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# **ELECTORAL (IMPROVING REPRESENTATION) AND OTHER LEGISLATION AMENDMENT BILL 2016**

## **Explanatory Notes**

### **For**

### **Amendments To Be Moved During Consideration In Detail By The Honourable Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for Training and Skills.**

#### **Short title**

Electoral (Improving Representation) and Other Legislation Amendment Bill 2016.

#### **Policy objectives and the reasons for them**

The object of these amendments is to reintroduce full preferential voting for Queensland's State elections. Full preferential voting will require electors to indicate their preference for all candidates listed on the ballot paper for a Queensland State election by consecutively numbering the ballot paper in order of preference.

The benefits of returning to full preferential voting include:

- achieving consistency with how Queensland electors are required to vote for the Commonwealth House of Representatives, thereby limiting the potential for voter confusion at either of these elections; and
- the election of candidates that are most preferred by voters due to allocation of preferences.

#### **Achievement of policy objectives**

Amendments to the *Electoral Act 1992* (the Act) require an elector to vote by writing on the ballot paper the number 1 in the square opposite the name of the candidate for whom the elector votes as the elector's first preference and thereafter consecutively

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numbering with the numbers 2, 3 and so on all the squares opposite the remaining candidates to indicate the order of the elector's preferences for them.

## **Alternative ways of achieving policy objectives**

The policy objective can only be achieved through legislative amendment.

## **Estimated cost for government implementation**

The proposed amendments are primarily procedural to facilitate full preferential voting in Queensland.

## **Consistency with fundamental legislative principles**

The amendments are consistent with fundamental legislative principles.

## **Consultation**

No consultation has been undertaken on the amendments.

## **Consistency with legislation of other jurisdictions**

Queensland and New South Wales are the only Australian jurisdictions which provide for optional preferential voting for the Legislative Assembly or equivalent.

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## Notes on provisions

*Amendment 1* amends clause 6 (Amendment of section 2 (Definitions)) to omit the definition of ‘exhausted ballot paper’ from section 2 of the Act as this term is redundant.

*Amendment 2* amends clause 6 (Amendment of section 2 (Definitions)) to amend the definition of ‘first preference vote’ in the Act to reflect the change from optional preferential voting to full preferential voting.

*Amendment 3*, inserts, after clause 13 of the Bill, new clauses 13A-13E.

Clause 13A amends subsection (3) of section 102 (Supply of ballot papers and electoral rolls) of the Act to require ballot papers to include the following sentence – ‘Indicate your preference for all the other candidates by numbering the other squares in your preferred order’. This replaces the current requirement to include the following sentence – ‘You may if you wish indicate your preference for additional candidates by numbering the other squares in your preferred order’ – given the re-introduction of full preferential voting.

Clause 13B amends the requirements of section 122 (How electors must vote) of the Act to introduce full preferential voting. The amendments require an elector to vote by writing on the ballot paper the number 1 in the square opposite the name of the candidate for whom the elector votes as the elector’s first preference, and thereafter consecutively and without repetition, numbering with the numbers 2, 3 and so on, all the squares opposite the remaining candidates to indicate the order of the elector’s preferences for them.

Clause 13C amends section 123 (Formal and informal ballot papers) of the Act to reflect the adoption of full preferential voting. The amendment also makes provision for when one square opposite the name of a candidate listed on the ballot paper is left blank. In this scenario, and provided the voters preferences are indicated consecutively (starting with the number 1) and without repetition, the candidate whose name is opposite the blank square is taken to be the voter’s last preference.

Clause 13D amends section 128 (Official counting of votes) of the Act by removing references to exhausted votes. These references are redundant when full preferential voting applies.

Clause 13E inserts a new subsection (3A) into section 183 (Lodging how-to-vote cards). Under subsection (3)(b), how-to-vote card must be rejected by the commission or returning officer if the commission or returning officer is satisfied on reasonable grounds the how-to-vote card is likely to mislead or deceive the elector in voting under the Act. The new subsection provides that the reference to voting under the Act includes voting in a way required under section 122. This amendment provides a mechanism by which how-to-vote cards that may imply optional preferential voting applies could be rejected.