



Backgrounder

Fair Representation Act

The *Fair Representation Act* will update the constitutional formula for allocating seats in the House of Commons among the provinces. The Act legislates a principled, nationally-applicable formula used to determine seat counts; it does not legislate specific provincial seat numbers.

The readjustment formula has been updated by Parliament a number of times since Confederation. 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 that smaller or slower-growing provinces continue to be represented in a fair manner.

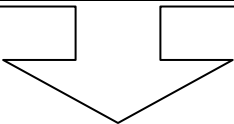
The constitutional formula for allocating seats updates the representation of the provinces in the House of Commons following each decennial census.

The Status-Quo Seat Allocation Formula

The current formula for allocating seats in the House of Commons among the provinces was passed by Parliament in the *Representation Act, 1985*. It is based on the following steps as outlined in section 51 of the *Constitution Act, 1867*:

STEP 1: Determine initial provincial seat allocation (s. 51(1), Rule 1)

$$\boxed{\text{Population of the provinces}} \div \boxed{279} = \boxed{\text{Electoral quotient}}$$


$$\boxed{\text{Provincial population}} \div \boxed{\text{Electoral quotient}} = \boxed{\text{Provincial initial seat allocation}}$$

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

$$\boxed{\text{Provincial initial seat allocation}} + \boxed{\text{Senate floor \& Grandfather floor}} = \boxed{\text{Total provincial seats}}$$

STEP 3: Add territorial seats (s. 51(2))

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

Step 1 is based generally on the principle of representation by population in determining an electoral quotient (which theoretically represents the average population per seat). The electoral quotient then divides the population of each province to determine the initial number of seats allocated to each province.

- The formula set 279 as a permanent divisor in determining the electoral quotient. 279 was the number of *provincial* seats in the House of Commons at the time that the formula was passed in 1985. This divisor was not allowed to readjust over time to reflect the actual number of provincial seats in the House of Commons (which is currently 305).

Step 2 provides additional seats to certain provinces when the seat count determined under Step 1 is lower than the number of seats they are entitled to under one of two minimum seat guarantees outlined in the Constitution:

- **The “Senate floor”**: Added in 1915 and outlined in section 51A of the *Constitution Act, 1867*, the senate floor guarantees that no province can have fewer seats in the House of Commons than it has Senators.
- **The “grandfather clause”**: Added in 1985 and outlined in section 51 of the *Constitution Act, 1867*, the grandfather clause guarantees that no province can be allocated a number of seats that is less than the number of seats it had in 1985.

Step 3 adds the provincial **total** seats and one seat for each territory to determine the total number of seats.

The combined effect of fixing the divisor at 279 and the seat guarantees to slower-growing provinces prevents faster-growing provinces from receiving a share of seats that is in line with their relative share of the population. Currently, all provinces except Ontario, British Columbia, and Alberta benefit from a constitutionally-guaranteed seat floor.

While the current formula has tempered the rate of growth in the House of Commons, it has done so at the expense of provinces with faster-growing populations. Faster-growing provinces have accordingly become significantly and increasingly under-represented in the House of Commons relative to their population and are likely to become even more under-represented in future seat reallocations with this formula.

The Updated Seat Allocation Formula

The updated allocation formula presented in the *Fair Representation Act* will move every province towards representation by population.

The *Fair Representation Act* 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). The new formula supports the "principle of the proportionate representation of the provinces" that is entrenched in section 42(1)(a) of the *Constitution Act, 1982*.

As set out in the diagram below, the *Fair Representation Act* proposes to introduce an updated seat allocation formula as follows:

- The electoral quotient for the 2011 readjustment will be set at 111, 166, reflecting the average riding population prior to the last seat readjustment in 2001, increased by the simple average of provincial population growth rates.
- The Senate floor and grandfather clause would continue to apply.
- A representation rule would apply such that if a currently overrepresented province becomes underrepresented as a result of the application of the updated formula, additional seats would be allocated to that province so that its proportional representation according to population is protected.
- For the purposes of calculating the provincial seat allocation, provincial populations are based on Statistics Canada's annual population estimates. These estimates correct for net undercoverage in the census and provide a more accurate representation of total provincial population.

Readjustment following the **2011** Census:

STEP 1: Determine initial provincial seat allocation (s. 51(1), Rule 1)

Provincial population	÷	Electoral quotient (111, 166)	=	Provincial initial seat allocation
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STEP 2: Apply minimum seat guarantees (s. 51(1), Rule 2 and s. 51A)

Provincial initial seat allocation	+	Senate floor & Grandfather floor	=	Provincial second seat allocation
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STEP 3: Apply representation rule (s. 51, Rule 3 and 4)

Provincial second seat allocation	+	Representation rule	=	Total provincial seats
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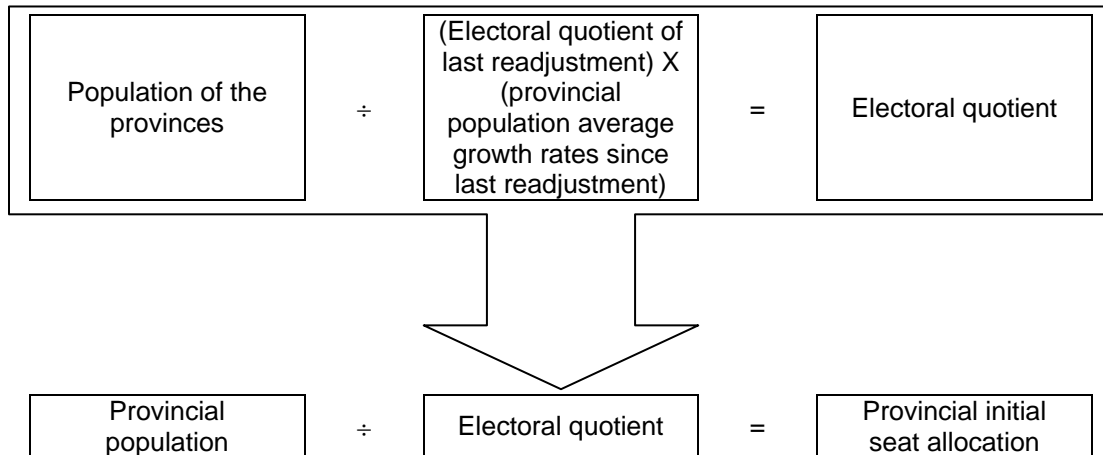
STEP 4: Add territorial seats (s. 51(2))

Total provincial seats	+	One seat per territory	=	TOTAL SEATS
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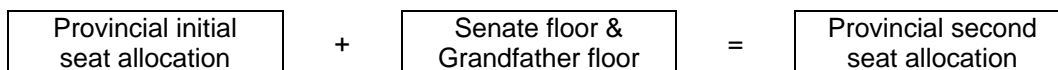
As set out below, for the 2021 readjustment and each subsequent readjustment, the electoral quotient will be increased by the simple average of provincial population growth rates since the preceding readjustment.

Readjustments following the **2021** Census and onward:

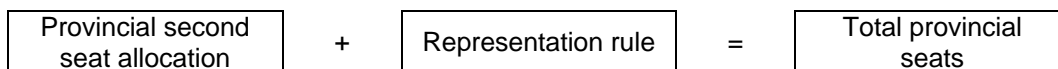
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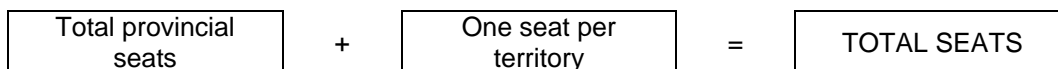
STEP 2: Apply minimum seat guarantees (s. 51(1), Rule 2 and s. 51A)



STEP 3: Apply representation rule (s. 51, Rule 3 and 4)



STEP 4: Add territorial seats (s. 51(2))



Readjustment of Electoral Boundaries within Provinces

Where and how House of Commons seats are distributed *within* provinces is a separate and distinct process occurring after the number of seats per province is established.

Once the number of seats per province is established, the process set out in the *Electoral Boundaries Readjustment Act* is used to readjust and redistribute electoral boundaries within provinces. The readjustment of electoral boundaries is taken in accordance with census data, which provides population counts at the geographic level that are necessary to most accurately revise electoral boundaries.

Currently, within 60 days of the receipt of census return, independent non-partisan boundary commissions are established in each province. The commissions have one year to produce an initial report setting out proposed boundaries and names for ridings, during which time they carry out public consultations on their proposals.

Once the reports are finalized, the Chief Electoral Officer prepares a draft representation order, which is forwarded to the responsible Minister and proclaimed by the Governor in Council. The order becomes effective on the first dissolution of Parliament that occurs at least one year after the proclamation is issued. Under the current timelines set out in the *Electoral Boundaries Readjustment Act*, approximately 30 to 38 months are necessary following the release of the census results to complete the readjustment process.

Updates to the *Electoral Boundaries Readjustment Act*

The *Fair Representation Act* includes several updates to the *Electoral Boundaries Readjustment Act* aimed at streamlining the boundary readjustment process:

- commissions would be established no later than six months following the census, or within 60 days of the census results being released, whichever comes first;
- The notice period for public hearings will be set at 30 days. Additionally, although persons interested in making submissions at public hearings would still need to provide commissions with a notice of intent, commissions would have the option of waiving this requirement if it was considered in the public interest;
- The timeline for the commissions to produce their reports would be streamlined to 10 months, with a possible two month extension; and
- The time period for the implementation of the representation order would be reduced to seven months.