



AUSTRALIAN CAPITAL TERRITORY

Electoral Amendment Act 2000 (No 2)

No 76 of 2000

CONTENTS

Section

PART 1—PRELIMINARY

- 1 Name of Act
- 2 Commencement

PART 2—AMENDMENTS OF ELECTORAL ACT 1992

- 3 Act amended by pt 2
- 4 Interpretation
- 5 Ballot papers
- 6 Insertion—
 - Division 9.2A—Electronic voting devices and vote counting programs*
 - 118A Approval of computer program for electronic voting and vote counting
 - 118B Security of electronic voting devices and related material
- 7 Administrative arrangements
- 8 Procedures for voting
- 9 Voting in private
- 10 Spoilt ballot papers
- 11 Scrutiny
- 12 First count—ordinary ballot papers
- 13 Insertion—
 - 183A First count—electronic ballot papers

Electoral Amendment (No 2) No 76, 2000

CONTENTS—continued

Section	
14	Second count—first preferences
15	Ascertaining result of poll
16	Insertion— 187A Recount of electronic scrutiny of ballot papers
17	Validity may be disputed after election
18	Inquiries by court
19	Insertion— <i>Division 17.3A—Electronic voting offences</i> 306A Interfering with electronic voting devices etc 306B Interfering with electronic counting devices etc
20	Voting statistics to be published
21	Omission
22	Commissioner for Public Administration to provide assistance etc
23	Substitution— 341 Regulation-making power
24	Renumbering PART 3—AMENDMENTS OF REFERENDUM (MACHINERY PROVISIONS) ACT 1994
25	Act amended by pt 3
26	Interpretation
27	Ballot papers
28	Voting at a referendum
29	Scrutiny



AUSTRALIAN CAPITAL TERRITORY

Electoral Amendment Act 2000 (No 2)

No 76 of 2000

An Act to amend the *Electoral Act 1992*, and for other purposes

[Notified in ACT Gazette S69: 21 December 2000]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART 1—PRELIMINARY

1 Name of Act

This Act is the *Electoral Amendment Act 2000 (No 2)*.

2 Commencement

This Act commences on a day fixed by the Minister by notice in the Gazette.

Note 1 The provisions of an Act providing for its name and commencement automatically commence on the date of notification of the Act (see *Interpretation Act 1967*, s 10B).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see *Interpretation Act 1967*, s 10C (1)).

Note 3 If a provision has not commenced within 6 months beginning on the date of notification of the Act, it automatically commences on the first day after that period (see *Interpretation Act 1967*, s 10E (2)).

PART 2—AMENDMENTS OF ELECTORAL ACT 1992

3 Act amended by pt 2

This Part amends the *Electoral Act 1992*.

4 Interpretation

Section 3 is amended by inserting the following definitions:

approved computer program means the computer program approved under section 118A.

ballot paper includes an electronic ballot paper.

electronic voting—see subsection 120 (2).

5 Ballot papers

Section 114 is amended—

- (a) by inserting after subsection (3) the following subsections:

“(4) The ballot paper may be in electronic form.

“(5) The commissioner may approve changes to the electronic form of the ballot paper that are necessary to facilitate the display of the electronic form.

Example

The electronic form of a ballot paper may display columns of candidates using 2 rows.”; and

- (b) by omitting from paragraph (4) (a) “printed or endorsed” and substituting “contained”; and
- (c) by renumbering subsections (4) and (5) as (6) and (7).

6 Insertion

After section 118 the following Division is inserted:

“Division 9.2A—Electronic voting devices and vote counting programs

“118A Approval of computer program for electronic voting and vote counting

“(1) The commissioner may approve a computer program to allow electronic voting and perform steps in the scrutiny of votes in an election.

“(2) The commissioner may only approve a program if—

- (a) the proper use of the program would give the same result in the scrutiny of votes in an election as would be obtained if the scrutiny were conducted without computer assistance; and
- (b) the program will allow an elector to show consecutive preferences starting at ‘1’; and
- (c) the program gives an elector an opportunity to correct any mistakes before processing the elector’s vote; and
- (d) the program will allow an elector to make an informal vote showing no preferences for any candidate; and
- (e) the program will not allow a person to find out how a particular elector cast his or her vote; and
- (f) the program is designed to pause while the commissioner makes a determination by lot required by Schedule 4; and
- (g) the program can produce indicative distributions of preferences at any time after the close of the poll and before the declaration of the poll.

“(3) The commissioner must determine processes that must be followed in relation to the use of an approved computer program in the scrutiny of votes in an election.

“(4) Without limiting subsection (3), the commissioner may approve a process—

- (a) for entering preferences shown on paper ballots into the approved computer program; and
- (b) for counting preferences using the program to work out—
 - (i) the number of unrejected ballot papers on which a first preference is recorded for each candidate; and
 - (ii) the number of informal ballot papers for each electorate.

“118B Security of electronic voting devices and related material

“(1) The commissioner must take steps to ensure that electronic devices and computer programs used or intended to be used for or in connection with electronic voting are kept secure from interference at all times.

“(2) The commissioner must keep backup copies of electronic data produced at a polling place or scrutiny centre until whichever of the following happens last:

- (a) the beginning of the pre-election period for the next election;
- (b) the documents are no longer required by the commissioner, another member of the electoral commission or a member of the staff of the commission for exercising a function under this Act.”.

7 Administrative arrangements

Section 120 is amended—

- (a) by omitting “The commissioner” and substituting “(1) The commissioner”; and
- (b) by adding at the end the following subsections:

“(2) The commissioner may make arrangements at a polling place for electors to vote using an electronic ballot paper (*electronic voting*).

“(3) For subsection (2), the commissioner may approve electronic devices for use by electors for electronic voting at a polling place.”.

8 Procedures for voting

Section 131 is amended by inserting after subsection (2) the following subsection:

“(3) If there is electronic voting at a polling place, an elector may vote using a paper ballot paper or electronic voting.”.

9 Voting in private

Section 134 is amended by inserting in paragraph (c) “if the person has voted using a paper ballot paper—” before “fold”.

10 Spoilt ballot papers

Section 157 is amended by inserting after subsection (3) the following subsection:

“(4) This section does not apply in relation to an elector who votes electronically.”.

11 Scrutiny

Section 178 is amended—

- (a) by omitting from subsection (3) “and documents” and substituting “, documents and data”; and
- (b) by renumbering paragraph (3) (e) as (3) (f); and
- (c) by inserting after paragraph (3) (d) the following paragraph:
“(e) electronic ballot papers;”.

12 First count—ordinary ballot papers

Section 182 is amended—

- (a) by renumbering subsections (1) to (6) as (2) to (7); and
- (b) by inserting before subsection (1) the following subsection:
“(1) This section applies only to paper ballot papers.”; and
- (c) by omitting from subsection (5) “(3)” and substituting “(4)”; and
- (d) by omitting from subsection (6) “(5)” and substituting “(6)”; and
- (e) by inserting after subsection (6) the following subsection:
“(8) The OIC may arrange for preferences marked on paper ballot papers to be entered into the approved computer program.”.

13 Insertion

After section 183 the following section is inserted:

“183A First count—electronic ballot papers

As soon as practicable after the close of the poll for an election, the OIC for a scrutiny centre must arrange for preferences from electronic voting to be entered into the approved computer program and for the electronic counting of the votes using the program.

14 Second count—first preferences

Section 184 is amended—

- (a) by omitting from subsection (1) “The commissioner” and substituting “If preferences marked on paper ballot papers have not been entered on the approved computer program under subsection 182 (8), the commissioner”; and
- (b) by omitting from paragraph (1) (a) “(4) (d)” and substituting “(5) (d)”; and

- (c) by omitting from paragraph (1) (a) “(3) and (4)” and substituting “(4) and (5)”; and
- (d) by renumbering subsection (2) as (3); and
- (e) by inserting after subsection (1) the following subsection:
 - “(2) The commissioner must, using the approved computer program, ascertain from the result of the first scrutiny of electronic ballot papers and any paper ballot papers from which preferences have been entered on the computer program under subsection 182 (8)—
 - (a) the number of unrejected ballot papers on which a first preference is recorded for each candidate; and
 - (b) the number of informal ballot papers for each electorate.”.

15 Ascertaining result of poll

Section 185 is amended by inserting in paragraph (1) (a) “and paragraph 184 (2) (a)” after “subparagraph 184 (1) (b) (i)”.

16 Insertion

After section 187 the following section is inserted:

“187A Recount of electronic scrutiny of ballot papers

- “(1) This section sets out the alternative ways in which a recount of the electronic scrutiny of ballot papers may be conducted.
- “(2) The recount may be conducted by recounting data from electronic ballot papers kept on a backup copy of electronic data produced at a polling place or scrutiny centre.
- “(3) If an approved computer program is used to find out the result of a scrutiny, the recount may be conducted—
 - (a) by rerunning the program; or
 - (b) by reloading the data into a different copy of the program and running the program.
- “(4) If practicable, the recount may be conducted—
 - (a) by re-examining the accuracy of any preference data entered into the computer program from paper ballot papers; or

(b) by conducting—

- (i) a partial or full manual scrutiny of paper ballot papers from which preference data has been entered into the computer program; or
- (ii) a combination of manual scrutiny of those paper ballot papers and a computerised scrutiny of electronic ballot papers.”.

17 Validity may be disputed after election

Section 256 is amended—

- (a) by renumbering paragraph (2) (e) as (2) (f); and
- (b) by inserting after paragraph (2) (d) the following paragraph:
“(e) any matter connected with electronic voting;”.

18 Inquiries by court

Section 269 is amended—

- (a) by renumbering paragraph (1) (b) as (1) (c); and
- (b) by inserting after paragraph (1) (a) the following paragraph:
“(b) an inquiry into the accuracy of approved computer programs used in electronic voting and the electronic scrutiny of votes;”.

19 Insertion

After section 306 insert the following Division:

“Division 17.3A—Electronic voting offences

“306A Interfering with electronic voting devices etc

A person must not, without reasonable excuse, destroy or interfere with any device or computer program that is used, or intended to be used, for or in connection with electronic voting.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

“306B Interfering with electronic counting devices etc

A person must not, without reasonable excuse, destroy or interfere with any device or computer program that is used, or intended to be used, for counting votes electronically.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

20 Voting statistics to be published

Section 333 is amended—

- (a) by omitting “The electoral” and substituting “**(1)** The electoral”; and
- (b) by adding at the end the following subsection:
“**(2)** A person may, on payment of the determined fee, obtain copies of the statistics in paper or electronic form.”.

21 Omission

Section 339 is omitted.

22 Commissioner for Public Administration to provide assistance etc

Section 340 is amended—

- (a) by omitting the heading and substituting the following heading:
“**340 Chief executive to provide assistance etc**”; and
- (b) by omitting “Head of Administration” and substituting “chief executive of the administrative unit responsible for Division 4 of Part 3 of the *Public Sector Management Act 1994*”.

23 Substitution

Section 341 is omitted and the following section substituted:

“341 Regulation-making power

- “(1) The Executive may make regulations for this Act.
- “(2) The regulations may create offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.”.

24 Renumbering

In the next republication of the *Electoral Act 1992* under the *Legislation (Republication) Act 1996*, the divisions of the *Electoral Act 1992* must be renumbered as permitted under section 13 of the *Legislation (Republication) Act 1996*.

**PART 3—AMENDMENTS OF REFERENDUM
(MACHINERY PROVISIONS) ACT 1994**

25 Act amended by pt 3

This Part amends the *Referendum (Machinery Provisions) Act 1994*.

26 Interpretation

Section 3 is amended—

- (a) by inserting in subsection (1) the following definition:

“*printing*, for a referendum ballot paper, includes displaying an electronic referendum ballot paper.”; and

- (b) by adding at the end of the definition of *referendum ballot paper* in subsection (1) “, and includes an electronic referendum ballot paper”.

27 Ballot papers

Section 11 is amended by inserting after subsection (4) the following subsection:

“(5) For this section, a referendum ballot paper may be in electronic form.”.

28 Voting at a referendum

Section 12 is amended—

- (a) by omitting from paragraph (3) (b) “printed”; and
(b) by omitting from paragraph (3) (c) “printed or endorsed” and substituting “contained”.

29 Scrutiny

Section 14 is amended by omitting from paragraph (3) (b) the words from “paragraphs” to “Electoral Act” and substituting “paragraphs 118A (4) (b), 180 (2) (b) and (c) and (3) (a), subparagraphs 182 (4) (c) (ii) and (5) (a) (i) and 184 (1) (b) (i) and subsection 184 (2) of the Electoral Act”.

Endnotes

Act amended by pt 2

- 1 Republished as in force on 31 March 1999. See also Act 2000 No 50.

Act amended by pt 3

- 2 Act 1994 No 7 (not republished). See also Act 1996 No 56; 1998 No 54.

[Presentation speech made in Assembly on 18 October 2000]