

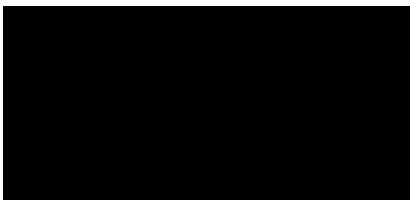
The Secretary
JACS Committee - Inquiry into the 2020 ACT Election and the Electoral Act
Legislative Assembly for the Australian Capital Territory
Civic Square, London Circuit
CANBERRA ACT 2601

Inquiry into the 2020 ACT Election and the Electoral Act – Supplementary Submission by the ACT Electoral Commission

Thank you for the opportunity to make a supplementary submission to the Inquiry into the 2020 ACT election and the Electoral Act on the matter of lowering the voting age, as attached.

This submission should be read in conjunction with that provided on 23 April 2021 as the ACT Electoral Commission's *Report on the ACT Legislative Assembly Election 2020*.

The Commission looks forward to the conduct of the Inquiry as a means to continuous improvement to the delivery of electoral services to the ACT community.



Damian Cantwell AM CSC
Electoral Commissioner


30 April 2021

Supplementary Submission by the ACT Electoral Commission to the ACT Legislative Assembly Inquiry into the 2020 ACT Election and the Electoral Act

This supplementary submission by the ACT Electoral Commission to the Inquiry into the 2020 ACT Election and the Electoral Act addresses the issue of lowering the voting age, as listed in the Terms of Reference for the Inquiry.

This submission should be read in conjunction with that provided on 23 April 2021 as the ACT Electoral Commission's *Report on the ACT Legislative Assembly Election 2020*.

This submission is made pursuant to section 7(1)(d) of the Electoral Act 1992 (the Electoral Act) which empowers the Commission to provide information and advice to the Legislative Assembly in relation to elections.



Dawn Casey
Chairperson

30 April 2021

Damian Cantwell AM CSC
Electoral Commissioner

30 April 2021

Philip Moss AM
Member

30 April 2021

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Introduction

Overview

The ACT Electoral Commission (the Commission) prepares a report after each ACT Legislative Assembly election to examine the conduct of the election and the operation of the Electoral Act, note areas for improvement, and make recommendations for changes to electoral legislation in preparation for future elections.

The Commission's *Report on the ACT Legislative Assembly Election 2020* was tabled in the Assembly by the Speaker on 23 April 2021. That report was also provided to the Chair of the Inquiry into the 2020 ACT Election and the Electoral Act (the Inquiry) on 23 April 2021 as the Commission's formal submission to the Inquiry.

This supplementary submission to the Inquiry addresses the issue of lowering the voting age as a specific item of the Inquiry Terms of Reference not addressed in the Commission's election report. The Commission's views on this subject are unchanged from its submission to the Select Committee Inquiry into the 2016 ACT election.

Aim

The aim of this supplementary submission by Commission to the Inquiry is to address the issue of lowering the voting age, as listed in the Terms of Reference for the Inquiry.

Scope

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 have negative impacts on youth and recommends against such a proposal.

This submission should be read in conjunction with that provided on 23 April 2021 to the Inquiry Chair as the Commission's *Report on the ACT Legislative Assembly Election 2020*.

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

Recommendation

The Commission has made the following recommendation in this submission:

Recommendation 1

The Commission **recommends** retaining the minimum age of voting of 18.

Inquiry Terms of Reference

The relevant item within the Inquiry Terms of reference addressed by this submission is highlighted below.

“That the Standing Committee on Justice and Community Safety inquire into the operation of the 2020 ACT election and the Electoral Act and other relevant legislation and policies concerning election-related matters, with particular reference to:

- (1) the impact of COVID-19 on the ACT election and mitigation measures taken by the ACT Electoral Commission;
- (2) the report of the ACT Electoral Commissioner into the 2020 ACT election;
- (3) the timeframe and accessibility of early voting;
- (4) the number and location of ordinary polling places;
- (5) the implementation, security and transparency of electronic voting;
- (6) the efficacy of the six-week campaign period, including restrictions on roadside signage;
- (7) improving donation rules and donation reporting timeframes;
- (8) increasing voter turnout and participation in elections and encouraging political activity;
- (9) restrictions on campaigning activities outside polling places;
- (10) lowering the voting age;** and
- (11) any other relevant matter.”ⁱⁱ

Lowering the voting age

Enrolment and voting age eligibility at present

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 brought the ACT into line with changes at that time to Commonwealth 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.

Until the recent application of ‘enrol on the day’ legislation in the ACT, had such an elector failed to provisionally enrol, their vote would have been denied at the election despite turning 18 before election day. ‘Enrol on the day’ legislation now permits such an elector to vote, although after completing their enrolment application in the polling place, the new elector must complete a declaration vote requiring later scrutiny before being able to be admitted to the count.

As an ancillary benefit, allowing 16 and 17 year olds to provisionally enrol increases the number of people who are able to be encouraged to enrol while still at school. Civics and citizenship is a core

element to the Australian educational curriculum. Engaging and enrolling 16 and 17 year olds through their civics and citizenship lessons is an effective means of increasing the percentage of 18 year olds on the roll at any particular election.

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 available nationally.

While the topic of lowering the voting age has been raised in other Australian jurisdictions, lowering the voting age is not currently being actively considered 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 may lead to significant confusion, particularly for 16 and 17 year olds should they move into or out of the ACT from other States. 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 – as occurred in 2004 when the federal election was held on 9 October and the ACT election was held just 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.

The legal implications of compulsory enrolment and voting for young people

The following discussion is based on the Commission's understanding of the relevant legal provisions. The Committee may wish to seek formal legal advice on these issues.

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 \$75).

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 have the effect of diverging from a situation where the legislative requirements in relation to all citizens is consistent across jurisdictions, to a scheme where 16 and 17 year old ACT residents are subject to an 'ACT only' imposed penalty for failing to enrol. An ACT imposed penalty would also apply for failure to vote.

The necessity of enforcing compulsory enrolment of 16 and 17 year olds would be a significant disincentive to lowering the voting age. Importantly, it would have the effect of imposing a criminal penalty on minors, which could be seen as unacceptable.

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, in order to allow for voluntary enrolment for 16 year olds.

If the Assembly wished to provide for voluntary enrolment of 16 and 17 year olds, the Commonwealth parliament would need to amend the Self-Government Act accordingly.

If the voting age was lowered to 16, it would be desirable to provide for provisional enrolment at 15, 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 15 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 15 would not be compulsory.

In June 2012, amendments to the Commonwealth Electoral Act 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. According to the Australian Electoral Commission (the AEC), direct enrolment data is sourced from State and Territory Driver's Licence Authorities, Centrelink and the Australian Taxation Office (ATO)¹. As many 15-17 year olds would not be included in these data sources, this method of enrolment may not be effective in securing the direct enrolment of many 15-17 year olds if the ACT's voting age, and consequently enrolment age, is lowered.

Under the Commonwealth provisions, electors can be directly enrolled for the first time based on information gathered from these trusted data sources. According to the AEC², its policy is to use data sources for direct enrolment that provide for a robust proof of identity regime, limiting the FDEU data points, under this policy, to driver's licence authorities, Centrelink and the ATO. Other sources, such as proof of age card data, are not used as a source of direct enrolment. Accordingly, as 16 and 17 year olds

¹ Australian Electoral Commission 2020, *Direct enrolment and update*, accessed 28 April 2021, www.aec.gov.au/Enrolling_to_vote/About_Electoral_Roll/direct.htm

² Discussion held between the ACT Electoral Commission and the AEC as part of the Commonwealth Joint Roll arrangement.

cannot hold a full driver's licence and many do not maintain a Centrelink or ATO account, the majority of 16 and 17 year olds would fail to be captured as part of the FDEU enrolment process.

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. It could therefore be regarded as unfair if a fine for failure to enrol was applied.

Compulsory voting

While compulsory voting is not required under the Self-Government Act, the Proportional Representation (Hare-Clark) Entrenchment Act nevertheless entrenches 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.

Electors who fail to vote without a valid and sufficient reason may pay a \$20 penalty, or an \$80 penalty plus court costs if convicted by a court.

Introduction of voluntary voting for 16 and 17 year olds would require a specific clause to be inserted in the relevant legislation. As compulsory voting is currently entrenched in ACT law, this would either have to be passed by a two thirds majority of Assembly members or be passed by a simple majority in the Assembly and then put to electors at a referendum.

As with compulsory enrolment, enforcing compulsory voting of 16 and 17 year olds would be a significant disincentive to adopting a lowered voting age by imposing a criminal penalty on minors, an action likely considered as unacceptable.

Different electoral models

A review of the minimum voting age in other countries indicates that the overwhelming majority of countries have set 18 as the minimum voting age. A small number of countries set 21 as the minimum voting age. Countries with a lower than 18 voting age have increased over the past decade. Countries with a voting age of 16 or 17 are outlined in the table below³:

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

³ Information sourced from: en.wikipedia.org/wiki/Voting_age

Ecuador	16	North Korea	17
Malta	16	Sudan & South Sudan	17
Nicaragua	16		

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 Greece⁴. Argentina, Brazil and Ecuador have compulsory voting legislation for those 18 years or older, but voting for 16 and 17 year olds is non-compulsory.⁵ Countries such as Germany and Switzerland allow voting at 16 for state-level elections, but not for national elections.

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 again to 18 in 2011.

No countries with political systems similar to 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.

Eligibility for election to the ACT Legislative Assembly

At present, all electors who are eligible to vote are also eligible to 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 a 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.

Lowering the age of candidacy to 16 might give rise to questions about the suitability of a minor being appointed as a Member of the Assembly, and/or 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 a 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 a MLA.

Resource implications of extending and maintaining the ACT electoral roll

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

Electoral roll costs

Extending the right to enrol to 16 and 17 year olds would require a separate "ACT-only electors" section of the joint Commonwealth and ACT roll. This would require the ACT to negotiate this additional requirement under the terms of the joint roll arrangement with the Commonwealth. Changes would be required to the current enrolment form and/or adoption of a special enrolment form specific to 16 and

⁴ Information sourced from:

www.electoralcommission.org.uk/_data/assets/electoral_commission_pdf_file/0020/16157/ECCCompVotingfinal_2225-16484_ENSW.pdf

⁵ Information sourced from: www.thenews.com.pk/archive/print/628368-of-31-countries-with-compulsory-voting,-a-dozen-actually-enforce-it

17 year olds for ACT purposes. It is likely that there may also be software alterations required in relation 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 Commonwealth may require the ACT to pay for the full cost of enrolling a significant class of people who 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. These would be significant costs not currently within the Commission's budget.

Education campaigns

An important consideration would be the need for an initial intensive education campaign to publicise the change in the lead up to an ACT election and ongoing education campaigns and activities to inform new generations of 16 and 17 year olds of the special provisions for ACT legislative Assembly elections that are separate to their obligations federally.

Given the costs associated with information campaigns, additional and ongoing funding would be required to ensure these campaigns reached all of the target audience.

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 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 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.⁶

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

⁶ 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

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 continually 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 100% are likely to be due to the ageing nature of the census data on which the estimates are based); however these improved figures are unlikely to be an indication of increased political activity.

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, if given the choice, would be not be inclined to enrol and vote for the same reasons.

Conclusion

This supplementary submission by the ACT Electoral Commission to the Inquiry into the 2020 ACT Election and the Electoral Act addresses the issue of lowering the voting age, as listed in the Terms of Reference for the Inquiry.

The principle of compulsory voting is entrenched into ACT law through the Proportional Representation (Hare-Clark) Entrenchment Act, and the Electoral Act provides for compulsory voting for all electors eligible to vote at an election. Accordingly, unless legislation providing for voluntary voting is passed by a two thirds majority of Assembly members or passed by a simple majority in the Assembly and then put to electors at a referendum, voting would be compulsory for 16 and 17 year olds.

Lowering the voting age to 16 and providing for compulsory enrolment and voting would therefore place a legal obligation, with a pecuniary penalty, on minors; many of whom may not be willing or equipped to participate in this important civic responsibility. Such a compulsion and penalty combination may be considered to be unreasonable and unjust.

Given the issues outlined within this submission the Commission **recommends** retaining the minimum age of voting of 18.

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.

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.

ⁱ [ToR-JCS-Election-.pdf \(act.gov.au\)](#)