



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

Mr Jeremy Hanson MLA (Chair), Dr Marisa Paterson (Deputy Chair), Ms Jo Clay MLA

Submission Cover Sheet

Inquiry into 2020 ACT Election and the Electoral Act

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Minister for Skills
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Member for Murrumbidgee

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Standing Committee on Justice and Community Safety
ACT Legislative Assembly
GPO Box 1020
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Dear Mr Hanson

Thank you for the opportunity to make a submission to the Committee's inquiry into the 2020 ACT Election and Electoral Act.

I write to provide the Committee with information on recent amendments to the *Electoral Act 1992* (Electoral Act) made prior to the 2020 election, including those made in response to the COVID-19 pandemic. I also include information on three key priorities contained in the Parliamentary and Governing Agreement for the 10th Legislative Assembly of the ACT that the Committee may wish to consider in undertaking its inquiry.



In addition, I provide the Committee with a tabular overview of the legal frameworks relevant to the Committee's terms of reference, identifying matters to which the Committee may have regard (see, **table A** below).

THE IMPACT OF COVID-19 ON THE ACT ELECTION

COVID-19 Emergency Response Legislation Amendment Act 2020 (No.2)

The COVID-19 Emergency Response Legislation Amendment Act 2020 (No.2) (COVID-19 Amendment Act (No.2)) introduced temporary amendments to the Electoral Act for the October 2020 election in the COVID-19 environment.

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In summary, the electoral amendments:

- expanded the eligibility criteria for pre-poll voting so that any eligible elector of the ACT could cast a vote before polling day at early voting centres (section 136AA),
- supported the Electoral Commission's deployment of an overseas electronic voting solution for eligible ACT electors who were abroad (section 120),
- clarified that the offence under the Electoral Act for making a false or misleading statement in response to an official question applied to a person responding to a question about their eligibility to vote using the overseas electronic voting solution (section 136D); and
- supported the Electoral Commission's deployment of a telephone voting system for eligible ACT electors who are blind or vision impaired and electors who have a physical disability (section 136BA).

The electoral amendments applied to the 2020 ACT election only and will expire on 17 April 2021. While these amendments were brought in on a temporary basis, the Committee may wish to consider whether these changes should be made permanent, especially those pertaining to electronic and telephone voting.

In relation to an electronic voting option for overseas electors (see section 136D of the Act), the Select Committee Inquiry into the 2016 Election and the Electoral Act recommended that the ACT Electoral Commission consider a limited electronic voting option for overseas electors, noting that without such provision there is a risk that overseas electors would be disenfranchised due to delays associated with international postal services. The Speaker tabled the Commission's report on this issue, *A limited electronic voting option for electors who are overseas*, in September 2019. The amendments contained in the COVID Amendment Act were based on the Commission's recommendations.

The COVID-19 Amendment Act (No. 2) also introduced a new section 136BA to the Electoral Act to support the deployment of a telephone voting system for eligible ACT electors who are blind or vision impaired or have a physical disability. This system assisted those voters to vote from home. Amendments for telephone voting also relate to recommendations 14 and 15 of the Select Committee on the 2016 ACT Election and the Electoral Act.

OTHER RECENT AMENDMENTS

Electoral Legislation Amendment Act 2020

The *Electoral Legislation Amendment Act 2020* (Amendment Act) made amendments to the Electoral Act to address a number of recommendations of the Select Committee on the 2016 ACT Election and the Electoral Act identified by the Electoral Commission as being necessary to improve the operation of the Act.

The Act also progressed an election commitment made in 2016 to allow voters to enrol to vote in an election up to and including election day, to maximise Canberrans' opportunity to participate in ACT elections.

In addition to this amendment, the Amending Act included amendments to:

- ensure consistency in measuring a defined polling area by specifying that a defined polling area is the area within the building where the polling place is located, and within 100m of the building (section 303),
- require the full given name and surname of a person and the name of an entity (where an electoral matter is published on behalf of an entity) to be shown in an authorisation statement to allow the public to identify the source behind the dissemination of the electoral matter (section 306),
- require fractional transfer values for votes to be rounded down to 6 decimal places rather than the nearest whole number to minimise the possibility of unfair and/or anomalous election results that may result from rounding down to whole numbers (Schedule 4, Part 4.1, 1A),
- correct an anomaly to prevent the public disclosure of address details of individuals paying money or providing gifts to political entities, to ensure appropriate privacy protections are in place (section 216A), and
- make a technical amendment to section 292 of the Act (about dissemination of unauthorised electoral material) to ensure consistency of terminology.

The Amending Act also contained amendments introduced by the ACT Greens that require the Electoral Commissioner to publish information about candidates for an ACT election on the Elections ACT website (section 110A). Previously, the website simply listed candidates, whereas the amendment increased the amount of information available to members of the public about candidates by providing a central repository for viewing candidate profiles, including a short statement, photo, and a link to a website that could be chosen by the candidate.

Electoral Amendment Act 2020

The *Electoral Amendment Act 2020* was notified on 4 September 2020 and will commence on 1 July 2021.

Section 222G introduces penalties for the acceptance or receipt of gifts made by a property developer or close associate of a property developer to a political entity. A political entity includes an MLA or a political party, and a close associate includes an officer of a corporation and their domestic partner. The ban on donations will not apply to a close associate if, at the time the gift was given, the close associate is a candidate in an election; and if the gift is returned to the giver within 30 days of receipt.

The provision and acceptance of gifts below \$250 in a financial year will be subject to a fine, whereas amounts over \$250 will be subject to criminal penalty. A recipient of a gift will be penalised unless they are able to show that they took reasonable steps to ensure that the giver of gifts is not a prohibited donor. Reasonable steps may, for example, include giving potential donors written notice that donations from property developers or close associates of property developers are prohibited or asking the person who gives the gift about whether the person is a property developer or a close associate of a property developer.

Further, Part 33 of the Amendment Act contains a (retrospective) 'transitional ban' so that the penalties against giving and receiving gifts from property developers and their associates apply from 18 October 2020 to 31 June 2021.

The Amendment Act also contains amendments relating to misleading electoral advertising (section 297A), providing that these advertisements must not contain any statement purporting to be a statement of fact that is inaccurate and misleading to a material extent. A person commits an offence if the person disseminates or authorises the dissemination of the electoral advertisement which contains such statements. The Electoral Commissioner may ask the person not to disseminate the advertisement again, publish a retraction or apply to the Court for a determination of a penalty.

Further amendments contained in the Amendment Act include:

- an objects clause to expressly state the purposes of the framework for the conduct of elections under the Electoral Act,
- amendments to require the total amount of a fundraising contribution to be treated as a 'gift' for the purpose of reporting thresholds. Currently, there is no requirement to report fundraising contributions up to \$250; and
- amendments to require the reporting of gifts over \$1,000 to the Electoral Commission within seven days of receipt if the gift is given between the first day of an election period and 30 days after the election period ends. Outside of these dates, monthly reporting of these gifts is required.

OTHER MATTERS

Parliamentary and Governing Agreement

The Parliamentary and Governing Agreement for the 10th Legislative Assembly of the ACT identified three priorities relating to electoral reform (see Appendix 2). These are to:

- legislate to ban any political donations from foreign sources,
- introduce 'real time' political donation reporting within seven days of receipt of a large donation; and
- further restrict roadside electoral advertising including further regulation of roadside corflutes and introduce specific offences for roadside advertising using illegally parked or idling vehicles for commercial or political purposes.

The Government would welcome the Committee's consideration of these issues and any recommendations relating to them or any other options the Government should consider aimed at reducing the risk of potential foreign interference or influence over ACT election processes and political parties.

I trust this information will assist the Committee in its important work. I look forward to seeing the Committee's report and recommendations.

Yours sincerely



Chris Steel MLA
Special Minister of State
24 April 2021

Table A: Legislative framework relevant to the Terms of References and associated issues for the Committee’s consideration

To assist the Committee further, information on the legal framework (including the temporary legislative measures progressed through the COVID-19 Amendment Act No.2) relevant to each of the terms of reference (1-10) have been included for the Committee’s consideration below.

Terms of Reference	Current legislative framework	Relevant issues and implications for the Committee’s consideration
(1) the impact of COVID-19 on the ACT election and mitigation measures taken by the ACT	<i>Addressed above.</i>	
(2) the report of the ACT Electoral Commissioner into the 2020 ACT election	<i>Report to be considered by the Committee.</i>	
(3) the timeframe and accessibility of early voting	<p>Division 10.4 of the Electoral Act 2020 outlines voting arrangements, including early voting.</p> <p>Voters are able to access early voting under normal circumstances through applying for postal voting papers (section 136A) or by attending an early voting polling place (section 136B).</p> <p>136A Applications for postal voting papers</p> <p>(1) In this section:</p>	<p>The Committee may wish to consider the repeal of COVID-19 measures.</p> <p>The following provisions will be repealed on 17 April 2021:</p> <ul style="list-style-type: none"> • 136AA – COVID-19 measure allowing all enrolled and entitled



	<p>eligible elector, for an election, means an elector who is entitled to vote at the election and—</p> <p>(a) who expects to be unable to attend—</p> <p>(i) at a polling place on polling day; or</p> <p>(ii) at a place where a vote may be made before an officer under section 136B before polling day; or</p> <p>(b) whose address is a suppressed address.</p> <p>(2) An eligible elector for an election (or a person authorised by the eligible elector) may apply to an authorised officer for declaration voting papers for postal voting (postal voting papers) for the election.</p> <p>(3) The application may be made orally or in writing.</p> <p>(4) The application must include a declaration that the applicant is an eligible elector for the election.</p> <p>(5) The application must be received by an authorised officer before 8pm on the day before polling day.</p> <p>(6) If an authorised officer receives an application under this section from, or on behalf of, a person claiming to be an eligible elector for an election (the applicant), the officer must—</p> <p>(a) if satisfied that the applicant’s name is on the preliminary certified list of electors for an electorate— post postal voting papers for the electorate to the applicant; or</p> <p>(b) if not so satisfied— post postal voting papers for the electorate in which in the applicant claims to be enrolled to the applicant.</p> <p>(7) However, the authorised officer must not post postal voting papers to the applicant—</p>	<p>electors to access early voting for 2020 election</p> <ul style="list-style-type: none"> • 136BA – Telephone voting by certain electors • 136D – Electronic declaration voting by electors outside Australia
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	<p>(a) if the applicant has nominated a postal address outside Australia—if the application is received by the officer after 5pm on the Friday 8 days before polling day; or</p> <p>(b) in any other case—if the application is received by the officer after the last mail clearance, at the post office nominated by the commissioner in the postal voting papers, on the last Thursday before polling day; or</p> <p>(c) in any case—if the officer has reason to believe that the applicant is at a place where the normal transmission of mail has been significantly disrupted or curtailed or is otherwise unreliable.</p> <p>(8) Despite subsections (6) and (7), the authorised officer may give the postal voting papers to the applicant using a courier or other agent (other than an authorised delivery service), if the officer believes on reasonable grounds that—</p> <p>(a) the applicant is a person to whom subsection (7) applies; and</p> <p>(b) the papers are likely to reach the applicant in sufficient time for the applicant’s ballot paper to be completed and posted or given in accordance with section 144A (Requirements for casting postal votes) if the papers are sent to the applicant using the agent.</p> <p>(9) Despite subsections (6) and (8), the authorised officer must not post or give postal voting papers to the applicant earlier than the 19th day before polling day.</p> <p>(10) If postal voting papers are sent or given to the applicant in accordance with this section, neither the authorised officer nor the commissioner is responsible for ensuring that the papers reach the applicant.</p> <p>136B Ordinary or declaration voting in ACT before polling day</p> <p>(1) In this section:</p> <p><i>eligible elector</i>, for an election, means an elector who is entitled to vote at the election and—</p>	
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(a) who expects to be unable to attend at a polling place on polling day;
or

(b) whose address is a suppressed address.

relevant period means the period—

(a) beginning on the 3rd Monday before polling day or, if that Monday is a public holiday, the next business day; and

(b) ending at 8 pm on the day before polling day.

(2) The commissioner may determine the days and times during the relevant period for voting under this section.

(3) A determination under subsection (2) is a notifiable instrument.

(4) This section applies if—

(a) a person attends before an authorised officer on a day and at a time determined under subsection (2); and

(b) the person makes a declaration to the effect that the person is an eligible elector; and

(c) the authorised officer is satisfied that the preliminary certified list of electors for an electorate—

(i) includes the person's name; and

(ii) states an address for the person or indicates that the person's address is suppressed; and

(iii) has not been marked so as to indicate that a ballot paper has already been issued to the person.

(5) The authorised officer must issue a ballot paper to the person for the electorate.

[Subsections (6) to (20) omitted for the purpose of this submission]

136C Declaration voting outside ACT on or before polling day

(1) In this section:

eligible elector, for an election, means an elector who is entitled to vote at the election and—

- (a) who expects to be unable to attend at a polling place on polling day; or
- (b) whose address is a suppressed address.

relevant period means the period—

- (a) beginning on the 3rd Monday in the ACT before polling day or, if that Monday is a public holiday, the next business day; and
- (b) ending at 6 pm in the ACT on polling day.

(2) The commissioner may determine the days and times during the relevant period for voting under this section.

(3) This section applies if a person attends before an authorised officer outside the ACT, on a day and at a time determined under subsection (2), and makes a declaration to the effect that the person is an eligible elector.

(4) A determination under subsection (2) is a notifiable instrument.

(5) If this section applies, the authorised officer shall issue declaration voting papers to the person.

(6) Despite subsection (5), an officer shall not issue declaration voting papers to a person who indicates that he or she has already voted at the election.

(7) If an authorised officer issues declaration voting papers to the person the officer shall—

- (a) give the person a written statement indicating the consequences of casting a declaration vote under this section; and

(b) record the name of the person

(8) Section 135 (4) applies to the casting of a declaration vote under this section as if—

(a) it were a declaration vote under section 135; and

(b) the reference in section 135 (4) to an unoccupied voting compartment were a reference to an unoccupied part of the place where the person attends before the officer concerned.

COVID-19 MEASURES

Amendments made through the *COVID-19 Emergency Response Legislation Amendment Act 2020 (No 2)* expanded the accessibility for early voting for the 2020 election to entitle any person enrolled to vote as eligible for early voting and introduced telephone voting and electronic declaration voting for overseas electors.

These provisions introduced under this Amendment Act are temporary and are below for the Committee's reference:

136AA October 2020 election—COVID-19 public health measures

(1) This section applies to the general election due to be held in October 2020.

(2) Any elector who is entitled to vote at the election is an eligible elector for section 136B.

(3) The commissioner may declare a stated place to be a place where a person may attend to vote under section 136B.

(4) A declaration is a notifiable instrument.

136BA Telephone voting by certain electors

(1) In this section:

eligible elector, for an election, means an elector who—

(a) is entitled to vote at the election; and

(b) has a visual impairment or other physical disability which makes it difficult for the voter to attend a polling place to vote or vote by postal vote.

relevant period means the period—

(a) beginning on the 3rd Monday in the ACT before polling day or, if that Monday is a public holiday, the next business day; and

(b) ending at 4 pm in the ACT on polling day.

(2) An eligible elector for an election may apply to the commissioner to vote electronically by telephone for the election.

(3) The application must be received by the commissioner in the relevant period.

(4) If the commissioner receives an application in the relevant period from a person claiming to be an eligible elector for an election (the applicant) and is satisfied that the applicant's name is on the preliminary certified list of electors for an electorate, the commissioner must give the applicant an electronic ballot paper for the electorate to enable the applicant to vote electronically by telephone.

(5) The electronic vote must be received by the commissioner not later than 6pm in the ACT on polling day.

136D Electronic declaration voting by electors outside Australia

(1) In this section:

eligible elector, for an election, means an elector who is—

(a) entitled to vote at the election; and

(b) outside Australia during the relevant period.

relevant period means the period—

	<p>(a) beginning on the 3rd Monday in the ACT before polling day or, if that Monday is a public holiday, the next business day; and</p> <p>(b) ending at 4 pm in the ACT on polling day.</p> <p>station—see section 167.</p> <p>(2) To remove any doubt, for this section, an Antarctic elector located at a station is taken to be outside Australia.</p> <p>(3) An eligible elector for an election may apply to the commissioner to vote electronically for the election.</p> <p>(4) The application must include a declaration that the applicant is an eligible elector for the election.</p> <p>(5) The application must be received by the commissioner in the relevant period.</p> <p>(6) If the commissioner receives an application in the relevant period from a person claiming to be an eligible elector for an election (the applicant), the commissioner must—</p> <p style="padding-left: 40px;">(a) if satisfied that the applicant’s name is on the preliminary certified list of electors for an electorate—give the applicant an electronic ballot paper for the electorate to enable the applicant to vote electronically; or</p> <p style="padding-left: 40px;">(b) if not so satisfied—give the applicant an electronic ballot paper for the electorate in which the applicant claims to be enrolled to enable the applicant to vote electronically.</p> <p>(7) The electronic ballot paper must be received by the commissioner not later than 6pm in the ACT on polling day</p>	
<p>(4) the number and location of ordinary polling places</p>	<p>Polling places and scrutiny centres are appointed by the Commissioner (s 119) via notifiable instrument (2020 instrument).</p> <p>119 Polling places and scrutiny centres</p> <p>(1) The commissioner may—</p>	<p>There were 82 polling places appointed for the 2020 election, and 81 for the 2016 election.</p>

	<p>(a) appoint a specified place to be a polling place on polling day for an election; and</p> <p>(b) appoint a specified place to be a scrutiny centre during the election period for the purpose of the scrutiny at an election.</p> <p>(2) An appointment is a notifiable instrument.</p> <p><i>Note: A notifiable instrument must be notified under the Legislation Act 2001.</i></p> <p>(3) During a pre-election period, the commissioner—</p> <p>(a) must give additional public notice of the particulars of each polling place for the election; and</p> <p>(b) may publish notice of the particulars of each polling place for the election by any other means the commissioner determines.</p>	<p>There were 15 early polling places open during the 2020 election, while there were 5 for the 2016 election.</p>
<p>(5) the implementation, security and transparency of electronic voting</p>	<p>The ACT employs an electronic voting system. Section 131 of the Electoral Act outlines the procedures for voting, including via e-voting.</p> <p>131 Procedures for voting</p> <p>(1) At an election, an elector may—</p> <p>(a) cast a vote in accordance with division 10.2, 10.3 or 10.4; or</p> <p>(b) if the elector is a patient in a hospital or special hospital, or detained at a correctional centre—cast an ordinary vote or a declaration vote in accordance with division 10.5.</p> <p>(2) An elector who is entitled to vote at an election may cast a vote on polling day at any polling place in the ACT, whether or not the polling place is in the electorate for which the elector is enrolled.</p> <p>(3) If there is electronic voting at a polling place, an elector may vote using a paper ballot paper or electronic ballot paper.</p>	<p>COVID-19 amendments made to s 118B will be removed, including the repeal of references to “approved” voting devices or counting programs on 17 April 2021. This is in conjunction with the repeal of telephone voting and electronic overseas voting.</p>

(4) To remove any doubt, subsection (2) does not give an elector detained in lawful custody any right to leave, or be released from, the place of custody to cast a vote.

COVID-19 MEASURES

The *COVID-19 Emergency Response Legislation Amendment Act 2020 (No 2)* made changes to section 118B to facilitate the overseas electronic voting solution as well as telephone voting option. These were made to ensure backup copies of electronic data produced by an approved device or program are kept by the Commissioner as this data was to be produced at places beyond a polling place or scrutiny centre.

The Electoral Act prescribes:

Division 9.3 - Electronic voting devices and vote counting programs

118A Approval of computer program for electronic voting and vote counting

(1) The commissioner may approve 1 or more computer programs for any of the following:

- (a) to allow electronic voting in an election;
- (b) to perform steps in the scrutiny of votes in an election.

(2) The commissioner may approve a program under subsection (1)(a) only if the program will—

- (a) allow an elector to show consecutive preferences starting at '1'; and
- (b) give an elector an opportunity to correct any mistakes before processing the elector's vote; and
- (c) allow an elector to make an informal vote showing no preference for any candidate; and
- (d) not allow a person to find out how a particular elector cast his or her vote.

- (3) The commissioner may approve a program under subsection (1)(b) only if—
- (a) the proper use of the program would give the same result in the scrutiny of votes in an election as would be obtained if the scrutiny were conducted without using the program; and
 - (b) the program—
 - (i) will not allow a person to find out how a particular elector cast his or her vote; and
 - (ii) is designed to pause while the commissioner makes a determination by lot required by schedule 4; and
 - (iii) can produce indicative distributions of preferences at any time after the close of the poll and before the declaration of the poll.
- (4) An approval under subsection (1) is a notifiable instrument.
- (5) The commissioner must determine processes that must be followed in relation to the use of an approved computer program in the scrutiny of votes in an election.
- (6) Without limiting subsection (5), the commissioner may approve a process—
- (a) for entering preferences shown on paper ballots into the approved computer program; and
 - (b) for counting preferences using the program to work out—
 - (i) the number of unrejected ballot papers on which a first preference is recorded for each candidate; and
 - (ii) the number of informal ballot papers for each electorate.

118B Security of approved electronic voting devices and computer programs

	<p>(1) The commissioner must take steps to ensure that approved electronic devices and approved computer programs used or intended to be used for or in connection with electronic voting are kept secure from interference at all times.</p> <p>(2) The commissioner must keep backup copies of electronic data produced by an approved electronic device or approved computer program until whichever of the following happens last:</p> <ul style="list-style-type: none"> (a) the beginning of the pre-election period for the next election; (b) the documents are no longer required by the commissioner, another member of the electoral commission or a member of the staff of the commission for exercising a function under this Act. 	
<p>(6) the efficacy of the six-week campaign period, including restrictions on roadside signage</p>	<p>The Transport Canberra and City Services Directorate administers laws relating to the placement of signs in public places and activity on unleased public land in the ACT. A Code of Practice for Movable Signs (the Code) was established under the <i>Public Unleased Land Act 2013</i>, enforced by City Rangers.</p> <p>The Code recognises the Electoral Act by requiring that signs conform to the requirements of any relevant provisions of those Acts. The Code dictates for electoral advertising signs, among other things, that:</p> <ul style="list-style-type: none"> • electoral advertising signs may only be displayed for a period of up to 6 weeks, with this period being the 6 weeks immediately preceding the election date • electoral advertising sign must be removed within 48 hours of the close of polling booths and any sign not removed within this period is considered an illegal sign or poster <ul style="list-style-type: none"> • Section 105A of the <i>Public Unleased Land Act 2013</i> was inserted by the <i>Electoral Legislation Amendment Act 2020</i> to allow authorised persons to remove electoral advertising signage placed on public unleased land if the person fails to comply with the Code or the sign does not comply. • restrictions on where movable signs cannot be placed (for example, roundabouts, median strips of roads, within 20 metres of traffic lights, within defined designated areas) 	<p>The Parliamentary & Governing Agreement for the 10th Legislative Assembly states an agreed legislative reform is to ‘further restrict roadside electoral advertising including further regulation of roadside corflutes and introduce specific offences for roadside advertising using illegally parked or idling vehicles for commercial or political purposes’.</p> <p>The Committee may wish to give consideration to balancing any restrictions on roadside signage with the implied constitutional freedom of political communication and freedom of expression/right to take</p>

	<ul style="list-style-type: none"> restrictions on what movable signs can be attached or affixed to (for example, they cannot be attached to bridges or overpasses, Government property, trees, traffic lights). 	part in public affairs under the ACT <i>Human Rights Act 2004</i> .
(7) improving donation rules and donation reporting timeframes	<p>Part 14 of the Electoral Act outlines the rules regarding election funding, expenditure and financial disclosure.</p> <p>For reporting requirements, party groupings must submit a gift return to Elections ACT when a gift, or a sum of gifts, totalling \$1,000 or more is received from the same individual or organisation in the relevant disclosure periods.</p> <p>Party groupings are not permitted to accept anonymous gifts of \$1,000 or more and a party, MLA, non-party candidate or associated entity is not permitted to keep more than \$25,000 received as anonymous gifts of less than \$1,000 in a financial year.</p> <p>Disclosure periods for party groups is a financial year. Outside of an election year, returns must be submitted within 30 days of the end of each quarter of gifts reaching the \$1,000 reporting threshold.</p> <p>More frequent reporting requirements apply in an election year. For example, if the value of the gift or gifts received from a person reaches \$1,000 in the financial year between 1 April and 30 June, the declaration must be made to the Electoral Commissioner by 7 July.</p> <p>The <i>Electoral Amendment Act 2020</i> will amend the Electoral Act, commencing 1 July 2021, to require the reporting of gifts over \$1,000 to the Electoral Commission within seven days of receipt if the gift is given between the first day of an election period and 30 days after the election period ends. Outside of these dates, monthly reporting of these gifts is required.</p> <p>The <i>Electoral Amendment Act 2020</i> will also amend the Electoral Act, commencing 1 July 2021, to ban gifts from property developers. If the amount is less than \$250, the giver of the gift must pay the Territory an amount equal to the amount of the gift.</p> <p>A property developer commits an offence if:</p>	<p>The Parliamentary and Governing Agreement for the 10th Legislative Assembly includes commitments to:</p> <ul style="list-style-type: none"> legislate to ban any political donations from foreign sources, and introduce ‘real time’ political donations reporting within seven days of receipt of a large donation. <p>Amendments to the Commonwealth <i>Electoral Act 1918</i> which commenced on 1 January 2019 have implications for the operation of the ACT’s funding and disclosure scheme.</p>

	<ul style="list-style-type: none"> • they gift \$250 or more (total value of gifts given in a financial year) to a political entity; and • they have either: <ul style="list-style-type: none"> ○ made 1 or more relevant planning applications that have not been decided; or ○ in the 7-year period before the gift is given, the property developer has made 3 or more relevant planning applications. <p>Similar offence provisions will come into effect for close associates of property developers and for a person giving a gift on behalf of a property developer or close associate of a property developer.</p> <p>Likewise, offence provisions will be introduced to ban acceptance of gifts, under \$250 and over \$250, from property developers, their close associates or people acting on behalf of either.</p>	
<p>(8) increasing voter turnout and participation in elections and encouraging political activity</p>	<p><u>Enrolment up to and including election day</u></p> <p>The <i>Electoral Legislation Amendment Act 2020</i> progressed an election commitment made in 2016 to allow voters to enrol to vote in an election up to and including election day, to maximise Canberrans’ opportunity to participate in ACT elections. This was achieved through removal of references to ‘closed rolls’ and the amendment to section 121.</p> <p>121 Certified extracts and certified lists of electors</p> <p>(1) As soon as practicable after the beginning of the pre-election period for an election, the commissioner must—</p> <p style="padding-left: 40px;">(a) prepare—</p> <p style="padding-left: 80px;">(i) a preliminary certified extract of electors for each electorate; and</p> <p style="padding-left: 80px;">(ii) a preliminary certified list of electors for each electorate; and</p> <p style="padding-left: 40px;">(b) give a copy of the preliminary certified lists to the OIC for each polling place; and</p>	


	<p>(c) on request by a candidate for the electorate—give a copy of the preliminary certified extract to the candidate.</p> <p>(2) As soon as practicable after polling day for an election, the commissioner must prepare—</p> <ul style="list-style-type: none">(a) a supplementary certified extract of electors for each electorate; and(b) a supplementary certified list of electors for each electorate. <p>(3) For subsection (1)(c), the candidate may ask for, and the commissioner may give, the preliminary certified extract in electronic or paper form.</p> <p>(4) In this section:</p> <p>eligible elector, in relation to an election, means an elector who is, or will be, at least 18 years old on polling day for the election.</p> <p>preliminary certified extract of electors, for an election in an electorate, means an extract from the roll for the electorate, certified by the commissioner, for each eligible elector who is enrolled for the electorate immediately before 6pm on the first day of the pre-election period.</p> <p>preliminary certified list of electors, for an election in an electorate, means a list, certified by the commissioner, that contains—</p> <ul style="list-style-type: none">(a) the preliminary certified extract of electors; and(b) each elector’s year of birth and gender. <p>supplementary certified extract of electors, for an election in an electorate, means an extract from the roll for the electorate, certified by the commissioner, for each eligible elector who—</p> <ul style="list-style-type: none">(a) is enrolled for the electorate—<ul style="list-style-type: none">(i) at or after 6pm on the first day of the pre-election period; but(ii) before 6pm on polling day; or	
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	<p>(b) was enrolled for the electorate at or after 6pm on polling day but applied to be enrolled before—</p> <p>(i) 6pm on polling day; or</p> <p>(ii) for a person mentioned in section 154 (2)—the close of the polling place.</p> <p>supplementary certified list of electors, for an election in an electorate, means a list, certified by the commissioner, that contains—</p> <p>(a) the supplementary certified extract of electors; and</p> <p>(b) each elector’s year of birth and gender.</p> <p><u>Compulsory voting</u></p> <p>Any elector who is enrolled and is entitled to vote must vote at an election. Failure to vote without valid and sufficient reasons (s 129) results in 0.5 penalty units (s 129). There are certain classes of people who are exempt from compulsory voting in the ACT (i.e. Antarctic elector, eligible overseas elector, etc).</p> <p>Failure to vote</p> <p>Division 10.7 outlines the process for failure to vote, including issuing of three default notices. If a person who failed to vote at an election pays the \$20 prescribed penalty, any liability for failing to vote is discharged and proceedings for an offence against section 129 will not be instituted.</p> <p>Section 326 allows the Commissioner to institute and conduct any prosecution in relation to offence against s 129(1) – failure to vote.</p>	
<p>(9) restrictions on campaigning activities outside polling places</p>	<p>303 Canvassing within 100m of polling places</p> <p>(1) A person shall not, during polling hours within the defined polling area in relation to a polling place—</p> <p>(a) do anything for the purpose of influencing the vote of an elector as the elector is approaching, or while the elector is at, the polling place; or</p>	

	<p>(b) do anything for the purpose of inducing an elector not to vote as the elector is approaching, or while the elector is at, the polling place; or</p> <p>(c) exhibit a notice containing electoral matter that is able to be clearly seen by electors approaching, or at, the polling place, other than a notice authorised by the commissioner for display there.</p> <p>Maximum penalty: 5 penalty units.</p> <p>(2) An officer may, if directed by the commissioner, remove or obliterate a notice that the commissioner or the officer believes on reasonable grounds to be exhibited in contravention of this section.</p> <p>(3) Subsection (2) does not authorise an officer to enter land that is subject to a territory lease.</p> <p>(4) A person shall not obstruct an officer in the exercise or attempted exercise of the officer’s functions under subsection (2).</p> <p>Maximum penalty: 50 penalty units, imprisonment for 6 months or both.</p> <p>(5) In this section:</p> <p>defined polling area, in relation to a polling place, means the area within the building where the polling place is located, and within 100m of the building.</p> <p>polling hours, in relation to a polling place, means —</p> <p>(a) for a polling place appointed under section 119—between the hours of 8 am and 6 pm on polling day; or</p> <p>(b) for a polling place where a vote may be made before an officer—any time when the place is open for the acceptance of votes; or</p> <p>(c) for a polling place where polling is authorised under division 10.5—the period when a mobile polling visit is being made to the building where that place is located</p>	
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<p>(10) lowering the voting age</p>	<p>Under ACT Electoral Law, section 128 stipulates a person is entitled to vote if they are enrolled to vote and will be at least 18 years old on the day the poll for the election is required to be held (see section 93 <i>Commonwealth Electoral Act 1918</i> for equivalent).</p> <p>Under both ACT (section 75) and Commonwealth (section 100) electoral laws, a person who has turned 16, but is under 18 years of age, may make a claim to be enrolled on an Electoral Roll. While they may be enrolled, they are not able to vote in an election until they turn 18 years of age.</p>	<p>The ACT electoral roll is maintained by the Australian Electoral Commission (AEC). Enrolment provisions for the ACT mirror Commonwealth elections. Any consideration to lowering the voting age in the ACT would need to address any implications for the maintenance of the electoral roll.</p>
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