



# Australian Capital Territory (Electoral) Amendment Act 1991

No. 67 of 1991

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

[Assented to 25 June 1991]

The Parliament of Australia enacts:

### Short title etc.

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

(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.

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**Heading to Part 1**

3. Before section 1 of the Principal Act the following heading is inserted:

**“PART 1—PRELIMINARY”.**

**Heading to Part 2**

4. After section 7 of the Principal Act the following heading is inserted:

**“PART 2—ELECTIONS”.**

**Registration of political parties**

5. 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”.

**Application of Commonwealth Electoral Act**

6. Section 16 of the Principal Act is amended:

- (a) by inserting in subsection (2) “and Schedules 2 and 3” after “(inclusive)”;
- (b) by omitting paragraph (2) (a);
- (c) by adding at the end of paragraph (6) (b) “and”;
- (d) by omitting from paragraph (6) (c) “; and”;
- (e) by omitting paragraph (6) (d).

**Voting at general elections**

7. Section 18 of the Principal Act is amended by adding at the end the following subsections:

“(2) Paragraph (1) (a) does not prevent the making of special provisions exempting certain persons who are in Antarctica or overseas from the compulsory voting requirement.

Note: See section 245 of the Electoral Act.

“(3) Paragraph (1) (b) does not prevent the making of special provisions for persons who are so sight impaired or physically incapacitated or illiterate that they cannot vote without assistance.

Note: See section 234 of the Electoral Act.”.

**Counting votes: transfer of preferences of provisionally unsuccessful candidates etc.**

8. Section 21 of the Principal Act is amended:

- (a) by omitting paragraph (1) (a);
- (b) by omitting subsection (2).

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**Heading to Part 3**

9. After section 25 of the Principal Act the following heading is inserted:

**“PART 3—MISCELLANEOUS”.**

**Regulations**

10. Section 28 of the Principal Act is amended by adding at the end the following section:

“(4) The regulations may amend, omit or add to the modifications of the *Commonwealth Electoral Act 1918* set out in Schedule 1.”.

11. After section 29 of the Principal Act the following Part is inserted:

**“PART 4—REFERENDUM TO CHOOSE ELECTORAL SYSTEM**

**Definitions**

“30. In this Part, unless the contrary intention appears:  
‘**declaration vote**’ means any of the following:

- (a) a postal vote;
- (b) a pre-poll vote;
- (c) an absent vote;
- (d) a provisional vote;

‘**election ballot paper**’ means a ballot paper for the election;

‘**referendum**’ means the referendum referred to in section 31;

‘**referendum ballot paper**’ means a ballot paper for the referendum;

‘**the election**’ means the election whose polling day is the same day as voting day for the referendum;

‘**voting day**’ means the day when the votes are to be taken for the purposes of the referendum.

**Referendum to choose electoral system**

“31. (1) A referendum is to be held to enable the electors of the Territory to choose which of 2 voting systems is to be used at future elections.

“(2) The 2 systems are the single member electorates system and the proportional representation (Hare-Clark) system, more fully described in the Referendum Options Description Sheet set out in Schedule 3.

“(3) Votes for the purposes of the referendum are to be taken on the same day as polling day for the next general election to be held after the commencement of this Part.

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**Administration**

“32. (1) The Electoral Commission is to conduct the referendum.

“(2) A person who holds an office or appointment under this Act for the purposes of the election is taken to hold that office or appointment also for the purposes of the referendum.

“(3) The Electoral Commission may, on behalf of the Commonwealth, engage such temporary staff as it thinks necessary for the purposes of the referendum. A person so engaged is taken to be an officer for the purposes of this Part.

“(4) The Australian Capital Territory Electoral Officer may give directions to officers about the conduct of the referendum on matters not provided for by or under this Part.

**Distribution to electors of Referendum Options Description Sheet and arguments for and against different options**

“33. (1) The Electoral Commissioner must, not later than 14 days before voting day, cause to be printed and to be posted to each elector, as nearly as practicable, a copy of the Referendum Options Description Sheet set out in Schedule 3.

“(2) The Electoral Commissioner must:

- (a) print the Referendum Options Description Sheet so that the descriptions of the 2 systems appear side by side in 2 vertical columns; and
- (b) determine by lot which option is to occupy the left-hand vertical column in the Sheet and print the Sheet accordingly.

“(3) If, within 2 weeks after the commencement of this Part, there is forwarded to the Electoral Commissioner:

- (a) an argument in support of the single member electorates system option, consisting of not more than 2,000 words, authorised by the Minister; or
- (b) an argument in support of the other option, consisting of not more than 2,000 words, authorised by the Leader of the Opposition in the House of Representatives and the Leader of the Australian Democrats in the Parliament;

the Electoral Commissioner must, not later than 14 days before voting day, cause to be printed and to be posted to each elector, as nearly as practicable, a pamphlet containing the argument.

“(4) If both arguments are forwarded to the Electoral Commissioner in accordance with subsection (3), the Electoral Commissioner must:

- (a) print both arguments in the same pamphlet; and
- (b) print those arguments side by side in 2 vertical columns, so that the left-hand column is occupied by the argument in

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support of the option whose description occupies the left-hand column in the Referendum Options Description Sheet.

“(5) The Commonwealth and the Territory must not spend money in respect of the presentation of the argument in support of either of the options except in relation to:

- (a) the preparation, printing and distribution of the Sheet and pamphlet referred to in this section, or the preparation and distribution of translations into other languages of material contained in that Sheet and pamphlet;
- (b) the preparation and distribution of presentations of that material in forms suitable for the visually impaired;
- (c) the provision by the Electoral Commission of other information relating to either of the options; or
- (d) the salaries and allowances of members of the Parliament, of members of the staff of members of the Parliament, of members of the Legislative Assembly, of members of the staff of members of the Legislative Assembly, or of persons who are officers or employees within the meaning of the *Public Service Act 1922*.

**Entitlement to vote**

“34. (1) A person is entitled to vote at the referendum if he or she is entitled to vote at the election.

“(2) A person must not vote more than once at the referendum.

**Compulsory voting**

“35. (1) A person who:

- (a) is entitled to vote at the referendum; and
- (b) fails to vote at the referendum without a valid and sufficient reason for the failure;

is guilty of an offence punishable, upon conviction, by a fine not exceeding \$50.

“(2) Subsection (1) does not apply to an Antarctic elector or an eligible Territory overseas elector.

**Ballot papers**

“36. (1) The ballot papers are to be in the alternative formats set out in Schedule 4, one format with one option appearing first, the other format with the other option appearing first.

“(2) So far as is practicable, ballot papers are to be issued to voters so that no 2 consecutive voters at a particular place where ballot papers are issued will receive ballot papers of the same format.

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“(3) Ballot papers are to bear an official mark approved by the Electoral Commission by notice published in the *Commonwealth Gazette*.

**Scrutineers**

“37. (1) Subject to subsection (2), a person appointed as a scrutineer for the election is taken also to be appointed for the referendum.

“(2) At each place where referendum ballot papers are being counted, the number of scrutineers for a candidate must not exceed the number of officers engaged in the counting.

**Procedures for polling**

“38. (1) The same polling booths are to be used for the election and the referendum.

“(2) The same ballot boxes may be used for the election and the referendum.

“(3) The hours of polling for the referendum are to be the same as for the election (including any adjournment or resumption of polling).

“(4) Subject to subsection (6), a person must be issued with a referendum ballot paper at the same time as he or she is issued with an election ballot paper.

“(5) The provisions of the Electoral Act relating to the issue of fresh election ballot papers in substitution for spoilt election ballot papers apply in the same way in relation to referendum ballot papers.

“(6) A person who is issued with a fresh election ballot paper because the ballot paper has been spoilt need not be issued with a fresh referendum ballot paper.

“(7) A voter who is entitled to assistance in marking an election ballot paper is entitled to the same assistance in marking a referendum ballot paper.

“(8) A person who casts a vote (other than a declaration vote) for the election must cast his or her vote for the referendum in the same way.

**Declaration voting**

“39. (1) A person who casts a declaration vote for the election must cast his or her vote for the referendum in the same way.

“(2) The marked referendum ballot paper of a declaration voter must be placed in the same envelope as the election ballot paper.

“(3) The referendum ballot paper of a declaration voter is to be admitted to further scrutiny for the referendum if, and only if, the election ballot paper is admitted to further scrutiny for the election.

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“(4) A voter who is entitled to assistance in casting a declaration vote for the election is entitled to the same assistance in casting a declaration vote for the referendum.

**Marking a ballot paper**

“40. A voter must mark his or her ballot paper in accordance with the directions on it.

**Informal ballot papers**

“41. (1) A ballot paper is informal if, and only if:

(a) it:

(i) does not bear the official mark; or

(ii) is not authenticated by the initials of the issuing officer; and the Australian Capital Territory Electoral Officer is not satisfied that it is an authentic ballot paper; or

(b) it has no vote marked on it or the voter’s intention is not clear; or

(c) it has on it any mark or writing (other than a mark or writing authorised by law or placed on the ballot paper by an officer) by which, in the opinion of the Australian Capital Territory Electoral Officer, the voter can be identified.

“(2) Effect is to be given to a ballot paper according to the voter’s intention, so far as that intention is clear.

**Scrutiny**

“42. The Australian Capital Territory Electoral Officer must:

(a) cause the number of votes in favour of each option, and the number of informal votes, to be counted; and

(b) as soon as practicable after the count is concluded, publish a notice in the *Commonwealth Gazette* setting out the numbers so counted.

**Close of the polling in Antarctica**

“43. The procedure on and after the close of the poll in Antarctica is the same for the referendum as for the election.

**General offences**

“44. (1) The provisions of the Electoral Act creating offences in relation to the election apply in the same way, subject to paragraph (2) (b), in relation to the referendum.

“(2) For the purposes of subsection (1):

(a) the relevant period defined in section 322 of that Act is the same period for the referendum as for the election; and

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- (b) ‘electoral matter’ means matter that is intended or likely to affect voting in the referendum, and includes any matter that contains an express or implied reference to the referendum or to either of the options.

**Bribery**

“45. (1) A person must not give or confer, or promise or offer to give or confer, any property or benefit of any kind to another person:

(a) in order to influence the vote of any person at the referendum;  
or

(b) in order to induce any person not to vote at the referendum.

Penalty: Imprisonment for two years.

“(2) Subsection (1) does not apply in relation to a declaration of public policy or a promise of public action.

**Badges or emblems in polling booths**

“46. An officer or scrutineer who wears or displays in a polling booth on voting day any badge or emblem in support of or in opposition to either of the options is guilty of an offence.

Penalty: \$1,000.

**Errors, etc.**

“47. The provisions of the Electoral Act providing for the correction of delays, errors and omissions, and the extension of times, in relation to the election apply in the same way in relation to the referendum.

**Disputed Returns**

“48. (1) The validity of the referendum or of any statement showing the voting at the referendum may be disputed in accordance with this section and not otherwise.

“(2) The validity of the referendum or of any statement showing the voting at the referendum may be disputed by a person who was qualified to vote at the referendum by petition addressed to the Supreme Court of the Australian Capital Territory.

“(3) For the purposes of such a dispute, Part VIII of the *Referendum (Machinery Provisions) Act 1984* applies with the necessary changes.

“(4) In particular, that Act applies for the purposes of this section as if:

- (a) references to the High Court were references to the Australian Capital Territory Supreme Court; and
- (b) the reference in paragraph 101 (1) (c) of that Act to the various Attorneys-General were a reference to the petitioner; and
- (c) references to the Electoral Commissioner or to an Electoral Officer were references to the Australian Capital Territory Electoral Officer; and



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- (d) section 105 of that Act were omitted; and
- (e) the reference in section 106 of that Act to the Commonwealth, a State or the Northern Territory were omitted; and
- (f) the reference in paragraph 107A (a) of that Act to Schedule 4 were a reference to Schedule 3 to the Electoral Act; and
- (g) the references to that Act and the regulations were references to the law relating to the referendum.

“(5) The referendum or any statement showing the voting at the referendum is not invalidated merely because the Electoral Commissioner may not have strictly complied with a provision of section 33.

**Regulations**

“49. The regulations may prescribe all matters necessary or convenient to be prescribed for carrying out or giving effect to this Part and, in particular, prescribe penalties not exceeding \$500 for offences against those regulations.”.

**Amendments of Schedules to the Principal Act**

12. (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.

(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.

(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.

**Addition of Schedules 3 and 4**

13. The Principal Act is amended by adding at the end the Schedules set out in Schedules 5 and 6 of this Act.

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

14. (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.

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(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:

- (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
- (d) publish a notice of the de-registration in the *Gazette*.

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

15. (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).

(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
- (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.

(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
- (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*.

**SCHEDULE 1**

Subsection 12 (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.

**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”.

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**SCHEDULE 1—continued**

**Modification of subsection 239 (1):**

Omit “whom” in substituted paragraph (1) (b), substitute “which”.

**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.”.

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**SCHEDULE 2**

Subsection 12 (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:

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**SCHEDULE 2—continued**

**“Section 126:**

Omit the section, substitute:

**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 section 269:**

Omit the modification, substitute:

**SCHEDULE 2—continued**

**“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 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 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:

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**SCHEDULE 2—continued**

**“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 12 (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 12 (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.”.

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**SCHEDULE 4—continued**

**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 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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**SCHEDULE 5**

Section 13

**NEW SCHEDULE 3 TO BE ADDED TO PRINCIPAL ACT**

**“SCHEDULE 3**

Section 31

**REFERENDUM OPTIONS DESCRIPTION SHEET**

**COMMONWEALTH OF AUSTRALIA**

*Referendum Options Description Sheet*

The following brief descriptions of a model single member electorates system and a model proportional representation (Hare-Clark) system have been prepared to assist ACT electors to determine their preferred electoral system.



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**SCHEDULE 5—continued**

**MODEL SINGLE MEMBER ELECTORATES SYSTEM**

- The ACT will be divided into 17 separate electorates. Each electorate will elect one member to the Legislative Assembly.
- No candidate will be allowed to stand in more than one electorate at a general election.
- The ballot paper used will look like this:

**BALLOT PAPER**

**LEGISLATIVE ASSEMBLY  
FOR THE  
AUSTRALIAN CAPITAL TERRITORY  
ELECTORAL DIVISION OF ....**

**Number the  
boxes from 1 to ....**

- CANDIDATE'S NAME  
PARTY
- CANDIDATE'S NAME  
PARTY
- CANDIDATE'S NAME  
PARTY
- CANDIDATE'S NAME  
PARTY
- CANDIDATE'S NAME  
PARTY
- CANDIDATE'S NAME  
PARTY

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**SCHEDULE 5—continued**

- Voting will take place in each electorate in accordance with the system of voting used to elect members of the House of Representatives.
  - Instructions on the ballot paper will require voters to show preferences (1, 2 and so on) for all of the candidates standing in the electorate.
  - Candidates to be elected will have to receive a majority (i.e. 50% plus 1) of the formal votes in the electorate.
  - If no candidate has obtained a majority of votes after first preference votes have been counted, the candidate with the fewest votes will be excluded and his or her votes will be transferred to the remaining candidates who stood next highest in the relevant voters' preferences.
  - This process of excluding candidates with the fewest votes will continue until one candidate has obtained a majority of the votes still in the count.
- If a member dies, or resigns, or otherwise vacates his or her seat, the vacancy will be filled by a by-election in his or her electorate.
- The boundaries of electorates will be drawn by bodies independent of the Commonwealth and ACT governments. The criteria which govern the drawing of the boundaries of House of Representatives divisions will apply as nearly as practicable to the drawing of the boundaries of Legislative Assembly electorates.
- A redrawing of boundaries should take place in the first 12 months after each general election of members of the Legislative Assembly.

**MODEL PROPORTIONAL REPRESENTATION (HARE-CLARK) SYSTEM**

- The ACT will be divided into 3 separate electorates, of which two will elect 5 members each, and one will elect 7 members, to the Legislative Assembly.
- No candidate will be allowed to stand in more than one electorate at a general election.
- The ballot paper used will look like this:

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**SCHEDULE 5—continued**

**BALLOT PAPER**

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

ELECTORAL DIVISION OF .....

**Number the boxes from 1 to ....**

PARTY	PARTY	GROUPED NON-PARTY CANDIDATES	UNGROUPED CANDIDATES
<input type="checkbox"/> CANDIDATE'S NAME	<input type="checkbox"/> CANDIDATE'S NAME	<input type="checkbox"/> CANDIDATE'S NAME	<input type="checkbox"/> CANDIDATE'S NAME
<input type="checkbox"/> CANDIDATE'S NAME	<input type="checkbox"/> CANDIDATE'S NAME	<input type="checkbox"/> CANDIDATE'S NAME	<input type="checkbox"/> CANDIDATE'S NAME
<input type="checkbox"/> CANDIDATE'S NAME	<input type="checkbox"/> CANDIDATE'S NAME	<input type="checkbox"/> CANDIDATE'S NAME	
<input type="checkbox"/> CANDIDATE'S NAME	<input type="checkbox"/> CANDIDATE'S NAME		
<input type="checkbox"/> CANDIDATE'S NAME	<input type="checkbox"/> CANDIDATE'S NAME		
<input type="checkbox"/> CANDIDATE'S NAME	<input type="checkbox"/> CANDIDATE'S NAME		
<input type="checkbox"/> CANDIDATE'S NAME	<input type="checkbox"/> CANDIDATE'S NAME		

- The names of candidates within party groups will not be printed in the same position within the group on every ballot paper. Instead, a particular candidate's name will be printed at the top of the group on some ballot papers, in the second position within the group on other ballot papers and so on, so as to share out the positions.
- The same principle will apply to the printing of independent candidates' names in the column for independents on the ballot paper.

*Australian Capital Territory (Electoral) Amendment  
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**SCHEDULE 5—continued**

- Instructions on the ballot paper will require voters to show preferences (1, 2 and so on) for as many candidates as there are vacancies to be filled in the electorate concerned. Voters will have the option of showing as many further preferences as they wish. Seats will then be allocated to the candidates using the Hare-Clark system of proportional representation, as used at elections for the Tasmanian House of Assembly:
  - Candidates will have to achieve a quota of votes in order to be elected. The quota will be determined by dividing the number of formal votes by 1 more than the number of vacancies to be filled, and adding 1 to the number so obtained (disregarding any remainder).
  - If an elected candidate obtains surplus votes (i.e. votes in excess of the quota), the votes will be transferred to other candidates in the count.
  - If vacancies remain to be filled after surplus votes have been transferred, the candidates standing lowest on the count will be excluded and their votes transferred to the remaining candidates who stood next highest in the relevant voters' preferences.
  - This process of distributing the surplus votes of elected candidates and of excluding candidates will continue until all the vacancies have been filled.
- If a member dies, resigns, or otherwise vacates his or her seat, the vacancy will be filled by a fresh examination of the ballot papers bearing the votes which elected him or her, to determine which of the available candidates who failed to be elected was most preferred by the voters who chose the former member.
- The boundaries of electorate(s) will be drawn by bodies independent of the Commonwealth and ACT governments. The criteria which govern the drawing of the boundaries of House of Representatives divisions will apply as nearly as practicable to the drawing of the boundaries of Legislative Assembly electorates.
- A redrawing of boundaries should take place in the first 12 months after each general election of members of the Legislative Assembly.”.

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**SCHEDULE 6**

Section 13

**NEW SCHEDULE 4 TO BE ADDED TO PRINCIPAL ACT**

**“SCHEDULE 4**

Section 35

**BALLOT PAPERS**

**FORMAT 1**

Please put the number ‘1’ in one of the boxes below to show which electoral system you believe should be used to elect members to the Australian Capital Territory Legislative Assembly. Leave the other box empty.

**EITHER**

**A single member electorates system**   
(as outlined in the Commonwealth’s *Referendum Options Description Sheet*)

**OR**

**A proportional representation (Hare-Clark) system**   
(as outlined in the Commonwealth’s *Referendum Options Description Sheet*)

**FORMAT 2**

Please put the number ‘1’ in one of the boxes below to show which electoral system you believe should be used to elect members to the Australian Capital Territory Legislative Assembly. Leave the other box empty.

**EITHER**

**A proportional representation (Hare-Clark) system**   
(as outlined in the Commonwealth’s *Referendum Options Description Sheet*)

**OR**

**A single member electorates system**   
(as outlined in the Commonwealth’s *Referendum Options Description Sheet*)”.

*Australian Capital Territory (Electoral) Amendment  
No. 67, 1991*

**NOTE**

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

*[Minister's second reading speech made in—  
House of Representatives on 6 March 1991  
Senate on 13 March 1991]*