



# Norfolk Island (Electoral and Judicial) Amendment Act 1992

No. 121 of 1992

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**An Act to enable certain residents of Norfolk Island to  
vote in Parliamentary elections, and for other purposes**

*[Assented to 17 October 1992]*

The Parliament of Australia enacts:

## **PART 1—PRELIMINARY**

### **Short title**

- 5     1. This Act may be cited as the *Norfolk Island (Electoral and  
Judicial) Amendment Act 1992*.

### **Commencement**

2. This Act commences on the day on which it receives the Royal Assent.

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**PART 2—AMENDMENT OF THE COMMONWEALTH  
ELECTORAL ACT 1918 AND A RELATED ACT**

**Principal Act**

3. In this Part, “Principal Act” means the *Commonwealth Electoral Act 1918*<sup>1</sup>. 5

**Interpretation**

4. Section 4 of the Principal Act is amended:

(a) by omitting from subsection (1) the definition of “Australia” and substituting the following definition: 10

“ ‘Australia’ includes:

(a) Norfolk Island; and

(b) the Territory of Cocos (Keeling) Islands; and

(c) the Territory of Christmas Island;”;

(b) by omitting subsection (6) and substituting the following subsection: 15

“(6) This Act extends to:

(a) Norfolk Island; and

(b) the Territory of Cocos (Keeling) Islands; and

(c) the Territory of Christmas Island.”.

**Act to bind Crown** 20

5. Section 4B of the Principal Act is amended by omitting “and of the Northern Territory” and substituting “, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island”.

**Interpretation**

6. Section 45 of the Principal Act is amended by adding at the end the following subsection: 25

“(2) For the avoidance of doubt, a resident of Norfolk Island who is one of the people of a State for the purposes of sections 7 and 24 of the Constitution is not one of the people of Norfolk Island for the purposes of subsection (1).”.

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**Ascertainment of numbers of people of Commonwealth, States and Territories**

7. Section 46 of the Principal Act is amended by adding at the end the following subsection:

“(2) People on the Roll of electors for a Territory because of subsection 95AA(3) are people of that Territory for the purposes of subsection (1) of this section.”.

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**Choice of member for Territory**

8. Section 51 of the Principal Act is amended by omitting "A" and substituting "Subject to subsection 95AA(3), a".

**Enrolled voters leaving Australia**

5     9. Section 94 of the Principal Act is amended by adding at the end the following subsection:

    “(16) In this section:

    ‘Australia’ does not include Norfolk Island.”.

**Eligibility of spouse or child of eligible overseas elector**

10    10. Section 95 of the Principal Act is amended by inserting in subsection (17) the following definition:

    “‘Australia’ does not include Norfolk Island;”.

    11. After section 95 of the Principal Act the following sections are inserted:

15    **Norfolk Island electors**

    “95AA.(1) In this section:

    ‘exclusive Territory’ means an internal Territory that neither:

- (a) includes another Territory; nor
- (b) is included in another Territory;

20    under section 4 (if any);

    ‘inclusive Territory’ means an internal Territory that, under section 4, includes another Territory;

    ‘one-Territory Division’ means:

- 25    (a) a Division that is an exclusive Territory; or
- (b) a Division that is one of the Divisions into which an exclusive Territory is distributed; or
- (c) a Division that:
  - 30    (i) is one of the Divisions into which an inclusive Territory is distributed; and
  - (ii) does not include a Territory that, under section 4, is included in that inclusive Territory;

    ‘qualified Norfolk Islander’ means a person who:

- 35    (a) resides in Norfolk Island; and
- (b) would be qualified for enrolment under section 93 if he or she lived in a Subdivision and had so lived for a period of one month last past; and
- (c) is not entitled to be enrolled for a Subdivision under section 94 or 95;

    ‘State’ does not include a Territory;

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**‘Territory’ means:**

- (a) an internal Territory; or
- (b) an external Territory.

“(2) Subject to subsection (4), a qualified Norfolk Islander who is one of the people of a State for the purposes of sections 7 and 24 of the Constitution is entitled to be enrolled for: 5

- (a) the Subdivision in that State for which he or she last had an entitlement to be enrolled; or
- (b) if he or she never had such an entitlement—a Subdivision in that State for which any of his or her next of kin is enrolled; or 10
- (c) if neither paragraph (a) nor (b) applies—the Subdivision in that State in which he or she was born; or
- (d) if none of paragraphs (a), (b) and (c) applies—a Subdivision in that State with which he or she has a close connection. 15

“(3) Subject to subsection (4), a qualified Norfolk Islander who is not one of the people of any State for the purposes of sections 7 and 24 of the Constitution is entitled to be enrolled for a Subdivision of a one-Territory Division.

“(4) A qualified Norfolk Islander is not entitled to be enrolled for more than one Subdivision at the same time. 20

**Presumption about certain Norfolk Island electors**

“95AB. If:

- (a) a qualified Norfolk Islander (within the meaning of section 95AA) claims to be one of the people of a State for the purposes of sections 7 and 24 of the Constitution; and 25
- (b) at least one paragraph of subsection 95AA(2) applies in relation to the claimant and the State; and
- (c) there is no decision by a court that the claimant is not one of those people; 30

then, for the purposes of section 95AA and subsection 95AC(2), a Divisional Returning Officer must take the claimant to be one of those people.

**Rolls relating to Norfolk Island electors**

“95AC.(1) A Divisional Returning Officer who, under section 95AA, causes the name of a person to be added to the Roll must annotate the Roll so as to indicate that the person is enrolled under that section. 35

“(2) A Divisional Returning Officer for a Division must conduct a review of the Roll for a Subdivision of that Division in relation to electors to whom an annotation under subsection (1) applies if directed to do so by the Electoral Commission and, upon completion of the 40

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review, make such alterations to the Roll as he or she thinks necessary to ensure that persons on that Roll under section 95AA are entitled to be so.”.

**Itinerant electors**

- 5       12. Section 96 of the Principal Act is amended by adding at the end the following subsection:

“(13) In this section:

‘Australia’ does not include Norfolk Island.”.

**Claims for enrolment or transfer of enrolment**

- 10       13. Section 99 of the Principal Act is amended by inserting in subsection (3) “95AA,” after “95,”.

**Compulsory enrolment and transfer**

14. Section 101 of the Principal Act is amended:

- 15       (a) by omitting from subsection (1) “Every” and substituting “Subject to subsection (5A), every”;

(b) by inserting after subsection (1) the following subsection:

20               “(1A) A person who is entitled to be enrolled for any Subdivision under section 95AA may fill in and sign a claim and send or deliver it to any Divisional Returning Officer or Australian Electoral Officer.”;

(c) by omitting from subsection (4) “Every” and substituting “Subject to subsection (5A), every”;

(d) by omitting from subsection (5) “Where” and substituting “Subject to subsection (5A), where”;

- 25       (e) by inserting after subsection (5) the following subsection:

““(5A) Subsections (1), (4) and (5) do not apply to a qualified Norfolk Islander within the meaning of section 95AA.”.

**No State referendum or vote to be held on polling day**

- 30       15. Section 394 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) In this section:

‘State’ includes:

- 35       (a) the Australian Capital Territory; and  
(b) the Northern Territory; and  
(c) Norfolk Island.”.

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**Consequential amendment**

16. Section 9 of the *Australian Capital Territory (Electoral) Act 1988* is amended by adding at the end the following subsection:

“(3) If the Roll for the Territory is annotated under section 95AC of the *Commonwealth Electoral Act 1918* to indicate that a person is enrolled under section 95AA of that Act, then: 5

- (a) for the purposes of this Act, the person’s name is taken not to be on the Roll (including the Rolls for Divisions and Subdivisions forming that Roll); and
- (b) a copy of the Roll provided, or a habitation index prepared, under section 24 of this Act must not contain the person’s name or any other information about that person.”. 10

**PART 3—AMENDMENT OF THE REFERENDUM (MACHINERY PROVISIONS) ACT 1984**

**Principal Act** 15

17. In this Part, “Principal Act” means the *Referendum (Machinery Provisions) Act 1984*.

**Reason for Part**

18. This Part is enacted because subsection 95AA(3) of the *Commonwealth Electoral Act 1918* allows the representation of Norfolk Island in both Houses of the Parliament so that, in section 128 of the Constitution (mode of altering the Constitution), “Territory” includes Norfolk Island. 20

**Interpretation**

19. Section 3 of the Principal Act is amended: 25

- (a) by omitting from subsection (1) the definition of “Australia” and substituting the following definition:

“ ‘Australia’ includes:

- (a) Norfolk Island; and
- (b) the Territory of Cocos (Keeling) Islands; and 30
- (c) the Territory of Christmas Island;”;

- (b) by omitting subsection (3) and substituting the following subsection:

“(3) This Act extends to:

- (a) Norfolk Island; and 35
- (b) the Territory of Cocos (Keeling) Islands; and
- (c) the Territory of Christmas Island.”.

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**Application to Crown**

20. Section 3B of the Principal Act is amended by omitting “and of the Northern Territory” and substituting “, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island”.

- 5       21. After section 98 of the Principal Act the following section is inserted:

**Norfolk Islanders**

- 10       “98A. For the purposes of sections 97 and 98, if a person is on the Roll for a Territory because of subsection 95AA(3) of the *Commonwealth Electoral Act 1918*, his or her vote or ballot paper is taken to be in relation to that Territory.”.

**PART 4—AMENDMENT OF THE NORFOLK ISLAND ACT 1979**

**Principal Act**

22. In this Part, “Principal Act” means the *Norfolk Island Act 1979*<sup>1</sup>.

- 15       **Salaries and travelling allowances**

23. Section 56 of the Principal Act is amended by omitting from subsection (2) “travelling expenses” and substituting “travelling allowances”.

**Validation**

- 20       24. Payments made before 25 July 1991 that purported to be payments under subsection 56(2) of the Principal Act of travelling expenses approved by the Governor-General are taken to have been lawful payments under that subsection of such expenses.

**Transitional**

- 25       25. Travelling expenses approved by the Governor-General for the purposes of subsection 56(2) of the Principal Act on 25 July 1991 that can be treated as travelling allowances are, as well as being travelling expenses so approved, taken to be travelling allowances approved by the Governor-General for the purposes of subsection 56(2) of the  
30       Principal Act as amended by this Act.

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**NOTES**

1. No. 27, 1918, as amended. For previous amendments, see No. 31, 1919; No. 14, 1921; No. 14, 1922; No. 10, 1924; No. 20, 1925; No. 17, 1928; No. 2, 1929; No. 9, 1934; No. 19, 1940; No. 42, 1946; No. 17, 1948; Nos. 10 and 47, 1949; No. 106, 1952; No. 79, 1953; No. 26, 1961; No. 31, 1962; Nos. 48 and 70, 1965; Nos. 32 and 93, 1966; No. 7, 1973; No. 38, 1974; No. 56, 1975; Nos. 14 and 116, 1977; No. 19, 1979; Nos. 102 and 155, 1980; No. 176, 1981 (as amended by No. 26, 1982); No. 80, 1982; Nos. 39 and 84, 1983; No. 144, 1983

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NOTES—continued

(as amended by No. 45, 1984); Nos. 45, 46, 120 and 133, 1984; Nos. 67, 166 and 193, 1985; Nos. 35, 141 and 184, 1987; Nos. 87, 99 and 109, 1988; No. 159, 1989; No. 24, 1990; No. 203, 1991; and No. 45, 1992.

2. No. 44, 1984, as amended. For previous amendments, see Nos. 120 and 133, 1984; No. 67, 1985; Nos. 77 and 81, 1988; No. 24, 1990; and No. 203, 1991.
3. No. 25, 1979, as amended. For previous amendments, see No. 120, 1981; Statutory Rules No. 153, 1981 (as amended by Statutory Rules No. 33, 1984; and Statutory Rules No. 173, 1985); No. 26, 1982 (as amended by No. 80, 1982); No. 80, 1982; No. 39, 1983; No. 63, 1984; Nos. 65 and 193, 1985; Nos. 76 and 168, 1986; Nos. 27 and 99, 1988; No. 60, 1989; Statutory Rules No. 268, 1989; and No. 21, 1992.

[*Minister's second reading speech made in—*  
*House of Representatives on 25 June 1992*  
*Senate on 19 August 1992*]