

ELECTORAL LAW

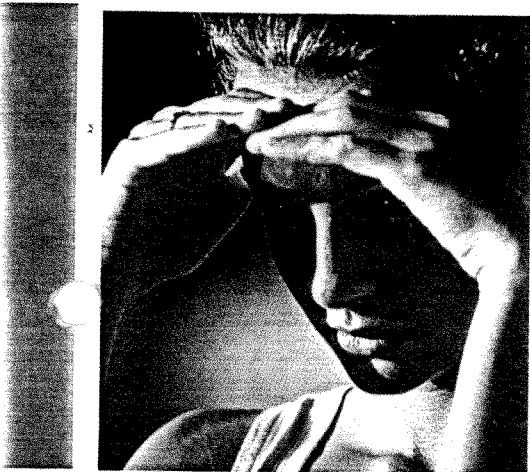
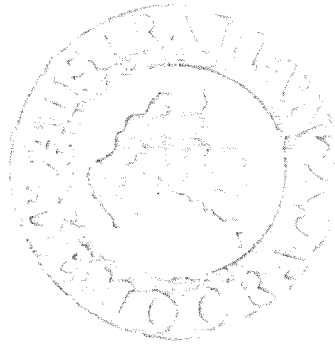
Some rules governing federal elections are laid down in Australia's Constitution but most of the rules are contained in the Commonwealth Electoral Act.



WHO CAN VOTE?

All Australian citizens who are eighteen years or older and are listed on the electoral roll must vote in Australian federal elections.

Federal elections are run by the Australian Electoral Commission. The members of the Commission are the Electoral Commissioner and two part-time Commissioners; one part-time Commissioner must be a judge of the Federal court and act as chairperson. An Australian Electoral Officer is appointed for each State and there is a Divisional Returning Officer for each division.



Before you can vote, you must enrol. To enrol you must be at least 17 years old, an Australian citizen and have been living at your current address for at least one month.

It is compulsory to enrol when you are 18. You must complete a new enrolment card each time you change your address.

To enrol you must fill in an enrolment form which is available at any Post Office or Australian Electoral Commission office. You then return it in the envelope provided to the Australian Electoral Commission.

People who are going overseas, those who have no fixed address, those who are stationed in Antarctica or those who feel having their address printed on the electoral roll may put them or their families in danger, can apply for "special enrolment".

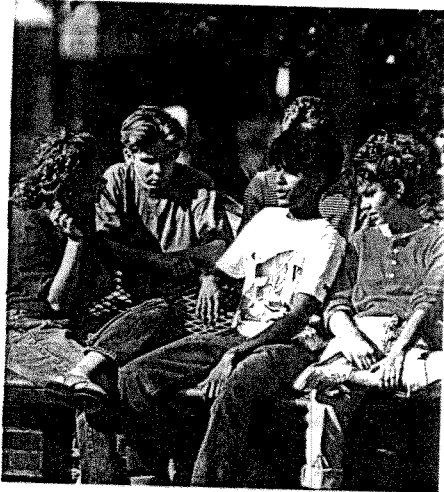


Compulsory Voting

Australia is one of the few countries that has compulsory voting.

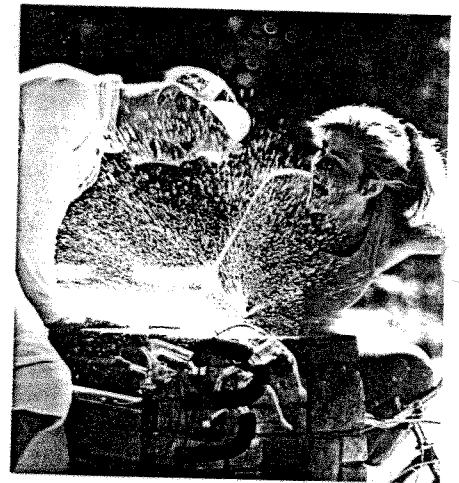
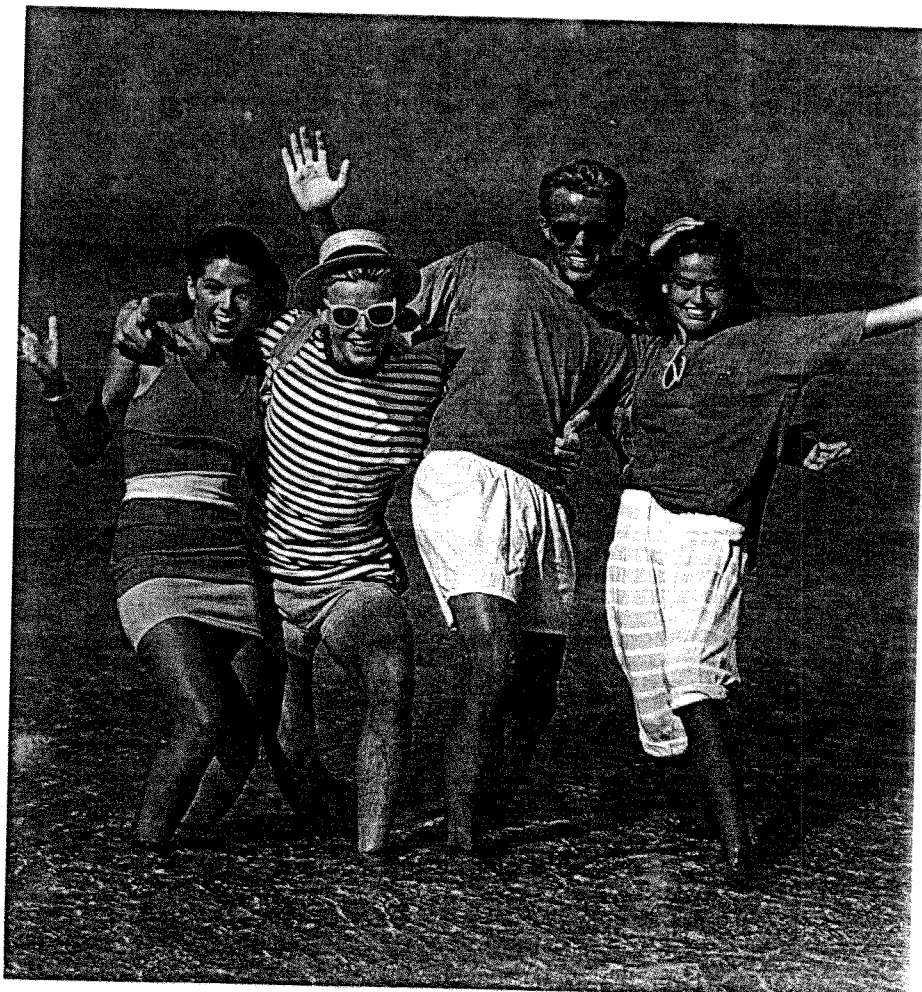
Compulsory enrolment was introduced in 1911 and compulsory voting for federal elections was first introduced in 1924. Prior to compulsory voting the best turnout of voters was 78.3%. The worst turnout of voters was in 1903 when 50.3% of enrolled voters voted. The first compulsory federal election of 1925 had 91.4% of enrolled voters voting. Now 95-96% is usual.

Elections are held on a Saturday and there are various ways in which people who cannot attend a polling place in their division on election day can cast a vote. This is to make sure that all electors have the opportunity to vote.



Arguments supporting compulsory voting

- Citizens in a democracy have both the right and the duty to help decide how the country is governed.
- If only part of the electorate votes then the government is not completely representative of the people.
- Parties can concentrate on issues rather than spending time and money persuading electors to cast their vote.



Arguments against compulsory voting

- Compulsion to vote is an infringement of civil liberties.
- Compulsory voting forces people (who don't know or care how or why they should vote) to go to the polls.
- Analysis of political issues may be neglected as electors must vote anyway.



FACT SHEET

No. 11

REFERENDUMS

Amending the Constitution - The Australian Constitution can be amended only with the approval of the electorate. Any proposed alteration must be put to the direct vote of the entire electorate in a referendum. Voting in a referendum is compulsory.

Double majority - Any alteration must be approved by a "double majority", that is:

- . a national majority of electors, and
- . a majority of electors in a majority of the States (i.e. at least four of the six).

The "double majority" provision makes alterations to the Constitution difficult. Since Federation only eight out of 42 proposals to amend the Constitution have been approved. (See table over page).

The main stages - A referendum must be held between two and six months of the proposal being passed by Parliament. The main stages are:

- . A Bill setting out the proposed alteration to the Constitution is passed by both Houses of Parliament.
- . In the four weeks after the passage of the Bill a majority of those Members and Senators who voted for the proposal and a majority of those who voted against it prepare YES and NO cases and lodge them with the Electoral Commissioner. When a proposal is passed unanimously by Parliament, a NO case is not prepared.
- . The Governor-General issues a Writ for the referendum which must be held on a Saturday.
- . The Electoral Commissioner has the YES and NO cases, together with a statement showing the proposed alterations, printed and a copy posted to every elector.
- . Voting procedures are similar to those for elections except that electors vote by writing either Yes or No in the box opposite each question on the ballot-paper.
- . If the referendum is carried, the proposed law is given Royal Assent by the Governor-General.

Subject/Proposal	Date of referendum	States in which majority of electors voted in favour	Percentage of votes in favour
Senate elections: to enable elections for both Houses to be held concurrently.	2.12.06	All	82.65*
Finance: to implement the agreement to allow the Commonwealth to make a fixed payment out of surplus revenue to the States according to population. This was to replace the arrangement where the Commonwealth returned three-quarters of net revenue to the States.	13.4.10	Qld WA Tas	49.04
State debts: to give the Commonwealth unrestricted power to take over State debts.	13.4.10	All except NSW	54.95*
#Legislative powers: to extend the Commonwealth's powers over trade, commerce, the control of corporations, labour and employment, including wages and conditions; and the settling of disputes; and combinations and monopolies.	26.4.11	WA	39.42
#Monopolies: to give power to the Commonwealth to nationalise monopolies.	26.4.11	WA	39.89
On 31.5.13, the two proposals rejected in 1911 were put to the electorate again but, on this occasion as five distinct amendments (listed as Trade and commerce, Corporations, Industrial matters, Trusts, Nationalisation of monopolies). A sixth proposal (Railway disputes) aimed to give the Commonwealth jurisdiction over industrial relations in State railway services. The result of each proposal is:			

Subject/Proposal	Date of referendum	States in which majority of electors voted in favour	Percentage of votes in favour
Trade and commerce:	31.5.13	Qld, WA, SA	49.38
Corporations:	31.5.13	Qld, WA, SA	49.33
Industrial matters	31.5.13	Qld, WA, SA	49.33
Trusts	31.5.13	Qld, WA, SA	49.78
Nationalisation of monopolies	31.5.13	Qld, WA, SA	49.33
Railway disputes	31.5.13	Qld, WA, SA	49.13
Legislative powers: to seek temporary extension of Commonwealth legislative powers over trade and commerce, corporations, industrial matters and trusts, and in regard to nationalisation of monopolies.	13.12.19	Vic, Qld, WA	49.65
Nationalisation of monopolies: (As above).	13.12.19	Vic, Qld, WA	48.64
#Industry and commerce: to authorise the creation of authorities to control the terms and conditions of industrial employment, to give State authorities similar powers to Commonwealth authorities, and to regulate and control trusts and combinations.	4.9.26	NSW, Qld	43.50
#Essential services: to allow the Commonwealth to take measures to protect the public against interruption of essential services.	4.9.26	NSW, Qld	42.80
State debts: to end the system of per capita payments which have been made by the Commonwealth to the States since 1910, and to restrict the right of each State to borrow for its own development by subjecting that borrowing to control by a loan council.	17.11.28	All	74.30*

Subject/Proposal	Date of referendum	States in which majority of electors voted in favour	Percentage of votes in favour
#Aviation: to give the Commonwealth power to legislate on air navigation and aircraft.	6.3.37	Vic, Qld	53.56
#Marketing: to give the Commonwealth power to legislate on marketing.	6.3.37	None	36.26
#Post-war reconstruction and democratic rights: to give the Commonwealth power, for a period of five years, to legislate on 14 specific matters, including there habilitation of ex servicemen, national health, family allowances and 'the people of the Aboriginal race'.	19.8.44	WA, SA	45.99
Social services: to give the Commonwealth power to legislate on a wide range of social services.	28.9.46	All	54.39*
Organised marketing of primary products: to allow the Commonwealth to make laws for the organised marketing of primary products.	28.9.46	NSW, Vic, WA	50.57
Industrial employment: to give the Commonwealth power to legislate on terms and conditions of industrial employment.	28.9.46	NSW, Vic, WA	50.30
#Rents and prices: to give the Commonwealth permanent power to control rents and prices.	29.5.48	None	40.66

Subject/Proposal	Date of referendum	States in which majority of electors voted in favour	Percentage of votes in favour
#Powers to deal with communists and communism: to give the Commonwealth powers to make laws in respect of communists and communism.	22.9.51	Qld, WA, Tas	49.44
#Parliament: to increase the number of Members of the House of Representatives without necessarily increasing the number of Senators.	27.5.67	NSW	40.25
#Aboriginals: to enable the Commonwealth to enact special laws for Aboriginals.	27.5.67	All	90.77*
#Prices: to give powers to the Commonwealth to control prices.	8.12.73	None	43.81
#Incomes: to give powers to the Commonwealth to legislate on incomes.	8.12.73	None	34.42
Simultaneous elections: to hold elections for the Senate and the House of Representatives on the same day.	18.5.74	NSW	48.30
Mode of altering the Constitution: to give a vote in referendums to electors in the ACT and the Northern Territory, and to enable amendments to be made to the Constitution if approved by a majority of voters and a majority of voters in half the States.	18.5.74	NSW	47.99
Democratic elections: to make population instead of electors, as at present, the basis of determining the average size of electorates in each State.	18.5.74	NSW	47.20

Subject/Proposal	Date of referendum	States in which majority of electors voted in favour	Percentage of votes in favour
Local government bodies: to give the Commonwealth powers to borrow money for, and to make financial assistance grants directly to, any local government body.	18.5.74	NSW	46.85
# Simultaneous elections: to ensure that Senate elections are held at the same time as House of Representatives elections.	21.5.77	NSW, Vic, SA	62.22
# Senate casual vacancies: to ensure, as far as practicable, that a casual vacancy in the Senate is filled by a person of the same political party as the Senator chosen by the people, and that the person shall hold the seat for the balance of the term.	21.5.77	All	73.32*
# Referendums-Territories: to allow electors in Territories, as well as in the States, to vote at referendums.	21.5.77	All	77.72*
# Retirement of judges: to provide for retiring ages for judges of Federal courts.	21.5.77	All	80.10*
Terms of Senators: to change the terms of Senators so that they are no longer fixed, and to provide that the election for both Houses are always on the same day.	1.12.84	NSW, Vic	50.76
Interchange of powers: to enable the Commonwealth and the States voluntarily to refer powers to each other.	1.12.84	None	47.20

Subject/Proposal	Date of referendum	States in which majority of electors voted in favour	Percentage of votes in favour
#Parliamentary Terms: to provide for 4-year maximum terms for members of both Houses of the Commonwealth Parliament.	3.9.88	-	32.92%
#Fair Elections: to provide for fair and democratic parliamentary elections throughout Australia.	3.9.88	-	37.60%
#Local Government: to recognise local government in the Constitution.	3.9.88	-	33.62%
#Rights and Freedoms: to extend the right to trial by jury, to extend freedom of religion, and to ensure fair terms for persons whose property is acquired by any government.	3.9.88	-	30.79%

* Referendum passed

Referendum held separately from a federal election.



FACT SHEET

No. 17

AUSTRALIAN ELECTORAL HISTORY

The following outline traces Australia's major electoral developments:

- 1843:** First parliamentary elections in Australia - for New South Wales Legislative Council. Only men with a freehold valued at 200 pounds or a house worth 20 pounds annually could vote.
- 1850:** Victoria becomes a separate colony. All colonies except Western Australia secured predominantly elected Legislative Councils.
- 1855:** Responsible government granted to NSW, Victoria, South Australia and Tasmania.
Queensland received responsible government in 1859 and Western Australia in 1890.
- 1856:** The secret ballot introduced in Victoria and South Australia. Australia the first country to use the secret ballot, known as the "Australian ballot". Introduced in NSW and Tasmania 1858, Queensland 1859 and Western Australia 1893.
- The right to vote in South Australia granted to all male British subjects over the age of 21. The same right granted in Victoria 1857, NSW 1858, Queensland 1872, Western Australia 1893, Tasmania 1896.
- 1894:** Women given the vote in South Australia. Western Australia follows 1899, NSW 1902, Tasmania 1903, Queensland 1905, Victoria 1908.
- 1901:** Federation. First federal elections (held under State legislation). Federal Parliament meets for the first time in Melbourne, 9 May, with 75 members of the House of Representatives (MHRs) and 36 Senators (6 for each State).
- 1902:** All British subjects over the age of 21 granted the vote in federal elections.
Commonwealth officials appointed to conduct federal elections.
- 1903:** First federal elections under federal law held on 16 September. 46.86% voter turnout.
- 1905:** Electoral subdivisions created.
- 1908:** Permanent electoral rolls established.

- 1911:** Compulsory enrolment introduced.
- 1914:** Full time Divisional Returning Officers appointed.
- 1918:** Preferential voting replaces "first-past-the-post" system for House of Representatives elections, and for Senate elections in 1919.
- 1922:** The Northern Territory granted a Member of the House of Representatives with limited voting rights.
- 1924:** Compulsory voting introduced. First used in 1925 election; 91.31% voter turnout.
- 1927:** Parliament meets in Canberra for the first time, 9 May.
- 1934:** Senate system of voting altered to require all preferences to be shown.
- 1949:** The number of Senators increased to 60 (10 for each State), and MHRs to 121.
- Proportional voting introduced for Senate elections.
- ACT granted a MHR with limited voting rights.
- Aboriginals who were entitled to vote in State elections or who had served in the defence forces granted the right to enrol and vote in federal elections.
- 1951:** Industrial ballots were first conducted by the Industrial Branch.
- 1962:** Voluntary enrolment and voting at federal elections extended to all Aboriginals.
- 1966:** ACT granted full voting rights in House of Representatives. NT granted full rights in 1968.
- 1973:** ACT and NT given Senate representation (two Senators each).
- The qualifying age for enrolment, voting and candidature for all federal elections was lowered from 21 years to 18.
- The Australian Electoral Office was established as a statutory authority.
- 1984:** Number of Senators increased to 76 (12 each State and two each Territory) and number of MHRs increased to 148.
- Enrolment and voting for Aboriginals made compulsory.
- An independent Australian Electoral Commission established to administer the federal electoral system.
- Group ticket voting introduced for Senate.
- Registration of political parties introduced.
- Public funding of election campaigns and disclosure of political donations and electoral expenditure introduced.