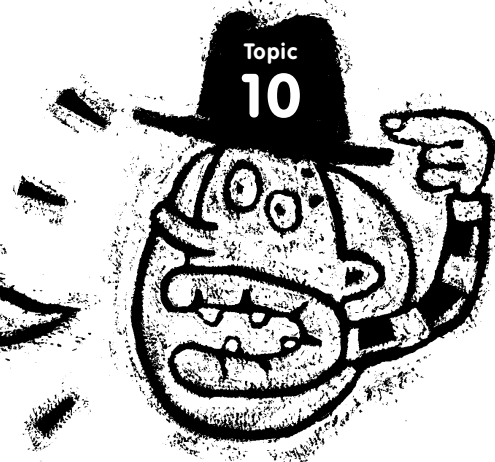


PROTECTING THE PRINCIPLES OF DEMOCRATIC ELECTIONS



Our right to democratic government is made possible by a set of laws that:

- protect and enhance the basic principles of democratic elections;
- explain how elections are to be conducted; and
- settle any disputes that arise in a peaceful and just manner.

The Victorian electoral system has the following key principles. The system:

- has frequent elections;
- is user-friendly;
- supports universal suffrage (meaning the right to vote);

- requires compulsory voting;
- uses a secret ballot;
- is based on preferential voting;
- has 'one vote, one value';
- supports majority rule;
- protects freedom from false, misleading or undue influence on voters; and
- has elections administered in an impartial way.

The following extracts from the Electoral Act 2002 identify some of the sections of the law that protect these principles.

Section 12: The Governor in Council must not appoint any person to be the Electoral Commissioner who:

- a. is a member of a registered political party; or
- b. has been a member of a political party at any time during the period of 5 years immediately preceding the date of the proposed appointment.

Section 18: An election manager or election official cannot be a candidate for a State or Federal election. If an election manager or official becomes a candidate, his/her appointment is revoked.

Section 65: The Victorian Electoral Commission must in exercising its powers to appoint voting centres ensure that electors are provided with an accessible service that facilitates the opportunity to vote.

Section 154: Except as authorised by the Act, a person who is present when an elector votes must not ascertain or disclose the vote of the elector. Penalty about \$12,000 or one year imprisonment.

- Section 90:** Questions to be put to electors: What is your full name? Where do you live?
Have you voted before in this election?
- Section 93:** In a Legislative Assembly election an elector must mark the elector's vote on the ballot paper by placing the number 1 opposite the name of the candidate for whom the elector votes as first preference, and give contingent votes for all the remaining candidates by placing numbers 2, 3, 4, (and so on as the case requires) opposite their names so as to indicate by an unbroken numerical sequence the order of preference.
- Section 93A:** In a Legislative Council election an elector must mark the elector's vote on the ballot paper by placing –
- a) the number 1 in the square in relation to the group for which the elector votes as first preference; or
 - b) the number 1 opposite the name of the candidate for whom the elector votes as first preference and at least the numbers 2, 3, 4 and 5 opposite the names of the remaining candidates so as to indicate by unbroken numerical sequence the order of preference of contingent votes.
- Section 114:** In a Legislative Assembly election, the candidate who has received the greatest number of first preference votes, if this number constitutes an absolute majority of votes, is to be declared elected by the election manager.
- If no candidate has an absolute majority of votes the process of declaring the candidate who has the fewest votes to be defeated and distributing the ballot-papers amongst the non-defeated candidates next in order of the voter's preference is to be repeated and the votes recounted after every redistribution until one candidate has obtained an absolute majority of votes, and such candidate is to be declared elected.
- Section 114(A):** In a Legislative Council election, a candidate who receives a quota of votes ($1/6$ plus one) is elected. If a candidate gets more than a quota, that candidate's surplus votes are transferred to the other candidates depending on the voters' preferences. If all surpluses have been transferred, the candidate with fewest votes is declared defeated and the votes are transferred to the other candidates according to the voters' preferences. The process of transferring the surplus of each elected candidate and the distribution of the preferences of each defeated candidate continues until five candidates have been elected.
- Section 152:** A person must not hinder or interfere with the free exercise or performance, by any other person, of any political right or duty that is relevant to an election under this Act.
- Section 84:** A person shall not during an election period print, publish or distribute any matter or thing that is likely to mislead or deceive an elector in relation to the casting of the vote of the elector – penalty up to about \$60,000 or up to 6 months in jail.
- Section 87:** An elector must vote at every election for which the elector is entitled to vote.

The following extracts from the Constitution Act 1975 outline another section of the law in relation to the principles.

Section 38(2): The Assembly shall expire on the Tuesday which is 24 days before the last Saturday in November which is nearest to the fourth anniversary of the election day on which it was elected unless sooner dissolved by the Governor. (This determines the term of Parliament.)

Section 48: Subject to this Act, a person who: is an Australian citizen; or a British subject whose name was, at any time within the three months immediately before 26 January 1984, enrolled on an electoral roll for an electoral district of the Assembly; and is of the full age of eighteen years shall be entitled to enrol as an elector for the Council and the Assembly.

Yet another Act, the Electoral Boundaries Commission Act 1982, also helps protect these principles.

Section 5(1): The function of the Commission shall be to divide the State of Victoria into electoral regions and districts ... with the object of establishing and maintaining electoral regions of approximately equal enrolment and electoral districts of approximately equal enrolment and to determine the boundaries thereof.

Section 9(2): The Commission may take electoral regions or electoral districts to be of approximately equal enrolment where the enrolment for each region or district does not vary by more than 10 per centum from the average enrolment of all regions or districts.



1. Re: the Electoral Act 2002, the Constitution Act 1975 and the Electoral Boundaries Commission Act 1982.
 - a. Study the extracts from the above Acts and rewrite them in your own words explaining the principle(s) they are protecting.
 - b. Refer to the wording of each extract. Do you think that the law can effectively protect the principles listed? Why?
2. Re: the Electoral Boundaries Commission Act 1982.
 - a. Calculate the variation in the number of voters per electorate allowed by the Act, assuming average sizes for:
 - Districts: 38,000 voters.
 - Regions: 418,000 voters.

Hint: The variation in the number of voters can be no more than 10% of the average.
 - b. Why do you think that the Act allows for a 10% variation in the number of voters in each electorate?