

2001

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

ELECTORAL (ENTRENCHED PROVISIONS) AMENDMENT BILL 2001

EXPLANATORY MEMORANDUM

**Circulated by authority of
Bill Stefaniak, Attorney-General**

OUTLINE

This Bill provides for amendments to the *Electoral Act 1992* to increase the number of versions of the ballot papers to be printed for a Legislative Assembly election under the method of printing candidate names in different positions on ballot papers known as Robson rotation.

Robson rotation of candidates' names on ballot papers was adopted in the ACT for two reasons: to spread the effect of the "linear vote" evenly to all candidates in a party column and to reduce the influence of party machines over the election of candidates. A "linear vote" is a vote where all the candidates in the column including the voter's first preference are numbered consecutively from the top down.

Under the existing Electoral Act, Robson rotation works in the following manner. When there are five candidates standing for a particular party (for example), that party's column of candidates is printed in five different "versions", with each candidate appearing first in the list on one of the versions. Each candidate also appears second on another version, third on another, fourth on another and fifth on another. One fifth of all ballot papers printed would carry one of those versions, and another fifth would carry another version, and so on. The same principle applies to columns of different lengths.

After the 1995 and 1998 elections, analysis by the ACT Electoral Commission noted that, while Robson rotation did share the linear vote evenly between candidates within a party column when first preference votes were counted, it did not effectively share the linear vote equally between candidates whenever a candidate was excluded during the scrutiny and later preferences were counted. This occurs because the current Robson rotation system only provides for one sequence of candidates in a column where a given candidate is at the top position in the column. Consequently, whenever a candidate is excluded, all the "linear votes" counted to that candidate go to only one other candidate in that column. If a high proportion of votes for the excluded candidate are "linear votes", the resulting disproportionate distribution of preferences to one particular candidate can give an arguably unfair advantage to that candidate simply on the "luck of the draw", as the order of candidates is determined by a random draw.

This Bill addresses this problem by substituting new tables showing how candidates' names are to be printed on ballot papers, including more rotations designed to evenly share the distribution of linear votes between all candidates in a column.

To facilitate the additional versions of the ballot papers, the accompanying Electoral Amendment Bill (No 2) 2001 also contains amendments to limit the maximum length of columns of candidates. Under these amendments, the maximum length of a column of candidates cannot exceed the number of candidates to be elected in an electorate. Consequently, a column of candidates cannot be longer than 5 candidates in the 5 member electorates, and a column of candidates cannot be longer than 7 candidates in the 7 member electorate.

The Bill includes 60 different variations for lengths of columns up to 5 candidates long for the 5 member electorates, and 420 different variations for lengths of columns up to 7 candidates long for the 7 member electorate. Expert advice indicates that these variations will ensure that the “linear vote” will be spread equally (as nearly as practicable) across all candidates remaining in the count at any stage in the scrutiny.

For example, where there are 5 candidates in a column, and 2 candidates are excluded, the “linear vote” from both of those candidates will be shared equally between the 3 candidates in that column remaining in the count.

In recognition of the greater complexity of the process of printing 420 versions of the 7 member electorate ballot paper, the accompanying Electoral Amendment Bill (No 2) 2001 also includes a measure to close nominations one day earlier to allow more time for typesetting, proof-reading and printing more versions of the ballot papers.

As the changes to the Robson rotation tables set out in this Bill are inconsistent with Schedule 2 of the Electoral Act as in force on 1 December 1994, this Bill is a law to which the *Proportional Representation (Hare-Clark) Entrenchment Act 1994* applies. Consequently this Bill cannot take effect unless it is passed by at least a 2/3 majority of the members of the Legislative Assembly, or by a majority of the members of the Legislative Assembly and a majority of electors at a referendum.

Financial Implications

While the increase in the number of Robson rotations will add to the complexity of the process of printing ballot papers, it is not expected to lead to significantly increased costs.

DETAILED EXPLANATION

References to *sections* in the following detailed explanation refer to sections in the *Electoral Act 1992*.

Formal clauses

Clauses 1, 2 and 3 are formal requirements. They refer to the short title of the Bill, commencement and to the Act being amended. The Act is to commence on the day it is notified in the *Gazette*.

Schedule 2 – Printing of names and collation

Clause 4 substitutes a new Table in Schedule 2 to provide for 60 different variations for lengths of columns up to 5 candidates long for the 5 member electorates, and 420 different variations for lengths of columns up to 7 candidates long for the 7 member electorate.

For column lengths less than the maximum permissible, the tables will be applied by having regard to the number of candidates in the column. For example, where 3 candidates stand in a 5 member electorate, the 60 versions set out in the table will be applied by having regard to the relative positions of the candidates represented by the numbers 1, 2 and 3 (ignoring the numbers 4 and 5 in the table).