

Australian Capital Territory Representation (House of Representatives) Act 1973

No. 111 of 1973

AN ACT

To provide for the Representation in the House of Representatives of the Australian Capital Territory and the Jervis Bay Territory.

[Assented to 16 October 1973]

BE IT ENACTED by the Queen, the Senate and the House of Representatives of Australia, as follows:--

1. This Act may be cited as the *Australian Capital Territory Representation (House of Representatives) Act 1973*. Short title.

2. This Act shall come into operation on the day on which it receives the Royal Assent. Commencement.

3. (1) The Acts specified in the Schedule are repealed. Repeal and savings.

(2) Notwithstanding the repeal effected by sub-section (1), the provisions of the repealed Acts, and of the regulations under those Acts, continue to apply to and in relation to the representation, until the first expiry or dissolution of the House of Representatives that occurs after the commencement of this Act, of the Territory in that House.

Definitions.

4. In this Act—

“ division ” includes re-division;

“ the Jervis Bay Territory ” means the Territory that was accepted by the *Jervis Bay Territory Acceptance Act 1915*;

“ the Territory ” means the Australian Capital Territory and the Jervis Bay Territory.

Representation of the Territory.

5. The representation of the Territory in the House of Representatives shall be by two members elected in accordance with this Act.

Electoral Divisions.

6. (1) The Territory shall be divided into two Electoral Divisions and one member of the House of Representatives shall be chosen for each Division.

(2) The first division of the Territory into Electoral Divisions shall be made before the first general election of members of the House of Representatives that occurs after the commencement of this Act.

(3) A re-division of the Territory into Electoral Divisions shall be made whenever the Governor-General so directs.

Quota.

7. The Chief Electoral Officer for the Commonwealth shall, whenever necessary, ascertain a quota of electors by dividing the whole number of electors of the Territory, as nearly as can be ascertained, by two.

Distribution Committee.

8. (1) For the purposes of each division of the Territory into Electoral Divisions, the Governor-General shall appoint a Distribution Committee consisting of three persons.

(2) Of the members of the Distribution Committee—

(a) one shall be the Chief Electoral Officer for the Commonwealth or a person having similar qualifications; and

(b) one shall be the Surveyor-General for the Commonwealth or a person having similar qualifications.

(3) The Governor-General may appoint one of the members of the Distribution Committee to be Chairman.

(4) The members of the Distribution Committee shall hold office during the pleasure of the Governor-General.

Proceedings at meetings.

9. (1) At a meeting of the Distribution Committee, the Chairman shall preside if he is present.

(2) In the absence of the Chairman from a meeting of the Distribution Committee, the members of the Committee present shall appoint one of their number to preside at that meeting.

(3) At a meeting of the Distribution Committee, two members of the Committee form a quorum.

(4) Questions arising before the Distribution Committee shall be decided by a majority of votes.

(5) In the event of an equality of votes, the member of the Distribution Committee presiding at the meeting has a casting vote in addition to a deliberative vote.

10. (1) The Distribution Committee shall make a proposed division of the Territory into two Electoral Divisions in accordance with this section. How division to be made.

(2) In making the proposed division the Distribution Committee shall give due consideration, in relation to each proposed Electoral Division, to—

- (a) community of interests within the Division, including economic, social and regional interests;
- (b) trend of population changes; and
- (c) physical features.

and subject thereto the quota of electors shall be the basis for the division, and the Distribution Committee may adopt a margin of allowance but so that the quota shall not be departed from to a greater extent than one-fifth more or one-fifth less.

(3) The whole of the Jervis Bay Territory shall be included in one of the Divisions.

11. (1) Before making a proposed division of the Territory, the Distribution Committee shall, by notice published in the *Gazette*— Suggestions relating to division.

- (a) invite suggestions in writing to be lodged with the Committee, within thirty days after the publication of the notice, relating to the division of the Territory into Electoral Divisions; and
- (b) invite comments in writing to be lodged with the Committee, within fourteen days after the expiration of the period referred to in paragraph (a), relating to any suggestions received by the Committee in pursuance of that paragraph.

(2) Immediately after the expiration of the period referred to in paragraph (1) (a), the Committee shall make available for perusal at the office of the Chief Electoral Officer for the Commonwealth copies of any suggestions lodged with the Committee in pursuance of that paragraph.

(3) The Committee shall consider any suggestions and comments lodged with it in pursuance of sub-section (1) before making the proposed division.

12. After the Distribution Committee has made a proposed division of the Territory, it shall— Notice of proposed division.

- (a) cause a map with a description of the boundaries of each of the proposed Electoral Divisions to be exhibited at Post Offices in the Territory and invite public attention to that map by notice published in the *Gazette*; and

- (b) make available for perusal at the office of the Chief Electoral Officer for the Commonwealth copies of any comments lodged with the Distribution Committee in pursuance of paragraph 11 (1) (b).

Suggestions
and
objections.

13. Suggestions or objections in writing may be lodged with the Distribution Committee not later than thirty days after the publication of the notice in the *Gazette* under section 12 and the Committee shall consider all suggestions and objections so lodged before making its report under section 14, and may alter its proposals as a result of that consideration.

Attempting
to influence
Committee.

14. Except as provided by section 11 or 13, a person shall not, by writing sent to a Distribution Committee or a member of such a Committee, or by words spoken to or in the presence of such a member, seek to influence the Committee or a member of the Committee in the performance of duties or functions under this Act.

Penalty: One hundred dollars.

Report of
Distribution
Committee.

15. (1) The Distribution Committee shall, as soon as practicable after the expiration of the period of thirty days referred to in section 13, forward to the Minister a report of its proposals for the division of the Territory into Electoral Divisions, together with a map signed by the members of the Committee showing the boundaries of each proposed Electoral Division.

(2) The report shall state, as nearly as can be ascertained, the number of electors residing in each proposed Electoral Division and shall be accompanied by copies of the suggestions, comments and objections (if any) lodged with the Committee in pursuance of sections 11 and 13.

Report, &c.,
to be laid
before
Parliament.

16. A copy of the report and map, and of the suggestions, comments and objections (if any), shall be laid before each House of the Parliament within five sitting days of that House after the receipt of the report by the Minister.

Proclamation
of Divisions.

17. (1) If both Houses of the Parliament pass a resolution approving of the proposed division, the Governor-General may by proclamation declare the names and boundaries of the Electoral Divisions, and, subject to this section, those Divisions shall until altered be the Electoral Divisions for the Territory.

(2) Until the next ensuing dissolution or expiration of the House of Representatives, a re-division shall not affect the election of a new member to fill a vacancy happening in the House of Representatives; but for the purposes of any such election the Electoral Divisions as previously existing, and the Rolls in respect of those Divisions, shall continue to have full force and effect, notwithstanding that new Rolls for the new Divisions have been prepared.

(3) If either House of the Parliament passes a resolution disapproving of the proposed division, or negatives a motion for the approval of the proposed division, the Minister may direct the Distribution Committee to propose a fresh division of the Territory into Electoral Divisions.

(4) The Distribution Committee shall thereupon reconsider the matter, and forthwith propose a fresh division, but for that purpose it is not necessary to cause action provided for by sections 11 and 12 to be taken.

18. (1) A member of the House of Representatives elected in respect of an Electoral Division of the Territory has all the powers, immunities and privileges of a member representing an Electoral Division of a State and

Powers, immunities and privileges of member.

(a) shall be included in the whole number of the members of the House for the purpose of ascertaining the number of members necessary to constitute a meeting of the House for the exercise of its powers and, if present, shall be counted for the purpose of determining whether the necessary number of members are present; and

(b) has a vote on all questions arising in the House.

(2) The provisions contained in sections 32, 33, 37 and 38 and sections 42 to 48 (inclusive) of the Constitution, to the extent, if any, to which they do not apply, by virtue of the Constitution, in relation to a member of the House of Representatives in respect of an Electoral Division of the Territory apply, by force of this Act, in relation to such a member in the same way as they apply in relation to other members of that House.

19. Subject to this Act, the provisions of the *Commonwealth Electoral Act 1918-1973* apply, with such exceptions and subject to such modifications and adaptations as are prescribed, to and in relation to an election in respect of an Electoral Division of the Territory as if that Electoral Division were an Electoral Division of a State.

Application of *Commonwealth Electoral Act 1918-1973*.

20. At the time of each general election of members of the House of Representatives, an election of members in accordance with this Act shall be held.

Election to be held at time of House of Representatives elections.

21. (1) Any petition disputing an election in respect of an Electoral Division of the Territory may be lodged with the District Registrar of the High Court at Canberra, and upon being so lodged, shall, for the purposes of the *Commonwealth Electoral Act 1918-1973*, be deemed to be duly filed

Lodging and hearing of petitions.


(2) Upon an application being made by a party to the petition, the High Court shall have jurisdiction---

(a) to hear and decide the petition; or

(b) to refer the petition for hearing to the Supreme Court of the Australian Capital Territory,
and may take such other action as in the circumstances it deems necessary.

(3) If the High Court refers the petition for hearing to the Supreme Court of the Australian Capital Territory, that Court has jurisdiction to hear and decide the petition.

(4) An appeal lies from the Supreme Court of the Australian Capital Territory to the High Court against the decision of the Supreme Court upon any question of law, or of mixed law and fact, arising in connexion with a petition heard by the Supreme Court.

Regulations.  22. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act.

SCHEDULE

Section 3

ACTS REPEALED

Australian Capital Territory Representation Act 1948
Australian Capital Territory Representation Act 1949
Australian Capital Territory Representation Act 1959
Australian Capital Territory Representation Act (No. 2) 1959
Australian Capital Territory Representation Act 1966
Australian Capital Territory Representation Act 1973