



Senate Legal and Constitutional Legislation Committee

**Consideration of legislation referred
to the committee**

NORFOLK ISLAND AMENDMENT BILL 1999

August 1999



Senate Legal and Constitutional Legislation Committee

**Consideration of legislation referred
to the committee**

NORFOLK ISLAND AMENDMENT BILL 1999

August 1999

© Commonwealth of Australia 1999
ISBN 0-642-71026-0

This document was produced from camera-ready copy prepared by the Senate Legal and Constitutional Legislation Committee, and printed by the Senate Printing Unit, Department of the Senate, Parliament House, Canberra.

LEGISLATION COMMITTEE MEMBERSHIP

Members

Senator M. Payne (**Chair**) LP

Senator J. McKiernan (**Deputy Chair**) ALP

Senator H. Coonan LP

Senator B. Cooney ALP

Senator B. Mason LP¹

Senator L. Allison AD²

Participating Members

Senator the Hon. E. Abetz

Senator A. Bartlett

Senator the Hon. N. Bolkus

Senator B. Brown

Senator the Hon. J. Faulkner

Senator N. Stott Despoja

Senator B. Harradine

Secretariat

Dr Pauline Moore (Secretary to the Committee)

Mr Gavin Denton (Senior Research Officer)

The Senate

Parliament House

CANBERRA ACT 2600

Tel: (06) 277 3562

Fax: (06) 277 5794

¹ With effect from 1 July 1999

² Replaced Senator N. Stott Despoja for the purposes of the Norfolk Island Amendment Bill 1999 inquiry.

TABLE OF CONTENTS

FOREWORD	VII
CHAPTER 1	1
BACKGROUND	1
Referral of the Bill	1
Background to the inquiry.....	1
Objectives of the Legislation	3
Submissions.....	3
Hearings and Evidence.....	3
CHAPTER 2	5
APPOINTMENT OF DEPUTY ADMINISTRATORS	5
Introduction.....	5
Current procedures – the Norfolk Island Act 1979.....	5
View of the Commonwealth Government	6
Current procedure for appointment by the Governor-General.....	6
Concerns of the Norfolk Island Government	7
CHAPTER 3	9
THE REMOVAL OF “FIREARMS” FROM SCHEDULE 2	9
Background	9
The Norfolk Island position	10
Major areas of divergence.....	11
Conclusion.....	14
CHAPTER 4	15
ELECTORAL REFORM	15
Background	15
The Norfolk Island Act 1979	16
Concerns of the Norfolk Island Government	16
What the proposed changes mean for Norfolk Island.....	20
MINORITY REPORT	23

APPENDIX 1	27
INDIVIDUALS AND ORGANISATIONS THAT PROVIDED THE	
COMMITTEE WITH SUBMISSIONS.....	27
APPENDIX 2	29
WITNESSES WHO APPEARED BEFORE THE COMMITTEE	29
APPENDIX 3	31
THE STATUS OF NORFOLK ISLAND AND ITS	
CONSTITUTIONAL RELATIONSHIP TO AUSTRALIA	31
History.....	31
APPENDIX 4	37
<i>NORFOLK ISLAND ACT 1979</i>–SCHEDULES 2 AND 3 (1979).....	37
APPENDIX 5	41
<i>NORFOLK ISLAND ACT 1979</i>– SCHEDULES 2 AND 3 (1999).....	41
APPENDIX 6	47
STATE/TERRITORY COMPARISONS FOR ELIGIBILITY TO	
ENROL TO VOTE.....	47

FOREWORD

1.1 The Committee has carefully considered all the evidence provided to it by way of private briefings, submissions and public hearings, and on balance, accepts that the Norfolk Island Amendment Bill 1999 brings Norfolk Island's firearms and electoral laws into line with the rest of the Commonwealth of Australia.

1.2 Furthermore, the Committee is not convinced that the appointment of the Deputy Administrator warrants the attention of the Governor-General.

1.3 The Committee, therefore, recommends that the Norfolk Island Amendment Bill 1999 be passed without amendment.

Marise Payne
Chair
August 1999

CHAPTER 1

Background

Referral of the Bill

1.4 On 21 April 1999, following a recommendation by the Selection of Bills Committee³, the Senate referred the Norfolk Island Amendment Bill 1999 to the Legal and Constitutional Legislation Committee for inquiry and report by 12 August 1999.

Background to the inquiry

History

1.5 Norfolk Island was discovered by Captain James Cook on 10 October 1774.⁴ The Island was initially used as a convict outpost of Botany Bay from 1788, with the last of the convicts being removed in 1855. In 1856 land grants were made to descendants of the HMS BOUNTY mutineers, their Tahitian wives, and whalers who were then residing on Pitcairn Island, but who had outgrown the resources available there.

1.6 Today the Island comprises a cosmopolitan society of some 1,500 permanent residents.⁵ Almost 66 per cent of the population were born elsewhere. Descendants of the settlers from Pitcairn Island comprise less than half of the overall population, and less than 20 per cent of the population were born on Norfolk Island and are of Pitcairn descent. Over two thirds of the island's permanent population were born in Australia (including Norfolk Island), and over 80 per cent are Australian citizens.⁶

Form of Government

1.7 In 1979 the Federal Parliament passed the *Norfolk Island Act 1979*, which introduced a limited form of self-government to Norfolk Island, broadly comparable to that which exists in the Northern Territory and the Australian Capital Territory.

1.8 Prior to obtaining this form of self-government, Norfolk Island was administered by the Commonwealth Department of Administrative Services, under the *Norfolk Island Act 1957- 73*.⁷ The Minister for Administrative Services had responsibility for the peace, order and good government of the Island and was assisted by an Administrator and Deputy Administrator on the Island.

1.9 The Norfolk Island Council Ordinance provided for a Norfolk Island Council during this period, however, the Council had no executive power, and functioned solely as an

³ Selection of Bills Committee Report No. 6 of 1999, *Senate Hansard*, 21 April 1999, p.749.

⁴ J. Nimmo, *Report of the Royal Commission into Matters Relating to Norfolk Island*, October 1976, AGPS, Canberra, 1976, p.34.

⁵ Norfolk Island Census, 6 August 1996, Section A.

⁶ Commonwealth Grants Commission, *Report on Norfolk Island 1997*, AGPS, p.25.

⁷ J. Nimmo, *Report of the Royal Commission into Matters Relating to Norfolk Island*, October 1976, AGPS, Canberra, 1976, p.347.

advisory body.⁸ Furthermore, Australian citizens living in Norfolk Island had no representation within the Commonwealth Parliament. In response to this anomalous situation, the *Report of the Royal Commission into Matters Relating to Norfolk Island*, recommended:

That residents of Norfolk Island be included in the electorate of Canberra in the Australian Capital Territory for the purpose of giving them representation in the Commonwealth Parliament. (See Commonwealth Electoral Act 1918.)⁹

It also recommended:

That the present Norfolk Island Council be abolished and replaced by an incorporated body to be known as the Norfolk Island Territory Assembly.¹⁰

1.10 The recommendations of the Royal Commission Report culminated in the introduction of the *Norfolk Island Act 1979*, and the establishment of a limited form of self-government for Norfolk Island. The 1979 Act established the Norfolk Island government, which is composed of an Administrator, a Legislative Assembly, an Executive Council and a public service.

Administrator

1.11 The Administrator is appointed by the Governor-General and administers the Island as a Territory under the authority of the Commonwealth of Australia.¹¹ The Administrator must approve all bills passed by Norfolk Island's Legislative Assembly before they become law. The Administrator acts on the advice of the Executive Council in relation to matters specified in Schedule 2, and by the Executive Council and the Minister for Territories for matters pertaining to Schedule 3. Where there is a difference of opinion in relation to Schedule 3 matters, the view of the Minister for Territories prevails.¹²

Legislative Assembly

1.12 The *Norfolk Island Act 1979* established a Legislative Assembly that consists of nine members elected for terms of three years each. Its power to legislate is restricted by the Act in some circumstances. For example, the Assembly may not pass bills authorising the coinage of money, or any bills involving customs, immigration, education, industrial relations and social security. Both the Administrator and Australia's Minister for Territories must approve such bills.¹³

⁸ J. Nimmo, *Report of the Royal Commission into Matters Relating to Norfolk Island*, October 1976, AGPS, Canberra, 1976, p.347.

⁹ J. Nimmo, *Report of the Royal Commission into Matters Relating to Norfolk Island*, October 1976, AGPS, Canberra, 1976, p.6.

¹⁰ J. Nimmo, *Report of the Royal Commission into Matters Relating to Norfolk Island*, October 1976, AGPS, Canberra, 1976, p.6.

¹¹ Section 6 of the *Norfolk Island Act 1979*.

¹² Section 7 of the *Norfolk Island Act 1979*.

¹³ Section 19(2) of the *Norfolk Island Act 1979*.

Executive Council

1.13 The Executive Council comprises four of the nine members of the Legislative Assembly. Each member of the Executive Council holds the position of Minister for one or more of a number of portfolios, including Finance, Health, Tourism, Education and Immigration.¹⁴

Public Service

1.14 The Island also has its own public service, which consists of the Chief Administrative Officer and the departments of Administrative Services, Community Services, Finance, Legal and Works. The Chief Administrative Officer is appointed by the Administrator, on the advice of the Legislative Assembly. Appointments to the departments are made by the Chief Administrative Officer.¹⁵

Objectives of the Legislation

1.15 The Norfolk Island Amendment Bill 1999 seeks to amend the *Norfolk Island Act 1979* by:

- providing for Deputy Administrators to be appointed by the Federal Minister responsible for Territories rather than the Governor-General;
- allowing for Commonwealth oversight of firearms legislation on Norfolk Island; and
- extending the right to vote in Legislative 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.

Submissions

1.16 The inquiry was advertised in the *Weekend Australian* on Saturday 1 May 1999 and in *The Norfolk Islander* on Saturday 8 May 1999.

1.17 In addition, the Committee wrote to a number of organisations and individuals inviting submissions on the Bill. The Committee received 17 submissions, which are listed at Appendix 1.

Hearings and Evidence

1.18 The Committee held two public hearing into the Bill; one in Sydney on 5 July 1999 and one in Canberra on 10 August 1999. Witnesses who appeared before the Committee are listed at Appendix 2.

1.19 The Committee is grateful to, and wishes to thank, all individuals and organisations who made a submission or presented oral evidence before the Committee.

¹⁴ Section 11(1) of the *Norfolk Island Act 1979*.

¹⁵ J. Phillips, *The Structure of Norfolk Government*, Impressions, p.1.

CHAPTER 2

Appointment of Deputy administrators

Introduction

1.20 The Norfolk Island Amendment Bill 1999 proposes to vary the appointment procedures provided in the *Norfolk Island Act 1979* for Norfolk Island Deputy Administrators.

1.21 The role of the Deputy Administrator is to perform the duties and functions of the Administrator where the Administrator is absent from the Island, unable to perform his or her duties due to illness or incapacity, or where there is a vacancy in the office of the Administrator.¹⁶

Current procedures – the Norfolk Island Act 1979

1.22 Under the *Norfolk Island Act 1979*, the appointment of the Deputy Administrator mirrors the procedures for the appointment of the Administrator and the Acting Administrator; their appointments are made by the Governor-General by Commission. The appointment and powers of the Deputy Administrator are prescribed by Section 9 of the Act.

1.23 Section 9 of the *Norfolk Island Act 1979* states:

- (1) There shall be a Deputy Administrator of the Territory, who shall be appointed by the Governor-General by Commission and shall hold office during the pleasure of the Governor-General.
- (2) Where:
 - (a) there is a vacancy in the office of Administrator or the Administrator is absent from the Territory or unable by reason of illness or incapacity to perform his duties; and
 - (b) either:
 - (i) an Acting Administrator has not entered on his duties, or
 - (ii) an Acting Administrator has entered on his or her duties but is absent from duty or from the Territory or is unable for any reason to perform those duties;

the Deputy Administrator has and may exercise and perform all the powers and functions of the Administrator.

¹⁶ Norfolk Island Amendment Bill 1999, *Explanatory Memorandum*, p.3.

- (3) The exercise of the powers and performance of the functions of the Administrator, by virtue of this section, by the Deputy Administrator during the absence of the Administrator from duty or from the Territory does not affect the exercise of any power or the performance of any function by the Administrator.

1.24 The Commonwealth Government considers these procedures to be outdated and has made provision in the Bill to bring the appointment of Deputy Administrators on Norfolk Island into line with the appointment of Deputy Administrators in other Australian Territories, namely Christmas Island and the Cocos (Keeling) Islands.¹⁷

1.25 It is proposed under the Norfolk Island Amendment Bill 1999 (Item 1, Schedule 1) that the Minister for Territories replaces the Governor-General as the person having power to appoint the Deputy Administrator.

1.26 The Bill also 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 the Parliament, or a person authorised by the Minister.

View of the Commonwealth Government

1.27 The view of the Commonwealth Government in regard to the appointment of Deputy Administrators on Norfolk Island, is concisely stated in the Explanatory Memorandum to the Bill:

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.

Current procedure for appointment by the Governor-General

1.28 The appointee to the position of Deputy Administrator is usually the same person who holds the office of the Official Secretary to the Administrator. The appointment of Deputy Administrator is ordinarily made at the commencement of the Official Secretary's term of office, and hence need only be made once by the Governor-General. Thereafter, the office of the Deputy Administrator is revived each time the Administrator or Acting Administrator has not entered on his or her duties, is absent or unable to perform those duties.¹⁸

1.29 The process for appointing Norfolk Island Deputy Administrator is as follows:

- The Territories Minister writes to the Prime Minister, seeking either his approval for the appointment or his agreement to raise the matter in Cabinet "under the line".
- The Prime Minister or Cabinet "approves" the appointment.

¹⁷ Norfolk Island Amendment Bill 1999, *Explanatory Memorandum*, p.3.

¹⁸ Section 9 of the *Norfolk Island Act 1979*.

- Papers are submitted to the Executive Council by the Territories Minister.
- After the Executive Council approves the appointment, an Instrument of Authorisation is signed by the Governor-General, commissioning the appointment (in accordance with s.9 of the *Norfolk Island Act 1979*).
- The Deputy Administrator is then required to swear an oath before either the Governor-General, a judge, or other person authorised by the Governor-General for the purpose (in accordance with s.10 of the *Norfolk Island Act 1979*).¹⁹

1.30 Consequently, the appointment of the Deputy Administrator by the Governor-General by Commission impinges unnecessarily on the time and resources of the Prime Minister, the Executive Council and the Governor-General.

Concerns of the Norfolk Island Government

1.31 The primary concern of the Norfolk Island government regarding changes to the appointment of the Deputy Administrator was set out in a letter from the Chief Minister, Mr George Smith, to the Federal Minister on 9 March 1999. The letter stated that:

In terms of devolution of authority from the Commonwealth to the Norfolk Island Government, endorsed most recently by both Ministers Somlyay and Macdonald, it is appropriate eventually that the Administrator and the Deputy Administrator be appointed according to the wishes of the Norfolk Island Government.²⁰

1.32 The Chief Minister then wrote to Senator Cooney, Chairman of the Senate Standing Committee for the Scrutiny of Bills on 25 March 1999, reiterating his earlier comments by stating that:

[the]...proposal to have the Norfolk Island Deputy Administrator appointed by the Minister instead of the Governor-General, *whilst of no great impact at this stage*, is incompatible with the longer term aim that such appointments should be devolved to the Norfolk Island Government in the process to achieve self-government.²¹
[emphasis added]

1.33 This suggests that the concern of the Norfolk Island government lies less with the proposed changes to the appointment of the Deputy Administrator than with the overall direction of self-government and the desire for a greater devolution of legislative and executive authority.

1.34 This position was also suggested at the public hearing held on 5 July in response to a question by Senator McKiernan:

...what is so important about the proposed changes to the appointment of the Deputy Administrator of Norfolk Island?²²

1.35 The Chief Minister, Mr Smith, replied:

¹⁹ Correspondence from the Department of Transport and Regional Services, 23 July 1999, p.1.

²⁰ *Submission No. 15*, Norfolk Island Government, p.34.

²¹ *Submission No. 15*, Norfolk Island Government, p. 34.

²² Legal and Constitutional Legislation Committee Proof *Hansard*, 5 July 1999, p.25.

The whole process is about transferring powers to the Norfolk Island government – the self-government process that we have been following since forever, but particularly since 1979. Transfer of powers is what it was about. It has been happening very slowly. What we are saying about the Deputy Administrator position and this Norfolk Island Amendment Bill is; how come it is changing? If you are going to make a change, like with the Deputy Administrator, why not change it to what we are supposed to be doing in this self-government process?

The transfer of powers for most things, as Mr Buffett pointed out before, is part of the agreed position and has been with both sides of Australian governments over the years since 1979. It is what we have been talking to the Commonwealth about. What we are saying right now is, ‘Hang on, if you want to change the Norfolk Island Act, carry on with what is agreed. Don’t change the rules in midstream and say, “We’re going to change the Deputy Administrator’s appointment, but we’re going to change it back to a different situation.” That is our objection to it.’²³

1.36 The Norfolk Island Government wants to increase its participation in determining who is currently appointed as the Administrator and Deputy Administrator to the Island, and ultimately to make the appointments itself.²⁴ In response to this suggestion, a representative of the Department of Territories and Regional Transport stated:

I can say that those proposals have been put to successive territories ministers and they have been resisted. The rationale that those successive ministers have applied is that the Administrator on Norfolk Island is not the same as, say, the Administrator of the Northern Territory in that he performs a range of Commonwealth functions. Besides wearing a hat as the Governor-General, he also performs executive functions and is the senior representative of the Commonwealth on the Island. His office is paid for entirely by the Commonwealth, unlike again the arrangements in the Northern Territory. So they are the reasons that have been advanced.²⁵

²³ Legal and Constitutional Legislation Committee Proof *Hansard*, 5 July 1999, p.25.

²⁴ Legal and Constitutional Legislation Committee Proof *Hansard*, 5 July 1999, p.26.

²⁵ Legal and Constitutional Legislation Committee Proof *Hansard*, 10 August 1999, p.5.

CHAPTER 3

the Removal of “firearms” from schedule 2

Background

1.37 The authority and responsibility for legislating in relation to firearms on Norfolk Island presently resides with the Norfolk Island Government under Schedule 2 of the *Norfolk Island Act 1979*. Current firearm laws on Norfolk Island are prescribed by the *Firearms Act 1997* (Norfolk Island). While the provisions of the *Firearms Act 1997* (Norfolk Island) meet many of the requirements of the National Firearms Agreement, which were resolved by the Australasian Police Ministers’ Council in 1996, there remain significant omissions, particularly in respect of semi-automatic firearms and firearm storage.²⁶

1.38 The Commonwealth Government has held on-going discussions with the Norfolk Island Government since 1996 in order to ensure that the requirements of the National Firearms Agreement were fully implemented. The Commonwealth decided in February 1998, that if the Norfolk Island Government failed to fully implement the National Agreement, it would seek to legislate to implement the Agreement, thereby bringing Norfolk Island into line with the rest of Australia.²⁷

1.39 The Norfolk Island Government introduced a draft bill amending the *Firearms Act 1997* (Norfolk Island) into the Legislative Assembly in August 1998. However, debate on the bill was adjourned in August, September and October of that year.²⁸ The bill was finally debated in November 1998 and was resoundingly defeated (Ayes 1, noes 7 with 1 abstention).²⁹

1.40 In mid-March 1999, the Norfolk Island Legislative Assembly passed the Firearms Amendment Bill 1999.³⁰

1.41 Subsequently, the Commonwealth Government determined that the *Firearms Act 1997* (as amended), together with the Firearms regulations, still did not fully comply with the National Firearms Agreement.³¹ In response, the Commonwealth Government introduced the Norfolk Island Amendment Bill 1999, in part, to remove any reference to “Firearms” from Schedule 2 of the *Norfolk island Act 1979* and to insert “Firearms and ammunition” into Schedule 3 of the Act. The effect of removing “Firearms” from Schedule 2 and placing it in

²⁶ Attorney-General’s Department, Law Enforcement Coordination Division, *Briefing Paper on Norfolk Island Firearms Legislation*, June 1999, p.1.

²⁷ Attorney-General’s Department, Law Enforcement Coordination Division, *Briefing Paper on Norfolk Island Firearms Legislation*, June 1999, p.1.

²⁸ Attorney-General’s Department, Law Enforcement Coordination Division, *Briefing Paper on Norfolk Island Firearms Legislation*, June 1999, p.1.

²⁹ Norfolk Island Legislative Assembly, *Hansard*, 19 November 1998, p.52.

³⁰ *Submission No. 15*, Norfolk Island Government, p.49.

³¹ Legal and Constitutional Legislation Committee Proof *Hansard*, 5 July 1999, p.19.

Schedule 3 is that the Administrator would be unable to assent to any legislation pertaining to firearms unless he or she had first obtained instructions from the Federal Minister.³²

1.42 Furthermore, the Commonwealth Government may, as is proposed, introduce new firearms legislation that will ensure that Norfolk Island conforms, and continues to conform, with the full requirements of the National Firearms Agreement.

1.43 In anticipation of these changes, the Commonwealth Government has drafted the Norfolk Island Firearms Bill 1999 (Cth), which provides a comprehensive regime for firearms' control on Norfolk Island:

It implements the National Agreement and enables the Commonwealth to conduct a firearms buy-back on Norfolk Island.³³

The Norfolk Island position

1.44 The Norfolk Island Government rejects the Commonwealth Government's assertion that the *Firearms Act 1997* (Norfolk Island), as amended by the Firearms Amendment Bill 1999 (which was passed in March 1999), fails to fully implement the National Firearms Agreement.

1.45 The Norfolk Island Government claims to have passed legislation which meets the requirements of the National Firearms Agreement. The Federal Attorney-General's Department stated in correspondence on 14 October 1998:

...we advised that the *Norfolk Island Firearms Act 1997* (the Act) as it would be amended by the Bill as presented to the Legislative Assembly on 19 August 1998 (together with draft regulations) complied with the National Firearms Agreement.³⁴

The Norfolk Island Government emphasised that this legislation was effectively supported by the Attorney-General's Department, and that no known anomalies existed. In its submission to the Committee the Norfolk Island Government noted:

Contrary to the Minister's Media Release – published as recently as 13 May 1999, and in the full knowledge that the amending legislation had been assented to on 25 March 1999 – there are accordingly no “anomalies” in relation to Norfolk Island's firearms legislation.³⁵

1.46 The Norfolk Island Government (NIG) does however, state in its submission that:

...[the Government] is perfectly willing to give consideration to all issues raised by, and suggestions from, the Attorney-General's Department. It has to be said, however, that to date that Department's input into the process has been marked by inconsistency, unclarity and – generally speaking – lack of urgency.³⁶

³² Subsection 21(6) of the *Norfolk Island Act 1979*.

³³ Attorney-General's Department, Law Enforcement Coordination Division, *Briefing Paper on Norfolk Island Firearms Legislation*, June 1999, p.1.

³⁴ *Submission No. 15*, Norfolk Island Government, p.50.

³⁵ *Submission No. 15*, Norfolk Island Government, p.50.

³⁶ *Submission No. 15*, Norfolk Island Government, p.51.

Major areas of divergence

1.47 The Federal Attorney-General's Department is required to evaluate Norfolk Island's firearms legislation, and to ensure that it complies fully with the requirements contained in the National Firearms Agreement. The Department contends that Norfolk Island's Firearms legislation, while meeting many of the provisions, is deficient in the following ways:

Category C firearms (semi-automatic firearms)

- The *Firearms Act 1997* (Norfolk Island) and firearms regulations fail to limit a Category C licence holder to one rifle and one shotgun of the types covered by Category C;
- Visiting clay target shooters may use Category C firearms without adherence to requirements stipulated in the National Firearms Agreement in respect to membership of the Australian Clay Target Association.³⁷

Twenty-eight day waiting period

- The National Firearms Agreement requires that each time a person applies for a firearms licence, they must undergo a number of checks prior to any additional licence being issued. The Australasian Police Ministers' Council (APMC) also determined that there should be a twenty-eight day waiting period in which to conduct the necessary checks, and that a licence should not be issued prior to the expiry of that period.

Under the Norfolk Island legislation there is no requirement for a waiting period of twenty-eight days for a second or subsequent licence.³⁸

Refusal and cancellation of a licence

- Under the National Firearms Agreement, jurisdictions are required to prescribe in legislation the circumstances in which applications for licences are to be refused, or licences are to be cancelled, in accordance with certain minimum standards. Such circumstances include contravention of firearm laws, unsafe storage practices and where an applicant or licence holder has been the subject of an Apprehended Violence Order (AVO), Domestic Violence Order (DVO), restraining order or conviction for assault with a weapon or aggravated assault, within the past five years. Furthermore, the APMC resolved that a licence should be refused or cancelled where there is sufficient and reliable evidence of a mental or physical condition that would render a person unsuitable for owning, possessing or using a firearm.

Under Norfolk Island's legislation:

- there is a number of firearms offences for which a licence would not automatically be refused or cancelled;
- there is no requirement for refusal of a firearms licence where a person has been subject to a domestic violence order or an apprehended violence order in the past five years. Refusal under Norfolk Island's legislation only relates to a current DVO; and

³⁷ Attorney-General's Department, Law Enforcement Coordination Division, *Briefing Paper on Norfolk Island Firearms Legislation*, June 1999, p.1.

³⁸ Attorney-General's Department, Law Enforcement Coordination Division, *Briefing Paper on Norfolk Island Firearms Legislation*, June 1999, p.2.

- there is no requirement that a licence be refused to a person who has a physical or mental condition which would render the person unsuitable to own, possess or use a firearm.³⁹

Genuine reason for holding a firearms licence

1.48 The National Firearms Agreement determined that no person may hold a firearms licence without a “genuine reason”. The Agreement stipulates the “genuine reasons” a person may have for owning, possessing or using a firearm. For example, “sporting shooters with valid membership of an approved club (defined as participants in shooting sports recognised in the charters of such sporting events as the Commonwealth Games, Olympic Games or World Championships)”.⁴⁰

Under Norfolk Island legislation for category A and B licences, a sporting club need only be an “approved club”.

Ammunition controls

1.49 The National Agreement further determined that jurisdictions should legislate to ensure that firearm owners only be able to purchase ammunition for those firearms for which they hold a licence.

Under Norfolk Island’s legislation:

- a person may purchase ammunition for a firearm for which they don’t hold a valid licence or permit; and
- the controls established for ammunition collectors are not detailed. For example, licence requirements and purchase or sale requirements are not specified.⁴¹

Collecting firearms

1.50 The APMC resolved that in order to establish a “genuine reason” for holding a firearms collectors licence, the firearms collection needed to be “of obvious and significant commemorative, historical, thematic or investment value”.

Under Norfolk Island’s legislation:

- the definition of a collection firearm does not include the words “obvious and significant”. Consequently, any firearm could meet the criteria; and
- the Norfolk Island exempts museums from any offences under the Act. While the National Firearms Agreement creates certain exemptions for museums, the Norfolk Island exemptions go too far.⁴²

³⁹ Attorney-General’s Department, Law Enforcement Coordination Division, *Briefing Paper on Norfolk Island Firearms Legislation*, June 1999, p.2.

⁴⁰ Attorney-General’s Department, Law Enforcement Coordination Division, *Briefing Paper on Norfolk Island Firearms Legislation*, June 1999, p.2.

⁴¹ Attorney-General’s Department, Law Enforcement Coordination Division, *Briefing Paper on Norfolk Island Firearms Legislation*, June 1999, p.3.

⁴² Attorney-General’s Department, Law Enforcement Coordination Division, *Briefing Paper on Norfolk Island Firearms Legislation*, June 1999, p.3.

Safe storage

1.51 Another provision of the National Agreement was that all firearms and ammunition be stored under safe and secure conditions.

Under Norfolk Island's legislation:

- there is no provision for the safe storage of firearms for theatrical or other productions and no requirement for supervision by a licensee.

Inspection of storage facilities

1.52 Finally, the National Agreement requires licensees to submit to a mutually arranged inspection (taking into account legitimate privacy considerations) by licensing authorities of peoples' storage facilities. The APMC also resolved that maintaining inadequate or unsafe storage facilities is a sufficient ground for refusing or cancelling a licence.

Under Norfolk Island's legislation:

- there is no requirement for licensees to submit to a mutually arranged inspection of storage facilities; and
- having unsafe storage facilities is not a ground for refusing a firearms licence.⁴³

1.53 The Norfolk Island government has, to date, failed to pass legislation that fully complies with the APMC resolutions agreed to in 1996.⁴⁴ However, many of the remaining changes appear to be minor. A representative of the Attorney-General's Department stated that:

I would agree in terms of their being minor. In terms of the national agreement, I think some of them are significant in the sense that they are necessary. In terms of what needs to be done to remedy it, I think I would agree that they are minor.⁴⁵

1.54 A representative of the Norfolk Island Government, Mr David Buffett, stated that:

...we have a willingness to understand and to generally agree to the thrust of the national firearms agreement and are, therefore, willing to make those adjustments in respect of our legislation. Given that situation, there is really no dispute between the Norfolk Island government and the Australian government.⁴⁶

Conclusion

1.55 It would appear that very little distance separates the Commonwealth and Norfolk Island governments in relation to the issue of firearms. Both parties have accepted that only minor changes need to be made in order to bring Norfolk Island's firearms legislation into line with the requirements set-down by the National Firearms Agreement. That said, while

⁴³ Attorney-General's Department, Law Enforcement Coordination Division, *Briefing Paper on Norfolk Island Firearms Legislation*, June 1999, p.3.

⁴⁴ Legal and Constitutional Legislation Committee Proof *Hansard*, 5 July 1999, p.18-19.

⁴⁵ Norfolk Island Legislative Assembly, *Hansard*, 19 November 1998, p.18.

⁴⁶ Norfolk Island Legislative Assembly, *Hansard*, 19 November 1998, p.4.

the necessary changes may be minor, they are necessary, and to date the Norfolk Island Government has failed to fully implement the National Firearms Agreement.

CHAPTER 4

electoral reform

Background

1.56 The current electoral provisions for the Norfolk Island Legislative Assembly are contained in the *Norfolk Island Act 1979* (the Act) and the *Legislative Assembly Act 1979* (Norfolk Island).

1.57 The *Norfolk Island Act 1979* prescribes the qualifications for election to the Legislative Assembly. The current provisions state that a person can stand for election to the Assembly if they have attained the age of 18, are entitled to vote at elections of members of the Legislative Assembly and have been ordinarily resident for 5 years immediately preceding the date of nomination.⁴⁷ There is no requirement at present, however, that anyone standing for a seat in the Legislative Assembly be an Australian citizen.

1.58 The *Legislative Assembly Act 1979* (Norfolk Island) prescribes the necessary requirements that must be met before a person may apply to have their name added to the Norfolk Island electoral roll. A person is deemed to be qualified to enrol if they are 18 years or over and have been present on the Island for 900 days within the last four years immediately preceding their application for enrolment. This equates to an aggregate period of just less than two and a half years. The qualifying period for enrolment in Norfolk Island elections far exceeds those requirements for mainland Australia, where the qualifying period is only one month. The only exception is Tasmania, which has a qualifying period of six months. Furthermore, Norfolk Island is the only Australian State or Territory where non-Australian citizens are entitled to vote.

1.59 In order to address these electoral anomalies, the Commonwealth Government has conducted ongoing consultation with the Norfolk Island Government since early 1998. Unfortunately, no agreement has been reached.⁴⁸

1.60 Consequently, the Commonwealth government has introduced the Norfolk Island Amendment Bill 1999 to redress, *inter alia*, the electoral anomalies that exist on Norfolk Island. The Explanatory Memorandum to the Bill states that:

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 ordinary 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.

⁴⁷ Section 38 of the *Norfolk Island Act 1979*.

⁴⁸ Norfolk Island Amendment Bill 1999, *Explanatory Memorandum*, p.3.

The Norfolk Island Act 1979

1.61 As stated in Chapter 1, Norfolk Island achieved a level of limited self-government in 1979 through the implementation of the *Norfolk Island Act 1979*. Part V of the Act sets out the provisions for the establishment, membership and procedures of the Legislative Assembly. The Act also states that “Subject to this Act, the members of the Legislative Assembly shall be elected as provided by enactment”.⁴⁹

1.62 Sections 38 and 39 of the Act identify the necessary qualifications for the election of members to the Legislative Assembly and the disqualifications for membership of the Legislative Assembly, respectively. Importantly, the 1979 Act originally prescribed that a person who wished to be elected to the Legislative Assembly must be, and remain, a person who:

...is an Australian citizen or otherwise has the status of a British subject.⁵⁰

1.63 The provisions that included that requirement, however, were subsequently repealed by the Federal government in 1985 by the *Statute Law (Miscellaneous Provisions) Act (No.1) 1985*. The equivalent citizenship requirement for enrolment on the Norfolk Island electoral roll, was prescribed in what was then paragraph 6(1)(a) of the *Legislative Assembly Act 1979* (Norfolk Island). The *Statute Law Revision (Status) (No. 3) Act 1986* (Norfolk Island) repealed that provision with effect from 4 December 1986.⁵¹

1.64 These changes were made as a consequence of the Australian Citizenship Amendment Bill 1983, which was introduced to:

...remove all discriminations from the *Australian Citizenship Act 1948*, to revise the oath of allegiance and to effect certain other changes to the [Citizenship] Act.⁵²

1.65 Since 1986, therefore, there have been no citizenship requirements for election to the Legislative Assembly, or for adding ones name to the Norfolk Island electoral roll. Significantly, it was the Commonwealth government that initiated these fundamental changes.

Concerns of the Norfolk Island Government

Frequent changes of policy

1.66 It would appear from evidence before the Committee that much of what is perceived as intransigence by the Norfolk Island government towards the Norfolk Island Amendment Bill 1999, stems from what is seen as the imposition of significant and frequent changes in policy direction by the Commonwealth government.⁵³

1.67 For example, the *Norfolk Island Act 1979* initially required anyone elected to the Legislative Assembly to be an Australian citizen or a British subject. Then, in 1985, the

⁴⁹ Subsection 31(3).

⁵⁰ Subsections 38(a) and 39(2)(b).

⁵¹ *Submission No. 15*, Norfolk Island Government, p.2.

⁵² *Submission No. 15*, Norfolk Island Government, p.8.

⁵³ See discussion at paragraph 4.12 to 4.20.

Commonwealth repealed the provisions that referred to citizenship within the Act. Subsequently, in correspondence between the Commonwealth Government and Norfolk Island's Chief Minister⁵⁴, the Commonwealth gave the Norfolk Island government a choice of either deleting the British subject status requirement (thereby making Australian citizenship the qualification for membership of the Legislative Assembly) or deleting the citizenship requirement entirely. The correspondence stated that:

The other option is to delete the citizenship requirement entirely. This would be consistent with the practice generally for local government, and perhaps better suited to Island circumstances.⁵⁵

1.68 The Norfolk Island government complied with the Federal government's request and made the necessary changes to its legislation by removing any reference to being an Australian citizen or a British subject. However, in October 1990 the then Minister for Territories, Mr Simmons, wrote to the Legislative Assembly in order to elicit its views:

...on an amendment I propose to the *Norfolk Island Act 1979* to re-instate Australian citizenship as a necessary qualification for membership of the Legislative Assembly.⁵⁶

1.69 The Minister's letter went on to state that:

Circumstances have changed since 1985 and the reasons for deleting the citizenship requirements are now less compelling, particularly in view of the Island's progress over the last 5 years towards internal self-government.

The Norfolk Island government now has authority over a wide range of Federal and State-type functions, including social security, radio and television, immigration, customs, telecommunications, labour and industrial relations...to name but a few. The relationship between the Commonwealth and Norfolk Island is now more akin to a Federal-State relationship than a Federal-local government relationship. In these circumstances, the justification for not requiring Australian citizenship for membership of the Legislative Assembly on the basis of practice applying at the local government level would not seem appropriate.

The Legislative Assembly of Norfolk Island is in every sense a Parliament. Reinstating an Australian citizenship requirement for membership of the Assembly would bring Norfolk Island into line with the Parliaments of the States and the Commonwealth. It would also be consistent with the qualifications for membership of the Legislative Assemblies of the ACT and the Northern Territory.⁵⁷

Islands in the Sun Report

1.70 The House of Representative's Standing Committee on Legal and Constitutional Affairs' also addressed the issue of citizenship in March 1991 in a report entitled, *Islands in the Sun: The Legal Regimes of the External Territories and the Jervis Bay Territory*.⁵⁸ The

⁵⁴ Correspondence Sub 15, Para 35.

⁵⁵ *Submission No. 15*, Norfolk Island Government, p.8.

⁵⁶ Correspondence Sub 15. Para 37.

⁵⁷ Correspondence, Sub 15, Para 38.

⁵⁸ House of Representatives Legal and Constitutional Affairs Committee, *Islands in the Sun: The Legal Regimes of the External Territories and the Jervis Bay Territory*, March 1991, AGPS, Canberra,

Norfolk Island government made submissions to the Committee in both October 1990 and February 1991, rejecting the suggestion that Australian citizenship be imposed as a qualification for voting and for standing for election.⁵⁹

1.71 The Committee's *Islands in the Sun* report stated:

...the Committee believes 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. This is consistent with the recent Commonwealth resolution to require Australian citizenship for voters in elections for the Christmas Island Assembly, and the Committee's recommendation with respect to both Christmas Island and the Cocos (Keeling) Islands.⁶⁰

1.72 However, the Federal government chose at that time not to implement the proposed changes to Norfolk Island's electoral laws, as recommended by the report.

1.73 Then in March 1998, two years after the election of the first Howard government, the issue was again revived. The Federal Minister for Territories, Mr Somlyay, announced the Federal Government's decision by stating:

The Commonwealth...wishes to take the opportunity to tidy up some anomalies in relation to voting and election rights of Australian citizens for the Norfolk Island Legislative Assembly. Some of these anomalies emerged several years ago when voting rights for British subjects were changed. The Norfolk Island Assembly is the only Parliament in Australia – Federal, State or Territory – where it is not now mandatory to be an Australian citizen to enrol in local elections, to be an Assembly member, or a Minister in the government. Unlike these other Parliaments, Australian citizens ordinarily resident on the Island at the time of the elections are not necessarily entitled to enrol to vote in the Legislative Assembly elections.

1.74 In correspondence from the Federal Minister to the Chief Minister of Norfolk Island on 23 March 1998, specific reasons were provided for initiating these changes to Norfolk Island's electoral laws. The reasons were that⁶¹:

- In essence [the proposals] restore limitations which applied when the Fraser government established internal self-government on Norfolk Island in 1979.
- There had been "a number of developments" since the previous Labor government chose not to adopt the *Islands in the Sun* recommendation. A House of Representatives Committee had examined aspects of section 44 of the Constitution (which relates, among other things, to "allegiance...to a foreign power" as a disqualification from membership of the Federal Parliament), and had reported that "the need to ensure that the primary loyalty of a member of the Australian Parliament is to Australia and to prevent subversion by foreign governments" was "very important and should be preserved".
- Two High Court decisions, *Sykes v Cleary* (1992) 176 CLR 77 and *Free v Kelly* (1996) 185 CLR 296, supported the Minister's position.

⁵⁹ *Submission No. 15*, Norfolk Island Government, p.11.

⁶⁰ Standing Committee on Legal and Constitutional Affairs, *Islands in the Sun*, March 1991, p.149.

⁶¹ *Submission No. 15*, Norfolk Island Government, p.13.

- Accordingly, the proposed changes would “...remove any possible doubt which may arise as a result of these more recent developments”.

1.75 The Norfolk Island government is concerned that the Commonwealth is attempting to usurp its rights as granted under the 1979 Act and constrain, rather than progress, the Territory’s 20 years of self-government.⁶²

1.76 The delays in implementing electoral reform on Norfolk Island, are in part due to a change in Federal governments during this period, and also due to the expansion of self-government on the Island from a Federal-Local government relationship to that of a Federal-State relationship. Since 1979 there has been a significant increase in the range of powers devolved to the Norfolk Island Government. In 1979 there were 42 items in Schedule 2 and 4 in Schedule 3. In 1999 this has increased to 93 and 10 respectively.

1.77 In terms of whether the increased number of powers devolved to Norfolk Island have been significant and have created a relationship that parallels a Federal-State relationship, a representative of the Department of Transport and Regional Services stated:

There have certainly been some substantial items amongst those that have been transferred. They include matters such as child, family and social welfare, labour and telecommunications, lotteries and gaming. So there are some substantive issues amongst those transferred.⁶³

1.78 Furthermore, Dr Andrew Turner noted:

I think the short answer to that is that the relationship with Norfolk Island is unique. There is no other one like it in respect of the range of powers that the Norfolk Island Government has.⁶⁴

1.79 Given the significant transfer of legislative power from the Federal government to the Norfolk Island Legislative Assembly since 1979, and hence the expansion of self-government on the Island, it is highly appropriate for the Commonwealth to redress the anomalies that exist with Norfolk Island’s electoral laws.

Impact on New Zealand citizens

1.80 Another significant issue of concern to the Norfolk Island government is the impact of the Bill on the New Zealand citizens who live on the Island.⁶⁵ The Chief Minister of Norfolk Island, Mr Smith, stated that:

...the Norfolk Island government’s submission proposes that, so far as citizenship requirements to stand for election are concerned, eligibility should be open to Australian, New Zealand and UK citizens. The practical consequence of that recommendation is to avoid a particularly important effect of the present Bill, which is that it will disenfranchise and render ineligible to stand for election an

⁶² Legal and Constitutional Legislation Committee Proof *Hansard*, 5 July 1999, p.25.

⁶³ Legal and Constitutional Legislation Committee Proof *Hansard*, 10 August 1999, p.8.

⁶⁴ Legal and Constitutional Legislation Committee Proof *Hansard*, 10 August 1999, p.8.

⁶⁵ The most recent Norfolk Island Census at 6 August 1996 (Section B) stated that 16% of the permanent population held New Zealand citizenship.

especially large minority of the Norfolk Island community, namely those who have New Zealand citizenship.

...

We feel very strongly about these issues because they cut to the heart of the Island's self-identity.⁶⁶

1.81 According to the most recent census conducted on Norfolk Island on 6 August 1996, New Zealand citizens comprise 16% of the Island's permanent population. Australian citizens comprise nearly 81% of the permanent population, UK citizens account for less than 2% of the population, and the remaining 1.5% holds other citizenship.⁶⁷

What the proposed changes mean for Norfolk Island

Changes for election to the Legislative Assembly

1.82 Under the proposed provisions of the Bill, only Australian citizens would be eligible to stand for election to the Legislative Assembly. The Commonwealth, as stated in the Explanatory Memorandum to the Bill, believes that it is appropriate for members of the Norfolk Island Legislative Assembly to be Australian citizens, thereby bringing Norfolk Island's electoral laws into line with all other Australian Parliaments.

1.83 In 1979 the Norfolk Island Legislative Assembly more resembled a local government, and at that time there was no requirement for persons wishing to be elected to local government to be Australian citizens.

1.84 Since then two major factors have changed. Firstly, the nature of the relationship between the Commonwealth Government and the Norfolk Island Government has altered. As noted previously, the relationship has moved away from that of a Federal-Local Government relationship, to the point where it now more parallels a Federal-State relationship. Secondly, the citizenship requirements pertaining to elections for local government have begun to change, and there is a move towards members of local government requiring Australian citizenship.⁶⁸

Electoral Roll changes

1.85 Under the proposed provisions, only Australian citizens would be eligible to enrol and stand for election to the Legislative Assembly. An ordinary resident qualifying period of 6 months for enrolment would also be introduced. However, the enrolment rights of those currently on the electoral roll, who would otherwise be ineligible to enrol, will be preserved.⁶⁹

1.86 A representative of the Norfolk Island Government, Mr Don Wright, claims that:

⁶⁶ Legal and Constitutional Legislation Committee Proof *Hansard*, 5 July 1999, p.2.

⁶⁷ *Submission No. 15*, Norfolk Island Government, p.23.

⁶⁸ For example, the Northern Territory requires all members of local councils to be Australian citizens. See section 9(1)(a) of the *Northern Territory Local Government Act*, 2nd Edition June 1996.

⁶⁹ Norfolk Island Amendment Bill 1999, *Explanatory Memorandum*, p.3.

The conclusion reached is that there is potential for approximately...20 per cent of the present permanently resident population to be disenfranchised on the basis of the 1996 census results and taking into account that the grandfather clause will eventually run out.

...

After the effect of the grandfathering provision has been spent, the assertion in the submission is that about 20 per cent of those presently eligible to vote will become ineligible. That is in relation to voting rights...

1.87 The Commonwealth has provided a number of options, which will enable the vast majority of the population to continue to vote in Legislative Assembly elections. Firstly, dual citizenship is available, thereby enabling those Norfolk Islanders affected by the proposals, to hold Australian citizenship whilst retaining their New Zealand citizenship.⁷⁰ Secondly, persons already enrolled will be permitted to remain on the roll. Consequently, the only people likely to be disenfranchised will be non-Australian citizens not yet enrolled who fail to take out Australian citizenship.

Qualifying period of six months

1.88 One of the major concerns expressed by the Norfolk Island government in relation to the Bill relates to the shortened qualifying period of six months. At present, an aggregate qualifying period of two and a half years exists.

1.89 A representative of the Department of Transport and Regional Services stated in evidence before the Committee that:

I might table at this point a comparison of the residency qualifications in the States and Territories. You will note that the longest qualifying period is six months for Tasmania, and the government has chosen the longest period available in the other States and Territories.⁷¹

1.90 The Commonwealth Government has determined to bring the qualifying period for Australian citizens into line with the rest of Australia, but has chosen the longest period available to any other State or Territory in an attempt to accommodate the concerns of the Norfolk Island Government.

⁷⁰ Correspondence between the Minister for Regional Development, Territories and Local Government, the Hon. Alex Somlyay MP and the Chief Minister of Norfolk Island, the Hon. George Smith MLA, 23 March 1998, p.2.

⁷¹ Legal and Constitutional Legislation Committee Proof *Hansard*, 10 August 1999, p.8. (See Appendix 6 for table.)

MINORITY REPORT

Dissenting report by Labor Senators Cooney and McKiernan and Democrats Senator Lyn Allison

Introduction

- 1.1 The intent and purpose of the Norfolk Island Amendment Bill 1999 Bill is to -
- require candidates for future elections to the Norfolk Island Assembly to hold Australian citizenship;
 - add Australian citizenship to the requirements for future enrolments on the electoral roll, while relaxing the residency requirement;
 - move 'firearms and ammunition' from Schedule 2 to Schedule 3 of the *Norfolk Island Act 1979*, thereby permitting the Commonwealth Minister to veto legislation passed by the Legislative Assembly about those matters; and
 - to provide for the Deputy Administrator of Norfolk Island to be appointed by the Commonwealth Minister responsible for External Territories, rather than by the Governor-General.
- 1.2 The Government has not demonstrated that there is a compelling need for provisions contained in this Bill (other than the firearms matter which should never have been an issue and which is readily resolvable) or that a community demand exists for a change in the method of appointment of Deputy Administrator, the enrolment of electors or the qualification needed to hold office in the Norfolk Island Assembly.
- 1.3 Two hearings were held, the first in Sydney on 5 July 1999 and the second in Parliament House, Canberra on 10 August 1999. The Administrator of Norfolk Island was requested to attend both hearings, but was unavailable to do so.

Appointment of Deputy Administrators

- 1.4 As advised in Chapter 2 of the majority report, the role of the Deputy Administrator is to perform the duties and functions of the Administrator where the Administrator is absent from the Island, unable to perform his or her duties due to illness or incapacity, or whether there is a vacancy in the office of the Administrator.
- 1.5 This Bill proposes to allow the appointment of the Deputy Administrator for Norfolk Island solely by the Minister responsible for Territories. The reasons behind this are implied in *Proof Committee Hansard 10 August 1999 Pg 5* as follows:

CHAIR - Mr Mawhinney, I want to ask some questions in relation to the Deputy Administrator to help me put this in context in terms of Australia's other arrangements. You have indicated that it is a fairly cumbersome procedure as it currently stands and that is one of the reasons that the change is proposed. Every time the Deputy Administrator is require to fill in for the Administrator, does that require an exercise of appointment by the Governor-General?

Mr Mawhinney - No, it is a dormant appointment. Once that person is appointment it is held and becomes effective in the absence of the Administrator, provided of course the government does not appoint an Acting Administrator.

Accordingly, the Deputy Administrator is currently appointed in exactly the same terms as the Administrator, and the appointment only need occur once in a term.

- 1.6 Following on from Mr Mawhinney's comment, Senator McKiernan made the following points:

...the point I was making was that the method of appointment of the Administrator compared to the proposed method of appointment of the Deputy Administrator or Acting Administrator is going to be substantially different with the passage of this legislation...

...But it does concern me in the context of the different methodology of appointment of the Acting Administrator. That with the knowledge that the Administrator has not been available to this committee and has spent some time away from his role as Administrator on the island and you have an Acting Administrator in charge and it appears at face value - and I may not be totally accurate - that something has gone horribly wrong in the process. That can happen even more so when somebody can be appointed by the Minister of the day without having to go through all those checks and balances that are required - cabinet scrutiny and the Executive Council...

The removal of "Firearms" from Schedule 2

- 1.7 The motivation for the Federal Government to transfer firearms and ammunition from Schedule 2 to Schedule 3 of the *Norfolk Island Act* is based on the premise that the Norfolk Island Government are yet to pass legislation that complies in full with the National Firearms Agreement. The conflicting evidence relating to the compilation and passage of the *Firearms Act 1997* (Norfolk Island) appears to be, to say the least, less than helpful. The committee heard evidence that in August of 1998, the Attorney-General's Department considered the *Firearms Act 1997* legislation did comply with the National Firearms Agreement, reached at the Australasian Police Ministers' Council in 1996, and advised the Norfolk Island Government to this effect.
- 1.8 In March 1999 the Norfolk Island Legislative Assembly passed this legislation with two minor changes. In April 1999, the Attorney-General's Department reversed their previous position and advised the Norfolk Island Government that the legislation **did not** comply with the National Firearms Agreement and required amendment. Bearing in mind the comments made in this report at paras 3.17 and 3.18, by a representative of the Attorney-General's Department and the commitment given by a representative of the Norfolk Island Government, it appears that this issue is very close to resolution.
- 1.9 Labor and Democrat Senators conclude that the matter can be resolved without the need for the heavy-handed Federal Government intervention that this Bill proposes.

Electoral Reform

- 1.10 The first part of this legislation deals with all candidates running for election to the Norfolk Island Legislative Assembly having to be Australian citizens along with those residents that are Australian citizens only being eligible to enrol to vote, with the exception of a grandfather clause. The second part deals with the qualification period for which a resident must be present on the island before being eligible to enrol to vote.
- 1.11 Senator Cooney made several comments during the hearing held on 10 August 1999 relating to the exclusion of people from voting and running from the Legislative Assembly. There are as follows *Proof Committee Hansard 10 August 1999 Pg 4 -*

... the question was: do you seek to exclude non-Australians generally from voting there? I take it that you answer is: yes, excepting for those already on the roll.

...the proposition is that this legislation will exclude people who may hereafter come to Norfolk Island, unless they are Australian citizens, from voting. I do not know why you cavil the word 'exclude'.

It was made clear to us that the Norfolk Island Community sees itself as a discrete body of people with a particular history and a unique culture. It is a small society with a feeling of kinship for each other going back over some decades.

The effect this legislation will have on this Community and its perception of its own identity has as yet not been properly considered. It should be a small law-abiding tight knit group of decent men, women and children who should not be made subject to an insensitive exercise of power by Canberra. Power should be exercised only for compelling reasons.

Conclusions and Recommendations

- 1.12 Opposition Senators paid close attention to all the submissions presented to the Committee and to the evidence given by witnesses at the public hearings of the inquiry. We find that the matter of electoral reform was by far the most contentious issue for the residents of Norfolk Island. It is our opinion that the matters of electoral reform contained in this Bill requires wider consultation and much more consideration than the Senate Legal and Constitutional Committee was able to give.
- 1.13 Labor and Democrat Senators conclude that, as the Deputy Administrator is required to, at times, have all powers and carry out all the functions of the Administrator, the appointment of the Deputy Administrator mirror that of the Administrator with all the associated scrutiny of that process.
- 1.14 Labor and Democrat Senators agree that, in light of the handling of the firearms issue by the Attorney-General's Department, the Norfolk Island Government be given the opportunity to exercise its powers of self-government to legislate for the required amendments to their *Firearms Act 1997* within a period of four (4) months. The Norfolk Island Government has publicly undertaken to pass these amendments by way of legislation.

Recommendations

- 1.15 Labor and Democrat Senators recommend that the matter of electoral reform in Norfolk Island be referred to the Joint Standing Committee for External Territories for consideration by way of inquiry, which would include consultation with the Norfolk Island Government and the residents of Norfolk Island.
- 1.16 Labor and Democrat Senators recommend that the matter of appointment of the Norfolk Island Deputy Administrator, as contained in this Bill be rejected.
- 1.17 The dissenting Senators recommend that the matter relating to transfer of the 'firearms and ammunition' category from Schedule 2 to Schedule 3, as contained in this Bill, not be proceeded with at this time, in order to give the Norfolk Island Government the opportunity to make necessary and required amendments to their legislation to bring it in line with the National Firearms Agreement.
- 1.18 Labor and Democrat Senators recommend that the Bill not be proceeded with.

Senator Barney Cooney
Senator for Victoria

Senator Jim McKiernan
Senator for Western Australia

Senator Lyn Allison
Senator for Victoria

APPENDIX 1

INDIVIDUALS AND ORGANISATIONS THAT PROVIDED THE COMMITTEE WITH SUBMISSIONS

Individual/Organisation	Submission No.
The Society of Pitcairn Descendents Mr Ken Nobbs, President	1
Mr Ric Robinson	2
Mr Stuart Guymer	3
Mr John McCoy MLA	4
Confidential submission	5
Dr Colleen McCullough	6
Ms Rhonda Griffiths	7
Ms Nina Stanton	8
Merval Hoare for Terry Higgins and John Hudson	9
Mr Geoff Bennett	10
The Law Society of NSW Ms Margaret Hole	11
Mr Graeme Woolley and Mr Gerald Gouldie	12
Ms Merval Hoare	13
D. Chapman & 15 others	14
Norfolk Island Government Hon Geoffrey R. Gardner MLA	15/15A
Australian Government Solicitor	16
Department of Transport and Regional Services	17
Commonwealth Attorney-General's Department	18

APPENDIX 2

WITNESSES WHO APPEARED BEFORE THE COMMITTEE

Public Hearing – Sydney 5 July 1999

Norfolk Island Government

Mr George Smith MLA, Chief Minister
Mr David Buffett AM MLA, Deputy Speaker
Mr James Williamson, Adviser
Mr Donald Wright, Adviser

Mr Gilbert Jackson, Resident of Norfolk Island

Office of General Counsel, Australian Government Solicitor

Mr Frank Marris, Senior General Counsel

Attorney-General's Department

Ms Julianne Patterson, Principal Legal Officer

Public Hearing – Canberra 10 August 1999

Commonwealth Department of Transport and Regional Services

Dr Andrew Turner, Assistant Secretary, Pacific and Ocean Territories
Mr Vivian Mawhinney, Director, Pacific Territories
Mr Nicolas Isaacson, Assistant Director, Pacific Territories

APPENDIX 3

the Status of norfolk island and its constitutional relationship to Australia

History

1.91 The legal status of Norfolk Island is that it is a dependant territory of the Commonwealth of Australia. On 10 October 1774, Captain James Cook landed on the Island, which he found to be uninhabited, and claimed possession of it for Britain. A penal settlement was established on the Island on 6 March 1788, only to be abandoned in 1813 and then re-established in 1825.

1.92 In 1854 the inhabitants of Pitcairn Island were offered Norfolk Island as their new home, due to food shortages, drought and epidemics on Pitcairn Island. In 1855 the Pitcairners voted by a substantial majority to emigrate to Norfolk Island. On 3 May 1856 all 193 residents of Pitcairn Island departed for Norfolk Island, leaving Pitcairn Island deserted.⁷²

1.93 In the *Report of the Royal Commissioner into matters relating to Norfolk Island*⁷³, it was stated that:

In view of the misunderstanding which clearly developed amongst the Pitcairners in Norfolk concerning their alleged ‘ownership’ of the entire Island, it should be pointed out early in this Report that no evidence was produced to support this claim, and much was discovered to rebut it completely. The aspect which it is desired to stress here is that even prior to leaving Pitcairn’s for Norfolk, the Pitcairners were expressly informed by the then British Consul of the Society Islands, one B. Toup Nicholas, in a letter dated 5 July 1854 that:

I am at the same time to acquaint you that you will be pleased to understand that Norfolk Island cannot be ‘ceded’ to the Pitcairn Islanders, but that grants will be made for allotments of land to the different families; and I am desired further to make known to you that it is not at present intended to allow any other class of settlers to reside or occupy land on the Island...

1.94 The Judgment of Eggleston J. in *Newbery v The Queen* (1965) 7 FLR 34 at pp.35-38, describes clearly and concisely the historical arrangements made by the Crown in relation to Norfolk Island. Justice Eggleston described the arrangements as follows:

Prior to 1855, Norfolk Island, after having originally formed part of the penal settlement established in New South Wales, was administered by the Governor of Van Diemen’s Land as part of that colony.

...

⁷² In December 1858, some seventeen people returned to Pitcairn and in 1863 another party of twenty-seven followed them. Sir John Nimmo, *Report of the Royal Commission into matters relating to Norfolk Island*, Canberra, 1976, p.34.

⁷³ Sir John Nimmo, *Report of the Royal Commission into matters relating to Norfolk Island*, Canberra, 1976, p.41.

On 24 June, 1856 (sixteen days after the arrival in Norfolk Island of the inhabitants of Pitcairn Island) Her Majesty by Order in Council ordered that from and after the date of proclamation of the order in New South Wales, Norfolk Island be separated from “the said colony of Van Diemen’s Land (now called Tasmania)”, and that from that date Norfolk Island should be a distinct and separate settlement, “the affairs of which shall until further order is made in that behalf by Her Majesty be administered by a Governor to be for that purpose appointed by Her Majesty with the advice and consent of Her Privy Council”. It was further ordered that the Governor of New South Wales should be the Governor of Norfolk Island, that he should have power to appoint judges and magistrates, and that he should have “full power and authority to make laws for the order, peace and good government of the said island, subject nevertheless to such rules and regulations as Her Majesty at any time by any instruction or instructions, with the advice of Her Privy Council under Her Sign Manual and Signet may think fit to prescribe in that behalf”.

...

On 15 January 1897, a further order in Council was made. This Order recited the provisions of the 1856 Order in Council, referring in particular to the expression “until further order is made in that behalf by Her Majesty”, and further recited that it was “expedient that other provision should be made for the government of Norfolk Island, and that, in prospect of the future annexation of that island to the colony of New South Wales, or to any federal body of which that colony may hereafter form part, in the meantime the affairs of the island should be administered by the Governor of New South Wales”. The Order then provided that the affairs of Norfolk Island should henceforth and until further order was made in that behalf by Her Majesty be administered by the Governor of New South Wales and empowered him, by proclamation published in the New South Wales Government Gazette, to make laws for the peace, order and good government of the Island, subject nevertheless to any instructions given by Her Majesty under Her Sign Manual and Signet or through one of her Principal Secretaries of State. Existing laws, ordinances and regulations were continued in force until repealed or altered, and the Order in Council of 24 June 1856 was revoked. The only practical effect of this order (assuming it to have been validly made) was to enable the Governor of New South Wales to legislate in his capacity as Governor of New South Wales, and not in his capacity as Governor of Norfolk Island, a position which under the 1856 Order in Council he automatically filled on his appointment as Governor of New South Wales.

...

On 9 July 1900 the Commonwealth of Australia Constitution Act, 1900 (Imp.) was passed and it took effect on 1 January 1901. In the meantime, in order to provide for the disappearance of the Colony of New South Wales and its replacement by the State of New South Wales, an Order in Council was made at Balmoral on 18 October 1900, revoking the Order in Council of 15 January 1897, and substituting until further order similar provisions referring to the Governor of the State of New South Wales and its Dependencies.

Section 122 of the Commonwealth Constitution provides, so far as material for present purposes, that “The Parliament may make laws for the government...of any Territory placed by the Queen under the authority of and accepted by the Commonwealth, or otherwise acquired by the Commonwealth, and may allow the representation of such territory in either House of the Parliament to the extent and on the terms which it thinks fit”.

The Norfolk Island Act 1913 (Cth) (No. 15 of 1913) passed by the Commonwealth Parliament and assented to on 19 December 1913, provided (by s.3) that Norfolk Island was “declared to be accepted by the Commonwealth as a Territory under the authority of the Commonwealth by the name of Norfolk Island”, but it was provided by s.2 that the Act should not come into operation until the King had been pleased to place Norfolk Island under the authority of the Commonwealth, and the Governor-General had been pleased, by proclamation, to fix a day for the commencement of the Act. Various other provisions were contained in the Act, of which most important for the present purposes was s.8 which empowered the Governor-General to make ordinances for the peace, order and good government of Norfolk Island.

On 30 March 1914 an Order in Council was made revoking the Order in Council of 18 October 1900, and placing Norfolk Island under the authority of the Commonwealth of Australia. This was expressed to be done “by virtue and in exercise of the power in this behalf by the Australian Waste Lands Act 1855 (Imp.) or otherwise in His Majesty vested”. It was also provided that the Order should take effect from the date fixed by proclamation for the commencement of Act No. 15 of 1913 of the Parliament of the Commonwealth. Both the Order in Council and a proclamation dated 17 June 1914 and fixing Wednesday, 1 July 1914, as the date for commencement of the Norfolk Island Act 1913 (Cth), were published in the Commonwealth of Australia Gazette on 17 June 1914.

1.95 Although the *Norfolk Island Act 1913*, which declared that Norfolk Island be accepted as a territory under the authority of the Commonwealth of Australia, was repealed by the *Norfolk Island Act 1957*, its repeal did not change the effectiveness of the original declaration. See the *Acts Interpretation Act 1901-1957*, section 8(b).

1.96 *Berwick v Gray*

1.97 In *Berwick Ltd. v Gray, Deputy Commissioner for Taxation* (1976) 133 CLR 603, the High Court of Australia held that Norfolk Island is part of the Commonwealth of Australia and that the power of the Commonwealth to legislate in respect of Norfolk Island is unrestricted by virtue of Section 122 of the Constitution. Berwick CJ stated that “In my opinion, Norfolk Island is part of the Commonwealth”.⁷⁴

1.98 Furthermore, the powers conferred by Section 122 of the Constitution were well-described by Barwick CJ in *Spratt v Hermes* (1965)⁷⁵ as follows:

That power is not only plenary but is unlimited by reference to subject matter. It is a complete power to make laws for the peace, order and good government of the territory – an expression condensed in s.122 to “for the government of the Territory”. This is as large and universal a power of legislation as can be granted. It is non-federal in character in the sense that the total legislative power to make laws to operate in and for a territory is not shared in any wise with the States.

1.99 While the Commonwealth Government conferred a degree of self-government on Norfolk Island by passing the *Norfolk Island Act 1979* and establishing the Norfolk Island

⁷⁴ *Berwick Ltd. v Gray, Deputy Commissioner for Taxation* (1976) 133 CLR 603 at 605.

⁷⁵ *Spratt v Hermes* (1965) 114 CLR 226 at 242.

Legislative Assembly, this in no way altered the legal status of the Island as a territory of Australia.

1.100 The legal status of Norfolk Island was further confirmed in a letter dated 14 June 1996, from Mr Clive Alderton, Far Eastern and Pacific Department of Britain's Foreign and Commonwealth Office, to Mr Ric Robinson, Member of the Norfolk Island Legislative Assembly, in which he stated that:

- There is no practice of cession of territory from one independent country within Her Majesty's dominions to another. The equivalent in Commonwealth terms is the transfer of control of territory;
- Order in Council No. 528 of 1914, coupled with the Australian Norfolk Island Act 1913, effected the transfer of the full control and legislative authority for the government of Norfolk Island to the Commonwealth of Australia;
- The Crown in right of the United Kingdom did not retain any further power to provide for the government of Norfolk Island. The transfer cannot be revoked, since the Order of 1914 assigned responsibility for Norfolk Island to the Australian Government without reservation. This contrasted with previous Orders (notably one dated 1900), which provided for administration of Norfolk Island by Australia "...until further Orders should be made on that behalf by Her Majesty...";
- The effect of these arrangements is that the territory could only be returned to the United Kingdom by Order in Council of Her Majesty on the advice of her Australian Government;
- Norfolk island is legally a dependent territory of the Commonwealth of Australia;
- It is not, therefore, open to the Government of the United Kingdom to intervene between the Australian and Norfolk Island authorities in any matter affecting the people of Norfolk Island.

1.101 Finally, in a speaking note produced by the British High Commission, Canberra in 1997, it was stated that:

The British Government are in full agreement with the Australian Government on the essential question, namely that Norfolk Island is the responsibility of the Australian, not the British Government, and it is the subject to Australian law as interpreted by the Australian courts.

In Clive Alderton's letter to Ric Robinson of 14 June Mr Alderton used the words "dependent territory", which Mr Robinson quoted back to the Australian Government. Dependent Territory is a very broad term. It covers such diverse relationships between two territories as that between the French Government and the TOMS; the Netherlands Antilles' with the Netherlands, which includes a Minister sitting in the Netherlands' Cabinet; a range of relationships between Britain and such territories as the Channel Islands, Isle of Man, Bermuda and other British Dependent Territories; and other relationships such as Denmark's with the Faroe Islands and Greenland. These different relationships are all treated on their merits by bodies such as the United Nations. So Mr Alderton's use of this phrase does not imply any particular relationship between Australia and Norfolk Island.

What that relationship is, is a matter for the Australian courts, and the case of Berwick v Gray defines how they see the relationship very clearly.

APPENDIX 4

Norfolk Island Act 1979 –Schedules 2 and 3 (1979)

Norfolk Island Act 1979, No. 25 of 1979

SCHEDULE 2

Sections 4, 7, 12, 21, 27, 47 and 67

1. The raising of revenues for purposes of matters specified in this Schedule.
2. Public moneys of the Territory (other than the raising of revenues).
3. Surface transport (including road safety, traffic control, carriers, vehicle registration and the licensing of drivers).
4. Roads, footpaths and bridges.
5. Street lighting.
6. Water supply.
7. Electricity supply.
8. Drainage and sewerage.
9. Garbage and trade waste.
10. Primary production (other than mining or fishing).
11. The slaughtering of livestock.
12. Domestic animals (including birds).
13. Public pounds.
14. Pests and noxious weeds.
15. Recreation areas.
16. Cemeteries.
17. Forestry and timber.
18. Fire prevention and control.
19. Quarrying.

20. Building control (including the repair or demolition of dangerous buildings).
21. Advertising hoardings.
22. The prevention and suppression of nuisances.
23. Noxious trades.
24. Gases and hydrocarbon fuels.
25. Firearms.
26. Explosives and dangerous substances.
27. Tourism.
28. Places of public entertainment.
29. Boarding houses and hotels.
30. Museums, memorials and libraries.
31. Foodstuffs and beverages (including alcoholic liquor).
32. Trading hours.
33. Markets and street stalls.
34. Hawkers.
35. Radio and television.
36. Telephone and postal services.
37. Coastlines, foreshores, wharves and jetties.
38. The transporting of passengers or goods to and from ships.
39. The maintenance of rolls of residents of the Territory.
40. The registration of companies and business names.
41. The registration of births, deaths and marriages.
42. Matters in respect of which duties, powers, functions or authorities are expressly imposed or conferred on executive members by or under laws in for the Territory.

Norfolk Island Act 1979, No. 25 of 1979

SCHEDULE 3

Sections 4, 7, 12, 21, 27 and 67

1. Fishing.
2. Customs (other than the imposition of duties).
3. Immigration.
4. Education.

APPENDIX 5

Norfolk Island Act 1979 – Schedules 2 and 3 (1999)

Norfolk Island Act 1979, No. 25 of 1979, as amended

SCHEDULE 2

Sections 4, 7, 12, 21, 27, 47 and 67

1. The raising of revenues for purposes of matters specified in this Schedule.
2. Public moneys of the Territory (other than the raising of revenues).
3. Surface transport (including road safety, traffic control, carriers, vehicle registration and the licensing of drivers).
4. Roads, footpaths and bridges.
5. Street lighting.
6. Water supply.
7. Electricity supply.
8. Drainage and sewerage.
9. Garbage and trade waste.
10. Primary production.
11. The slaughtering of livestock.
12. Domestic animals (including birds).
13. Public pounds.
14. Pests and noxious weeds.
15. Recreation areas.
16. Cemeteries.
18. Fire prevention and control.

19. Quarrying.
20. Building control (including the repair or demolition of dangerous buildings).
21. Advertising hoardings.
22. The prevention and suppression of nuisances.
23. Noxious trades.
24. Gases and hydrocarbon fuels.
25. Firearms.
26. Explosives and dangerous substances.
27. Tourism.
28. Places of public entertainment.
29. Boarding houses and hotels.
30. Museums, memorials and libraries.
31. Foodstuffs and beverages (including alcoholic liquor).
32. Trading hours.
33. Markets and street stalls.
34. Hawkers.
35. Radio and television.
36. Postal services.
37. Coastlines, foreshores, wharves and jetties.
38. The transporting of passengers or goods to and from ships.
39. The maintenance of rolls of residents of the Territory.
41. The registration of births, deaths and marriages.
42. Matters in respect of which duties, powers, functions or authorities are expressly imposed or conferred on executive members by or under laws in force in the Territory other than a matter that relates to immigration or the operation of the Immigration Act 1980 of the Territory.
43. Public Service of the Territory.

44. Public works.
45. Lotteries, betting and gaming.
46. Civil defence and emergency services.
47. Territory archives.
48. The provision of telecommunications services (within the meaning of the Telecommunications Act 1989) and the prescribing of rates of charge for those services.
49. Branding and marking of live-stock.
50. Pasturage and enclosure of animals.
51. Registration of bulls.
52. Bees and apiaries.
53. Exportation of fish and fish products from the Territory.
54. Live-stock diseases (other than quarantine).
55. Plant and fruit diseases (other than quarantine).
56. Water resources.
57. Energy planning and regulation.
58. Fences.
59. Business names.
60. Navigation, including boating.
61. Price and cost indexes.
62. Fund-raising from the public for non-commercial purposes, and associations registered for fund-raising of that type.
63. Administration of estates and trusts.
64. Census and statistics.
65. Inquiries and administrative reviews.
66. Registration of medical practitioners and dentists.
67. Public health (other than: dangerous drugs, within the meaning of the Dangerous Drugs Ordinance 1927 of the Territory; psychotropic substances; quarantine).

68. Mercantile law (including sale or lease of goods; charges and liens on goods or crops; supply of services).

69. Law relating to the interpretation of enactments.

70. Civil legal proceedings by and against the Administration of the Territory.

71. Official flag and emblem, and public seal, of the Territory.

72. Fees or taxes imposed by the following enactments of the Territory: Absentee Landowners Levy Ordinance 1976; Cheques (Duty) Act 1983; Departure Fee Act 1980; Financial Institutions Levy Act 1985; Fuel Levy Act 1987; Public Works Levy Ordinance 1976.

73. Protection of birds.

74. Matters incidental to or consequential on the execution of executive authority.

75. Remuneration, allowances and other entitlements in respect of services of members of the Legislative Assembly, members of the Executive Council and other offices in or in connection with the Legislative Assembly that can be held only by members of the Assembly.

76. Prices and rent control.

77. Printing and publishing.

78. Public utilities.

79. Housing.

80. Community and cultural affairs.

81. Industry (including forestry and timber, pastoral, agricultural, building and manufacturing).

82. Mining and minerals, (excluding uranium or other prescribed substances within the meaning of the Atomic Energy Act 1953 and regulations under that Act as in force from time to time), within all the land of the Territory above the low-water mark.

83. Provision of rural, industrial and home finance credit and assistance.

84. Scientific research.

85. Legal aid.

86. Corporate affairs.

87. Censorship.

- 88. Child, family and social welfare.
- 89. Regulation of business and professions.
- 90. The legal profession.
- 91. Maintenance of law and order and the administration of justice.
- 92. Correctional services.
- 93. Private law.

Norfolk Island Act 1979, No. 25 of 1979, as amended

Consolidated as in force on 11 May 1998 (includes amendments up to Act No. 152 of 1997)

SCHEDULE 3

Sections 4, 7, 12, 21, 27 and 67

- 1. Fishing.
- 2. Customs (including the imposition of duties).
- 3. Immigration.
- 4. Education.
- 5. Human quarantine.
- 6. Animal quarantine.
- 7. Plant quarantine.
- 8. Labour and industrial relations, employees' compensation and occupational health and safety.
- 9. Moveable cultural heritage objects.
- 10. Social Security.

APPENDIX 6

STATE/TERRITORY COMPARISONS FOR ELIGIBILITY TO ENROL TO VOTE

STATE/ TERRITORY	RESIDENCY STATUS#	LENGTH OF RESIDENCE FOR ELIGIBILITY TO ENROL	
		STATE	FEDERAL
Tasmania	Aust citizen	6 months	1 month
VIC	Aust citizen	1 month	1 month
NSW	Aust citizen	1 month	1 month
QLD	Aust citizen	1 month	1 month
WA	Aust citizen	1 month	1 month
NT	Aust citizen	1 month	1 month
SA	Aust citizen	1 month	1 month
ACT	Aust citizen	1 month	1 month
Christmas Island	Aust citizen	1 month	1 month
Cocos Island	Aust citizen	1 month	1 month
Lord Howe Is ##	Aust citizen	1 month	1 month
Norfolk Island		900 days	1 month

The only non-Australian citizens eligible to enrol are British subjects who were on a State, Territory or Commonwealth roll on 25 January 1984.

Lord Howe Island is part of New South Wales.