If the quarter occurs in the 2018-19 financial year, the Norfolk Island charge percentage will be 3, because in the quarters of the 2017-18 financial year it will have been 2 (having increased by 1 from the 2016-17 financial year).

- (3) In this item:

Norfolk Island salary or wages means salary or wages that, if the amendments made by this Part had not been made, would, because of subparagraph 27(1)(b)(ii) or (c)(ii) of the *Superannuation Guarantee (Administration) Act 1992*, not have been taken into account for the purpose of making a calculation under section 19 of that Act.

[Minister's second reading speech made in—
House of Representatives on 26 March 2015
Senate on 13 May 2015]

(52/15)
