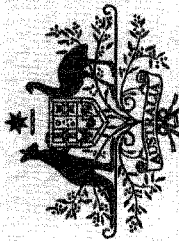


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**GOVERNMENT RESPONSE TO THE JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL AND
TERRITORIES' REPORT *QUIS CUSTODIET IPSOS CUSTODES?*: INQUIRY INTO GOVERNANCE ON NORFOLK
ISLAND**

June 2007

GOVERNMENT RESPONSE TO THE JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES' (JSC'S) REPORT *QUIS CUSTODIET IPSOS CUSTODES? INQUIRY INTO GOVERNANCE ON NORFOLK ISLAND*

This response replaces the interim response provided by the Australian Government in October 2005. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government has accepted the assurances of the Norfolk Island Government that it will continue its program of economic and financial reform and that it will seek to improve the transparency and accountability of governance on the island. The Australian Government will continue to engage with the Norfolk Island Government to ensure that it honours these commitments. The Australian Government has identified the need for the Norfolk Island Government to improve its financial and administrative transparency and develop contemporary laws that will provide legislative protection for Norfolk Island residents.

JSC recommendations	Government Response
<p>Recommendation 1</p> <p>That the continuation of self-government for Norfolk Island, as provided for under the <i>Norfolk Island Act 1979</i> (Cth), be conditional on the timely implementation of the specific external mechanisms of accountability and reforms to the political system recommended in this report.</p>	<p>Noted. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p> <p>The Norfolk Island Government has undertaken some reform of accountability mechanisms since the Committee provided its report. These reforms are discussed under Recommendations 3, 4, 5, 6, 7 and 13.</p>
<p>Recommendation 2</p> <p>That the Federal Government reassess its current policies with respect to Norfolk Island and the basis for the Territory's exclusion from Commonwealth programmes and services, with a view to determining:</p> <ul style="list-style-type: none"> ■ a clearly understood and consistent rationale and framework for Commonwealth funding, advice and assistance that will be provided across government to the Norfolk Island community; 	<p>Not agreed. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p> <p>Norfolk Island remains able to apply for funding from some Australian Government programmes.</p> <p>The Australian Government will consider appropriate requests for</p>

<ul style="list-style-type: none"> ■ a means of assessing Norfolk Island's need for Commonwealth financial and other assistance and of determining the extent of Commonwealth assistance or input to be provided, both now and in the future, and how it should be provided; ■ a clear and achievable end point or coordinated set of policy outcomes; and ■ the means of achieving those outcomes such as any preconditions that must be met before assistance will be provided, independent and external monitoring, and consideration of the various mechanisms for providing assistance such as an agreed plan with set time-lines and deadlines. 	<p>assistance from the Norfolk Island Government on a case-by-case basis.</p>
<p>Recommendation 3</p> <p>That, consistent with other Australian jurisdictions, the <i>Norfolk Island Act 1979</i> (Cth) be amended to:</p> <ul style="list-style-type: none"> ■ adopt a Code of Conduct for Members of the Legislative Assembly as a Schedule to the Act; ■ introduce a duty for Members of the Legislative Assembly to act in an honest and impartial manner in the interests of the whole community and in conformity with the Code of Conduct; ■ specify penalties in the Act including disqualification from office for wilful or serious breach of the Code; ■ confer jurisdiction on the Commonwealth Ombudsman to investigate alleged breaches; and ■ confer jurisdiction on the Supreme Court of Norfolk Island, constituted as a Leadership Tribunal, to enforce the Code. 	<p>Noted. The Norfolk Island Legislative Assembly has passed the <i>Legislative Assembly (Register of Members' Interests) Act 2004</i> which includes:</p> <ul style="list-style-type: none"> • a Code of Conduct requiring MLAs to place public duty before private interest; • referral of complaints to the Privileges Committee for investigation; and • penalties ranging from reprimand to suspension, removal from executive office to a fine of up to 50 penalty points. <p>The provisions of the Act, including the penalties, reflect arrangements in other jurisdictions.</p> <p>The Commonwealth Ombudsman does not have the power to oversee the behaviour of members of the Norfolk Island Legislative Assembly.</p>

Recommendation 4

That, consistent with other Australian jurisdictions, the *Norfolk Island Act 1979* (Cth) be amended to:

- tighten the requirement for ad hoc disclosure of any material interest in which a Member of the Legislative Assembly, their immediate family or associate(s) will directly or indirectly benefit or suffer a loss depending on the outcome of debate;
- prohibit the Member of the Legislative Assembly from being present during the debate; and
- insert new provisions that:
 - ⇒ establish a register of pecuniary and non-pecuniary interests as part of the Code of Conduct;
 - ⇒ require annual declaration of a specified list of interests to be adopted as a Schedule to the Act;
 - ⇒ require notification of changes to the register within 28 days;
 - ⇒ establish penalties for proven breaches, including disqualification from office for up to 5 years for wilful or serious breaches;
 - ⇒ confer jurisdiction on the Commonwealth Ombudsman to investigate alleged breaches; and
 - ⇒ confer jurisdiction on the Supreme Court of Norfolk Island, constituted as a Leadership Tribunal, to enforce the disclosure requirements.

Noted. The Norfolk Island Legislative Assembly passed the *Legislative Assembly (Register of Members' Interests) Act 2004* which addresses the recommendation through the various provisions noted below, which:

- require disclosure of any material interest held by MLAs and their immediate families which 'might appear to raise a conflict';
- include a Code of Conduct which requires members to disclose to the Assembly any pecuniary and non-pecuniary interests;
- require annual returns containing details of expected income and interests for the forthcoming year;
- require notification of any change within 30 days; and
- establish penalties for proven breaches, including suspension for up to six months.

The Act does not confer jurisdiction on the Supreme Court of Norfolk Island to enforce disclosure requirements.

The Act establishes a Privileges Committee to investigate and enforce breaches of the provisions of the Act.

The Commonwealth Ombudsman does not have the power to oversee the behaviour of members of the Norfolk Island Legislative Assembly.

<p>Recommendation 5</p> <p>That the <i>Norfolk Island Act 1979</i> (Cth) be amended to engage an independent institution with jurisdiction to investigate allegations of 'corrupt conduct' within the Norfolk Island Legislative Assembly, Administration and all statutory boards and government business enterprises.</p>	<p>Noted. The Norfolk Island Government has commenced negotiations with the NSW Government with a view to applying NSW's Independent Commission Against Corruption legislation to Norfolk Island on an agreed cost sharing basis.</p>
<p>Recommendation 6</p> <p>That, in order to implement Recommendation 5, the Federal Government negotiate with the Government of New South Wales with a view to amending the <i>Norfolk Island Act 1979</i> (Cth), as recommended above, to apply the <i>Independent Commission Against Corruption Act 1988</i> (NSW) to the Norfolk Island Legislative Assembly, Administration and all statutory boards and government business enterprises.</p>	<p>Noted. The Norfolk Island Government has commenced negotiations with the NSW Government with a view to applying NSW Independent Commission Against Corruption legislation to Norfolk Island on an agreed cost sharing basis.</p>
<p>Recommendation 7</p> <p>That, consistent with other Australian jurisdictions, the <i>Norfolk Island Act 1979</i> (Cth) be amended to:</p> <ul style="list-style-type: none"> ■ extend the provisions of the Model Criminal Code with respect to corruption to Norfolk Island; ■ provide that a substantial breach of the Code of Conduct amounting to corrupt conduct be grounds for disqualification from office as a Member of the Legislative Assembly, and empower the Administrator to declare the office vacant on the advice of the Federal Minister; and ■ empower the Administrator to declare all offices of the Legislative Assembly vacant on the ground of systemic corruption on the advice of the Federal Minister having regard to a report of the above-mentioned investigative body (the NSW Independent Commission Against Corruption). 	<p>Not agreed. The Australian Government decided not to proceed with changes to the governance arrangements of Norfolk Island and did not change the <i>Norfolk Island Act 1979</i>.</p> <p>The Norfolk Island Criminal Code Bill 2006 was drafted in February 2006 and awaits passage through the Norfolk Island Legislative Assembly. It includes provisions of the model criminal code in respect to corruption in terms similar to that of the relevant ACT legislation.</p> <p>The <i>Norfolk Island Act 1979</i> already provides for the disqualification of members of the Legislative Assembly in a range of circumstances, including conviction for offences carrying a sentence of one year or longer.</p> <p>Under the current provisions of the <i>Norfolk Island Act 1979</i>, the Administrator can end the terms of the members of the Legislative</p>

	<p>Assembly by calling a general election and setting an election date in accordance with subsections 33 and 35 of that Act. If the Administrator does not consider the subject matter being dealt with under subsections 33 and 35 to be Schedule 2 matters, then these powers must be exercised in accordance with the Minister for Territories' instructions.</p> <p>If the Administrator does consider the issue to be a trigger for the calling of an election and setting an election date to be a Schedule 2 matter, the powers would be exercised in accordance with advice, if any, given by the Norfolk Island Executive Council. If there is no such advice, the Administrator would be able to exercise these powers in the absence of Executive Council advice.</p>
<p>Recommendation 8</p> <p>That, regardless of the outcome of the recommended Federal Government review on extending Commonwealth social and health services legislation and programmes to Norfolk Island outlined in Recommendation 9, the Federal Government take all necessary steps in the intervening period to implement the following measures, including amendment of the <i>Norfolk Island Act 1979</i> (Cth) if required:</p> <ul style="list-style-type: none"> ■ the Norfolk Island <i>Social Services Act 1980</i> and <i>Healthcare Act 1989</i> be amended to rationalise application procedures and clarify entitlements to pensions and benefits under the respective laws, including the right to review; ■ the jurisdiction of the Norfolk Island Administrative Review Tribunal be extended to all decisions concerning pensions and benefits and related health and medical assistance matters; and ■ subject to implementation of the proposed social services regime, the Norfolk Island Claims Committee and the Social Services Board be abolished. 	<p>Not agreed. Social services, health and welfare remain the responsibility of the Norfolk Island Government.</p> <p>The Norfolk Island Legislative Assembly has passed amendments to the <i>Social Services Act 1980</i> (Social Services (Amendment no. 2) Bill 2006). The Social Services (Amendment no. 2) Bill 2006 (the Bill) did not receive the Administrator's assent.</p> <p>This Bill contained eligibility thresholds for benefits, include a right of appeal on a decision to the Norfolk Island Administrative Appeals Tribunal and alter some application criteria. Assent was not given because the provisions within the Bill were a significant departure from standards elsewhere in Australia.</p>

<p>Recommendation 9</p> <p>That, <u>as part of the wider reassessment proposed in Recommendation 2</u>, the Federal Government review and assess the level of income support and health and medical assistance on Norfolk Island with a view to:</p> <ul style="list-style-type: none"> ■ ensuring parity with entitlements paid to Australian citizens and residents domiciled on the mainland, and ■ identify which government services and responsibilities currently provided to the Island community by the Norfolk Island Government might be better provided by the Federal Government. <p>That the Federal Government report to the Federal Parliament on the outcomes of this review.</p>	<p>Noted. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p> <p>The Australian Government tasked the Commonwealth Grants Commission (CGC) to advise on the amount of financial assistance that would be required to enable State and local-type services to be provided on Norfolk Island at comparable Australian levels at average efficiency levels. The CGC report was tabled in the House of Representatives on 31 October 2006.</p>
<p>Recommendation 10</p> <p>That, depending on the findings of the proposed review in Recommendation 9, the Commonwealth resume responsibility for social security and extend Medicare and the Pharmaceutical Benefits Scheme to Norfolk Island.</p>	<p>Not agreed. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p>
<p>Recommendation 11</p> <p>That, as recommended by the Human Rights and Equal Opportunity Commission, the Federal Government extend the operation of the <i>Migration Act 1958 (Cth)</i> in full to the Territory of Norfolk Island, and that Schedule 3 of the <i>Norfolk Island Act 1979 (Cth)</i> be amended to delete reference to 'immigration' and to remove from the Norfolk Island Legislative Assembly and Administrator their powers with respect to immigration.</p>	<p>Not agreed. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p> <p>The Australian Government is, however, further considering its position in relation to the application of Commonwealth customs, immigration and quarantine legislation to Norfolk Island.</p>

<p>Recommendation 12</p> <p>That, as recommended by the Human Rights and Equal Opportunity Commission, the Federal Government take immediate steps to work with the Norfolk Island Government to develop and implement a regime to regulate the permanent resident population, temporary residency and tourist numbers by the lawful operation of land, planning and zoning regulations.</p>	<p>Noted. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p>
<p>Recommendation 13</p> <p>That the Federal Government apply an administrative law regime, based on the Australian Capital Territory model, to Norfolk Island to provide for independent and external scrutiny of administrative action, and that a <i>Norfolk Island (Consequential Provisions) Bill</i> be drafted and introduced to the Federal Parliament as matter of urgency to:</p> <ul style="list-style-type: none"> ■ extend the jurisdiction of the Commonwealth Ombudsman under the <i>Ombudsman Act 1976 (Cth)</i> to conduct occurring under a Norfolk Island enactment or by a Territory authority; ■ apply the <i>Freedom of Information Act 1982 (Cth)</i> or, subject to negotiation with the Australian Capital Territory, the <i>Freedom of Information Act 1988 (ACT)</i>; ■ apply the <i>Public Interest Disclosure Act 1988 (ACT)</i>; and ■ confer jurisdiction on the Commonwealth Ombudsman to deal with matters arising under freedom of information and whistleblower legislation. 	<p>Not agreed. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p> <p>The Norfolk Island Government has committed to introduce legislation in the Norfolk Island Legislative Assembly to provide access to Freedom of Information processes.</p>

<p>Recommendation 14</p> <p>That sections 51-51F of the <i>Norfolk Island Act 1979</i> (Cth) be amended to provide for the following:</p> <ul style="list-style-type: none"> ■ the appointment of the Commonwealth Auditor-General as Auditor for the Norfolk Island Administration to provide both finance and performance audit reports; ■ financial and performance audit reports be tabled, in their entirety including any remarks concerning significant irregularities, in the Norfolk Island Legislative Assembly by the Executive Member responsible for Finance within two sitting days of the Assembly after receipt of the report; and ■ provision of the report by the Commonwealth Auditor-General directly to the Federal Minister for Territories to be tabled, in its entirety, in the Federal Parliament as soon as practicable during the next sitting of the Parliament. 	<p>Not agreed. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p> <p>The Norfolk Island Legislative Assembly passed the <i>Annual Reports Act 2004</i> requiring annual reports of the Chief Executive Officer and public sector agencies to be tabled within three months of the end of the financial year.</p> <p>The <i>Norfolk Island Act 1979</i> (Cth) provides for the Administrator to appoint an auditor, for the auditor to report annually, for the speaker to table the auditor's report and for the Administrator to forward this report to the Minister for Territories.</p>
<p>Recommendation 15</p> <p>That subsection 8 (2), <i>Public Accounts and Audit Committee Act 1951</i> (Cth) be amended to require the Federal Parliament's Joint Statutory Committee of Public Accounts and Audit to examine the financial affairs of the Administration of Norfolk Island and review all reports of the Commonwealth Auditor-General on the Administration of Norfolk Island.</p>	<p>Not agreed. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p> <p>Currently, audits are reviewed by the full Norfolk Island Legislative Assembly. Neither the ACT nor the Northern Territory is required to submit financial accounts to the federal Parliament for scrutiny.</p>

<p>Recommendation 16</p> <p>That the <i>Norfolk Island Act 1979</i> (Cth) be amended to require the Norfolk Island Government to report annually to the Legislative Assembly within three months of the end of each financial year, and that:</p> <ul style="list-style-type: none"> ■ the Annual Report include all information on all Norfolk Island Administration operations including government business enterprises; ■ the Executive Member must table the report within two sitting days of receipt; ■ the annual report to be forwarded to the Administrator within two days of being tabled in the Legislative Assembly for transmission to the Federal Minister for Territories for tabling in the Federal Parliament; and ■ the Joint Standing Committee on the National Capital and External Territories to be given, through its Resolution of Appointment, the role of reviewing the annual report of the Norfolk Island Administration. 	<p>Not agreed. The Norfolk Island Legislative Assembly has passed the <i>Annual Reports Act 2004</i> that requires annual reports to be presented to the Assembly by the Executive Member within three months of the end of the financial year.</p> <p>By convention, annual reports are currently forwarded to the Administrator of Norfolk Island and the Minister for Territories.</p>
<p>Recommendation 17</p> <p>That the <i>Norfolk Island Act 1979</i> (Cth) be amended to incorporate:</p> <ul style="list-style-type: none"> ■ the designation of Chief Minister and the role of Chief Minister as leader of the government; ■ the election of the Chief Minister, from among the sitting Members of the Legislative Assembly, at the first meeting of the Assembly immediately following a general election; ■ the power of the Legislative Assembly to dismiss the Chief Minister through a vote of no confidence passed with a two thirds majority of the Assembly Members, at any time during the life of the Assembly; 	<p>Not agreed. The <i>Norfolk Island Act 1979</i> allows the Administrator to appoint members as required to executive offices (and to terminate such appointments), but there is no explicit provision in relation to the office of Chief Minister. This is similar to arrangements in the Northern Territory (section 36 of the <i>Northern Territory (Self-Government) Act 1978</i>).</p> <p>The operation of the Norfolk Island Legislative Assembly is a matter for the Norfolk Island Government.</p>

<ul style="list-style-type: none"> ■ the duty of the Chief Minister to appoint up to three Ministers, from among the sitting Members of the Legislative Assembly; ■ the power of the Chief Minister to dismiss a Minister from office at any time; ■ the duty of the Chief Minister to allocate portfolio responsibilities and to table in the Legislative Assembly and publish in the <i>Norfolk Island Government Gazette</i> the division of executive responsibilities; ■ the duty of a Minister to administer the matters allocated to him or her by the Chief Minister; and ■ the number of Ministers not to exceed three. 	
<p>Recommendation 18</p> <p>That Section 35 of the <i>Norfolk Island Act 1979</i> (Cth) be amended to provide that in the event the Legislative Assembly resolves to dismiss the Chief Minister through a vote of no confidence passed with a two thirds majority of the Assembly Members, the Legislative Assembly is dissolved and writs for an election shall be issued by the Administrator.</p>	<p>Not agreed. This recommendation is inconsistent with the treatment for the ACT and the Northern Territory Legislative Assemblies.</p> <p>In the ACT, a vote of no confidence would lead to another Chief Minister being elected. If this did not occur within 30 days and the Governor-General did not dissolve the Assembly, then an election would be called.</p> <p>In the Northern Territory the Administrator appoints and terminates the appointment of Ministers.</p>
<p>Recommendation 19</p> <p>That Sub-section 11 (8) of the <i>Norfolk Island Act 1979</i> (Cth) be repealed.</p> <p>[Subsection 11(8) provides that: "A member of the Legislative Assembly who does not hold executive office is entitled to attend all meetings of the Executive Council".]</p>	<p>Not agreed. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p>

Recommendation 20

That Sections 41 and 42 of the *Norfolk Island Act 1979* (Cth) be amended to provide that:

- the Speaker and Deputy Speaker of the Legislative Assembly be appointed from among suitably qualified persons who are not elected Members of the Legislative Assembly;
- the Speaker and Deputy Speaker of the Legislative Assembly be appointed by the Administrator on the advice of the Federal Minister for Territories;
- the Speaker and Deputy Speaker of the Legislative Assembly be appointed immediately following each general election for the life of the Assembly;
- the role of the Speaker, and in the Speaker's absence, the Deputy Speaker, is to preside over meetings of the Legislative Assembly, and therefore, the Speaker does not have a vote on any matter before the Assembly; and
- the Speaker and Deputy Speaker not hold any executive office or any other public office on Norfolk Island.

Not agreed. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.

The operation of the Norfolk Island Legislative Assembly is a matter for the Norfolk Island Government.

Recommendation 21

That Section 40 of the *Norfolk Island Act 1979* (Cth) be amended to provide that:

- all meetings of the Legislative Assembly must be held in public, except during debate on matters relating to the employment conditions of public officers;
- all Members of the Legislative Assembly, unless excluded on the grounds of conflict of interest, are entitled to be

Not agreed. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.

The operation of the Norfolk Island Legislative Assembly is a matter for the Norfolk Island Government.

<p>present;</p> <ul style="list-style-type: none"> ■ the authority to call meetings of the Legislative Assembly rests with the Speaker, acting on the advice of the Chief Minister; ■ notice of the time and place of meetings of the Legislative Assembly be published in the <i>Norfolk Island Government Gazette</i>; ■ a 12 month forward calendar of Legislative Assembly sittings be issued and published in the <i>Norfolk Island Government Gazette</i>; ■ the Speaker, on the advice of the Chief Minister, may recall the Legislative Assembly for a special sitting to deal with a matter that requires urgent attention; ■ seven days notice of the special meeting must be given in writing to each Member of the Legislative Assembly and include an outline of the business to be considered; and ■ the Speaker may extend the period of recall of the Legislative Assembly if the Speaker believes that for any reason insufficient notice has been given. 	
<p>Recommendation 22</p> <p>That the <i>Norfolk Island Act 1979</i> (Cth) and the <i>Public Moneys Act 1979</i> (NI) be amended to establish a Norfolk Island Legislative Assembly Standing Committee to Review Government Expenditure, with the power to examine the financial affairs of the Norfolk Island Administration and all statutory authorities and review the reports of the Commonwealth Auditor-General in relation to Norfolk Island, as outlined in Recommendation 14.</p>	<p>Noted. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p> <p>The Norfolk Island Government has advised that all financial reports from the Norfolk Island Administration and other agencies are examined in detail by the Norfolk Island Legislative Assembly.</p>

<p>Recommendation 23</p> <p>That Section 35 of the <i>Norfolk Island Act 1979</i> (Cth) be amended to provide that the term of the Legislative Assembly shall be four years from the date of its election, and that after the third anniversary of the declaration of the election results by the Australian Electoral Commission, the Legislative Assembly may be dissolved by the Administrator at the request of the Legislative Assembly following a resolution to do so, passed by two-thirds majority.</p>	<p>Not agreed. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p> <p>The Australian Electoral Commission does not have jurisdiction in Norfolk Island.</p>
<p>Recommendation 24</p> <p>That, consistent with other Australian jurisdictions, the <i>Norfolk Island Act 1979</i> (Cth) be amended to provide that the Administrator may, at his own discretion or on the advice of the Federal Minister:</p> <ul style="list-style-type: none"> ■ terminate at any time the appointment of an individual Minister or the Executive as a whole, where the Administrator is satisfied that the Minister or the Executive has acted unlawfully or corruptly; ■ dissolve the Legislative Assembly and issue writs for a new election, where the Administrator is satisfied that the Legislative Assembly is incapable of effectively performing its functions, or is conducting its affairs in a grossly improper manner; ■ that the Administrator publish a statement of reasons in the <i>Norfolk Island Government Gazette</i> as soon as practicable after the day of the dissolution; ■ that the Federal Minister publish the statement of reasons in the <i>Commonwealth Gazette</i> as soon as practicable after the day of the dissolution and table the statement in each House of the Federal Parliament within 15 sitting days of that House after the day of the dissolution; and 	<p>Not agreed. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p> <p>The <i>Norfolk Island Act 1979</i>, provides that the Administrator can end the terms of members of the Legislative Assembly by calling a general election and setting an election date (subsections 33 and 35). If the Administrator does not consider the subject matter being dealt with under subsections 33 and 35 to be a Schedule 2 matter, then those powers must be exercised in accordance with the Minister for Territories' instructions.</p> <p>However, if the Administrator does consider the exercise of subsections 33 and 35 powers for calling of elections and setting the date to be related to Schedule 2 matters, then these powers would need to be exercised in accordance with advice, if any, given by the Norfolk Island Executive Council. If there is no such advice, the Administrator would be able to exercise these powers in the absence of Executive Council advice.</p>

<ul style="list-style-type: none"> ■ that the general election be held on a day specified by the Administrator by notice published in the <i>Norfolk Island Government Gazette</i>, not more than 90 days after the day of dissolution of the Legislative Assembly. 	
<p>Recommendation 25</p> <p>That Section 20 of the <i>Legislative Assembly Act 1979</i> (NI) be amended to introduce the 'block vote' variation of the first-past-the-post method of voting for elections to the Legislative Assembly, and that the Federal Government support this amendment.</p>	<p>Noted. The <i>Norfolk Island Legislative Assembly (Amendment) Act 2006</i> was given assent on 30 November 2006. This Act reduced the number of votes an elector could give to a candidate from four votes to two votes.</p> <p>The operation of the Norfolk Island Legislative Assembly is a matter for the Norfolk Island Government.</p>
<p>Recommendation 26</p> <p>That the <i>Norfolk Island Act 1979</i> (Cth) and the <i>Commonwealth Electoral Act 1918</i> (Cth) be amended to:</p> <ul style="list-style-type: none"> ■ ensure that all elections and referenda on Norfolk Island come under the supervision of the Australian Electoral Commission; ■ that the Australian Electoral Commission be responsible for preparing and maintaining the electoral roll for Norfolk Island; and ■ that the <i>Legislative Assembly Act 1979</i> (NI) be amended to reflect the amendments to the Commonwealth statutes. 	<p>Not agreed. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p>

<p>Recommendation 27</p> <p>That the <i>Norfolk Island Act 1979</i> (Cth) be amended to provide that Australian citizenship be reinstated as a requirement for eligibility to vote for and be elected to the Norfolk Island Legislative Assembly, with appropriate safeguards for the right to vote of all those currently on the Norfolk Island electoral roll.</p>	<p>Agreed. The <i>Norfolk Island Amendment Act 2004</i>, assented to on 10 March 2004, amended the <i>Norfolk Island Act 1979</i> as recommended by the Committee. The Act came into force on 11 March 2004.</p> <p>A group of Norfolk Island residents applied to the High Court of Australia challenging the validity of the law. A hearing was held on 8-9 November 2006. On 27 April 2007 the High Court unanimously held that the <i>Norfolk Island Amendment Act 2004</i> was valid under section 122 of the Constitution.</p>
<p>Recommendation 28</p> <p>That the <i>Norfolk Island Act 1979</i> (Cth) be amended to provide that the period for which an Australian citizen must reside on Norfolk Island before being eligible to enrol to vote in Territory elections and referenda be a minimum of six months.</p>	<p>Agreed. The <i>Norfolk Island Amendment Act 2004</i>, assented to on 10 March 2004, amended the <i>Norfolk Island Act 1979</i> as recommended by the Committee. The Act came into force on 11 March 2004.</p> <p>A group of Norfolk Island residents applied to the High Court of Australia challenging the validity of the law. A hearing was held on 8-9 November 2006. On 27 April 2007 the High Court unanimously held that the <i>Norfolk Island Amendment Act 2004</i> was valid under section 122 of the Constitution.</p>
<p>Recommendation 29</p> <p>That the <i>Electoral Act 1918</i> (Cth) and other relevant Commonwealth statutes be amended to provide for the inclusion of Norfolk Island in the Federal electorate of Canberra for the purposes of voting in Federal elections and referendums, and that:</p> <ul style="list-style-type: none"> ■ the existing provision, under the <i>Electoral Act 1918</i> (Cth), for optional enrolment by Norfolk Island residents be replaced with compulsory enrolment for all Norfolk Island residents who qualify under Section 93 of the <i>Electoral Act 1918</i> (Cth); 	<p>Not agreed. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p>

<ul style="list-style-type: none"> ■ those Norfolk Island residents currently enrolled in Federal electorates under the provisions of the <i>Electoral Act 1918</i> (Cth) to change their enrolment to the Federal Electoral Division of Canberra; and ■ Norfolk Island residents who qualify for enrolment must, following the amendment, do so in the Federal Electoral Division of Canberra. 	
<p>Recommendation 30</p> <p>That, with the assistance of the Federal Government, the Norfolk Island Government immediately commence:</p> <ul style="list-style-type: none"> ■ a phased reform of Norfolk Island law, with priority for redrafting of existing laws to be determined by both the Federal and Territory governments, with the Federal Government having the final say in the case of disagreement; ■ a new and dedicated legislative drafter be funded, supported by and report to the Commonwealth Office of Parliamentary Counsel and Commonwealth Attorney-General's Department to draft the aforementioned reforms; and ■ the new laws, once drafted, be implemented by an Ordinance introduced into the Norfolk Island Legislative Assembly by the Governor-General pursuant to Section 26 of the Norfolk Island Act 1979 (Cth). 	<p>Not agreed. The Australian Government considered alternative governance arrangements for Norfolk Island in 2006. The Australian Government accepted the assurances of the Norfolk Island Government and decided not to proceed with changes to the governance arrangements of Norfolk Island.</p> <p>The Norfolk Island Government has responsibility for the legislation of Norfolk Island.</p>

<p>Recommendation 31</p> <p>That, with the assistance of the Federal Government, the Norfolk Island Government enter into a service delivery agreement with the Commonwealth Office of Parliamentary Counsel and the Commonwealth Attorney-General's Department for the provision of its usual drafting services.</p>	<p>Noted. The Australian Government would consider a request from the Norfolk Island Government for the provision of legislative drafting services.</p>
<p>Recommendation 32</p> <p>That the Federal Government assist the Norfolk Island Government in the immediate reform of the laws of Norfolk Island in relation to the following:</p> <ul style="list-style-type: none"> ■ review the Territory's child welfare law to ensure that it conforms with the Convention on the Rights of the Child and best practice in Australia; ■ provide assistance to ensure reform of the Territory's child welfare law is complete within 12 months of acceptance of this recommendation; ■ provide assistance to ensure reform of the Territory's criminal justice laws is complete within 12 months of acceptance of this recommendation; ■ investigate the regulation of companies with a view to applying Federal company, bankruptcy and insolvency laws to the Territory; ■ ensure that proposed uniform national legal profession laws apply to legal practitioners who practice in the jurisdiction of Norfolk Island; ■ pending promulgation of the proposed national legal profession laws, legal practitioners on Norfolk Island be required to register in some other Australian legal jurisdiction; and 	<p>Noted. The Australian Government would consider a request from the Norfolk Island Government for legislative reform assistance.</p> <p>The Norfolk Island Government has provided an exposure draft of the Children and Young People Bill 2006 to the Norfolk Island Legislative Assembly. The Bill is expected to be introduced into the Assembly during 2007.</p> <p>The Norfolk Island Administrator assented to the Norfolk Island <i>Bankruptcy Act 2006</i> on 20 February 2007.</p>

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| <ul style="list-style-type: none">■ review the Employment Act 1988 (NI) to ensure it is consistent with best practice and legislation in other Australian jurisdictions and is in compliance with International Labour Organization Conventions and Australia's other international obligations. | |
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