

2018

LEGISLATIVE ASSEMBLY OF THE  
NORTHERN TERRITORY

CHIEF MINISTER

**Electoral Amendment Bill 2018**

**SERIAL NO. #**

**EXPLANATORY STATEMENT**

**GENERAL OUTLINE**

This Bill amends the *Electoral Act* to provide for a strengthened, simplified and more transparent electoral boundary redistribution process in the following ways:

- a) a single Redistribution Committee is established to ensure a streamlined redistribution process providing greater transparency for the public, while maintaining the rigour of the process;
- b) the appointment process for the Chairperson of the Redistribution Committee is tightened to require stricter eligibility criteria for candidates, ensuring independence from Government and political influence;
- c) the inclusion of an additional public objection period, if the second proposed redistribution is significantly different from the first, ensures strong public input into, and transparency of, the redistribution process. It assists in maintaining a robust process even with the change to a single redistribution committee;
- d) 'the number of electors in each proposed division should be equal' is clarified as the primary object of redistribution – the basis of the *one vote: one value* principle;
- e) inclusion of the timeframe and justification for calculation of the quota of electors during the redistribution process enacts current convention, increases understanding and reinforces the transparency and integrity of the process;
- f) further specifying the content of the redistribution report supports the Redistribution Committee in providing full reasons for their decisions, strengthening transparency and integrity of the process; and
- g) specifying that a redistribution process is ceased where an extraordinary general election is called, clarifies the status of a process in that event.

## **NOTES ON CLAUSES**

### **Clause 1. Short Title**

This clause provides for the citation of the Act as the *Electoral Amendment Act 2018*.

### **Clause 2. Commencement**

This clause provides that the Act will commence on the day after the day the Administrator's assent to the Act is declared.

### **Clause 3. Act amended**

This clause provides that the Act seeks to amend the *Electoral Act*.

### **Clause 4. Section 3 amended (Definitions)**

This clause amends the definitions of the Act.

Sub-clause (1) removes the old definition of ***Augmented Redistribution Committee***.

Sub-clause (2) provides the following new definitions relevant to the Act as a whole:

- ***redistribution process*** is defined by section 140A.
- ***redistribution report*** is defined by section 148(1).
- ***reportable donation*** in relation to the eligibility criteria for the appointment of the appointed member is defined by section 336(3A).

### **Clause 5. Section 138 amended (When redistribution to be conducted)**

This clause removes section 138(1) and (2) and inserts the following subsections:

- (1) provides that a redistribution must be conducted after each general election and after each extraordinary election;
- (2) provides that a redistribution process must start and finish as soon as practicable two years and 6 months after polling day for the previous general election; and
- (2A) provides that a redistribution process must start and finish as soon as practicable one year and six months after polling day for the previous extraordinary general election. The reason that the redistribution occurs one year sooner is because the date set for the next general election after an extraordinary election is the fourth Saturday in August in the third year, compared to the third year after a general election (refer to section 23).

### **Clause 6. Part 8, Division 2 heading amended**

This clause changes the heading of Part 8, Division 2 to reflect that there is now a single 'object' of a redistribution, rather than multiple 'objects'.

### **Clause 7. Section 139 replaced**

This clause provides that the single object of a redistribution is supported by principles that are cognisant of the unique challenges and considerations that may face the determination of the electoral boundary redistribution in the Territory. The amendments ensure that the 'objects' present in the previous Act are reframed as 'principles'. Additionally, the established rules for the naming of divisions are kept. Section 139 is removed and three new sections are inserted:

- Section 139 provides that the single object of the redistribution is to ensure that, at the time of the next general election, that the number of electors in each proposed division is as near to equal (to the calculated quota) as practicable.

- Section 139A provides that, in order to satisfy the object of the redistribution, the Redistribution Committee must have regard for the following principles (in so far as it is practicable):
  - (c) the physical area of a division containing rural and remote areas should be small;
  - (d) the demographic characteristics of a division should be uniform;
  - (e) the geographic features of a division should be uniform;
  - (f) each identifiable community should be included in only one division;
  - (g) subject to the above principles, the fifth principle is that changes to existing divisions should minimise the number of electors being transferred between divisions.
- Section 139B provides for the naming of divisions during a redistribution process and that the name of a division should not be changed unless the name is no longer appropriate. Additionally, if a new name is proposed, the use of a locality name should be avoided.

**Clause 8. Section 140 amended (Matters to be considered in redistribution)**

This clause provides amendments to the terminology of section 140. This includes changing 'objects' to 'object', removing references to the 'Augmented Redistribution Committee', which is no longer an established body under the Act, and updating references to the 'Redistribution Committee', which is now the single body that determines a redistribution in the Territory.

**Clause 9. Section 140A inserted**

This clause provides for two new sections to be inserted:

- Section 140A clarifies that the meaning of a 'redistribution process' covers any actions taken under sections 141 to 146.
- Section 140B provides that the Redistribution Committee is responsible for the calculation of the quota under section 13(4) of the *Self-Government Act*, that the calculation must be done as soon as practicable after the established of the Redistribution Committee and also following any proposed boundary changes. Additionally, the Redistribution Committee has the discretion to calculate the quota at any other time in order to improve the accuracy of the redistribution or achieve an equality of the number of electors in divisions.

**Clause 10. Section 143 amended (Preparing proposed redistribution)**

This clause provides that there is now a 'first proposed redistribution' rather than merely a 'proposed redistribution'.

**Clause 11. Section 144 amended (Maps showing proposed redistribution)**

This clause provides that there is now a 'first proposed redistribution' rather than merely a 'proposed redistribution'.

**Clause 12. Section 145 amended (Inviting objections against proposed redistribution)**

Sub-clause (1) provides that there is now a 'first proposed redistribution' rather than merely a 'proposed redistribution'.

Sub-clause (2) changes the wording of section 145(b) in order to appropriately express that objections to the first proposed redistribution must be made in writing to the Redistribution Committee (previously the Augmented Redistribution Committee) within 30 days after the notice is published in the *Gazette*.

### **Clause 13. Sections 145A and 145B inserted**

This clause inserts two new sections that relate to the second proposed redistribution:

- Section 145A provides that the Redistribution Committee must give proper consideration to all objections, must include the proposed names for the proposed divisions, and should be prepared as soon as practicable after the 30 days mentioned in section 145(b).
- Section 145B relates to inviting objections to a second proposed redistribution:
  - (1) provides that the Redistribution Committee must invite objections to the second proposed redistribution if the second proposed redistribution would result in the sum of the electors added and the electors removed, from the first proposed redistribution, being greater than 15% of the total electors in that division.
  - (2) provides that the Redistribution Committee is not required to invite objections if they are of the opinion that the second proposed redistribution is the only feasible option because of the following reasons: holding a second objection period would cause major inconvenience or have other serious consequences, such as causing a delay to the upcoming general election; a natural disaster; any other event causing extraordinary demographic movement. The subsection inserts a note that a delay to the finalisation of the redistribution process is not, in and of itself, to be considered a major inconvenience or a serious consequence.
  - (3) provides that the Redistribution Committee also has the discretion to invite a second round of objections if there is a significant change in a matter to be given consideration under section 140(2)(a), (c), (e), (f) or (g).
  - (4) provides steps that the Redistribution Committee must take in order to invite objections to a second proposed redistribution, which includes making maps freely available for public inspection and publishing a notice in accordance with section 137 which advises the availability for the inspection of the proposed redistribution maps and states that any further objections are to be made within 14 days after the notice is published in the *Gazette*.

### **Clause 14. Section 146 amended (Considering objections)**

This clause provides for the following technical changes: removing 'Augmented' from 'Redistribution Committee', minor word changes for clearer expression, and updating the section references in which objections are to be given proper consideration when deciding the redistribution.

### **Clause 15. Section 147 amended (Deciding redistribution)**

This clause provides for the two possible scenarios in relation to deciding the redistribution:

- First, if the second proposed redistribution is not significantly different according to section 145B(3), that the Redistribution Committee must publish a redistribution declaration notice in the *Gazette* and redistribute the Territory into divisions as soon as practicable after the 30 days mentioned in section 145(b).
- Second, if a second proposed redistribution is significantly different, the Redistribution Committee must publish a redistribution declaration notice in the *Gazette* and redistribute the Territory into divisions as soon as practicable after the 14 days mentioned in section 145B(b)(ii).

### **Clause 16. Section 148 amended (Report about redistribution)**

Sub-clauses (1) to (7) provide for technical changes to section 148 which include:

- removing 'Augmented' from 'Redistribution Committee';
- removing the requirement that the report be given to the Minister;

- clarifying that the report referred to in the section is the 'redistribution report'; and
- minor changes to how the section is structured, phrased, and punctuated.

Sub-clause (8) inserts new subsections after section 148(2)(b) which provide that the redistribution report must state: (c) the reasons for redistributing the Territory into the divisions set out in the redistribution declaration notice and (d) the reasons that the second proposed redistribution was or was not treated as 'significantly different' under section 145B.

Sub-clause (9) removes section 148(3) and inserts four new subsections:

- (3) the Redistribution Committee must provide the report to the Commissioner as soon as practicable;
- (4) the Commissioner must, as soon as practicable, make the report available for public inspection without fee and give the Speaker of the Legislative Assembly a copy of the report;
- (5) the Speaker must table the report in the Legislative Assembly within three (3) days of receipt; and
- (6) 'available for public inspection' includes electronic publication.

**Clause 17. Section 149 repealed (Report about redistribution and maps to be available for public inspection)**

This clause removes section 149 which provided for the redistribution report to be made available for public inspection; public inspection is now covered by section 148(4)(a).

**Clause 18. Section 150A inserted**

This clause inserts section 150A which provides that, in the event that a writ for an extraordinary election is issued, the redistribution process ceases and the Redistribution Committee is dissolved. This clarifies a possible scenario that was unclear under the previous Act.

**Clause 19. Section 151 amended (Decisions are final)**

This clause removes a reference to the Augmented Redistribution Committee.

**Clause 20. Section 292 amended (Improper influence of officials)**

This clause removes a reference to the Augmented Redistribution Committee.

**Clause 21. Part 16 heading amended**

This clause removes a reference to the Augmented Redistribution Committee.

**Clause 22. Section 331 amended (Establishment)**

This clause provides that for every redistribution, a Redistribution Committee is established.

**Clause 23. Section 332 amended (Composition)**

This clause provides for the inclusion of the 'appointed member' as the fourth member of the Redistribution Committee.

**Clause 24. Section 333 amended (Chairperson)**

This clause provides that the Chairperson of the Redistribution Committee is the appointed member (previously the Commissioner).

**Clause 25. Division 2 heading omitted**

This clause removes the heading of Division 2 (Augmented Redistribution Committee).

#### **Clause 26. Sections 334 and 335 repealed**

This clause removes sections 334 and 335 which related to the establishment and composition of the Augmented Redistribution Committee.

#### **Clause 27. Section 336 amended (Appointment of appointed member)**

Sub-clause (1) and (2) provide for technical changes, including removing the term 'Augmented' and ensuring that the eligibility criteria for the appointed member is correctly expressed.

Sub-clause (3) removes section 336(2)(b)(i)-(ii) and inserts that the person eligible for the appointment as the appointed member is (i) not a member of a political party, and (ii) does not have a recent political affiliation.

Sub-clause (4) inserts the following two provisions:

- Section 336(2A) provides that a 'recent political affiliation' means that during the previous five (5) years the person (a) was a member of the Legislative Assembly or local council; (b) was an office holder or elected representative of a political party in Australia; (c) was a member of staff of a minister; or (d) made a reportable donation to a political party in Australia.
- Section 336(2B) provides that a reportable donation includes donations made by a body corporate where the person was an office holder or majority shareholder of the body corporate at the time of the donation.

Sub-clause (5) inserts section 336(3A) which defines a 'reportable donation' as a gift or loan required to be disclosed or report under Part 10 of the *Electoral Act*, or under a similar law in force in the Commonwealth or another state or territory in Australia.

#### **Clause 28. Section 337 amended (Term of appointed member's appointment)**

This clause removes the word 'Augmented' in order to reference the 'Redistribution Committee'.

#### **Clause 29. Section 339 repealed (Chairperson)**

This clause removes section 339, which related to the Chairperson of the Augmented Redistribution Committee.

#### **Clause 30. Section 340 amended (Dissolution)**

Sub-clause (1) removes the word 'Augmented' in order to reference the 'Redistribution Committee'.

Sub-clause (2) replaces 'Minister' with 'Commissioner' to provide that the Redistribution Committee is dissolved when the Commissioner is given the redistribution report.

#### **Clause 31. Division 3 heading amended**

This clause removes a reference to the Augmented Redistribution Committee from the heading of Part 16, Division 3.

#### **Clause 32. Section 341 amended (Functions)**

This clause removes two references to the Augmented Redistribution Committee.

#### **Clause 33. Section 342 amended (Powers)**

This clause removes a reference to the Augmented Redistribution Committee.

#### **Clause 34. Section 343 amended (Procedures)**

This clause removes a reference to the Augmented Redistribution Committee and additionally removes the word 'Augmented' in order to reference the 'Redistribution Committee'.

**Clause 35. Part 20 inserted**

This clause inserts Part 20 which relates to transitional matters for the Act:

- Section 361 provides that the person who is the appointed member of the Augmented Redistribution Committee prior to the commencement of the Act is understood to be the appointed member of the Redistribution Committee in accordance with the new provisions.

**Clause 36. Repeal of Act**

This clause provides that the Act is repealed on the day after it commences.