
Backgrounder

Constitution Act, 2007 (Democratic representation)

- The Government has introduced a bill in the House of Commons, entitled the *Constitution Act, 2007 (Democratic representation)*, which will amend the constitutional formula for the decennial readjustment of seats in the House of Commons among the provinces.

History of the Seat Readjustment Formula

- At Confederation, the concept of representation by population was a guiding principle in determining the initial allocation of seats in the House of Commons among the provinces. At the same time, a formula was included in the *Constitution Act, 1867* to determine how seats would be readjusted to respond to population changes across the country over time.
- The Confederation formula required a readjustment of seats following each decennial census and was based primarily on representation by population. Thus, it provided at section 51 of the *Constitution Act, 1867*, that Quebec would be allocated 65 seats, while other provinces would be assigned “such a Number of Members as will bear the same Proportion to the Number of its Population as the Number Sixty-five bears to the Number of the Population of Quebec.”
- The seat readjustment formula has never required strict adherence to pure representation by population, but has provided protections for provinces with relative declining populations. For example, the Confederation formula qualified the concept of representation by population by providing that a province would not lose seats unless its relative population decreased by 5% or more. Similarly, in 1915, an amendment to the Constitution was added to ensure that no province would have fewer seats in the House of Commons than it had in the Senate, regardless of a decline in its population (*Constitution Act, 1867*, s. 51A).
- The readjustment formula has been changed by Parliament a number of times since Confederation and each reformulation has sought to strike a balance between providing that provinces be represented in the House of Commons in a manner that is roughly proportional to their populations, while ensuring provinces with declining populations continue to be represented in a fair manner in the federal House of Commons.

The 1985 Seat Readjustment Formula

- The current formula for allocating seats in the House of Commons among the provinces was passed by Parliament in 1985. It is based on the following steps as outlined in the *Constitution Act, 1867*:

- In Step 3, one seat is added per territory to determine the total number of seats in the House of Commons.

Effects of the 1985 Formula

- While the 1985 formula has tempered the rate of growth in the House of Commons, ensuring that it maintains a manageable size, it has done so at the expense of seat increases for provinces with faster-growing populations.
- As a result, faster-growing provinces have accordingly become under-represented in the House of Commons relative to their population size under the 1985 formula, and are likely to become even more under-represented in future readjustments under this formula.
- As a corollary, constituencies in these provinces, on average, consist of much larger populations. For example, MPs from Ontario, Alberta and British Columbia represent, on average, at least 10,000 more constituents than MPs from other provinces. After the next readjustment under the current formula, this difference is projected to increase to at least 15,000.

The New Seat Readjustment Formula

- To address these effects of the 1985 formula, the new formula will restore representation by population in British Columbia and Alberta and will significantly improve the representation of Ontario, while also protecting the seat counts of provinces with relative declining populations and moderating the overall size of the House.
- This bill is introduced pursuant to Parliament's authority to amend the Constitution in relation to the House of Commons under section 44 of the *Constitution Act, 1982*. (This was the same constitutional authority under which the existing formula was passed in 1985.) By improving the fair representation of the populations of faster-growing provinces, while also protecting the seat counts of slower-growing provinces, this formula supports the "principle of the proportionate representation of the provinces" that is entrenched in section 42(1)(a) of the *Constitution Act, 1982*. Therefore, provincial agreement is not required to pass this bill.
- The *Constitution Act, 2007 (Democratic representation)* proposes to introduce a new seat readjustment formula that would include the following steps:

STEP 1: Base formula for determining provincial seats (NEW divisor in s.51(1), Rule 1)

$$\begin{array}{l} \boxed{\text{Pop. of the provs}} \div \boxed{\text{\# of prov MPs ~30yrs ago}} = \boxed{\text{National Quotient}} \\ \boxed{\text{Prov'l population}} \div \boxed{\text{National Quotient}} = \boxed{\text{Prov'l base seats}} \end{array}$$

STEP 2: Minimum seat guarantees (s. 51(1), Rule 2 and s. 51A)

$$\boxed{\text{Prov'l base seats}} + \boxed{\text{Senate \& Grandfather floor}} = \boxed{\text{Total prov'l seats}}$$

NEW STEP 3: Additional Seats for Less Populous, Non-“Floor” Provinces (s.51(1), NEW Rule 3)

$$\begin{array}{l} \boxed{\text{Provincial population}} \div \boxed{\text{Total provincial seats}} = \boxed{\text{Provincial Electoral Quotient (PEQ)}} \\ \boxed{\text{PEQ of less populous non-floor province}} \stackrel{\text{Must be approx}}{=} \boxed{\text{PEQ of most populous floor province}} \therefore \boxed{\text{Seats added until PEQ} \approx \text{PEQ of the most populous floor province, without being less than it}} \end{array}$$

STEP 4: Territorial seats (s. 51(2))

$$\boxed{\text{Total provincial seats}} + \boxed{\text{One seat per territory}} = \boxed{\text{TOTAL SEATS}}$$

Comparison of the 1985 Formula and Proposed Formula

- There are two key changes between the 1985 formula and the proposed formula:
- First, rather than the permanent divisor of 279, which assumes the House is set at 279 provincial Members, a gradually escalating divisor will be used based on the number of Members in the House approximately 30 years ago. For instance, in the next readjustment after the 2011 census, a divisor of 292 would be used, which was the number of provincial seats in the readjustment that followed the 1981 census; in the readjustment after the 2021 census, a divisor of 298 would be used, which was the number of provincial seats in the readjustment after the 1991 census. As a result, faster-growing provinces will be allocated seats in a manner that is more proportional to their population, although not fully proportional in order to moderate the overall membership of the House.
- Second, a new step will be added to the formula that will add seats to a province that does not benefit from one of the two constitutional seat floors until its provincial electoral quotient (i.e. average provincial population per MP) is comparable to, but not less than, the provincial electoral quotient of a more populous province that does benefit from a floor.

- The other aspects of the formula, including minimum seat guarantees for provinces whose populations do not merit more seats and the provision of one seat per territory, would stay the same.
- Based on current population projections for the 2011 census (assuming medium growth and medium migration trends), the proposed formula would result in additional seats for Ontario, Alberta and British Columbia in the next readjustment. No province would lose seats due to constitutional seat guarantees.

	Current seats	Projected seats after the 2011 census	
		Under the 1985 formula	Under the new formula
Newfoundland and Labrador	7	7	7
Prince Edward Island	4	4	4
Nova Scotia	11	11	11
New Brunswick	10	10	10
Quebec	75	75	75
Ontario	106	110	116
Manitoba	14	14	14
Saskatchewan	14	14	14
Alberta	28	29	33
British Columbia	36	38	43
Nunavut Territory	1	1	1
Northwest Territories	1	1	1
Yukon Territory	1	1	1
TOTAL	308	315	330

Benefits of the New Formula

- The proposed formula would produce a number of tangible benefits.
- First, it would directly benefit Canadians in faster-growing provinces. Because, under the 1985 formula, faster-growing provinces have become significantly under-represented in the House of Commons relative to their populations, MPs from those provinces have been required, on average, to represent larger constituencies. Additional seats in those provinces under the bill will mean smaller ridings. As a result, MPs will be able to more effectively represent their constituents and there will be greater representational equality between ridings in different provinces.
- Second, smaller average constituency populations will be of particular benefit for constituents and MPs in rural ridings in these faster-growing provinces. Because the population in rural areas is generally more spread out over greater distances,

very large ridings can present challenges for MPs to reach out to their constituents and for rural Canadians to get their voices heard by their elected representatives.

- Third, the proposed formula will be more responsive to future population growth, rather than, as in the 1985 formula, fixing a ceiling on the rate at which growing provinces can gain seats so that they fall further and further behind.
- Fourth, the proposed formula will restore representation by population for British Columbia and Alberta. Over the last few decades, these provinces have experienced significant population growth that is not being fairly translated into increased numbers of seats in the House of Commons under the current readjustment formula. Representation by population for these provinces recognizes the significant contributions that British Columbians and Albertans have to make to the country and the national legislative process.
- Fifth, the proposed formula will provide significant improvements for Ontario. For example, after the next readjustment, Ontario is projected to receive 10 new seats rather than only 4 new seats under the existing formula; this means that the average riding population of an Ontario MP will be reduced from 121,588 constituents under the current formula to 115,299 constituents under the proposed formula. Ontario will also continue to have the greatest representation in the House of Commons with over 35% of House seats. While this does not represent pure representation by population for Ontario, it recognizes that even more seats for Ontario would result in an increase to the size of the House overall and entail a decline in representation for smaller provinces.
- Lastly, the proposed formula reflects a careful balance between ensuing representational fairness to faster-growing provinces while protecting the seat counts of slower-growing provinces, all of whom will continue to be at or exceed representation by population in the national legislature under the bill. This is consistent with the principle of proportionate representation of the provinces in the House of Commons enshrined in the Constitution.