AUSTRALIAN CAPITAL TERRITORY

Proportional Representation (Hare-Clark) Entrenchment Act 1994

No. 1 of 1995

An Act to entrench the principles of the proportional representation (Hare-Clark) electoral system

[Notified in ACT Gazette S85: 2 May 1995]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

1. This Act may be cited as the *Proportional Representation (Hare-Clark) Entrenchment Act 1994.*

Commencement

2. This Act commences on the day on which it is notified in the *Gazette*.

Interpretation

3. Unless the contrary intention appears, expressions used in this Act have the same meanings as in the *Electoral Act 1992*.

Entrenchment of electoral system

4. (1) This Act applies to any law that is inconsistent with any of the following principles of the proportional representation (Hare-Clark) electoral system:

(a)   at a general election, an odd number of members of the Legislative Assembly shall be elected from each electorate;

(b)   at a general election, at least 5 members of the Legislative Assembly shall be elected from each electorate;

(c)   voting in an election shall be compulsory;

(d)   each voter has the right to a fully preferential vote;

(e)   squares for the indication of preferences on each ballot paper shall appear only alongside the names of individual candidates;

(f)   a voter shall not be taken to have marked any preferences beyond the numbers, starting with "1" for the candidate with the first preference, marked by the voter in the squares alongside the names of individual candidates;

(g)   ballot papers shall be—

   (i)   prepared and collated in accordance with the method known as the Robson Rotation; and

   (ii)   distributed and issued;

   as set out in Schedule 2 to the *Electoral Act 1992*, being that Schedule as in force on 1 December 1994;

(h)   a candidate whose total votes equal or exceed a relevant quota as defined in Schedule 4 to the *Electoral Act 1992*, being that Schedule as in force on 1 December 1994, shall be declared elected;

(j)   unless the number of successful candidates is equal to the number of vacancies, any surplus votes for a successful candidate shall be transferred to continuing candidates in accordance with the next available preferences indicated on ballot papers that were counted for the successful candidate;

(k)   if there are no surpluses to be distributed, the candidate with the least total votes shall be excluded and the ballot papers counted for the excluded candidate shall be transferred to continuing candidates in accordance with the next available preferences, if any, indicated on each ballot paper;

(l)   where there are 2 or more eligible candidates in relation to a casual vacancy, the vacancy shall be filled by a recount of the ballot papers counted for the person who, at the last election before the vacancy occurred, was elected to the seat in which the vacancy has occurred.

(2) This Act applies to any law made pursuant to a power at any time vested in the Legislative Assembly to make a law with respect to the number of members of the Legislative Assembly.

Special procedures for making certain enactments

   5. (1) This Act, or any amendment or repeal of this Act, has no effect unless it is passed by—

(a) at least a $\frac{2}{3}$ majority of the members of the Legislative Assembly; and

(b) a majority of electors at a referendum held in accordance with the *Referendum (Machinery Provisions) Act 1994.*

(2) A law to which this Act applies by virtue of section 4 has no effect unless it is passed by—

(a) the Legislative Assembly and passed by a majority of electors at a referendum held in accordance with the *Referendum (Machinery Provisions) Act 1994*; or

(b) at least a $\frac{2}{3}$ majority of the members of the Legislative Assembly.

[Presentation speech made in Assembly on 30 November 1994]

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