

Part VII—Qualifications and disqualifications for enrolment and for voting

93 Persons entitled to enrolment and to vote [see Note 3]

- (1) Subject to subsections (7) and (8) and to Part VIII, all persons:
- (a) who have attained 18 years of age; and
 - (b) who are:
 - (i) Australian citizens; or
 - (ii) persons (other than Australian citizens) who would, if the relevant citizenship law had continued in force, be British subjects within the meaning of that relevant citizenship law and whose names were, immediately before 26 January 1984:
 - (A) on the roll for a Division; or
 - (B) on a roll kept for the purposes of the *Australian Capital Territory Representation (House of Representatives) Act 1973* or the *Northern Territory Representation Act 1922*;
- shall be entitled to enrolment.
- (2) Subject to subsections (3), (4) and (5), an elector whose name is on the Roll for a Division is entitled to vote at elections of Members of the Senate for the State that includes that Division and at elections of Members of House of Representatives for that Division.
- (3) An elector:
- (a) whose name has been placed on a Roll in pursuance of a claim made under section 100; and
 - (b) who has not attained 18 years of age on the date fixed for the polling in an election;
- is not entitled to vote at that election.

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- (4) Notwithstanding section 100 or any enrolment in pursuance of a claim made under that section, for the purposes of this Act in its application in relation to an election, a person who has not attained 18 years of age on the date fixed for the polling in that election shall not be taken to be:
- (a) entitled to be enrolled on a Roll; or
 - (b) enrolled on a Roll.
- (5) A person is not entitled to vote more than once at any Senate election or any House of Representatives election, or at more than one election for the Senate or for the House of Representatives held on the same day.
- (7) A person who is:
- (a) within the meaning of the *Migration Act 1958*, the holder of a temporary visa; or
 - (b) an unlawful non-citizen under that Act;
- is not entitled to enrolment under Part VIII.
- (8) A person who:
- (a) by reason of being of unsound mind, is incapable of understanding the nature and significance of enrolment and voting; or
 - (b) is serving a sentence of 5 years or longer for an offence against the law of the Commonwealth or of a State or Territory; or
 - (c) has been convicted of treason or treachery and has not been pardoned;
- is not entitled to have his or her name placed on or retained on any Roll or to vote at any Senate election or House of Representatives election.
- (8A) In subsection (1), **relevant citizenship law** means the *Australian Citizenship Act 1948* as amended and in force immediately before the day fixed by Proclamation for the purposes of subsection 2(2) of the *Australian Citizenship Amendment Act 1984* and the regulations in force immediately before that day under the *Australian Citizenship Act 1948* as so amended and in force.

- (10) The reference in subsection (8) to treason or treachery includes a reference to treason or treachery committed in relation to the Crown in right of a State or the Northern Territory or in relation to the government of a State or the Northern Territory.

93A Power to refuse to include in the Roll inappropriate names

- (1) This section applies to the inclusion of a person's name in a Roll under a provision of this Part.
- (2) A Divisional Returning Officer or Australian Electoral Officer may refuse to include a person's name in a Roll if the Divisional Returning Officer or Australian Electoral Officer considers that the name:
- (a) is fictitious, frivolous, offensive or obscene; or
 - (b) is not the name by which the person is usually known; or
 - (c) is not written in the alphabet used for the English language.
- (3) A Divisional Returning Officer or Australian Electoral Officer may refuse to include a person's name in a Roll if including the name in the Roll would be contrary to the public interest.
- (4) A Divisional Returning Officer or Australian Electoral Officer who decides under this section to refuse to include a person's name in a Roll must notify the person in writing of that decision.

94 Enrolled voters leaving Australia

- (1) An elector who:
- (a) is enrolled for a particular Subdivision of a Division; and
 - (b) has ceased to reside in Australia, or intends to cease to reside in Australia; and
 - (c) intends to resume residing in Australia (whether in that Subdivision or elsewhere) not later than 6 years after ceasing to reside in Australia;

may apply to be treated as an eligible overseas elector. The application must be in the approved form and signed by the elector, and must be made to the Divisional Returning Officer for that Division.

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- (1A) An application that is made while the elector still resides in Australia must be made within 3 months before the elector intends to cease to reside in Australia.
- (1B) An application that is made after the elector ceased to reside in Australia must be made within 2 years after the day on which the elector ceased to reside in Australia.
- (2) Where an application is made under subsection (1):
 - (a) the Divisional Returning Officer must annotate the Roll so as to indicate that the elector is an eligible overseas elector; and
 - (b) subject to this section, the elector is entitled to be treated as an eligible overseas elector from the time when the annotation is made until it is cancelled.
- (3) Notwithstanding anything in subsection 99(1) or (2), while a person is entitled to be treated as an eligible overseas elector by virtue of an annotation under subsection (2) to the Roll for a Subdivision, the person is entitled to:
 - (a) have his or her name retained on the Roll for the Subdivision; and
 - (b) vote as an elector of the Subdivision.
- (4) Where a person applies under subsection (1) to the Divisional Returning Officer for a Division to be treated as an eligible overseas elector and the person's name is not on the Roll for a Subdivision of the Division, the Divisional Returning Officer shall refuse the application and give notice in writing of the decision to the person making the application.
- (5) A person who has applied under subsection (1) shall, as soon as practicable, give written notice to the Divisional Returning Officer to whom the application was made of the occurrence of any of the following circumstances:
 - (a) the person does not cease to reside in Australia within 3 months after the day on which the application was made;
 - (b) within 6 years after ceasing to reside in Australia, the person again becomes resident in Australia;

- (c) the person abandons the intention to become resident again in Australia within 6 years after ceasing to reside in Australia;
 - (d) the person ceases to be entitled to enrolment.
- (6) Subject to subsection (13), if a person who is an eligible overseas elector does not cease to reside in Australia within 3 months after the day on which he or she applied under subsection (1) to be treated as an eligible overseas elector, the person ceases to be entitled to be treated as an eligible overseas elector.
- (6A) Paragraph (5)(a) and subsection (6) do not apply to a person who is an eligible overseas elector whose application under subsection (1) was made after the person ceased to reside in Australia.
- (7) If a person who is an eligible overseas elector again becomes resident in Australia within 6 years after ceasing to reside in Australia, the person ceases to be entitled to be treated as an eligible overseas elector at the end of 1 month after the day on which he or she again became resident in Australia.
- (8) Where a person who is an eligible overseas elector in relation to a Subdivision by virtue of this section:
 - (a) ceases to have the intention to resume residing in Australia within the period (in this subsection referred to as the *relevant period*) of 6 years after the day on which he or she ceased to reside in Australia; and
 - (b) intends to resume residing in Australia at some time after the expiration of the relevant period;and applies, within 3 months before the expiration of the relevant period, to the Divisional Returning Officer for the Division for which he or she is enrolled to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period, the Divisional Returning Officer to whom the application is made shall annotate the Roll for that Subdivision so as to indicate that the eligible overseas elector is to be treated as an eligible overseas elector for that further period of 1 year.

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- (9) Where a person who:
- (a) is being treated as an eligible overseas elector in relation to a Subdivision for a further period (in this subsection referred to as the *relevant period*) of 1 year in pursuance of an application made under subsection (8) or under this subsection; and
 - (b) intends to resume residing in Australia;
- applies, within 3 months before the expiration of the relevant period, to the Divisional Returning Officer for the Division for which he or she is enrolled to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period, the Divisional Returning Officer to whom the application is made shall annotate the Roll for that Subdivision so as to indicate that the eligible overseas elector is to be treated as an eligible overseas elector for that further period of 1 year.
- (10) An application under subsection (8) or (9) shall be in writing and signed by the applicant.
- (11) Where a person who is being treated as an eligible overseas elector in pursuance of an application made under subsection (8) or (9):
- (a) resumes residing in Australia; or
 - (b) ceases to have the intention to resume residing in Australia;
- the person shall, as soon as practicable, give notice in writing to the Divisional Returning Officer for the Division for which he or she is enrolled of the happening of the event referred to in paragraph (a) or (b), as the case may be.
- (12) Subject to subsection (13), where a person who is being treated as an eligible overseas elector in pursuance of an application made under subsection (8) or (9) resumes residing in Australia, the person ceases to be entitled to be treated as an eligible overseas elector under this section on the expiration of 1 month after the day on which he or she resumes residing in Australia.
- (13) A person ceases to be entitled to be treated as an eligible overseas elector under this section if:

- (a) the person gives notice under paragraph (5)(c) and does not make an application under subsection (8);
 - (b) the person gives notice under paragraph (11)(b);
 - (c) while the person is being so treated, a general election is held at which he or she neither votes nor applies for a postal vote;
 - (d) the person ceases to be entitled to enrolment;
 - (e) except where:
 - (i) the person has given notice under paragraph (5)(b); or
 - (ii) the person has made an application under subsection (8);the period of 6 years commencing on the day on which the person ceased to reside in Australia expires; or
 - (f) in a case where:
 - (i) the person is being treated as an eligible overseas elector in pursuance of an application made under subsection (8) or (9) for a further period (in this paragraph referred to as the *relevant period*) of 1 year; and
 - (ii) the person does not make an application under subsection (9) to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period;the relevant period expires.
- (14) Where the Divisional Returning Officer for the Division on the Roll for a Subdivision of which an annotation in relation to a person under subsection (2) has been made becomes aware that the person has ceased to be entitled to be treated as an eligible overseas elector under this section by virtue of subsection (6), (7), (12) or (13), the DRO shall:
- (a) if the person ceases to be eligible otherwise than by virtue of paragraph (13)(d) and the person resides in the Division at the time when he or she ceases to be entitled to be treated as an eligible overseas elector under this section—cancel the annotation made in relation to the person under subsection (2); or

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- (b) in any other case—cancel the enrolment of the person on the Roll for the Subdivision.
- (15) If, after an application is made by a person under subsection (1) to be treated as an eligible overseas elector and before an annotation under subsection (2) is made in relation to the person, an event occurs by reason of which, if the annotation had been made, the person would have ceased to be entitled to be treated as an eligible overseas elector under subsection (6), (7) or (13), whether immediately or otherwise, then:
- (a) where the annotation was not made before the Divisional Returning Officer to whom the application was made became aware of the happening of the event—the Divisional Returning Officer shall not make the annotation; or
 - (b) where the annotation is made—the annotation or the enrolment of the person, as the case requires, ceases to be in force immediately after the annotation is made.
- (16) In this section:

Australia does not include Norfolk Island.

94A Enrolment from outside Australia

- (1) A person may apply to the Australian Electoral Officer for a State for enrolment for a Subdivision in that State if, at the time of making the application:
- (a) the person has ceased to reside in Australia for reasons relating to the person's career or employment or for reasons relating to the career or employment of the person's spouse; and
 - (b) the person is not enrolled; and
 - (c) the person is not qualified for enrolment, but would be so qualified if he or she resided in a Subdivision of a Division, and had done so for at least a month; and
 - (d) the person intends to resume residing in Australia not later than 6 years after he or she ceased to reside in Australia.
- (2) The application:

- (a) must be in the approved form; and
 - (b) must be signed by the person; and
 - (c) must be attested to by a person referred to in paragraph 98(2)(c) (but see subsection (2A)); and
 - (d) must be made within 2 years of the day on which the person making the application ceased to reside in Australia.
- (2A) An application that does not meet the requirement in paragraph (2)(c) is taken to meet that requirement for the purposes of this Act if:
- (a) the application is accompanied by a signed statement by the person making the application setting out why the person was unable to meet the requirement; and
 - (b) the Australian Electoral Officer is satisfied that the person made reasonable efforts to comply with the requirement; and
 - (c) the application is accompanied by a photocopy, that is certified by the person to be a true copy, of a part of the person's passport that includes:
 - (i) the country and date of issue and the number of the passport; and
 - (ii) the person's name, date of birth and signature; and
 - (iii) a photograph of the person.
- (3) The Australian Electoral Officer must cause the person's name to be added to the Roll:
- (a) for the Subdivision for which the person last had an entitlement to be enrolled; or
 - (b) if the person has never had such an entitlement, for a Subdivision for which any of the person's next of kin is enrolled; or
 - (c) if neither paragraph (a) nor (b) applies, for the Subdivision in which the person was born; or
 - (d) if none of paragraphs (a), (b) and (c) applies, the Subdivision with which the person has closest connection.
- (4) If:

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- (a) the application was received by an Australian Electoral Officer after 8 pm on the day of the close of the Rolls for an election to be held in a Division; and
 - (b) the application relates to a Subdivision of that Division; the person's name must not be added to the Roll for the Subdivision until after the close of the poll for that election.
- (5) The Australian Electoral Officer must notify the person in writing:
- (a) of a decision to grant or refuse the application; or
 - (aa) of a decision to refuse the application because it:
 - (i) does not meet the requirement in paragraph (2)(c); and
 - (ii) is not taken to meet that requirement because of subsection (2A); or
 - (b) of the Australian Electoral Officer's opinion that the application cannot be proceeded with because of subsection (4).
- (6) If the application is granted, the Australian Electoral Officer must forward the application to the relevant Divisional Returning Officer, who must treat the application as if it were a valid application under subsection 94(1) by the person to be treated as an eligible overseas elector.

95 Eligibility of spouse or child of eligible overseas elector [see Note 4]

- (1) Where a person:
- (a) who is the spouse or child of a person who is an eligible overseas elector by virtue of section 94 in relation to a Subdivision (in this subsection referred to as the **relevant Subdivision**);
 - (b) who is living at a place outside Australia so as to be with or near the eligible overseas elector;
 - (c) who had not attained 18 years of age when he or she last ceased to reside in Australia;
 - (d) whose name is not, and has not been, on a Roll;
 - (e) who is not qualified for enrolment under section 93 but would be so qualified if he or she resided in a Subdivision of a Division; and

- (f) who intends to resume residing in Australia not later than 6 years after the day on which he or she attained 18 years of age;

applies to the Divisional Returning Officer for the Division that includes the relevant Subdivision to have his or her name placed on the Roll for the relevant Subdivision and to be treated as an eligible overseas elector, the Divisional Returning Officer to whom the application is made shall, subject to subsection (4):

- (g) add the name of the person to the Roll for the relevant Subdivision; and
- (h) annotate the Roll for the relevant Subdivision so as to indicate that the person is an eligible overseas elector;

and, subject to subsections (7), (12) and (13), the person is entitled to be treated as an eligible overseas elector from the time when the annotation is made until it is cancelled.

(2) The application must be:

- (a) in the approved form; and
- (b) signed by the person; and
- (c) attested to by a person referred to in paragraph 98(2)(c) (but see subsection (2A)).

(2A) An application that does not meet the requirement in paragraph (2)(c) is taken to meet that requirement for the purposes of this Act if:

- (a) the application is accompanied by a signed statement by the person making the application setting out why the person was unable to meet the requirement; and
- (b) the Divisional Returning Officer is satisfied that the person made reasonable efforts to comply with the requirement; and
- (c) the application is accompanied by a photocopy, that is certified by the person to be a true copy, of a part of the person's passport that includes:
 - (i) the country and date of issue and the number of the passport; and
 - (ii) the person's name, date of birth and signature; and
 - (iii) a photograph of the person.

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- (3) Notwithstanding anything contained in subsection 99(1) or (2), while a person is entitled to be treated as an eligible overseas elector by virtue of an annotation under subsection (1) to the Roll for a Subdivision, the person is entitled to:
 - (a) have his or her name retained on the Roll for the Subdivision; and
 - (b) vote as an elector of the Subdivision.
- (4) Where an application under this section is received by a Divisional Returning Officer after 8 p.m. on the day of the close of the Rolls for an election to be held in the Division, the name of the applicant shall not be added to the Roll for a Subdivision, and the annotation of the Roll under subsection (1) in relation to the applicant shall not be made, until after the close of the polling at that election.
- (5) The Divisional Returning Officer must notify the person in writing:
 - (a) of a decision to grant or refuse the application; or
 - (b) of a decision to refuse the application because it:
 - (i) does not meet the requirement in paragraph (2)(c); and
 - (ii) is not taken to meet that requirement because of subsection (2A); or
 - (c) of the Divisional Returning Officer's opinion that the application cannot be proceeded with because of subsection (4).
- (6) Where a person who has applied under subsection (1) to be treated as an eligible overseas elector:
 - (a) resumes residing in Australia within 6 years after the day on which he or she attained 18 years of age;
 - (b) ceases to have the intention to resume residing in Australia within 6 years after the day on which he or she attained 18 years of age; or
 - (c) ceases to be qualified for enrolment;the person shall, as soon as practicable, give notice in writing to the Divisional Returning Officer to whom the application under subsection (1) to be treated as an eligible overseas elector was

made of the happening of the event referred to in paragraph (a), (b) or (c), as the case may be.

- (7) Subject to subsection (13), where a person who is being treated as an eligible overseas elector under this section resumes residing in Australia within 6 years after the day on which he or she attained 18 years of age, the person ceases to be eligible to be treated as an eligible overseas elector under this section on the expiration of 1 month after the day on which he or she resumes residing in Australia.
- (8) Where a person who is an eligible overseas elector in relation to a Subdivision by virtue of this section:
- (a) ceases to have the intention to resume residing in Australia within the period (in this subsection referred to as the *relevant period*) of 6 years after the day on which he or she attained 18 years of age; and
 - (b) intends to resume residing in Australia at some time after the expiration of the relevant period;
- applies, within 3 months before the expiration of the relevant period, to the Divisional Returning Officer for the Division for which he or she is enrolled to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period, the Divisional Returning Officer to whom the application is made shall annotate the Roll for that Subdivision so as to indicate that the eligible overseas elector is to be treated as an eligible overseas elector for that further period of 1 year.
- (9) Where a person who:
- (a) is being treated as an eligible overseas elector in relation to a Subdivision for a further period (in this subsection referred to as the *relevant period*) of 1 year in pursuance of an application made under subsection (8) or under this subsection; and
 - (b) intends to resume residing in Australia;
- applies, within 3 months before the expiration of the relevant period, to the Divisional Returning Officer for the Division for which he or she is enrolled to be treated as an eligible overseas

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elector for a further period of 1 year commencing on the expiration of the relevant period, the Divisional Returning Officer to whom the application is made shall annotate the Roll for that Subdivision so as to indicate that the eligible overseas elector is to be treated as an eligible overseas elector for that further period of 1 year.

- (10) An application under subsection (8) or (9) shall be in writing and signed by the applicant.
- (11) Where a person who is being treated as an eligible overseas elector in pursuance of an application made under subsection (8) or (9):
- (a) resumes residing in Australia; or
 - (b) ceases to have the intention to resume residing in Australia;
- the person shall, as soon as practicable, give notice in writing to the Divisional Returning Officer for the Division for which he or she is enrolled of the happening of the event referred to in paragraph (a) or (b), as the case may be.
- (12) Subject to subsection (13), where a person who is being treated as an eligible overseas elector in pursuance of an application made under subsection (8) or (9) resumes residing in Australia, the person ceases to be entitled to be treated as an eligible overseas elector under this section on the expiration of 1 month after the day on which he or she resumes residing in Australia.
- (13) A person ceases to be entitled to be treated as an eligible overseas elector under this section if:
- (a) the person gives notice under paragraph (6)(b) and does not make an application under subsection (8);
 - (b) the person gives notice under paragraph (11)(b);
 - (c) while the person is being so treated, a general election is held at which the person neither votes nor applies for a postal vote;
 - (d) the person ceases to be entitled to enrolment;
 - (e) except where:
 - (i) the person has given notice under paragraph (6)(b); or

- (ii) the person has made an application under subsection (8);
the period of 6 years commencing on the day on which the person attained the age of 18 years expires; or
 - (f) in a case where:
 - (i) the person is being treated as an eligible overseas elector in pursuance of an application made under subsection (8) or (9) for a further period (in this paragraph referred to as the *relevant period*) of 1 year; and
 - (ii) the person does not make an application under subsection (9) to be treated as an eligible overseas elector for a further period of 1 year commencing on the expiration of the relevant period;
the relevant period expires.
- (14) Where the Divisional Returning Officer for the Division on the Roll for a Subdivision of which an annotation in relation to a person under subsection (1) has been made becomes aware that the person has ceased to be entitled to be treated as an eligible overseas elector under this section by virtue of subsection (7), (12) or (13), the DRO shall:
 - (a) if the person ceases to be eligible otherwise than by virtue of paragraph (13)(d) and the person resides in the Division at the time when he or she ceases to be entitled to be treated as an eligible overseas elector under this section—cancel the annotation made in relation to the person under subsection (1); or
 - (b) in any other case—cancel the enrolment of the person on the Roll for the Subdivision.
- (15) If, after an application is made by a person under subsection (1) to be treated as an eligible overseas elector and before the person's name is added to the Roll and an annotation under paragraph (1)(h) is made in relation to the person, an event occurs by reason of which, if the name had been so added and the annotation so made, the person would have ceased to be entitled to

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be treated as an eligible overseas elector under subsection (7) or (13), whether immediately or otherwise, then:

- (a) where the name was not added to the Roll, and the annotation was not made, before the Divisional Returning Officer to whom the application was made became aware of the happening of the event—the Divisional Returning Officer shall not add the name to the Roll under this section or make the annotation; or
 - (b) where the name is added to the Roll and the annotation is made—the person ceases to be entitled to be treated as an eligible overseas elector immediately after the name is added and the annotation is made.
- (16) For the purposes of this section, where a child is adopted by a person, that child shall be taken to be the child of that person.
- (17) In this section:

Australia does not include Norfolk Island.

child includes an ex-nuptial child.

spouse, in relation to a person (in this subsection referred to as the *relevant person*) includes a person who, although not legally married to the relevant person, lives with the relevant person as the spouse of the relevant person on a permanent and *bona fide* domestic basis.

95AA Norfolk Island electors

- (1) In this section:

exclusive Territory means an internal Territory that neither:

- (a) includes another Territory; nor
 - (b) is included in another Territory;
- under section 4 (if any).

inclusive Territory means an internal Territory that, under section 4, includes another Territory.

one-Territory Division means:

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

qualified Norfolk Islander means a person who:

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

State does not include a Territory.

Territory means:

- (a) an internal Territory; or
 - (b) an external Territory.
- (2) Subject to subsection (4), a qualified Norfolk Islander who is one of the people of a State for the purposes of sections 7 and 24 of the Constitution is entitled to be enrolled for:
- (a) the Subdivision in that State for which he or she last had an entitlement to be enrolled; or
 - (b) if he or she never had such an entitlement—a Subdivision in that State for which any of his or her next of kin is enrolled; or
 - (c) if neither paragraph (a) nor (b) applies—the Subdivision in that State in which he or she was born; or
 - (d) if none of paragraphs (a), (b) and (c) applies—a Subdivision in that State with which he or she has a close connection.
- (3) Subject to subsection (4), a qualified Norfolk Islander who is not one of the people of any State for the purposes of sections 7 and

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24 of the Constitution is entitled to be enrolled for a Subdivision of a one-Territory Division.

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

95AB Presumption about certain Norfolk Island electors

If:

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

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

95AC Rolls relating to Norfolk Island electors

- (1) A Divisional Returning Officer who, under section 95AA, causes the name of a person to be added to the Roll must annotate the Roll so as to indicate that the person is enrolled under that section.
- (2) A Divisional Returning Officer for a Division must conduct a review of the Roll for a Subdivision of that Division in relation to electors to whom an annotation under subsection (1) applies if directed to do so by the Electoral Commission and, upon completion of the review, make such alterations to the Roll as he or she thinks necessary to ensure that persons on that Roll under section 95AA are entitled to be so.

96 Itinerant electors

- (1) A person who:
 - (a) is in Australia; and

(b) because the person does not reside in any Subdivision, is not entitled to be enrolled for any Subdivision;
 may apply to the Australian Electoral Officer for a State for enrolment under this section for a Subdivision in that State.

- (2) The application must be:
- (a) in the approved form; and
 - (b) signed by the applicant; and
 - (c) attested to by a person referred to in paragraph 98(2)(c).
- (2A) The Australian Electoral Officer shall cause the name of the applicant to be added to the Roll:
- (a) for the Subdivision for which the applicant last had an entitlement to be enrolled;
 - (b) if the person has never had such an entitlement, for a Subdivision for which any of the applicant's next of kin is enrolled;
 - (c) if neither paragraph (a) nor paragraph (b) applies, for the Subdivision in which the applicant was born; or
 - (d) if none of paragraphs (a), (b) and (c) applies, the Subdivision with which the applicant has the closest connection.
- (2B) The Australian Electoral Officer shall also annotate the Roll so as to indicate that the person is an itinerant elector.
- (2C) Until an annotation under subsection (2B) is cancelled, the person to whom the annotation relates is entitled to be treated as an itinerant elector.
- (3) Notwithstanding anything contained in subsection 99(1) or (2), while a person is entitled to be treated as an itinerant elector by virtue of an annotation under subsection (2B) to the Roll for a Subdivision, the person is entitled to:
- (a) have his or her name retained on the Roll for the Subdivision; and
 - (b) vote as an elector of the Subdivision.

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- (4) Where an application under this section is received by an Australian Electoral Officer after 8 p.m. on the day of the close of the Rolls for an election to be held in the Division to a Subdivision of which the application relates, the name of the applicant shall not be added to the Roll for the Subdivision, and the annotation of the Roll under subsection (2B) in relation to the applicant shall not be made, until after the close of the polling at that election.
- (5) Where an Australian Electoral Officer:
- (a) grants or refuses an application made under subsection (1); or
 - (b) is of the opinion that an application made under that subsection cannot be proceeded with because of the operation of subsection (4);
- the Australian Electoral Officer shall notify the applicant in writing of that decision or opinion, as the case may be.
- (6) Where an Australian Electoral Officer notifies a person under subsection (5) of a decision to refuse an application made under subsection (1), the notice shall include a statement to the effect that a person whose interests are affected by the decision may, subject to the *Administrative Appeals Tribunal Act 1975*, if he or she is dissatisfied with the decision, make an application to the Administrative Appeals Tribunal for review of the decision.
- (7) Where a person who has applied under subsection (1) to be treated as an itinerant elector:
- (a) resides in a Subdivision for a period of 1 month or longer;
 - (b) forms the intention to depart from Australia and to remain outside Australia for a period of 1 month or longer; or
 - (c) ceases to be entitled to enrolment;
- the person shall, as soon as practicable, give notice in writing to the Australian Electoral Officer to whom the application under subsection (1) was made of the happening of the event referred to in paragraph (a), (b) or (c), as the case may be.

- (8) Subject to subsection (9), where a person who is being treated as an itinerant elector under this section resides in a Subdivision for a period of 1 month or longer, the person ceases to be eligible to be treated as an itinerant elector under this section on the expiration of that period of 1 month.
- (9) A person ceases to be entitled to be treated as an itinerant elector under this section if:
- (a) while the person is being so treated, a general election is held at which the person neither votes nor applies for a postal vote;
 - (b) the person ceases to be entitled to enrolment; or
 - (c) the person departs from Australia and remains outside Australia for a period of 1 month or longer.
- (10) Where the Australian Electoral Officer who has caused the name of a person to be added to the Roll for a Subdivision of a Division under this section becomes aware that the person has ceased to be entitled to be treated as an itinerant elector under this section by virtue of subsection (8) or (9), he or she must:
- (a) if the person ceases to be entitled otherwise than because of paragraph (9)(b) and the Australian Electoral Officer is aware that the person resides in the Division—cause the annotation made in relation to the person under subsection (2B) to be cancelled; or
 - (b) in any other case—cause the enrolment of the person on the Roll for the Subdivision to be cancelled.
- (11) If, after an application is made by a person under this section to be treated as an itinerant elector and before the person's name is added to the Roll and an annotation under subsection (2B) is made in relation to the person, an event occurs by reason of which, if the name had been so added and the annotation so made, the person would cease to be entitled to be treated as an itinerant elector under this section, whether immediately or otherwise, then:
- (a) where the name was not added to the Roll, and the annotation was not made, before the Australian Electoral Officer to whom the application was made became aware of the happening of the event—the Australian Electoral Officer

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shall not cause the name to be added to the Roll under this section or cause the annotation to be made; or

- (b) where the name is added to the Roll and the annotation is made—the person ceases to be entitled to be treated as an itinerant elector immediately after the name is added and the annotation is made.
- (12) For the purposes of this section, a person shall be taken to reside at a place if, and only if, the person has his or her real place of living at that place.
- (13) In this section:
- Australia* does not include Norfolk Island.

96A Enrolment of prisoners

- (1) Subject to section 93, a person who is serving a sentence of imprisonment is entitled to remain enrolled for the Subdivision (if any) for which the person was enrolled when he or she began serving the sentence.
- (2) An eligible person who is serving a sentence of imprisonment but who was not enrolled when he or she began serving the sentence is entitled to be enrolled for:
 - (a) the Subdivision for which the person was entitled to be enrolled at that time;
 - (b) if the person was not so entitled, a Subdivision for which any of the person's next of kin is enrolled;
 - (c) if neither of paragraphs (a) and (b) is applicable, the Subdivision in which the person was born; and
 - (d) if none of the preceding paragraphs is applicable, the Subdivision with which the person has the closest connection.
- (3) In subsection (2), *eligible person* means a person who, under section 93, is entitled to enrolment.

97 Application of Part

- (1) This Part applies in relation to the Australian Capital Territory as if:
 - (a) references in the preceding sections of this Part to a State were references to the Australian Capital Territory; and
 - (b) references in the preceding sections of this Part to an Australian Electoral Officer for a State were references to the Electoral Commissioner.
- (1A) This Part applies to the Northern Territory as if the Territory were a State.
- (2) This Part applies in relation to a Subdivision in relation to which an Assistant Divisional Returning Officer is appointed as if references in the preceding sections of this Part, in relation to a Subdivision, to a Divisional Returning Officer were references to an Assistant Divisional Returning Officer.