

16 January 2014

Our ref DA

The Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QLD 4000

By Post and Email to: lacsc@parliament.qld.gov.au

Dear Research Director

Electoral Reform Amendment Bill 2013

Thank you for the opportunity to comment on the *Electoral Reform Amendment Bill 2013* (the Bill).

We comment only on one aspect of the Bill, namely the proposal to introduce a proof of identity requirement to vote in a state election. Please note that in the time available to the Society it is not suggested that this submission represents an exhaustive review of the Bill. It is therefore possible that there are issues relating to unintended drafting consequences or fundamental legislative principles which we have not identified.

In the government's response to the Queensland Electoral Review released in July 2013, the proposal to require voters to produce proof of their identity on polling day was "supported in principle, subject to public education and appropriate transitional arrangements."¹

The report gave some further information on the government's view:

To further ensure the integrity of voting in Queensland, the Government supports requiring prescribed proof of identity documents on polling day to reduce the potential for electoral fraud. To address concerns about those voters who may not have photographic identity, particularly older and younger electors, proof of identity will not

¹ Queensland Electoral Review Outcomes, found at:
http://www.justice.qld.gov.au/_data/assets/pdf_file/0018/203049/Queensland-Electoral-Review-Outcomes.pdf

be restricted to photographic identification. The implementation of the measure will be subject to public education and careful planning for transitioning to this requirement.²

The Society is concerned about how this proposal will affect accessibility to voting in Queensland. We consider that the proposals may be contrary to the government's commitment to red-tape reduction, given the significant regulatory burden that this will create for all Queenslanders of voting age, and the substantial public education campaign which will be required. The current polling day processes would also significantly change, which would require training and development of new procedures for the Electoral Commission Queensland.

1. Practical implementation

There may be a number of individuals who do not have the ability to obtain proof of identity documents, whether photographic or not. In the case of certain Indigenous communities in Queensland it is an unfortunate and regrettable fact that many people do not have any form of birth certificate or other primary registration. This has led to many of these individuals facing direct discrimination and exclusion from services and opportunities through no fault of their own. This can only further compound the disadvantage that they encounter. We do not consider that it is an appropriate assumption to make that all Queenslanders have access to such relevant documents. We further submit that it is inappropriate to set this requirement as a threshold test for exercising lawful activities (such as voting).

We consider that any measures to overhaul the regulation of this fundamental aspect of civic duty should be proportionate to any problems or risk issues identified. The Discussion Paper on Electoral Reform issued by the Department of Justice and Attorney General stated:

Given that Queensland would be the only jurisdiction to require proof of identity on polling day, there is a risk that the requirement would lead to voter confusion. Also, as there is no specific evidence of electoral fraud in this area, introduction of proof of identity requirements could be considered a disproportionate response to the risk.³

In the absence of any evidence to indicate specific problems which need to be addressed, the Society considers that there is no reasonable justification for the proposed requirement.

We are concerned that this change may result in an additional administrative burden when there is no proven issue. This may well undermine the sought outcome to "enhance voter integrity and voting convenience", which is specified in the Explanatory Notes as one of the policy objectives.⁴

There appears to be a lack of consistency with other states and federal requirements for voter identification. This may cause confusion for voters e.g. in federal / state by-elections, which if conducted conjointly, would have differing requirements for voters. These requirements may

² Ibid

³ Found at: http://www.justice.qld.gov.au/data/assets/pdf_file/0007/171529/disc-ppr-electoral-reform.pdf, page 29

⁴ Explanatory Notes, page 1 under 'Policy objectives and the reasons for them': <https://www.legislation.qld.gov.au/Bills/54PDF/2013/ElectoralReformAB13E.pdf>

also be different to those required in local government elections under the *Local Government Electoral Act 2011*.

2. Alternative considerations

We highlight that in the Discussion Paper on Electoral Reform, it was noted from a 2009 Green Paper by the Australian government that:

*it is at the enrolment stage that issues surrounding a person's entitlement to vote should be resolved, which enables the polling process to proceed smoothly as the certified lists can be taken as 'conclusive of a person's right to vote.'*⁵

We agree with this proposition. Perhaps addressing any issues with the enrolment process will be far more effective, in terms of people being able to gather documents and provide them in advance. Focusing efforts on the enrolment process negates the very real possibility that people will forget to bring the identity document on election day, and will therefore be disenfranchised from the process (if unable to provide a declaration vote), and may run the risk of a fine for failing to vote.

This might be particularly harsh when people have travelled some distance to reach a polling station, which is not an unusual circumstance outside the south-east area.

3. Amendments contained in the Bill

The Explanatory Notes state that "The *Electoral Regulation 2013* will set out the types of documents that may be used as proof of identity by voters."⁶ In a media release issued by the Attorney General accompanying the introduction of this Bill entitled 'Voting revolution for Queensland', the following information was provided regarding the types of identification documents:

"We know everyone doesn't have photo identification, so we've included a broad range of acceptable forms of ID."

They are:

- *Current driver licence*
- *Current Australian passport*
- *Voter identification letter issued by the ECQ*
- *Recent account or notice issued by a public utility*
- *Identification card issued by the Commonwealth or a State as evidence of the person's entitlement to a financial benefit (e.g. a Commonwealth seniors health card, Medicare card, pensioner concession card).*⁷

⁵ Ibid.

⁶ Page 5, in relation to Clauses 9 and 10

⁷ Media release dated 21 November 2013 found at:

<http://statements.qld.gov.au/Statement/2013/11/21/voting-revolution-for-queensland>

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The Society requests clarification as to whether it is intended to introduce the Regulation in 2014, as we have not been able to locate the prescribed proof of identity documents in the *Electoral Regulation 2013* tabled on 12 February 2013. Consideration must be given to ensuring that any identity documents are as easily accessible and widely available as possible for eligible voters.

Again, the Society notes practical difficulties that may be encountered by voters. For example, for a 19 year old who does not have either a driver's license or a passport, and who lives at home (or is not the lessee of a rental property to whom notices would be addressed), it appears that only a Medicare card would be available for identification on polling day. At a practical level, if unable to provide photographic identification, other documents do not factually prove who the person is merely by showing a Medicare card. We are unsure how this is going to be "checked" at the election booth (and whether this itself will increase the possibility of electoral fraud), and can foresee that waiting times will increase to manage these issues.

Thank you for the opportunity to provide these comments. Please contact our Principal Policy Solicitor, Mr Matt Dunn on (07) 3842 5889 or m.dunn@qls.com.au; or Policy Solicitor, Ms Raylene D'Cruz on (07) 3842 5884 or r.dacruz@qls.com.au for further inquiries.

Yours faithfully

Ian Brown
President