

2018

LEGISLATIVE ASSEMBLY OF THE  
NORTHERN TERRITORY

CHIEF MINISTER

**Electoral Legislation Amendment Bill 2018**

**SERIAL NO. 72**

**EXPLANATORY STATEMENT**

**GENERAL OUTLINE**

This Bill amends the *Electoral Act* to provide for a strengthened and more accessible voting process in the following ways:

- a) returning to full preferential voting creating uniformity in vote marking across all levels of government;
- b) increased flexibility to exclude fewer votes by introducing a requirement that voter's intention must be taken into account when considering whether a ballot paper is formal or informal;
- c) improve voter access to campaigning material providing a power for the Northern Territory Electoral Commission (Commission) to designate specific areas where campaigning activities may be undertaken during voting hours at voting centres;
- d) ensuring the boundaries of prohibition areas where certain campaigning activities are not permitted reflect requirements of specific voting centres by reducing the default size at mobile voting centres and pre-election voting centres and providing the Commission with a power to designate an alternative size prohibition area where required, including for regional and remote areas; and
- e) promoting appropriate campaigning behaviour at voting centres by providing the Commission with the power to issue a code of conduct for campaign workers.

## **NOTES ON CLAUSES**

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

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

Adds the definitions of ***alternate prohibition zone***, ***campaigning activity***, and ***designated campaign area*** as set out in section 268.

Adds the definition of ***election day voting centre*** to assist clearly distinguishing between the different types of voting centres.

Replaces the definition of ***mobile polling place*** with the contemporary term mobile voting centre.

Adds a definition of ***substituted centre*** to allow easier reference to a voting centre substituted for a mobile voting centre under section 81(1).

Replaces the definition of ***polling place*** with the more contemporary voting place and clearly identifies the three types of voting centre: election day voting centre, mobile voting centre and pre-election voting centre.

Amends the definition of ***polling hours*** to utilise the definitions of pre-election voting centre, election day voting centre, and voting centre.

### **Clause 5. Section 42A inserted**

This clause separates out specific powers previously contained within the definition of ***polling place***. The officer in charge of an election day voting centre or a pre-election voting centre and an authorised officer for a mobile voting centre may, by erecting a sign on the designated area, designate other areas as part of the voting centres. The designation ends when the officer removes the notice.

### **Clause 6. Section 50 amended (Method of voting)**

This clause amends the method of voting to provide for the return to full preferential voting by requiring voters to number all candidate squares with consecutively increasing whole numbers.

### **Clause 7. Section 78 amended**

This clause amends section 78 to reflect the updated terminology of pre-election voting centre, mobile voting centre and election day voting centre.

**Clause 8. Section 81 replaced (Change of mobile polling place, dates or hours for voting)**

This clause provides for amendments to reflect the updated terminology of voting centre, mobile voting centre, and substituted centre.

**Clause 9. Section 94 amended (Informal ballot paper)**

This clause provides for amendments to the formality of ballot papers to reflect the return to full preferential voting. Sections 94(3), (3A) and (3B) set out rules for interpreting a ballot paper in commonly arising circumstances where a candidate marks a square, numbers some squares and/or leaves a square blank.

Section 94(5) defines **mark** to mean a single “1”, tick, cross or any other writing or mark that indicates the voter’s intention.

Where the rules in sections 94(3), (3A) and (3B) apply:

- the candidate whose candidate square is marked is deemed to be the voter’s first preference;
- the number placed in each other candidate square indicates the voter’s order of preference for those candidates; and
- the candidate whose candidate square is left blank is the voter’s last preference.

Section 94(6) is inserted to provide that where a voter’s intention is clear, a ballot paper must be given effect according to the voter’s intention. This allows for ballot papers that would otherwise technically be deemed informal to be counted provided the voter’s intention is clear.

**Clause 10. Section 268 amended (Definitions)**

Adds the definition of **alternate prohibition zone** to mean an alternate prohibition zone declared under section 275A.

Adds the definition of **campaigning activity** to refer to the activities previously listed in section 275(2).

Adds the definition of **designated campaign area** to mean an area designated under section 275B.

**Clause 11. Section 275 replaced**

Section 275 is replaced to refine the areas within which campaign activities and the use of loud speaker, public address systems, or other tools used to enhance the volume of a broadcast are permitted. The restricted areas are:

- within 100 metres of the entrance of an election day voting centre;
- within 10 metres of the entrance to a pre-election voting centre or mobile voting centre; or
- if an alternate prohibition zone has been designated, within the alternate prohibition zone.

Section 275A is added providing for the Commission to designate an alternate prohibition zone with boundaries between 10 and 100 metres of a voting centre.

Section 275B is added to allow the Commission to designate certain areas as a designated campaign area. Designated campaign areas provide voters with the option to access to campaigners and campaign materials while maintaining the restrictions in section 275 on campaigning within specified distances of a voting centre.

**Clause 12. Sections 313A inserted**

New section 313A is inserted providing for the Commission to issue a code of conduct for campaign workers in relation to behaviour at voting centres. In conjunction with section 275 and 275B, a code of conduct operates to balance the need for voters to have access to campaign materials while ensuring campaigning is conducted in an orderly manner.

To ensure fairness and transparency, the Commission is required to consult with the leader of each registered party and each unendorsed MLA before issuing the code of conduct.

**Clause 13. Section 336 amended (Appointment of appointed member)**

This clause clarifies that consultation under section 336 must be undertaken for any of the persons identified in section 336(2), not just those specified in section 336(2)(b).

**Clause 14. Act further amended**

This clause provides that the Schedule to the *Electoral Legislation Amendment Act 2018* will have effect.

The schedule provides for implementing updated terminology:

- across the Act: polling place(s) replaced with voting centre(s);
- in the section 42 heading: pre-polling replaced with pre-election; and
- in section 42(1)(b) and 42(2): polling place replaced with election day voting centre.

**Clause 15. Regulations amended**

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

**Clause 16. Schedule amended**

This clause provides for the approved form of ballot paper set out in Schedule 1, Form 1 of the Electoral Regulations to be amended to incorporate the instructions to voters on full preferential voting.

The form provides the following instructions to voters: number the boxes 1 to [number of candidates] in the order of your choice. Remember, number every box to make your vote count.

**Clause 17. Regulations amended**

This clause provides that the Act seeks to amend the Local Government (Electoral) Regulations.

**Clause 18. Regulation 45 amended (Informal ballot paper)**

To ensure consistency in assessing vote formality between Territory and local government elections, consequential amendments to the Local Government (Electoral) Regulations are required to apply the amendments made by clause 16 to section 94 of the *Electoral Act*.

This clause provides for amendments to the formality of ballot papers to reflect the return to full preferential voting. Regulation 45(3), (3A) and (3B) set out rules for interpreting a ballot paper in commonly arising circumstances where a candidate marks a square, numbers some squares and/or leaves a square blank.

Regulation 45(5) defines **mark** to mean a single “1”, tick, cross or any other writing or mark that indicates the voter’s intention.

Where the rules in regulations 45(3), (3A) and (3B) apply:

- the candidate whose candidate square is marked is deemed to be the voter’s first preference;
- the number placed in each other candidate square indicates the voter’s order of preference for those candidates; and
- the candidate whose candidate square is left blank is the voter’s last preference.

Regulation 45(6) is inserted to provide that where a voter’s intention is clear, a ballot paper must be given effect according to the voter’s intention. This allows for ballot papers that would otherwise technically be deemed informal to be counted provided the voter’s intention is clear.

#### **Clause 19. Repeal of Act**

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