

1999

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

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NORFOLK ISLAND AMENDMENT BILL 1999

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EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Regional Services, Territories and  
Local Government, Senator the Hon. Ian Macdonald)

## Norfolk Island Amendment Bill 1999

### OUTLINE

The *Norfolk Island Act 1979* provides for matters relating to the governance of the Commonwealth External Territory of Norfolk Island.

The Norfolk Island Amendment Bill 1999 will amend the *Norfolk Island Act 1979* by:

- allowing for Commonwealth oversight of firearms legislation on Norfolk Island;
- providing for Deputy Administrators to be appointed by the Federal Minister responsible for Territories rather than the Governor-General; and
- extending the right to vote in Legislatively Assembly elections to all Australian citizens ordinarily resident on the Island; establishing Australian citizenship as a qualification for enrolment and election to the Legislative Assembly; and preserving the existing enrolment rights of enrolled non-Australian citizens.

### Background

The *Norfolk Island Act 1979* provided for a form of self-government for Norfolk Island. It established and defined the responsibilities and powers of the Legislative Assembly, the Executive Council of Norfolk Island and the Administrator of Norfolk Island. The Act also sets out the Commonwealth Minister's responsibilities in relation to the governance of the Territory. The Act, amongst other matters, provides for the appointment of Deputy Administrators and qualifications for the election of members to the Legislative Assembly.

The *Norfolk Island Act 1979* gives the Executive Council of Norfolk Island authority and responsibility over a number of matters (including firearms) which are listed at Schedule 2 of the Act.

Firearms laws on Norfolk Island are contained in the Firearms Act 1997 (Norfolk Island). The provisions of the Firearms Act 1997 (Norfolk Island) do not comply with the National Agreement on Firearms agreed to by State and Commonwealth Police Ministers in 1996 and implemented in all States and internal and external Territories except Norfolk Island.

The Norfolk Island Government has been consulted on the extension of the National Agreement on Firearms to Norfolk Island on a number of occasions since early 1996. The Norfolk Island Legislative Assembly has not to date passed legislation that complies with the National Agreement. Legislative proposals are being considered by the Norfolk Island and Commonwealth Governments.

To ensure that legislation enacted by the Norfolk Island Legislative Assembly conforms, and continues to conform, with the National Agreement on Firearms, the Norfolk Island Amendment Bill will remove reference to "Firearms" from Schedule 2

of the *Norfolk Island Act 1979* and insert "Firearms and ammunition" into Schedule 3 of the Act.

The Norfolk Island Amendment Bill 1999 also proposes to vary the appointment procedures provided in the *Norfolk Island Act 1979* for Norfolk Island Deputy Administrators. The role of the Deputy Administrator on Norfolk Island is to exercise the powers and perform the functions of the Administrator at times when the Administrator is absent from the Territory, between appointments of Administrators, or on any occasion where the Administrator is unable to perform his or her duties.

The Governor-General currently appoints Deputy Administrators. However, the appointment of a comparatively junior Commonwealth officer to an essentially dormant commission does not warrant the attention of the Governor-General. The proposed amendment provides for Norfolk Island Deputy Administrators to be appointed by the Commonwealth Territories Minister. This is consistent with provisions operating on the Indian Ocean Territories of Cocos (Keeling) Islands and Christmas Island to appoint Deputy Administrators.

Electoral provisions for the Norfolk Island Legislative Assembly are contained in the *Norfolk Island Act 1979* and the Legislative Assembly Act 1979 (Norfolk Island).

The *Norfolk Island Act 1979* prescribes qualifications for election to the Legislative Assembly. Under existing provisions a person can stand for election to the Assembly if aged 18 or over, entitled to vote at elections and has been ordinarily resident for 5 years immediately preceding the date of nomination.

The Legislative Assembly Act 1979 (Norfolk Island) prescribes that a person is qualified to enrol where that person has attained the age of 18 and has been present on Norfolk Island for 900 days during the period of 4 years immediately preceding their application for enrolment. This qualifying period for enrolment on Norfolk Island far exceeds the one month that applies to the Commonwealth and in all States and Territories on the mainland. Tasmania has a qualifying period of 6 months.

The Legislative Assembly of Norfolk Island is also the only Australian State or Territory legislative body where non-Australian citizens are entitled to vote and stand for election.

Consultation with the Norfolk Island Government on the proposed electoral changes has been ongoing since early 1998. However, agreement on the implementation was not reached.

The proposed electoral amendments would bring electoral provisions prescribing enrolment and entitlement to stand for election into line with those in all other Australian Parliaments. Under the proposed provisions, only Australian citizens would be eligible to enrol and stand for election to the Legislative Assembly. An ordinarily resident qualifying period of 6 months for enrolment would also be introduced. The enrolment rights of those currently on the electoral roll, who would otherwise be ineligible to enrol, will be preserved.

## **FINANCIAL IMPACT STATEMENT**

The Bill will have no substantial or direct effect on Commonwealth expenditure or revenue.

## Norfolk Island Amendment Bill 1999

**Clause 1: Short title**

Clause 1 provides that the Bill may be cited as the *Norfolk Island Amendment Act 1999*.

**Clause 2: Commencement**

Clause 2 provides for the Act to commence on the 28<sup>th</sup> day after it receives the Royal Assent.

**Clause 3: Schedule(s)**

Clause 3 provides for amendment of the *Norfolk Island Act 1979* as set out in Schedule 1 of the Bill.

### Schedule 1 - Amendment of the *Norfolk Island Act 1979*

**Item 1: Subsection 9(1)**

Item 1 replaces the Governor-General with the Minister as the person having power to appoint the Deputy Administrator.

**Item 2: Subsection 10(3)**

Item 2 removes the requirement for the Deputy Administrator to make an oath or affirmation before the Governor-General, a Judge of the Supreme Court or of another court created by Parliament, or a person authorised by the Governor-General.

**Item 3: At the end of section 10**

Item 3 provides for the oath or affirmation of the Deputy Administrator to be made before the Minister, a Judge of the Supreme Court or of another court created by Parliament, or a person authorised by the Minister.

**Item 4: At the end of paragraphs 19(2)(a) and (c)**

Item 4 is to meet current drafting practices within the Office of Parliamentary Counsel.

**Item 5: After paragraph 38(b)**

Item 5 makes Australian citizenship a qualification to stand for election to the Legislative Assembly.

**Item 6: At the ends of paragraphs 39(2)(a) and (c)**

Item 6 is to meet current drafting practices within the Office of Parliamentary Counsel.

**Item 7: After paragraph 39(2)(d)**

Item 7 includes cessation of Australian citizenship as a disqualification from membership of the Legislative Assembly.

**Item 8: Application of Item 7**

Item 8 preserves the right of those elected before the commencement of these provisions to remain as a member of the Legislative Assembly.

**Item 9: After Division 1 of Part V**

**Division 1A – Qualifications of Electors**

Item 9 prescribes Norfolk Island enrolment provisions and complements sections 6 and 7 of the Legislative Assembly Act 1979 (Norfolk Island).

**Section 39A, entitlement to enrolment on the electoral roll**, incorporates the provisions of section 6 of the Legislative Assembly Act 1979 (Norfolk Island) with the addition of Australian citizenship as a qualification for entitlement to enrol, and reduces the ordinarily resident qualifying period to 6 months. The provision also maintains the re-enrolment qualifying period prescribed under subsection 6(1) of the Legislative Assembly Act 1979, but qualifies that the person re-enrolling must be an Australian citizen. The qualifying period for re-enrolment is 150 days present on Norfolk Island during the 240 days immediately preceding the person's application for enrolment.

Section 39B, **entitlement to vote**, is a new provision that confirms the right of those on the electoral roll to vote at Legislative Assembly elections.

Section 39C, **alteration of electoral roll**, provides that persons who cease to be Australian citizens are removed from the electoral roll, an additional removal qualification to those prescribed at section 7 of the Legislative Assembly Act.

Section 39D, **interpretation**, provides that "electoral roll" and "Returning Officer" have the same meaning as in the Legislative Assembly Act 1979 (Norfolk Island) and that "enrolment" means enrolment on the electoral roll.

**Item 10: Application of Item 9**

Item 10 preserves the entitlement of those on the Norfolk Island roll at the date of commencement of this Act to remain on the roll.

**Item 11: Item 25 of Schedule 2**

Item 11 removes Item 25, "Firearms", from Schedule 2 of the *Norfolk Island Act 1979*.

**Item 12:      Item 26 of Schedule 2**

Item 12 qualifies that Item 26, "Explosive and Dangerous Substances", of Schedule 2 of the *Norfolk Island Act 1979* excludes ammunition.

**Item 13:      Item 11 of Schedule 3**

Item 13 inserts Item 11, "Firearms and ammunition" into Schedule 3 of the *Norfolk Island Act 1979*.

**Item 14:      The whole of the Act**

Item 14 replaces "he", wherever occurring, with "he or she".

**Item 15:      The whole of the Act**

Item 15 replaces "him", wherever occurring, with "him or her".

**Item 16:      The whole of the Act**

Item 16 replaces "himself", wherever occurring, with "himself or herself".

**Item 17:      The whole of the Act**

Item 17 replaces "his", wherever occurring, with "his or her".