

# Statement of compatibility with human rights

Prepared in accordance with the Thirteenth Assembly Sessional Orders (part 12.3) as adopted on 24 August 2017.

## Electoral Amendment Bill 2018

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).

### Overview of the Bill

This Bill amends the *Electoral Act* in relation to the electoral boundary redistribution process.

A redistribution is the process by which electoral boundaries are changed and is the mechanism that implements the democratic principle of one vote: one value within our electoral system. The redistribution process must be seen to be transparent, to have integrity, and be independent from politics.

The amendments set out in the Bill strengthen the redistribution process in relation to:

- a) the eligibility criteria for the appointed member of the Redistribution Committee;
- b) the establishment of a single Redistribution Committee;
- c) strengthening the primary object of redistribution;
- d) the timeframe and justification for calculation of the electoral quota;
- e) an additional public objections period to the second proposed redistribution;
- f) suspension of the redistribution process in the case of an extraordinary general election; and
- g) strengthening the content of the redistribution report.

The policy objective supporting this Bill is the key commitment to electoral reform under the restoring trust strategic policy agenda, to improve the openness, accountability and transparency of Government.

### Human rights implications

#### 1. Promotion of rights

This Bill promotes the rights and opportunities under Article 25 of the *International Covenant on Civil and Political Rights* (ICCPR):

- (a) for citizens to directly take part in the conduct of public affairs; and
- (b) for citizens to vote at periodic elections which shall be by universal and equal suffrage, guaranteeing the free expression of the will of the electors.

Clause 13 of this Bill includes the potential for an additional period of public objections to the second proposed redistribution if it is 'significantly different'. This clearly promotes the right and opportunity of citizens to take part in public affairs and ensures that they have greater opportunity to voice their concerns. 'Significantly different' under this clause is a statistical trigger: if 15 per cent or more of the total number of electors are added or removed between a first and second proposed redistribution, a second round of objections will take place. This reflects the importance of guaranteeing the expression of the will of electors impacted by electoral boundary changes.

## 2. Limitation of rights

This Bill does not limit any applicable rights or freedoms. All amendments contained in this Bill can be classified as administrative, procedural, or technical in nature. Further details are provided below in order to explain the implications of the Bill and why it does not limit human rights:

1. Article 2 (1) of the ICCPR in relation to rights to equality and non-discrimination. Under this Bill as a 'principle', the Redistribution Committee must ensure that the 'the demographic characteristics of a division should be as uniform as practicable'. The intention of this principle is to ensure that, for example, rural electors are not disadvantaged by being placed in a division that is otherwise made up of suburban electors. If this occurred, it may mean that political interests that are unique to rural electors may not be adequately represented in that division. As framed in the Bill, this does not impede access to any identifiable human right on the basis of discrimination.
2. Article 17 of the ICCPR in relation to unlawful interference or attacks on privacy. This Bill does not require an individual or organisation to identify themselves in a suggestion, comment, or objection that may interfere with their right to privacy.
3. Clauses 12 and 13 provide that objections to a proposed redistribution are to be made in writing. This requirement has been considered in relation to Article 9 (Accessibility) of the *Convention of the Rights of Persons with Disabilities*. It is concluded that this requirement is not restrictive and therefore is compatible with the applicable rights and freedoms.
4. Clause 17 inserts additional eligibility requirements for the appointed member of the Redistribution Committee to not had political affiliations or have made a reportable donation in the previous five years. As similar requirements exist in other jurisdictions (e.g. eligibility for Commissioners), it is concluded that this is compatible with the applicable rights and freedoms.

## Conclusion

The Bill is compatible with human rights as it promotes the realisation of Article 25 of the ICCPR and does not limit any applicable rights or freedoms.