



Submission

to

Legal Affairs and Community Safety Committee

**Inquiry into the *Electoral and Other
Legislation Amendment Bill 2014***

by the

Anti-Discrimination Commission Queensland

10 April 2015

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Introduction

1. The Anti-Discrimination Commission Queensland (Commission) is an independent statutory authority established under the Queensland *Anti-Discrimination Act 1991*.
2. The functions of the Commission include promoting an understanding, acceptance and public discussion of human rights in Queensland, and dealing with complaints alleging contraventions of the *Anti-Discrimination Act 1991* and of whistle-blower reprisal.
3. This submission focuses on proposed amendments to remove the proof of identity requirements for voting in Queensland State and Local Government elections.

Recommendations

4. The Commission makes two recommendations:

Recommendation 1

That clause 41(3) of the Bill be amended to ensure that section 75(5) of the *Local Government Electoral Act 2011* is completed without subsection (c); and

Recommendation 2

The provisions removing proof of identity requirements for voting in State and Local Government elections be passed.

Proof of identity for voting

5. In 2014 amendments made to the *Electoral Act 1992* provide that to cast a vote at a polling booth on polling day, an elector must provide an issuing officer with a document in proof of the elector's identity. If the elector does not provide the issuing officer with proof of identity or the issuing officer is not satisfied of the elector's identity, the elector will be able to make a declaration vote.

6. Corresponding requirements were proposed for voting at referendums under the *Justice and Other Legislation Amendment Bill 2014*, however the Bill lapsed on the dissolution of the parliament in January 2015.
7. Currently under the *Electoral Act 1992* each of the following is a proof of identity document:

- a current driver licence;
- a current Australian passport
- a voter information letter issued by the commission;
- a recent document evidencing electoral enrolment;
- an identification card issued by the Commonwealth or State evidencing the person's entitlement to a financial benefit;

Examples –

a Commonwealth seniors health card, health care card, Medicare card, pensioner concession card or repatriation health card

- an adult proof of age card issued by the State;
- a recent account or notice issued by a local government or a public utility provider;

Examples –

a council rates notice, electricity account statement, gas account statement or water bill

- a recent account statement, current account card or current credit card issued by a financial institution;
- a recent account statement issued by a carriage service provider as defined under the Telecommunications Act 1997 (Cwlth);

Examples –

a telephone bill or internet bill

- a recent notice of assessment issued under the *Income Tax Assessment Act 1997* (Cwlth).¹

¹ *Electoral Act 1992*, section 2, and *Electoral Regulation*, section 3.

Proof of identity – Commission concerns

8. The Commission expressed concerns about the proof of identity requirement when it was introduced into the *Electoral Act* in 2014², and again with the proposed amendments to the *Referendums Act 1997*³. Those concerns remain valid and are repeated here.

The human right to political participation

9. The right to participate in the political process is a fundamental civil liberty and human right that should be enjoyed by all people without discrimination. It is a right protected under the International Covenant on Civil and Political Rights (ICCPR): article 25 of the ICCPR provides that every citizen shall have the right and opportunity, without unreasonable restrictions:

to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.
10. The United Nations Human Rights Committee has explained that any restrictions on the rights in article 25 of the ICCPR ‘should be based on objective and reasonable criteria’.⁴
11. Very little evidence has been put forward of the lack of integrity of the voting system to justify the introduction of the proof of identity requirement.

Impact on Indigenous and other people

12. In the absence of evidence that there is regular and routine fraud occurring that compromises the integrity of an electoral or referendum result, it is important to consider whether the requirement for a voter to prove their identity at the time they vote may have the effect of disenfranchising voters who come from disadvantaged groups.

² Submission to the Legal Affairs and Community Safety Committee on the Inquiry into the *Electoral Reform Amendment Bill 2013*, 17 January 2014. Available on the Commission website.

³ Submission to the Legal Affairs and Community Safety Committee on the Inquiry into the *Justice and Other Legislation Amendment Bill 2014*, December 2014. Available on the Commission website.

⁴ United Nations Human Rights Committee General Comment 25.

13. The Commission is concerned about the impact of the proof of identity requirement on Aboriginal and Torres Strait Islander people, people with mental illness, people with intellectual disability, some young people, and people in rural and remote areas (many of whom are Indigenous people).
14. Even though the documents to establish a person's identity are broad, some members of the abovementioned disadvantaged groups may have difficulty in providing these identification documents on a voting day. A much higher percentage of Indigenous people than other voters do not have a driver licence.⁵ People from some of these disadvantaged groups experience a higher degree of homelessness than the general population and may not have a fixed address at which they receive correspondence. For a range of reasons they may not have the necessary documentation to prove their identity at the time they present to vote. They will then be required to cast a declaration vote. The provisions have the potential to make it more difficult for people from these groups to exercise, or prevent them from exercising, their fundamental human right to participate in the political process.
15. There is also the potential for voter confusion, inconvenience and delay. Any slight benefit in the proof of identity requirement in improving voter integrity may be outweighed by the potential for voter disenfranchisement, extra administrative costs and inconvenience of the new system.

Conclusion

16. For these reasons, the Commission supports the removal of the proof of identity requirement for voting in Queensland State and Local Government elections, when the evidence of voter fraud and lack of integrity in the existing voting system does not appear to be of substance.
17. A minor amendment to clause 41(3) is required so that section 75(5) of the *Local Government Electoral Act 2011* ends after subsection (b).

⁵ *Doing Time – Time for Doing - Indigenous youth in the criminal justice system*, Report of House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, June 2011 p181 .