

1991

THE PARLIAMENT OF THE COMMONWEALTH OF
AUSTRALIA

SENATE

AUSTRALIAN CAPITAL TERRITORY (ELECTORAL) AMENDMENT
BILL 1991

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments and New Clauses Moved on Behalf of the
Government

(Circulated by authority of the
Minister for the Arts, Tourism and Territories,
The Hon David Simmons MP)



AUSTRALIAN CAPITAL TERRITORY (ELECTORAL) AMENDMENT BILL 1991

OUTLINE

The amendments to the Australian Capital Territory (Electoral) Amendment Bill 1991 arise from the Government's decisions to:

- (a) reduce the Bill to elements having bipartisan support; and
- (b) hold a referendum in conjunction with the next Australian Capital Territory (ACT) election, to determine the ACT electorate's preferred electoral system.

The principal elements of the amendments will:

- . restructure the Principal Act, the Australian Capital Territory (Electoral) Act 1988, into 4 parts
 - Preliminary
 - Elections
 - Miscellaneous
 - Referendum To Choose Electoral System;
- . omit those clauses of the Bill which do not have bipartisan support;
- . effectively apply to the Principal Act any amendments made to specified parts of the Commonwealth Electoral Act 1918 after 1 October 1988 and provide for the modification of such application by regulation; and
- . provide for the conduct of a referendum to be held in conjunction with the next general election in the ACT, to determine the ACT electorate's preferred electoral system.

FINANCIAL IMPACT STATEMENT

The cost of the referendum is estimated at \$0.1 million.

AUSTRALIAN CAPITAL TERRITORY (ELECTORAL) AMENDMENT BILL 1991

NOTES ON CLAUSES

Amendment (1)

This amendment inserts a new clause 2A which provides for sections 1 to 7 of the Principal Act to be known as 'Part 1 - Preliminary'.

Amendment (2)

This amendment omits clause 3 which sought to repeal section 5 of the Principal Act. Consequent to the Government's decisions outlined above section 5 is retained and provides for the determination of the next available preference (for the purposes of retained sections 19 and 21) when the same number appears in more than one square on the ballot-paper.

Amendment (3)

This amendment inserts a new clause 2B which provides for amended sections 8 to 25 to be known as 'Part 2 - Elections'.

Amendment (4)

The effect of this amendment is that specific parts of the Commonwealth Electoral Act 1918 as amended from time to time will apply to Australian Capital Territory Legislative Assembly elections subject to modifications as are specified in the Principal Act. In addition this clause has the effect that such publication of notices as is required by the Principal Act is to be made in the Commonwealth Gazette and not the Territory Gazette.

Amendment (5)

This amendment omits clause 5 of the Bill (which sought to amend the method of voting at general elections) and provides a new clause 5 which qualifies the provisions relating to compulsory voting and voting by secret ballot to allow for the special circumstances of Antarctic or overseas and disabled electors respectively.

Amendment (6)

- (a) This amendment omits clause 6 of the Bill as introduced and substitutes a new clause 6. Clause 6 as introduced sought to repeal sections 19, 20, 21, 22 and 23 of the Principal Act and insert new sections 19 and 20 to provide for a simplification of the d'Hondt electoral system. Accordingly, sections 19, 20, 21, 22 and 23 of the Principal Act are retained and set out the modified d'Hondt method for the counting of votes and the election of candidates based on those votes.
- (b) It having been proven that an independent candidate or party surviving the exclusion process under section 19 would win 'at least one seat' paragraph 21(1)(a) and subsection 21(2) of the Principal Act have no purpose. The omission of clause 6 of the Bill (see (a) above), would effectively retain these provisions in the Principal Act. Accordingly, the substituted clause 6 omits paragraph 21(1)(a) and subsection 21(2) from the Principal Act.

Amendment (7)

This Amendment inserts three new clauses in the Bill.

It inserts a new clause 6A which provides for amended sections 26 to 29 to be known as 'Part 3 - Miscellaneous'

It inserts a new clause 6B to provide a regulation making power with respect to the modification and application of the Commonwealth Electoral Act 1918. This power is necessary to allow the modification to the circumstances of the Australian Capital Territory (ACT) of the application of any amendments to the Commonwealth Electoral Act 1918.

It inserts a new clause 6C which provides for a new Part to be inserted into the Principal Act to be known as 'Part 4 - Referendum to Choose Electoral System'. This Part provides for the conduct of a referendum by the Australian Electoral Commission in conjunction with the next ACT general election.

The objective of the referendum is to determine the ACT electorate's preference between a single member electorates system using the House of Representatives voting system and a system of proportional representation modelled on the Tasmanian Hare-Clark voting system.

This clause makes the following specific provisions with regard to the referendum:

- . To assist electors in deciding their preference, the Electoral Commissioner must cause to be posted to each Territory elector a leaflet containing the 'Referendum Options Descriptions Sheet', and, subject to their timely preparation, arguments in support of each of the referendum options;

- . Subject to certain necessary exclusions (including the leaflet mentioned above) the Commonwealth and the Territory are prevented from expending monies in support of either referendum option;
- . The ballot papers will be issued in two alternating formats in line with the principle of the 'Robson Rotation' so as to remove any bias associated with one system appearing above the other on all ballot papers. The use of the number '1' for the indication of preference on the referendum ballot paper is designed to minimise the informal vote by making the marking of the referendum ballot paper as consistent as possible with the marking of the election ballot paper; and
- . Persons eligible to vote in the concurrent election are to be required to vote in the referendum or be subject to a monetary penalty.

Apart from these provisions the clause provides that the procedures to be used for the conduct of the referendum are, as far as is practicable, to be those used with regard to the election. For example, officers and scrutineers appointed in relation to the election are to be deemed to have been similarly appointed for the purposes of the referendum.

Amendment (8)

This amendment omits sub-clause 7(5) which contained a consequential amendment which is no longer required.

Amendment (9)

This amendment inserts a new clause 7A to provide for the inclusion in the Principal Act, as schedules, of the 'Referendum Options Description Sheet' and the alternating formats for the referendum ballot paper.

Amendments (10), (11) and (12)

These amendments omit from Schedule 1 to the Bill consequential amendments which are no longer required.

Amendments (13), (14) and (15)

These amendments omit from Schedule 2 to the Bill consequential amendments which are no longer required.

Amendments (16) and ~~(17)~~

These amendments omit from Schedule 4 to the Bill consequential amendments which are no longer required.

Amendment (18)

This amendment adds to the Bill Schedules 5 and 6 which set out the 'Referendum Options Descriptions Sheet' and the alternating formats for the referendum ballot paper.

