

Electoral (Voter's Choice) Amendment Bill 2019

Explanatory Notes

Short title

The short title of the Bill is the Electoral (Voter's Choice) Amendment Bill 2019

Policy objectives and the reasons for them

The policy objectives of the Electoral (Voter's Choice) Amendment Bill 2019 (the Bill) is to reintroduce the optional preferential voting (OPV) system for Queensland's state elections. The OPV system will:

- restore public confidence in the electoral system by reintroducing a voting system recommended by the Electoral and Administrative Review Commission, which was established upon recommendation of the Fitzgerald Inquiry;
- give voters more options to express their political opinions, while preserving the voting choice available under full preferential voting; and
- least likely lead the voter to invalidate his or her vote through numbering error because of its simplistic nature.

The OPV system will commence prior to the 2020 election.

Achievement of policy objectives

The policy objectives will be achieved by amending the *Electoral Act 1992* to:

- require an elector to vote by indicating the elector's preference for only 1 candidate by placing the number 1, or a tick or a cross in the square opposite the name of the candidate.
- alternatively, the elector may indicate their preferences for more than 1, but not necessarily all, of the candidates by placing the number 1, or a tick or a cross, in the square opposite the name of the candidate who is the elector's first preference, and the numbers 2, 3 and so on in the squares opposite the names of any of the other candidates to indicate the order of the elector's preferences for them.
- provide that the ballot papers must contain sentences instructing the elector on how to vote.

Alternative ways of achieving policy objectives

There are no known alternate ways of achieving the same policy objective.

Estimated cost for government implementation

It is expected that there will be minimal cost to implement this policy.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles as outlined in section 4 of the *Legislative Standards Act 1992*.

Consultation

The OPV system was recommended by the post-Fitzgerald body, the ‘Electoral and Administrative Review Commission’ which underwent a thorough consultation process.

Consistency with legislation of other jurisdictions

The objective of the Bill to re-introduce OPV is consistent with the voting systems of other Australian jurisdictions such as New South Wales.

Notes on provisions

Clause 1 refers to the short title of the Bill.

Clause 2 provides that the Act amends the *Electoral Act 1992*.

Clause 3 amends section 2 (Definitions) by omitting ‘continuing candidate’ and inserting the words ‘a tick or a cross’ to the definition of ‘first preference vote’.

Clause 4 amends section 102 (Supply of ballot papers and electoral rolls) by omitting subsection (3) and inserting ‘The ballot papers to which subsection (2) applies must contain the following sentences— Place the number 1, or a tick or a cross in the square opposite the candidate of your choice’ and ‘You may, if you wish, indicate your preference for additional candidates by numbering the other squares in your preferred order’.

Clause 5 amends section 122 (How electors must vote) by omitting subsection (2) and inserting ‘An elector may vote by writing on a ballot paper— (a) to indicate the elector’s preference for only 1 candidate—the number 1, or a tick or a cross in the square opposite the name of the candidate; or (b) to indicate the elector’s preferences for more than 1, but not necessarily all, of the candidates— (i) the number 1, or a tick or a cross in the square opposite the name of the candidate who is the elector’s first preference; and (ii) the numbers 2, 3 and so on in the squares opposite the names of any of the other candidates to indicate the order of the elector’s preferences for them’.

Clause 6 amends section 123 (Formal and informal ballot papers) by inserting the words ‘preference or’ after ‘voter’s intended’ in subsection (1)(a) so that it provides ‘the ballot paper must contain writing that is in accordance with section 122 or other writing or marks that indicate the voter’s intended preference or order of preferences’.

In addition, Clause 6 amends section 123 by omitting subsections (2) and (2A) and inserting a new subsection (2) and (2A). Subsection (2) will provide that ‘Despite section 122(3), a ballot paper is taken to contain writing or markings that indicate the voter’s intended order of preferences, even though— (a) the ballot paper contains 2 or more squares in which the same number is written or marked; or (b) there is a break in the order of the preferences indicated in writing or marks in the squares on the ballot paper’.

Subsection 2A will state ‘For the purpose of counting the votes indicated on a ballot paper mentioned in subsection (2), each of the following numbers written or marked in a square on the ballot paper is to be disregarded— (a) a number that is repeated in 2 or more squares and any higher number; (b) a number that indicates a preference after a break in the order of preferences indicated on the ballot paper’.

Clause 7 amends section 128 (Official counting of votes) by inserting the words ‘that is not exhausted’ after ‘that candidate’ in subsections (7)(b) and (9)(b) and after ‘a ballot paper’ in subsection (11). The definition of ‘continuing candidate’ will be inserted in a new subsection (16) to provide that ‘continuing candidate, in relation to counting votes for an election for an electoral district, means a candidate in the election who has not been excluded at a previous count of votes for the election’.

The definition of ‘exhausted’ is also inserted in section 128 to provide ‘exhausted, for a ballot paper for an electoral district, means there is no vote recorded on the ballot paper for a continuing candidate for the electoral district’.