



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

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Submission Cover Sheet

Inquiry into Electoral Amendment Bill 2021

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The Secretary
Standing Committee on Justice and Community Safety
Legislative Assembly for the Australian Capital Territory
Civic Square, London Circuit
CANBERRA ACT 2601

Submission by the ACT Electoral Commission to the Inquiry into the Electoral Amendment Bill 2021

Thank you for the invitation to attend the Standing Committee's Inquiry into the Electoral Amendment Bill 2021 on the matter of lowering the voting age, scheduled for 3 February 2022. The ACT Electoral Commission (the Commission) also wishes to make the following written submission to the Inquiry in accordance with Section 7 of the *Electoral Act 1992* which provides for the Commission to advise the Assembly on matters relating to elections.

The Commission is opposed to lowering the mandatory voting age from 18 to 16 as proposed by the Bill, for the following reasons:

- The current legislation provides appropriate voter accessibility to electoral services without the imposition of legal obligations and penalties upon minors related to compulsory enrolment and voting. Failure to enrol and/or vote by 16 and 17 year olds would be a criminal offence which may result in criminal court proceedings heard in the ACT Childrens Court, and the imposition of a fine, a conviction or other sentence if found guilty. This is considered undesirable from an electoral perspective, and may discourage future participation by youth in electoral processes, regardless of the reduced penalty amounts for minors as proposed by the Bill.
- The Bill would see the ACT become non-aligned with all other Australian electoral jurisdictions, resulting in likely confusion amongst 16 and 17 year old electors in seeking to vote in federal elections, and State/Territory elections when moving interstate.
- To establish and maintain a separate electoral roll for 16 and 17 year old electors in the context of the current joint Commonwealth/Territory electoral roll would involve extra cost, administration and workload for the Australian Electoral Commission and in turn the Commission.
- The Commission is not funded for the additional staff and resources required to conduct the necessary community and school education programs, enrolment drives and electoral services arising from the Bill. Delivery of such programs to 16 and 17 year olds is outside the existing senior school curriculum and subject to control of the Education Directorate.
- The Commission will incur additional staff work and stress owing to the likely increase in non-voter administration, in dealing with minors facing potential criminal court action for failing to vote.

While recognising that the proposed Bill would enable some politically attuned 16 and 17 year olds to both enrol and vote in the ACT elections, this needs to be balanced against the significant negative issues that mandatory enrolment and voting for all 16 and 17 year olds

would cause to this age group who may not be interested in voting in only the ACT elections, and the corresponding administrative burden and cost of implementation.

The Commission's view is that there are overwhelming costs and disadvantages compared to the benefits for some, in any cost benefit calculation, and recommends retaining the mandatory voting age of 18.

The Commission looks forward to assisting the Standing Committee in the conduct of the Inquiry. Any questions or clarifications about this submission can be directed in the first instance to Damian Cantwell, ACT Electoral Commissioner, or addressed during the public hearing on 3 February 2022.



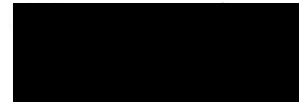
David Kalisch
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28 January 2022



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28 January 2022



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28 January 2022

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Background

This submission by the ACT Electoral Commission (the Commission) to the Standing Committee's Inquiry into the Electoral Amendment Bill 2021 (the Bill) addresses the proposal to lower the mandatory voting age.

The Commission is opposed to lowering the mandatory voting age from 18 to 16 as presented by the Bill. The Commission's views on this subject are unchanged from its supplementary submission to the Committee's Inquiry into the 2020 ACT election. The Commission also notes and supports the 2020 election Inquiry report recommendation that the voting age be retained at age 18 years.

This submission to the Inquiry outlines the reasons why the Commission is opposed to lowering the voting age from 18 to 16 as presented by the Bill.

The scope of this submission includes current legislation related to enrolment and voting in the ACT, different international electoral models, resource implications, and issues effecting youth electoral engagement. The submission concludes that a lowering of the voting age would on balance have negative impacts on youth and recommends against such a proposal.

This submission should be read in conjunction with:

- the Commission's *Report on the ACT Legislative Assembly Election 2020*, dated 15 April 2021;
- *Supplementary Submission by the ACT Electoral Commission to the ACT Legislative Assembly Inquiry into the 2020 ACT Election and the Electoral Act*, dated 30 April 2021; and
- *The ACT Electoral Commission Response to the Standing Committee on Justice and Community Safety Report of August 2021 - Inquiry into the 2020 ACT Election and the Electoral Act*, dated 13 December 2021.

This discussion is based on the Commission's understanding of the relevant legislative provisions. The Inquiry committee may wish to seek its own legal advice on these issues.

Recommendation

The Commission recommends retaining the mandatory voting age of 18.

Existing provisions for enrolment and voting age

In February 2012, the Electoral Act was amended to lower the age of entitlement to provisionally enrol to vote from 17 years old to 16 years old. This amendment brought the ACT into line with changes at that time to Commonwealth electoral entitlements. The requirement that an elector be 18 years old before they can vote was not affected.

Under current legislation, a person is entitled to enrol on the joint Commonwealth/ACT electoral roll if he or she is 16 or over. A person is entitled to vote in an election for the ACT Legislative Assembly if he or she is 18 or over on polling day.

A person who enrolls at 16 is taken to be provisionally enrolled. The facility to provisionally enrol is primarily intended to ensure that 16 and 17 year olds are correctly provisioned for voting eligibility as soon as they turn 18. This ensures that people who will turn 18 between the close of rolls for an election and polling day will have their name appear on the certified list for the election.

As an ancillary benefit, allowing 16 and 17 year olds to provisionally enrol increases the number of people who can be encouraged to enrol while still at school. Provisional enrolment at 16 and 17 is voluntary. Enrolment is compulsory for citizens who are 18 or over.

National conformity and consistency with other jurisdictions

The minimum voting age for all Federal, State and Territory elections is 18. Provisional enrolment for 16 and 17 year olds is also offered nationally and across each State and Territory.

While the topic of lowering the voting age has been raised in other Australian jurisdictions, it has not been adopted. Lowering the voting age is not currently under active consideration in any other Australian jurisdiction.

Reducing the minimum voting age to 16 in the ACT would therefore take the ACT out of line with all other Australian jurisdictions. This situation may lead to significant confusion, particularly for 16 and 17 year olds should they move into or out of the ACT from other States or Territories. Similar confusion could also exist for 16 and 17 year old ACT residents who would be eligible to vote in a Legislative Assembly election, but could not vote at a federal election were it to be held at a similar time. This occurred in 2004 when the federal election was held on 9 October and the ACT election was held one week later on 16 October. Due to the proximity of election dates, the early voting periods for these two elections overlapped. Had the eligibility of 16 and 17 year olds diverged across jurisdictions at this election, the same elector would have been eligible to vote for one Australian election, but not the other on the same day and in the same location. More recently, a federal election was held on 2 July 2016 with the ACT Legislative Assembly election held later in the year in October.

Legal considerations of compulsory enrolment and voting

The ACT's electoral laws related to enrolment and voting for Legislative Assembly elections have three main elements (relevant extracts are shown in Appendix A).

The Commonwealth enactment, the *Australian Capital Territory (Self-Government) Act 1988* (the Self-Government Act), gives the Assembly the power to legislate for electoral matters, but places limits on what may be enacted by the Assembly and provides for minimum requirements.

The Assembly enactment, the *Electoral Act 1992*, provides for the establishment of the ACT Electoral Commission and for the conduct of elections, within the constraints imposed by the Self-Government Act.

The Assembly enactment, the *Proportional Representation (Hare-Clark) Entrenchment Act 1994*, provides that various electoral principles are entrenched. This means that the Electoral Act cannot be amended in a way that is inconsistent with those principles without the amendments being passed either by a two thirds majority in the Assembly, or by a simple majority in the Assembly and a majority of electors at a referendum.

Compulsory enrolment

The Self-Government Act provides in section 67B that "An electoral enactment is to provide, among other things: ... (c) that every person who is entitled to be enrolled on that roll and who is resident in the Territory is required to claim enrolment".

In effect, this provision requires the ACT to enact a scheme of compulsory enrolment for all those entitled to vote. This requirement is met by section 73 of the Electoral Act, which

provides that enrolment is compulsory and that failure to enrol is subject to a penalty of 0.5 penalty units (currently \$80).

The compulsory enrolment provision in the ACT's Electoral Act currently mirrors the compulsory enrolment provision in the *Commonwealth Electoral Act 1918*. However, if the ACT lowers the voting age to 16 it would be necessary, in order to comply with the provision of the Self-Government Act, for the ACT's Electoral Act to be amended to provide for compulsory enrolment for 16 and 17 year olds under the ACT enactment. This would create inconsistency in electoral legislative requirements across Australian jurisdictions where 16 and 17 year old ACT residents would be subject to an 'ACT only' imposed penalty for failing to enrol. An ACT only imposed penalty would also apply for failure to vote.

The necessity of enforcing compulsory enrolment of 16 and 17 year olds is considered a significant disincentive to lowering the voting age. Failure to enrol and/or vote by 16 and 17 year olds would be a criminal offence which may result in criminal court proceedings heard in the ACT Childrens Court, and the imposition of a fine, a conviction or other sentence if found guilty. This is considered undesirable from an electoral perspective, and may also discourage future participation by youth in electoral processes, regardless of the reduced penalty amounts for minors as proposed by the Bill.

The Self-Government Act requirement to provide for compulsory enrolment is the reason why the current 16 year old enrolment scheme is known as provisional enrolment, to allow for voluntary enrolment for 16 year olds.

The Commission notes the Bill's proposal to provide for provisional enrolment at 14, for the same reason that provisional enrolment at 16 and 17 is now available – to ensure that people are correctly provisioned to vote when they reach eligibility age after the close of rolls date but on or before polling day for an election. If provisional enrolment at 14 was not to be legislated for, any elector turning 16 after the preliminary roll close but on or before polling day would be required to complete a declaration vote rather than have their name appear on the roll and cast an 'ordinary vote'.

To align with current law, provisional enrolment at 14 would not be compulsory.

Administrative Processes Supporting Enrolment of Young People

The ACT electoral roll is maintained by the Australian Electoral Commission (the AEC) under the Joint Roll Arrangement (JRA) between the Commonwealth and the ACT. The Commission pays the AEC for maintenance of the joint electoral roll under the JRA.

In June 2012, amendments to the *Commonwealth Electoral Act 1918* were passed providing for the Federal Direct Enrolment and Update (FDEU) of electors based on information from other government agencies and without the need for an elector to complete an enrolment application. Direct enrolment data is sourced from State and Territory Driver's Licence Authorities, Centrelink and the Australian Taxation Office (ATO)¹.

The AEC advises there are several issues that would arise in adding eligible 16 and 17 year old ACT voters to the roll, and provisionally enrolling eligible 14 and 15 year olds:²

¹ Australian Electoral Commission 2020, *Direct enrolment and update*, accessed 27 January 2022, www.aec.gov.au/Enrolling_to_vote/About_Electoral_Roll/direct.htm

² Discussions/emails between the ACT Electoral Commission and the AEC as part of the Commonwealth/Territory Joint Roll Arrangement.

- 16-17 year olds are not included in existing FDEU legislation or processes because their enrolment is not compulsory under s 100 of the *Commonwealth Electoral Act 1918*.
- Data sources and evidence of identity for the age group 14-17 would need to be identified and established, requiring new agreements to be negotiated by the AEC with established FDEU data providers and potentially the ACT Education Directorate, with additional costs passed to the Commission.
- A unique Territory specific notation for ACT only 16-17 year olds would need be established, agreed to and added in the AEC's enrolment systems.
- A new separate Memorandum of Understanding (MoU) would need to be negotiated and agreed with the AEC under the JRA, including ACT specific electoral event roll products, incurring associated additional costs to the Commission.
- Legal issues would require further consideration by the AEC, including the application of FDEU for 16-17 year olds, their legal responsibilities for enrolment, and whether 14-17 year olds would require guardian or parental support.
- Changes would be required to existing AEC online and paper based enrolment processes and forms specific to the ACT, with additional costs passed to the Commission.

To manually enrol, citizens must provide proof of identity in the form of either an Australian driver's licence or an Australia passport number, or they must have someone who is enrolled confirm their identity. Currently, the AEC does not accept any other forms of identification, such as 18+ or Proof of Age cards.

This lack of proof of identity documentation or data could be seen as an unreasonable hindrance to young people enrolling. It could be argued that for this class of citizen the process for enrolling would be significantly more onerous than the systems in place for older citizens. That situation may be regarded as unfair, even discriminatory. It could be further so regarded if a fine for failure to enrol were to apply. The ACT is a human rights jurisdiction, and an issue of human rights may arise as a consequence of any such enactment.

Compulsory voting

While compulsory voting is not required under the Self-Government Act, the Proportional Representation (Hare-Clark) Entrenchment Act nevertheless establishes the principle that "voting in an election shall be compulsory" into ACT law. The Electoral Act also provides for compulsory voting for all electors eligible to vote at an election. Accordingly, if the voting age was lowered to 16, voting would be compulsory for 16 and 17 year olds.

Currently, electors who fail to vote without a valid and sufficient reason may pay a \$20 penalty, thereby discharging any liability for failing to vote and ensuring proceedings against that offence are not instituted; or they may pay an \$80 penalty plus court costs if convicted by a court.

As with compulsory enrolment, enforcing compulsory voting of 16 and 17 year olds is considered a significant disincentive to adopting a lowered voting age by imposing a criminal penalty on minors, an action considered as broadly socially unacceptable. Such negative actions are also likely to discourage future participation by youth in electoral processes, regardless of the reduced penalty amounts for minors as proposed by the Bill.

Eligibility for election to the ACT Legislative Assembly

At present, all electors who are eligible to vote may also stand as candidates and be elected as Members of the Assembly. The Electoral Act specifically provides that any person aged 18 or over is eligible to be elected to the Assembly. In turn, any Member of the Assembly is eligible to be appointed as a Minister.

If the voting age was lowered to 16, the Assembly could choose to maintain a harmony between voting and candidacy as an MLA by also lowering the age of candidacy to 16; or it could keep the age of candidacy at 18 irrespective of the voting age. The Bill as drafted does not address this issue.

Lowering the age of candidacy to 16 might give rise to questions about the suitability of a minor being a candidate for election as a Member of the Assembly, and, if successful, potentially being appointed as a Minister. Given that the role of an MLA is taken to be a full-time occupation, it could also be seen as inappropriate for a 16 or 17 year old to take up an MLA seat if he or she had not yet completed secondary schooling, and was unable to do so having been elected to a full-time role as an MLA.

Resource and staff implications

Allowing 16 and 17 year olds to enrol and vote, and provisionally enrolling 14 and 15 year olds, would entail ongoing additional funding for a range of services related to the electoral roll, electoral education, and elections.

Electoral roll costs

As identified in discussions with the AEC, extending enrolment and voting to 16 and 17 year olds and provisional enrolment to 14 and 15 year olds would give rise to several issues in management of the joint Commonwealth and ACT roll (see the above section 'Administrative Processes Supporting Enrolment of Young People'). This would require the ACT to negotiate a new MoU under the terms of the JRA with the Commonwealth. Alterations would be required to the current enrolment form and/or adoption of a special enrolment form specific to 16 and 17 year olds for ACT purposes. It is likely that software alterations would be required to the AEC's direct enrolment scheme and roll maintenance system.

The ACT currently pays the AEC a fee for maintaining the joint roll on the basis of a national per elector rate. At present, the ACT pays half of some of the costs of enrolling a person. If the voting age were to be lowered, the ACT would need to cover the full cost of enrolling this new group of electors given they are not entitled to enrol for Commonwealth purposes.

Additional costs would include both the AEC's costs of processing enrolment claims and the costs of printing and posting enrolment forms, targeted mail, and acknowledgments. Elections ACT would need additional appropriation funding to cover these new and additional costs related to extending compulsory enrolment for 16 and 17 year olds.

Education campaigns

An important consideration would be the need for the necessary community and school education programs arising from the Bill to both publicise the change in the lead up to the 2024 ACT election, and to inform subsequent generations of 16 and 17 year olds of the special provisions for ACT legislative Assembly elections separate to their obligations federally and in other jurisdictions.

Delivery of such programs to 16 and 17 year olds is outside the existing senior school curriculum and subject to control of the Education Directorate. Additional costs and staff resources required by the Commission to develop, deliver and sustain such tailored programs suitable for this age group has not yet been determined and would need detailed consultation with and analysis by the Education Directorate.

Election costs

Adding a significant number of voters to the electoral roll would lead to increases in the cost of running an ACT election.

Based on the number of 18 and 19 year olds enrolled for the 2020 election, it is estimated that around 8,000 16 and 17 year olds would enrol and vote at an Assembly election if they were entitled to and if voting was compulsory. Servicing these extra voters would require additional funding to employ more polling staff, print extra ballot papers and procure additional voting equipment. It is estimated, based on a per-electoral rate, that up to an additional \$145,000 would be required in an election year to service the additional 16 and 17 year olds on the ACT roll.

Issues affecting the electoral awareness of young people

The Youth Electoral Study commissioned by the AEC in 2004 indicated that high proportions year 12 students felt unwilling and/or unable to participate in traditional or conventional forms of political engagements such as voting.

For example:

- 50% of students said they would not vote if it was not compulsory
- 52% said they had enough knowledge to understand political issues
- 49% said they had enough knowledge to understand political parties
- 49% said they had enough knowledge to make a decision when voting
- 48% said they had enough knowledge to be able to vote.³

These figures indicate that around half of all the Year 12 students surveyed (who would be expected to be in the 17 to 18 year old age group) felt ill-equipped to vote in elections. It is therefore highly likely that a higher proportion of 15 and 16 year olds would feel equally ill-equipped to participate. The Commission considers that the results are unlikely to be significantly different if the survey was undertaken today.

Prior to the introduction of direct enrolment, the under-enrolment of young people was a national problem that all electoral commissions around Australia worked to address. Historically, young people only enrolled of their own accord when an election was imminent. Even then, the proportion of 18 year olds enrolled was still significantly below the participation rates of older age groups.

For example, at the time of the 2012 ACT election, it was estimated by the AEC that only 67% of eligible 18 year olds and 56% of eligible 19 year olds were enrolled compared to 93.9% for the whole eligible population of the ACT. Four years of direct enrolment significantly improved these figures to 96.7% and 103.7% respectively (noting that participation rates greater than

³ Murray Print, Larry Saha, Kathy Edwards, *Youth Electoral Study - Report 1: Enrolment and Voting*, 2004, pp 8, 12. See www.aec.gov.au/content/What/publications/youth_study_1/youth_electoral_study_01.pdf

100% are likely to be due to the nature of the census population data on which the estimates are based); however, these improved figures are unlikely to be an indication of increased political interest among teenagers generally.

While a range of factors likely impacted under-enrolment of young people prior to the direct enrolment scheme, the Commission considers that their relative lack of maturity and political awareness, as indicated by the Youth Electoral Study, must have been significant contributors. It can be expected that a high proportion of 16 and 17 year olds would not be inclined to enrol and/or vote for the same reasons, especially considering that this obligation would be unique to ACT Legislative Assembly elections.

Other electoral models

A review of the minimum voting age in other countries indicates that most countries have set 18 as the minimum voting age. A small number of countries set 21 as the minimum voting age.

No countries with political systems like Australia's have at this time reduced their voting age below 18. For example, Canada, Ireland, New Zealand, the United Kingdom, and the United States of America have all set 18 as the minimum voting age.

Countries with a lower than 18 voting ages have increased over the past decade.

Countries with a voting age of 16 or 17 are outlined in the table below⁴:

Country	Voting age	Country	Voting age
Argentina	16	Scotland	16 (for Scottish parliament elections only)
Austria	16	East Timor	17
Brazil	16	Ethiopia	17
Bosnia & Herzegovina	16 (if employed, otherwise 18)	Greece	17
Cuba	16	Indonesia	17
Ecuador	16	North Korea	17
Malta	16	Sudan	17
Nicaragua	16	South Sudan	17

From the table above, only the Greek legislation includes a voting compulsion for all citizens regardless of age. However, in practice there are no specified sanctions within the legislation for enforcing the compulsory system in Greece⁵. Argentina, Brazil and Ecuador have compulsory voting legislation for those 18 years or older, but voting for 16 and 17 year olds is non-

⁴ Information sourced from: en.wikipedia.org/wiki/Voting_age

⁵ Information sourced from: www.electoralcommission.org.uk/_data/assets/electoral_commission_pdf_file/0020/16157/ECCCompVotingfinal_2222_5-16484_ENSW.pdf

compulsory.⁶ It is noteworthy that in Iran prior to 2007 the voting age was 15. However, the voting age was raised to 18 years in 2007, returned to 15 in 2009 and then returned to 18 in 2011.

Countries such as Germany and Switzerland allow voting at 16 for state-level elections, but not for national elections.

Conclusion

This submission by the Commission to the Standing Committee's Inquiry into the Electoral Amendment Bill 2021 addresses the matter of lowering the mandatory voting age.

The Commission is opposed to lowering the mandatory voting age from 18 to 16 due to the negative impacts on youth and likely willingness to engage in the electoral processes; voter confusion arising from non-alignment with all other Australian jurisdictions; resource and staff implications for the Commission in delivering increased education, enrolment and electoral services; and high levels of anxiety amongst electoral staff in dealing with minors who may be confronting criminal court procedures and penalties for failing to enrol and vote.

The establishment and maintenance of a separate and unique electoral roll for 16 and 17 year old electors in the context of the current joint Commonwealth/Territory electoral roll would involve extra cost, administration and workload for the AEC and the Commission.

While recognising that the proposed Bill would enable some politically attuned 16 and 17 year olds to both enrol and vote in the ACT elections, this needs to be balanced against the significant negative issues that mandatory enrolment and voting for all 16 and 17 year olds would cause to this age group who may not be interested in voting in only the ACT elections, and the corresponding administrative burden and cost of implementation.

The Commission's view is that there are overwhelming costs and disadvantages compared to the benefits for some, in any cost benefit calculation, and recommends retaining the mandatory voting age of 18.

⁶ Information sourced from: www.thenews.com.pk/archive/print/628368-of-31-countries-with-compulsory-voting,-a-dozen-actually-enforce-it

Appendix A: Extracts of relevant legislation – lowering the voting age

Australian Capital Territory (Self-Government) Act 1988 (Commonwealth)

67A General elections

- (1) The members to be elected at a general election are to be elected as provided by sections 67, 67C and 67D and by an enactment that:
- (a) provides for general elections; and
 - (b) complies with section 67B; and
 - (c) was made after polling day for the second general election.

67B Electoral enactment

An electoral enactment is to provide, among other things:

- (a) for the times of general elections; and
- (b) for a Roll of the electors of the Territory for the purposes of general elections; and
- (c) that every person who is entitled to be enrolled on that Roll and who is resident in the Territory is required to claim enrolment; and
- (d) if the electoral enactment provides for the distribution of the Territory into electorates—that a redistribution of the Territory into electorates is to commence not later than 6 years after the previous distribution or redistribution.

67C Qualifications of electors

- (1) At a general election held on a particular day, a person is entitled to vote if:
- (a) on that day, the person's name is on the Roll of the electors of the Territory for the purposes of general elections; and
 - (b) the person would be entitled to vote at an election held on that day to choose a member of the House of Representatives for the Territory.
- (2) A person's name is taken not to be on the Roll for the purposes of paragraph (1)(a) if an electoral enactment so provides.
- (3) This section does not prevent an electoral enactment from providing that other persons, in addition to persons entitled under subsection (1), be entitled to vote at a general election.

Electoral Act 1992 (ACT)

72 Entitlement

- (1) A person is entitled to be enrolled for an electorate if—
 - (a) the person is entitled to be enrolled on the Commonwealth roll otherwise than under the Commonwealth Electoral Act, section 100 [which provides for 16 year old provisional enrolment]; and
 - (b) the person's address is in the electorate.
- (2) A person is also entitled to be enrolled for an electorate if—
 - (a) the person is not entitled to be enrolled on the Commonwealth roll only because the person is serving a sentence of imprisonment; and
 - (b) the person's address is in the electorate.
- (3) A person is not entitled to be enrolled for more than 1 electorate.

73 Compulsory enrolment etc—residents

- (1) A person who—
 - (a) is entitled to be enrolled for an electorate; and
 - (b) is not enrolled on any roll;shall, subject to subsection (5), make a claim for enrolment within 21 days after the day the person became so entitled.
- (2) An elector who—
 - (a) is enrolled for an electorate; and
 - (b) is entitled, following a change of address, to be enrolled for another electorate;shall, subject to subsections (4) and (5), make a claim for a transfer of enrolment within 52 days after the date of the change of address.
- (3) An elector who changes address within an electorate shall, subject to subsections (4) and (5), give the commissioner written notice setting out the particulars of the new address within 52 days after the date of the change of address.

Note For how documents may be given, see *Legislation Act 2001*, pt 19.5.
- (4) Subsections (2) and (3) do not apply to an eligible overseas elector, an Antarctic elector or a person who is not at least 18 years old.
- (5) If a person is enrolled on the Commonwealth roll otherwise than under the Commonwealth Electoral Act, section 100 and the address recorded on that roll in relation to the person is an address in an electorate—
 - (a) the person shall be taken—
 - (i) to have made a claim under subsection (1) or (2), or given notice under subsection (3), whichever is appropriate; and
 - (ii) to be enrolled for the electorate; and
 - (b) the particulars recorded on the Commonwealth roll in relation to the person shall, so far as practicable, be taken to be the particulars recorded on the roll for the electorate.

- (6) A person who, without reasonable excuse, contravenes subsection (1), (2) or (3) commits an offence.

Maximum penalty: 0.5 penalty units.

75 Age 16 enrolment

- (1) The commissioner shall enrol a person on the roll for an electorate if the person—
- (a) is at least 16 years old; and
 - (b) would, had the person attained the age of 18 years, be entitled to be enrolled for the electorate; and
 - (c) makes a claim for enrolment.
- (2) If a person is enrolled on the Commonwealth roll under the Commonwealth Electoral Act, section 100 and the address recorded on that roll is an address in an electorate—
- (a) the person shall be taken—
 - (i) to have made a claim for enrolment under this section; and
 - (ii) to be enrolled under this section on the roll for the electorate; and
 - (b) the particulars recorded on the Commonwealth roll in relation to the person shall, so far as practicable, be taken to be the particulars recorded on the roll for the electorate.

128 Entitlement to vote

- (1) Subject to subsection (2), an elector enrolled for an electorate is entitled to vote at an election for the electorate.
- (2) A person who is enrolled is not entitled to vote at an election unless he or she will be at least 18 years old on the day the poll for the election is required to be held.

...

129 Compulsory voting

- (1) An elector who is entitled to vote at an election shall not, without a valid and sufficient reason, fail to vote at the election.
- Maximum penalty: 0.5 penalty units.
- (2) Subsection (1) does not apply to—
- (a) an eligible overseas elector; or
 - (b) an Antarctic elector; or
 - (c) an elector who is serving a sentence of imprisonment outside the ACT; or
 - (d) an elector who is enrolled because of his or her enrolment on the Commonwealth roll as an itinerant elector.
- (3) Without limiting subsection (1), an elector shall be taken to have a valid and sufficient reason for failing to vote at an election if the elector believes it to be part of his or her religious duty to abstain from voting.

Proportional Representation (Hare-Clark) Entrenchment Act 1994 (ACT)

4 Entrenchment of electoral system

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

...

(c) voting in an election shall be compulsory;

...

5 Special procedures for making certain enactments

- (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.