

2006

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

ELECTORAL AMENDMENT BILL 2006

EXPLANATORY STATEMENT

Circulated by the authority of
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OVERVIEW

The *Electoral Act 1992* (the Act) provides for the election of members of the Legislative Assembly and other matters related to elections. The Electoral Commission (the Commission) is established under the Act as an independent statutory authority with responsibility for the conduct of elections and referendums for the ACT Legislative Assembly; the determination of electoral boundaries for the ACT; and the provision of electoral advice and services.

The Commission is comprised of the Electoral Commissioner, the Chairperson and one other member. Members of the Commission are appointed by the Executive. Section 12 of the Act places qualifications on who may be appointed as Chairperson of the Commission.

The Electoral Amendment Bill amends the Act to widen the field of persons who may be appointed as Chairperson of the Commission and to prevent the appointment of people who have recently been engaged in political activity through membership of a political party or an Australian parliament.

SUMMARY OF CLAUSES

Clause 1 sets out the name of the Act.

Clause 2 provides for commencement of the new Act on the day after its notification.

Clause 3 specifies that the Bill amends the Act.

Clause 4 substitutes two new provisions for section 12. The two new provisions separate the procedural requirements for appointment of members from the qualification requirements for the Chairperson of the Commission.

New section 12 restates existing procedural requirements for the appointment of members. The new provision corresponds to existing subsections 12(1), (3) and (4).

New section 12A provides for who is eligible to be appointed to the Commission. People who have, within the previous five years, been members of an Australian parliament or members of an Australian political party of any sort are made ineligible for appointment to the Commission. The aim is to prevent people with an overt affiliation with a particular political party from becoming a member of the Electoral Commission. It does not prevent people with strong views or a record of participation in public affairs from being appointed. Actual membership of a political party or representation in a parliament could reasonably be seen as creating a conflict of interest situation. The exclusion is intended to avoid overt political appointments and to reassure the community that the Electoral Commission is independent and impartial on political matters. It only applies to the activities of a person over the preceding five years, so it will not exclude people who have had political involvement in the more distant past.

New section 12B provides for who is eligible for appointment as Chairperson of the Commission. This new provision corresponds to existing subsection 12(2) but provides for an expanded class of people who are eligible for appointment as Chairperson. In addition to the current qualifications, the new provision includes:

- (i) a lawyer with at least 5 years experience who, in the opinion of the Executive has been a senior member of the profession;
- (ii) a former chief executive officer of a Territory instrumentality;
- (iii) a former statutory office-holder;
- (iv) a former head of Commonwealth executive agency or Commonwealth statutory agency;
- (v) a person who has held a senior position as an academic or in business or a profession for at least 5 years and who the Executive considers has the knowledge and experience to exercise the functions of Chairperson.

Because of its responsibility for matters that go to the heart of the democratic process in the ACT, the Electoral Commission must retain the respect and confidence of the community. To do so it must have members who have experience of taking a responsible or management position and who are independent of political affiliations or other external

influences. The qualifications are designed to include people who, in all areas of society, have a degree of management experience and who are used to conducting themselves with probity and avoiding conflict between their personal opinions and their responsibilities. People with the existing qualifications are highly suitable for the role but there are people with other backgrounds who also would have a great deal to offer. The amendments will give the opportunity to choose from a much wider range of skilled and thoughtful people with a variety of experience in senior and responsible positions.

Clause 5 contains technical provisions substituting revised notes for existing notes in the Dictionary at the end of the Act.