

Background briefings

These briefings, arranged alphabetically, provide additional information about the electoral system.

Australian Electoral Commission

The Australian Electoral Commission is an independent statutory authority that is empowered by the Electoral Act (See *Commonwealth Electoral Act 1918 (Cth)*) to maintain the Commonwealth electoral roll, and to organise and conduct federal elections and referendums. As such it plays a crucial role in ensuring that elections operate according to democratic principles and values and are independent of politics. For example, the AEC supports the process of redistributing electoral boundaries.

The AEC administers election funding and financial disclosure and has the responsibility to conduct electoral education programs. While the AEC's primary responsibilities are carried out in Australia, it also assists in the conduct of foreign elections and referendums as approved by the Minister for Foreign Affairs.

Commonwealth Electoral Act 1918 (Cth)

Although the Constitution provides the basic legal framework for representative government at the federal level, the *Commonwealth Electoral Act 1918 (Cth)* (the Electoral Act) provides supplementary machinery for the conduct of federal elections. In effect, the Electoral Act provides the legal basis for the administration of elections, including:

- the creation and maintenance of the electoral roll
- the distribution of electoral divisions (electorates) for the House of Representatives in each state and territory
- the registration of political parties and election funding
- the election timetable
- the rules relating to the marking of ballot papers and the counting of votes
- the rules regulating electoral advertising
- the rules governing challenges to election results.

Constitution

The *Commonwealth of Australia Constitution Act* (the Constitution) is the basis of the Australian Federation (see Federation) and broadly defines the relationship between the Commonwealth and the states, as well as the structure and powers of the Commonwealth Parliament and the High Court. The Constitution provides the legislative basis for the Commonwealth Parliament's law-making powers, and laws made by the Commonwealth Parliament must be in accordance with the Constitution.

The Constitution also establishes the basis of representation and the terms of the two houses of parliament: the House of Representatives and the Senate.

Some of the laws governing representation in the House of Representatives and the Senate are laid down in the Constitution, and these are given effect and supplemented by the provisions of the Electoral Act and its subsequent amendments.

Democracy

Democracy comes from the Greek words *demos*, meaning 'the people', and *kratos*, meaning 'power'. Effectively, the word 'democracy' means 'people power' – the right of people to make decisions on how they are governed. In modern democracies citizens elect representatives to govern on their behalf, and these representatives remain answerable to electors at periodic elections.



Figure 41: A polling official initialling a ballot paper

Electoral division

A fair electoral system ensures that each citizen's vote has equal value and that voters have, as near as possible, equal representation. For House of Representatives elections (see House of Representatives), each Australian state and territory is divided into electoral divisions (also called electorates) which each elect one member to the house. Each member of the House of Representatives therefore represents an individual electorate.

The number of House of Representatives electoral divisions for each state and territory is based, as near as possible, on the total population of that state or territory as a proportion of the Australian population. The exact quota is arrived at using the formula in section 24 of the Constitution. Within a given tolerance, each electorate in a particular state or territory contains the same number of electors.

Population changes affect electoral division boundaries, which are altered to ensure that electorates have, as near as possible, equal enrolments (see Redistribution).

The Senate (see Senate) differs from the House of Representatives in that it is not a single-member system. A proportional system of representation applies and electors of a state or territory, voting as a single electorate, elect the relevant number of senators to represent them.

Electoral roll

The Commonwealth electoral roll is a list of the names and addresses of all people who have enrolled to vote at Australian elections. You cannot vote unless you have enrolled. Australian citizens aged 18 years or over must enrol to vote and must also notify any change of address in order to stay on the roll. Sixteen- and 17-year-olds can also enrol so that they're ready to vote when they turn 18.

Federation

In 1901 the six British colonies in Australia joined to form the Commonwealth of Australia, and became the six states of the new federation. The colonies had formerly been self-governing. The rights of the new states were protected by the Constitution in the new federation, creating two levels of government: state and Commonwealth.

Full preferential voting

Australia uses the full preferential voting system for both House of Representatives and Senate elections. Electors number the candidates in the order of their preference. For the House of Representatives, a valid ballot paper contains a preferential order that includes all candidates. This is also true for 'below the line' voting on the Senate ballot paper. However, electors for the Senate can also vote 'above the line' for particular parties or groups, by placing the numbers 1 to 6 in the squares.

In the House of Representatives – a single-member system – electors in an electoral division vote using the full preferential system and elect one Member of Parliament to represent them. To be elected, a candidate must gain an absolute majority (more than 50%) of the formal vote in an electorate or division.

While the Senate also uses a full preferential voting system, a proportional system applies to counting the votes. This means that candidates must gain a proportion of the electorate's votes (a quota) to be elected. Each state or territory forms a single electorate and voters elect the relevant number of senators.

House of Representatives

Under the Constitution, the House of Representatives (or 'people's house') represents the people of the Commonwealth. It is the house where government is formed and where most legislation is initiated. The party (or coalition) that commands a majority of members in the House of Representatives forms the government, and the leader of that party or coalition becomes the prime minister. The House of Representatives is elected for a term of not more than three years.

Indigenous Australians' rights

In Australia, Indigenous Australians have progressively been granted citizenship rights, including the right to vote in 1962. During the 1960s there were calls for the Australian Constitution to be changed. Although Indigenous Australians were mentioned in the Constitution, these references were to their exclusion, as under section 51 the Commonwealth Government had no power to make laws for them and, under section 127, they were excluded from being counted in the census.

These provisions meant that Indigenous Australians, who at the time were subject to a range of differing laws and regulations in various Australian states and territories, were denied the status of equality of citizenship with other Australians.

These anomalies resulted in calls to amend the Constitution. The referendum of 1967 had enormous symbolic significance for Indigenous Australians, and was passed by an overwhelming majority of Australians with 90.77% voting in favour of change. In 1984, compulsory enrolment and voting in Commonwealth elections for Indigenous Australians came into effect, bestowing on them the same responsibilities as other citizens under the Electoral Act.



Figure 42: Indigenous Australians received the right to vote in Commonwealth elections in 1962

International assistance – Timor-Leste

Timor-Leste was the first democratic nation formed in the 21st century, but the path to democracy was not smooth. Nine days after a unilateral declaration of Timor-Leste's independence in 1975, Indonesian forces invaded Timor-Leste, later claiming it as the 27th province of Indonesia. The United Nations, however, did not recognise Indonesian sovereignty over Timor-Leste.

By the late 1990s, increased international attention to human rights abuses, as well as pressure on the Indonesian government, led the United Nations to organise a 'popular consultation'. The vote was to allow the people of Timor-Leste to decide whether to remain part of or separate from Indonesia. They voted not to remain part of Indonesia.

Australia led the international peacekeeping efforts during the period of violence that followed the popular consultation in Timor-Leste in 1999, and contributed to an international contingent of police. This peacekeeping role included supporting the establishment of democratic institutions and conducting democratic elections. Australia has continued to provide support for democratic governance since, through education programs and capacity building.

The AEC assisted with electoral planning, conducting the ballot for the Timor-Leste diaspora in Australia, and providing voter registration equipment kits and ballot papers. The AEC also helped with the development of registration, polling and counting procedures and the training of United Nations Mission in East Timor (UNAMET) electoral staff for subsequent democratic elections in 2001 and 2002.

Parliament

The Commonwealth Parliament was created under the Constitution. It consists of two houses: the House of Representatives and the Senate (see House of Representatives and Senate).

The law-making powers and functions of each house, as well as the bases of their election, are described in the Constitution.

Redistribution

The rearrangement of an electoral divisional boundary is called a redistribution. The AEC is responsible for regular redistributions of electoral boundaries for the House of Representatives.

A redistribution is needed when there is a change in the number of members in the House of Representatives to which a state or territory is entitled, or if a redistribution has not taken place for a period of seven years. A redistribution is also undertaken when the difference in the number of electors across divisions is outside a given tolerance. This is defined as a variation of more than one third of the divisions within a state or territory from the average divisional enrolment for that state by more than 10% for two consecutive months.

The AEC uses population data from the Australian Bureau of Statistics.

Referendum

The Constitution contains provisions that allow for its alteration. Section 128 allows for the Constitution to be altered by referendum. In a referendum to alter a provision of the Constitution, the proposed change must be approved by a double majority: a majority of voters in Australia as a whole *and* a majority of voters in a majority of states (at least four of the six states). Citizens eligible to vote must participate in a referendum and vote 'Yes' or 'No' to the proposed change. Since Federation, 44 proposals for constitutional change have been put to the Australian electors but only eight referendums have been successful.

Representation

In modern democracies electors elect representatives to parliaments, or other representative institutions, at periodic elections. These representatives, who are usually members of political parties, participate in the legislative process, and are entrusted to make decisions on behalf of electors for which they are accountable at elections. In the Australian democratic system, citizens elect representatives to make decisions on their behalf. Because voting is such an important part of a democratic representation, electoral laws and the systems that are used to elect representatives are critical in ensuring that democratic principles and values are upheld – and the worth of each citizen's vote maintained.

Senate

Under the Constitution, each state has equal representation in the Senate (currently 12 senators per state, and two senators per territory). To be elected to the Senate, candidates must receive a specific proportion of the votes. This is called a 'quota'.

The term of office for senators for the states is six years. In 1974, parliamentary legislation granted Senate representation to the Northern Territory and the Australian Capital Territory. However, the term of office for senators from the territories is contingent on the term of the House of Representatives, a maximum of three years, unless dissolved earlier.

The Senate reviews legislation passed in the House of Representatives and must approve it before it becomes law. The Senate has equal powers with the House of Representatives, except that it cannot initiate money bills.

Universal Declaration of Human Rights

Australia was a founding member of the United Nations, which was formed in 1945 a few months after the end of the Second World War. The Universal Declaration of Human Rights was signed by all United Nations member nations in 1948, obliging them to promote its ideals among their peoples and aspire to its principles in the areas over which they had jurisdiction. The Declaration outlines civil and political rights, as well as economic, social and cultural rights, and it has significant symbolic and moral importance for all people. Article 21 of the Declaration is an example of its democratic principles:

Everyone has the right to take part in the government of his country, directly or through freely chosen representatives ...
The will of the people shall be the basis of the authority of government; this shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote ...

([Universal Declaration of Human Rights: www.un.org/en/documents/udhr/](http://www.un.org/en/documents/udhr/))