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The Parliament of the Commonwealth of Australia

# **Norfolk Island Electoral Matters**

Joint Standing Committee on the National Capital and External Territories

June 2002  
Canberra

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## Foreword

This report is the latest of a number of reviews of electoral matters on Norfolk Island, which have resulted from changes to the Norfolk Island Act made in 1985. At that time, the Government repealed the provisions of the act that referred to citizenship. The repeal of sections relating to British citizenship created inconsistencies between electoral laws on Norfolk Island and the rest of Australia.

In 1990, the Hon David Simmons, then Minister for Territories, sought to correct these anomalies and bring Norfolk Island into line with the rest of Australia. The House Legal and Constitutional Committee in its report, *Islands in the Sun*, tabled in 1991, recommended that 'the residency provision should be coupled with a citizenship requirement so that only Australian citizens are eligible to stand or vote in Legislative Assembly elections'. The recommendation was not implemented at the time.

In 1998, the Hon Alex Somlyay, Minister for Territories, also sought to redress the anomalies in the Norfolk Island Act. He argued that a number of changes had occurred since 1985 to make the matter more important. Two High Court decisions in 1992 and 1996 reinforced the principle that 'allegiance to a foreign power' disqualified people from membership of the Federal Parliament. In addition, increasing powers, more akin to State and Federal responsibilities than local government, had been devolved to the Norfolk Island Government over the period from 1979. These have increased rather than diminished the need for Australian citizenship to underpin elections on Norfolk Island. The Minister's intentions were not followed through by the time of the dissolution of the Parliament for the 1998 election.

Finally, in 1999, Senator the Hon Ian MacDonald, Minister for Regional Services, Territories and Local Government, introduced amendments to the Norfolk Island Act to limit the franchise to Australian citizens and to reduce the period of residence eligibility from 900 days to six months. The matter was referred to the

Senate Legal and Constitutional Committee, which, in 1999, conducted an inquiry into the proposed Bill, but it was not able to visit Norfolk Island. In its report of August 1999, the majority of the Senate Committee recommended that the amendments go ahead. However, in rejecting the amendments, the Opposition Senators responded to the concerns of groups on the Island and their claim that there had been insufficient consultation with them on the matter. The Senate voted against the proposed amendments to the Norfolk Island Act in March 2000.

In November 2000, the Joint Standing Committee on the National Capital and External Territories undertook this inquiry into electoral matters on Norfolk Island at the request of the Minister, Senator Macdonald. An extensive inquiry was undertaken. It is documented in Chapter 1 of the report.

The conclusions of this report are consistent with the findings of all the preceding inquiries. The Committee believes that the legislation proposed in 1999 had sufficient protections for those already enrolled and therefore no one would be disenfranchised by the changes. Furthermore, the Committee believes that the Norfolk Island electoral laws should be consistent with those of the rest of Australia and that, as a matter of fundamental principle, Australian citizenship should be the essential basis of the right to vote anywhere in Australia.

The Committee is grateful to all those who participated in the inquiry.

**Senator Ross Lightfoot**  
**Chairman**



## **Membership of the Committee**

### **39<sup>th</sup> Parliament Membership of the Committee**

**Chair**            Senator Ross Lightfoot

**Deputy Chair**   Senator Trish Crossin

**Members**        Mr Ross Cameron MP

Senator Brian Greig

Ms Annette Ellis MP

Senator Kate Lundy

Mr Gary Nehl MP

Senator John Watson

Mr Paul Neville MP

Senator Sue West

The Hon Warren Snowdon MP

The Hon Alex Somlyay MP

**Secretary**            Mr Richard Selth

**Inquiry Secretary**   Ms Sue Irvine

**Research Officer**    Ms Emma Herd

**Administrative Officers** Ms Anna Gadzinski  
(from July 2001)

Ms Sarah Steele  
(until June 2001)

## **40<sup>th</sup> Parliament Membership of the Committee**

**Chair**            Senator Ross Lightfoot

**Deputy Chair**   Senator Trish Crossin

<b>Members</b>	The Hon Ian Causley MP	Senator Richard Colbeck (Discharged 27.06.02)
	Ms Annette Ellis MP	Senator Brian Greig
	Mr Michael Johnson MP	Senator Kate Lundy
	Mr Paul Neville MP	Senator Nigel Scullion (Appointed 27.06.02)
	The Hon Warren Snowdon MP	Senator Sue West
	Mr Cameron Thompson MP	

## **Committee Secretariat**

**Secretary**            Mrs Margaret Swieringa

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**Research Officers**    Mrs Sonya Fladun

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Mrs Belinda McCann

Mr Daniel Miletic





## **Terms of reference**

The Joint Standing Committee on the National Capital and External Territories has been asked to inquire into and report on:

The consistency of the laws relating to eligibility to vote and candidature for the Legislative Assembly of the Territory of Norfolk Island with other Australian jurisdictions, in particular:

- (a) Whether Australian citizenship should be a requirement for eligibility to vote for, or be elected to, the Legislative Assembly;
- (b) The time period before which an Australian citizen resident in the Territory can enrol to vote for the local legislature.

First referred on 1<sup>st</sup> November 2000, 39<sup>th</sup> Parliament.

Re-referred on 5 April 2002, 40<sup>th</sup> Parliament.



## List of recommendations

### 3 Citizenship

#### Recommendation 1

The Committee recommends 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 electoral roll.

The Committee further recommends that these changes be incorporated into the Commonwealth *Norfolk Island Act 1979*.

#### Recommendation 2

The Committee recommends that the Government amend all appropriate legislation, including the *Norfolk Island Act 1979* and the *Commonwealth Electoral Act 1918*, to ensure that all elections and referenda on Norfolk Island come under the supervision of the Australian Electoral Commission.

### 4 Residency

#### Recommendation 3

The Committee recommends that the period for which an Australian citizen must reside on Norfolk Island before being eligible to enrol to vote for the Legislative Assembly be reduced to six months.

The Committee further recommends that this change be incorporated into the Commonwealth *Norfolk Island Act 1979*.

