

21 April 2022

The Hon Scott Morrison MP
Prime Minister of Australia
Parliament House
Canberra ACT 2600

The Hon Anthony Albanese MP
Leader of the Opposition
Parliament House
Canberra ACT 2600

Dear Prime Minister and Leader of the Opposition

IT IS TIME FOR EVERY AUSTRALIAN TO VOTE... EXCEPT PEOPLE WITH DISABILITY

We, the 65 organisations and individuals listed below, write to urge you to make a public commitment to protecting the rights of Australians with disability to vote.

On 21 May this year, most adult Australians will cast their vote in the Federal Election. There is no doubt that casting a vote to have your say on who governs our country is a fundamental constitutional right, a right that is recognised in international law and a right that is at the very heart of our democracy. However, there is a whole section of our community who can be removed from the Australian Electoral Roll and disallowed from having their say in every election: people with “unsound mind.”

Australia’s laws must recognise and protect the right of people with disability to vote in Australian elections. But archaic and offensive provisions in section 93(8)(a) of the *Commonwealth Electoral Act 1918* are being used to prevent some Australians from exercising this most fundamental democratic freedom because they can be deemed to be of ‘unsound mind’.

Section 93(8) applies disproportionately to people with intellectual disabilities and cognitive impairments, leaving them subject to a violation of their right to vote.

Between 2008-2012, more than 28,000 people were removed from the electoral roll due to the “unsound mind” provisions.

Section 93(8) must be repealed because it is inconsistent with Australia's international legal obligations under article 29 of the *United Nations Convention on the Rights of Persons with Disabilities (CRPD)* which states that people with disability must be afforded the right and opportunity to vote on an equal basis with others.

This reform is long overdue. For nearly eight years, successive Prime Ministers have consistently failed to act on the Australian Law Reform Commission's (**ALRC**) 2014 '*Equality, Capacity and Disability in Commonwealth Laws*' [report](#). This report called for section 93(8) of the *Electoral Act* to be amended to:

- focus on a person's decision-making ability with respect to enrolment and voting in the relevant election,
- give consideration for decision making support and assistance when determining if a person meets the threshold.

Not only does the operation of section 93(8) violate the fundamental human rights of people with disabilities, the language used is offensive and archaic, reflecting an outdated model of disability that has since been rejected by international law. Words like 'unsound mind' recall an era where people with disability were not seen as rights holders and had no protection at law. Australia's laws should keep pace with progress in disability rights. Doing so is fundamental to the protection and promotion of the human rights of people with disabilities.

Australian laws must recognise that people with disability enjoy the right to vote on an equal basis with their fellow Australians.

We therefore call on you to publicly commit to urgent law reform to implement the ALRC recommendations regarding section 93(8) during the next term of Government, should you win government.

Yours faithfully,

Kerry Weste,
President, Australian Lawyers for Human Rights



Angus Graham, OAM
Chair, Down Syndrome Australia



Catherine McAlpine
Chief Executive Officer, Inclusion Australia



Sebastian Zagarella
Chief Executive Officer, People With Disability Australia



Professor Emeritus Ron McCallum AO

Former Chair of the United Nations Committee on the Rights of Persons with Disabilities

Graeme Innes AM

Former Australian Disability Discrimination Commissioner and Race Discrimination Commissioner

Professor Megan Davis

Expert and Chair, United Nations Expert Mechanism on the Rights of Indigenous Peoples

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Chief Executive Officer, First Peoples Disability Network Australia



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**Mental Health
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Robbi Williams

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Purple Orange

Peter Scutt,

Chief Executive Officer, Mable



Robin Banks and Michael Small
Directors, Equality Building



Nadia Mattiazzo
Chief Executive Officer, Women with Disabilities Victoria



Associate Professor Amy Maguire
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**CENTRE FOR
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Chief Executive Officer, National Justice Project



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Alan Thomas
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**LIBERTY
VICTORIA**

Inclusion Melbourne & I Can Vote Campaign



Greg McIntyre SC
President International Commission of Jurists, Western Australian Branch



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people with
disabilities
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Paige Armstrong

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QUEENSLANDERS WITH DISABILITY NETWORK
NOTHING ABOUT US WITHOUT US

Helen Campbell OAM

Executive Officer, Women's Legal Service NSW

