

1990-91

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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Presented and read a first time, 6 March 1991

(*Minister for the Arts, Tourism and Territories*)

## A BILL

FOR

### **An Act to amend the *Australian Capital Territory (Electoral) Act 1988*, and for related purposes**

The Parliament of Australia enacts:

#### **Short title etc.**

1. (1) This Act may be cited as the *Australian Capital Territory (Electoral) Amendment Act 1991*.

5 (2) In this Act, “**Principal Act**” means the *Australian Capital Territory (Electoral) Act 1988*<sup>1</sup>.

#### **Commencement**

2. This Act commences on the day on which it receives the Royal Assent.

10 **Repeal of section 5**

3. Section 5 of the Principal Act is repealed.

**Registration of political parties**

4. Subsection 13 (2) of the Principal Act is amended by omitting “political party” and substituting “eligible political party within the meaning of Part XI of the Electoral Act”.

**Voting at general elections**

5. Section 18 of the Principal Act is amended by omitting paragraph (d) and substituting the following paragraph:

“(d) at a general election, an elector is to vote only by:

- (i) expressing a preference for one independent candidate;  
or
- (ii) expressing a preference for one registered party; or
- (iii) expressing a first preference for one candidate of one registered party and, if the elector wishes to do so, expressing subsequent preferences for as many of the other candidates of that party as the elector wishes.”.

**Repeal of sections 19, 20, 21, 22 and 23 and insertion of new sections**

6. Sections 19, 20, 21, 22 and 23 of the Principal Act are repealed and the following sections are substituted:

**Counting votes: distribution of seats among parties and independent candidates**

“19. (1) The total number (in this section called the ‘base number’) of votes received by each party and by each independent candidate is to be counted, and, for this purpose, where an elector has voted in relation to a registered party in the way referred to in subparagraph 18 (d) (iii), the party is to be treated as receiving one vote.

“(2) The base numbers are to be divided by 1, then by 2, then by 3 and so on.

“(3) The numbers worked out by dividing all the base numbers by 1 are “quotients” on the first “rank” and the numbers worked out by dividing all the base numbers by 2 (disregarding any remainders) are “quotients” on the second “rank” and so on.

“(4) If any 2 quotients on different ranks are equal, the quotient on the higher rank is taken to be the higher quotient.

“(5) If 2 or more quotients on the same rank are equal, the Australian Capital Territory Electoral Officer must, by ballot, decide the order in which they are to be treated for the purposes of subsection (6).

“(6) The party or independent candidate receiving the highest quotient receives the first seat, the party or independent candidate receiving the next highest quotient receives the next seat, and so on until all the seats to be filled have been distributed.

“(7) When the number of seats received by a party is equal to the number of candidates for that party, any further quotient received by that party must be disregarded.

5 “(8) When an independent candidate receives a seat, any further quotient received by that candidate must be disregarded.

“(9) An example of a distribution under this section is set out in Schedule 2.

**Counting votes: election of candidates**

10 “20. (1) If an independent candidate receives a seat under section 19, the candidate is elected.

“(2) If the number of seats received by a party under section 19 equals the number of candidates of the party the candidate is, or candidates are, elected.

15 “(3) If the number of candidates of a party exceeds the number of seats received by the party under section 19, the candidate or candidates of the party are to be elected to those seats by distributing the votes among the candidates as provided by the Electoral Act.”.

**Amendments of Schedules to the Principal Act**

20 7. (1) Schedule 1 to the Principal Act is amended by amending modifications of the *Commonwealth Electoral Act 1918* (in this section called the “1918 Act”) in that Schedule in accordance with Schedule 1 to this Act.

25 (2) Schedule 1 to the Principal Act is amended by omitting modifications of the 1918 Act in that Schedule, and substituting modifications, in accordance with Schedule 2 to this Act.

(3) Schedule 1 to the Principal Act is amended by omitting modifications of the 1918 Act in that Schedule in accordance with Schedule 3 to this Act.

30 (4) Schedule 1 to the Principal Act is amended by inserting in that Schedule modifications of the 1918 Act in accordance with Schedule 4 to this Act.

(5) Schedule 2 to the Principal Act is amended by omitting “Section 23” and substituting “Section 19”.

**Transitional—certain registered parties to provide membership list**

35 8. (1) In this section:

“**information period**” means the period of 30 days immediately after the day on which this Act receives the Royal Assent;

“**reviewable party**” means a registered party other than a Parliamentary party within the meaning of Part XI of the Electoral Act.

(2) A reviewable party may, within the information period, give the Electoral Commission a written list of the names and addresses of at least 100 of the party's members within the meaning of Part XI of the Electoral Act.

(3) If a reviewable party does not give a list of the party's members as provided for in subsection (2), the Electoral Commission must: 5

- (a) de-register the party; and
- (b) give written notice of the de-registration to the person who was the last registered officer of the party; and
- (c) cause the particulars on the Register of Political Parties that relate to that party to be cancelled; and 10
- (d) publish a notice of the de-registration in the *Gazette*.

**Transitional—certain registered parties liable to de-registration**

9. (1) Where, on the commencement of this Act, a person is a registered officer of 2 or more registered parties, the Commission must, as soon as practicable after that commencement, give the person notice in writing informing the person of the terms of subsection (2). 15

(2) A registered party is liable to de-registration if:

- (a) on the day on which this Act commences, the party's registered officer is the registered officer of 2 or more registered parties; and 20
- (b) the Electoral Commission has given a notice under subsection (1) to the registered officer; and
- (c) at the end of the period of 30 days immediately after the day on which the Commission gave that notice, the party's registered officer is a registered officer of 2 or more registered parties. 25

(3) If a registered party becomes liable to de-registration, the Electoral Commission must:

- (a) de-register the party;
- (b) give written notice of the de-registration to the person who was the last registered officer of the party; and 30
- (c) cause the particulars on the Register of Political Parties that relate to that party to be cancelled; and
- (d) publish a notice of the de-registration in the *Gazette*.

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**SCHEDULE 1**

Subsection 7 (1)

**AMENDMENTS OF MODIFICATIONS OF THE  
COMMONWEALTH ELECTORAL ACT 1918 IN SCHEDULE 1  
TO THE PRINCIPAL ACT**

**Modification of subsection 4 (1):**

(a) Before paragraph (a) of the modification, insert:

“(aa) Omit the definition of ‘Register of Political Parties’,  
substitute:

“**“Register of Political Parties”** means the Australian  
Capital Territory Register of Political Parties  
established under section 13 of the Territory Electoral  
Act;’.”.

(b) Omit “, ‘Register of Political Parties’ ” in paragraph (a) of the  
modification;

(c) Omit the definition of “Continuing party” in paragraph (b) of  
the modification.

**Modification of subsection 134 (1):**

Add at the end:

“(c) Omit paragraph (f).”.

**Modification of subsections 137 (1), (2) and (3):**

(a) Omit substituted subsection (1), substitute:

“(1) If the Commission is satisfied on reasonable grounds  
that a registered party:

(a) has ceased to exist (whether by amalgamation with  
another political party or otherwise); or

(b) has ceased to be an eligible political party; or

(c) was, or has continued to be, registered because of fraud  
or misrepresentation;

the Commission must:

(d) give the registered officer of the party notice, in writing,  
that it is considering de-registering the party under this  
section, setting out its reasons for considering doing so;  
and

(e) publish a notice in the *Gazette* that it is considering  
de-registering the party under this section.”.

(b) Omit “(a)” in subsection (2), substitute “(d)”.

**Modification of paragraph 170 (c):**

Omit “\$100”, substitute “\$250”.

**SCHEDULE 1—continued**

**Modification of subsections 239 (1) and (2):**

- (a) Omit “whom” in substituted paragraph (1) (b), substitute “which”.
- (b) Omit substituted paragraph (1) (c), substitute:
  - “(c) by placing the number 1 in the square opposite the name of a candidate in the list of candidates of the registered party for which the voter votes and, if the voter wishes:
    - (i) where there are only 2 candidates in the list, placing the number 2 in the square opposite the name of the other candidate; or
    - (ii) where there are 3 or more candidates in the list, placing the numbers 2, 3 (and so on as the case requires) in the squares opposite the names of such of the other candidates in the list for whom the voter wishes to indicate preferences.”.
- (c) Omit substituted subsection (2).

**Modification of paragraphs 268 (1) (b) and (c):**

- (a) Omit “vote” in substituted paragraph (b), substitute “preference mark”.
- (b) Add at the end:
  - “(cb) a preference mark has been placed above the ballot-line in the square opposite the name of an independent candidate and another preference mark has been placed in a square below the ballot-line;
  - (cc) a preference mark has been placed above the ballot-line in the square opposite the name of a particular registered party and another preference mark has been placed below the ballot-line in the square opposite the name of a candidate of another party.”.

**Modification of paragraph 273 (2) (c):**

Omit “first preference” (wherever occurring).

**Modification of subparagraph 273 (2) (f) (i):**

Omit “first preference”.

**Modification of subsections 273 (6), (7) and (8):**

- (a) Omit substituted subsection (6), substitute:
  - “(6) The Australian Capital Territory Electoral Officer must do everything necessary for the purpose of:
    - (a) the distribution of seats required by section 19 of the Territory Electoral Act; and

**SCHEDULE 1—continued**

- (b) the distribution of votes required by subsection 20 (3) of that Act.”.
- (b) Omit substituted subsection (8A).
- (c) Omit substituted subsections (8C) and (8D), substitute:

“(8C) A quota for a party is to be determined by dividing the base number of that party by a number equal to the sum of one and the number of seats won by that party and by increasing the result of that division (disregarding any remainder) by 1.

“(8D) Any candidate of a particular party who has received a number of first preference votes equal to or greater than the quota for his or her party is elected.”.

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**SCHEDULE 2**

Subsection 7 (2)

**SUBSTITUTION OF MODIFICATIONS FOR MODIFICATIONS  
OF THE COMMONWEALTH ELECTORAL ACT 1918 IN  
SCHEDULE 1 TO THE PRINCIPAL ACT**

**Modification of subsection 123 (1) (definition of “Eligible political party”):**

Omit the modification, substitute:

**“Subsection 123 (1):**

- (a) Omit the definition of ‘Eligible political party’, substitute:

‘**“eligible political party”** means a political party that:

- (a) is a Parliamentary party; or  
(b) has at least 100 members;’.

- (b) Insert the following definition:

‘**“member”**, in relation to a political party, means a person who is:

- (a) a member of the political party; and  
(b) entitled to vote at an election for the Assembly;’.”.

**Modifications of section 126:**

Omit the modifications, substitute:

**“Section 126:**

Omit the section, substitute:

**SCHEDULE 2—continued**

**Application for registration**

‘126. (1) An application for the registration of an eligible political party may be made to the Commission by the secretary of the party.

‘(2) An application for the registration of an eligible political party must:

- (a) be in writing and signed by the applicant; and
- (b) set out the name of the party; and
- (c) if the party wishes to be able to use an abbreviation of its name for the purposes of this Act set out an abbreviation of the party’s name; and
- (d) set out the name and address of the secretary of the party; and
- (e) set out the name and address of the person who is to be the registered officer of the party for the purposes of this Act; and
- (f) be accompanied by a copy of the constitution of the party.

‘(3) For the purposes of paragraph (2) (e), an application must not set out the name of a person who is already a registered officer of a registered party.

‘(4) If an application sets out the name of a person who is already a registered officer, the application is taken not to have been made and subsection (5) does not apply.

‘(5) Upon receiving an application for registration of a political party, the Commission must:

- (a) deal with the application in accordance with this Part; and
- (b) determine whether the party can be registered.’.”.

**Modification of subparagraph 133 (1) (a) (iii):**

Omit the modification, substitute:

**“Subparagraphs 133 (1) (a) (iii) and (iv):**

Omit the subparagraphs, substitute:

- ‘and (iii) the name and address of the person who has been nominated as the registered officer of the party for the purposes of this Act in its application in relation to general elections.’.”.

**Modification of sections 211, 211A and 212:**

Omit the modification, substitute:

**“Sections 211, 211A and 212:**

Omit the sections.”.

**Modification of section 216:**

Omit the modification, substitute:



**SCHEDULE 2—continued**

**“Section 216:**

Omit the section.”.

**Modification of section 269:**

Omit the modification, substitute:

**“Section 269:**

Omit the section, substitute:

**Certain marks taken not to be made**

‘269. Where a formal ballot-paper has:

- (a) a preference mark in a square opposite the name of a party;  
and
- (b) a preference mark in a square opposite the name of a candidate  
of that party;

the ballot-paper is taken to have not been marked above the ballot-line.’”.

**Modification of section 270:**

Omit the modification, substitute:

**“Section 270:**

Omit the section, substitute:

**Indication of preferences**

‘270. (1) Where a formal ballot-paper:

- (a) has a preference mark in the square opposite the name of a  
party; and
- (b) does not have any mark in a square below the ballot-line  
opposite the name of a candidate of that party;

the voter is taken to have indicated his or her preferences for the candidates of that party in the same order as the order of their names on the ballot-paper.

‘(2) Where a formal ballot-paper:

- (a) has marks expressing preferences for candidates of a particular  
party; but
- (b) the preferences have not been expressed in strict consecutive  
numerical order;

the preferences are to be allocated in accordance with the general sequence of numbers.

‘(3) Where a formal ballot-paper:

- (a) has a mark expressing a preference for a candidate of a particular  
party; but

**SCHEDULE 2—continued**

- (b) does not have marks expressing preferences in all the squares opposite the names of the other candidates of that party;

then:

- (c) preferences are to be allocated in accordance with the general sequence of numbers indicated; and
- (d) preferences in relation to a candidate or candidates whose square is, or squares are, unmarked are to be allocated in the order in which the names of that candidate or those candidates appear on the ballot-paper.

‘(4) Where a formal ballot-paper has the same number in 2 or more squares opposite the names of candidates of a particular party there must be no allocation of preferences to those candidates, nor any further allocation of preferences.

‘(5) For the purposes of this section, a preference mark is taken to be the number 1.’”.

**Modification of paragraph 273 (2) (d):**

Omit the modification, substitute:

**“Paragraph 273 (2) (d):**

Omit ‘first preference votes given for each candidate’, substitute ‘votes received by each party and each independent candidate’.”.

**Modification of paragraphs 273 (5) (c) and (d):**

Omit the modification, substitute:

**“Paragraphs 273 (5) (c) and (d):**

Omit the paragraphs, substitute:

‘(c) count:

- (i) the votes received by each party; and
- (ii) the votes received by each independent candidate;

- (d) transmit the following information to the Australian Capital Territory Electoral Officer:

- (i) the total number of votes received by each political party;
- (ii) the total number of votes received by each independent candidate;
- (iii) the total number of ballot-papers rejected as informal;

- (da) arrange the unrejected ballot-papers scrutinised:

- (i) under the name of each party by placing in a separate parcel all the ballot-papers on which a vote was given for that party; and
- (ii) under the name of each independent candidate by placing

**SCHEDULE 2—continued**

in a separate parcel all the ballot-papers on which a vote was given for the candidate;’.”.

**Modification of paragraph 273 (5) (f):**

Omit the modification, substitute:

**“Paragraph 273 (5) (f):**

Omit the paragraph, substitute:

‘(f) transmit with the least possible delay the parcels referred to in paragraph (da) to the Australian Capital Territory Electoral Officer and inform that officer, by telegram or in some other expeditious manner, of the transmission.’.”.

**Modifications of subsection 273 (20):**

Omit the modifications, substitute:

**“Subsection 273 (20):**

Omit the subsection.”.

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**SCHEDULE 3**

Subsection 7 (3)

**OMISSION OF MODIFICATIONS TO THE COMMONWEALTH  
ELECTORAL ACT 1918 IN SCHEDULE 1 TO THE PRINCIPAL  
ACT**

**Modification of subsection 137 (4):**

Omit the modification.

**Modification of subsection 137 (5):**

Omit the modification.

**Modifications of Division 3 of Part XX**

Omit the modification of subsection 293 (2) to the modification of section 301 (inclusive).

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**SCHEDULE 4**

Subsection 7 (4)

**INSERTION IN SCHEDULE 1 TO THE PRINCIPAL ACT OF  
MODIFICATIONS OF THE COMMONWEALTH ELECTORAL  
ACT 1918****After the modification of paragraph 133 (1) (b):**

Insert:

**“Subsection 133 (2):**

Omit the subsection.”.

**After the modification of paragraph 134 (2) (c):**

Insert:

**“After subsection 134 (4):**

Insert:

‘(4A) An application under subsection (1) for a change referred to in paragraph (1) (g), must not set out the name of a person who is already a registered officer of a registered party.

‘(4B) If an application sets out the name of a person who is already a registered officer, the application is taken not to have been made.’.”.

**After the modification of subsection 192 (1):**

Insert:

**“Subsection 194 (3):**

Omit the subsection, substitute:

‘(3) Notwithstanding anything contained in this section, in any case in which a postal ballot-paper, if posted or delivered as provided in paragraph (1) (e) or (f), would not reach the Divisional Returning Officer for the Division in respect of which the elector claims to vote before the close of the poll, the envelope in which the ballot-paper is enclosed may be addressed to, and posted or delivered to, any other Divisional Returning Officer or to an Assistant Returning Officer, or may be delivered on polling day to any presiding officer, and the Divisional Returning Officer, Assistant Returning Officer, or the presiding officer, as the case may be, must deal with it in the prescribed manner.’.

**“Subsection 200 (1):**

Omit ‘end of the period of 13 days immediately succeeding the’.”.

**After the modification of subsection 273 (1):**

Insert:

**SCHEDULE 4—continued**

**“After subsection 273 (1):**

Insert:

‘(1A) For the purposes of this section, where an elector has voted in relation to a registered party in the way referred to in subparagraph 18 (d) (iii) of the Territory Electoral Act, the party is to be treated as receiving one vote.’”.

**After the modification of paragraph 273 (31) (b):**

Insert:

**“After subsection 273 (31):**

Insert:

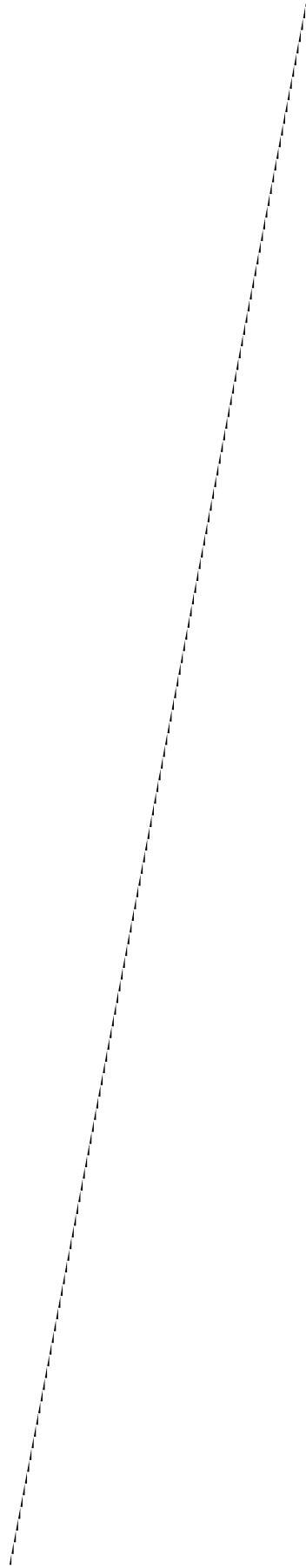
‘(32) When the last vacancy is filled, the scrutiny must immediately cease and any exclusion in progress must not be completed.’”.

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**NOTE**

1. No. 107, 1988, as amended. For previous amendments, see No. 60, 1989.

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