



Government Response
to the
Report of the Joint Standing Committee on Electoral Matters
User friendly, not abuser friendly
Report of the Inquiry into the Integrity of the Electoral Roll

October 2001

**Government Response to the Report of the Joint Standing Committee
on Electoral Matters**

User friendly, not abuser friendly

Report on the Inquiry into the Integrity of the Electoral Roll

Recommendation 1

That the AEC investigate and report on the financial cost, legal requirements, privacy implications and priorities for upgrading RMANS data-processing and expanding Continuous Roll Updating and data matching.

Response

Supported. The Government is committed to ensuring public confidence is maintained in the electoral system and the electoral roll in particular. The Australian Electoral Commission (AEC) maintains the electoral roll on the computerised Roll Management System (RMANS) and regularly seeks more accurate, efficient and cost-effective methods to improve the integrity of the roll (including the implementation of continuous roll updating).

Recommendation 2

That when following up return to sender mail the AEC use all practical means in contacting electors to confirm their enrolment details.

Response

Supported. Sections 91 and 91AA of the *Commonwealth Electoral Act 1918* (the Electoral Act) require copies of the electoral roll to be provided by the AEC to members of parliament (MPs) and registered political parties. The version of the roll provided to MPs contains names and addresses as well as personal information such as gender and date of birth. The AEC provides monthly updates of this information on compact disc to registered political parties and MPs. This personal information is available to the staff of registered political parties and of members of parliament and is used by MPs for direct mailing to constituents.

The AEC has in place procedures for dealing with the investigation of return to sender mail referred to it. Furthermore, Divisional Returning Officers are not limited to these procedures and may undertake additional investigative action if considered necessary. The Government considers that the AEC should have the discretion to determine the most appropriate manner of confirming enrolment details.

Recommendation 3

That the AEC investigate and report on the possible conduct in accordance with section 85 of the *Commonwealth Electoral Act 1918* of a revision of the Electoral Roll of a Division such as the Federal Division of Herbert.

Response

Supported. Section 85 of the Electoral Act has never been tested. The investigation by the AEC will address the Constitutional, legal and financial implications of a revision of the roll under section 85, develop mechanisms for the conduct of such a revision and the AEC will advise the JSCEM accordingly at its next inquiry.

Recommendation 4

That the States and Territories support the *Electoral and Referendum Amendment Regulations 2000* and the Commonwealth proceed to implement the amended regulations in time for the next federal election.

Should any State or Territory prefer to retain the enrolment criteria as it stood prior to the October 1999 Commonwealth amendments and (re)establish separate State or Territory Electoral Rolls, the Commonwealth should proceed with the implementation of the Regulations.

Response

Supported. The Electoral and Referendum Amendment Regulations 2001 were made by the Governor-General in Council on 13 September 2001 and tabled in the House of Representatives on 17 September 2001 and in the Senate on 18 September 2001.

Recommendation 5

That the gender and date-of-birth of electors be included on the Certified Lists of Voters for elections.

Response

Supported. The Government considers the inclusion of date of birth and gender information on the Certified List will provide a further check on identity fraud at the point of voting. The AEC has advised that it has the necessary systems in place to provide this information on Certified Lists for each election.

The Government notes that amendment of the Electoral Act and the *Referendum (Machinery Provisions) Act 1984* would be necessary to require polling officials to ask

voters to state their date of birth and gender. The legislative response will take account of the privacy implications associated with the provision of such information to all candidates for the House of Representatives. In this context, however, the Government notes the Committee's view that implementation of the enrolment provisions in the *Electoral and Referendum Amendment Act (No. 1) 1999* does not warrant introduction of voter identification at point of voting as a measure to deter electoral fraud.

Rather than requiring voters to produce identification, the Government considers it more appropriate and efficient to create a new class of provisional vote to be cast in circumstances where there is a discrepancy between the date of birth or gender on the Certified List and what is provided by the elector, or if the elector refuses to provide the information.

Recommendation 6

That section 155 of the *Commonwealth Electoral Act 1918* be amended to provide that for new enrolments, the rolls for an election close on the day the writ is issued, and for existing electors updating address details, the rolls for an election close at 6.00pm on the third day after the issue of the writ.

Response

Supported. The Electoral and Referendum Amendment Bill (No. 2) 2001 includes provisions which give effect to the Committee's recommendation and is being introduced into Parliament in the current sittings. Consistent with current practice, the legislation provides for the rolls to close for existing enrolments at 8.00pm on the third working day after the writs have been issued.

Recommendation 7

That the AEC complete its review of sections 89 to 92 of the *Commonwealth Electoral Act 1918* in sufficient time for the Committee to consider this matter during the next federal election inquiry.

Response

Supported.

Recommendation 8

That the AEC develop a more comprehensive approach to enrolment fraud as part of any new fraud control plan.

Response

Supported. The AEC recently completed its fraud control plan for 2001-2003. The plan is available on the AEC's website at www.aec.gov.au. The plan was completed in consultation with the Attorney-General's Department in line with the government's policy on fraud control, and incorporates business risk assessment of electoral fraud against the Commonwealth.

The AEC is developing a separate electoral fraud control plan that will detail the principles and procedures governing the detection, investigation, and prosecution of electoral fraud offences.

Recommendation 9

That as part of an overall fraud control plan, all AEC staff involved in the prevention and detection of enrolment fraud be trained in appropriate prevention and detection strategies.

Response

Supported. The Government considers that given the sensitive nature of the AEC's work, appropriate training for AEC staff is important to ensure integrity in the electoral system.

Recommendation 10

That all AEC staff who have access to the Commonwealth Electoral Roll as part of their work be required to obtain a 'Position of Trust' security clearance.

Response

Not supported. All AEC staff are required to sign a secrecy undertaking and to confirm that they have no political affiliations. Only certain AEC staff are officially authorised to access the computer database containing the electoral roll and to make amendments to enrolments. The AEC has appropriate procedures in place to monitor access to the roll including audit trails.

The AEC is currently conducting a review of its security environment. This review will take account of the Government's policy on protective security outlined in the *Commonwealth Protective Security Manual 2000*.

The Government notes that a "position of trust" security clearance would require formal security clearance to the "Protected" level. It is estimated that for casual AEC staff alone, clearance to this level would cost around \$450,000 per election. Furthermore, clearance to this level can at best take four weeks. Given the uncertain timing of Federal elections and the length of time required to process a large volume of security clearances, it is not possible to implement the recommendation as it stands.

Recommendation 11

That as a matter of immediate priority, the AEC, the AFP, and the Commonwealth DPP develop a service agreement to cover the referral of electoral fraud offences for legal advice, investigation, and prosecutions.

Response

Supported. The Australian Federal Police (AFP) and the AEC have held discussions on the referral and investigation of offences under the Electoral Act. It is anticipated that negotiations regarding a service agreement between the AFP and the AEC will commence shortly. The AEC and the Commonwealth Director of Public Prosecutions (DPP) will examine the need for more specific arrangements, further to the general guidelines under which they currently operate.

Recommendation 12

That the benchmark penalty for enrolment fraud offences remaining in the *Commonwealth Electoral Act 1918* be increased to 12 months imprisonment or a fine of 60 penalty units.

Response

Supported in principle. The *Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000* repealed the major electoral offences of forging and uttering and giving false and misleading statements contained in the Electoral Act. These matters are now dealt with under the general forgery and related offences and false and misleading statement offences contained within the *Criminal Code Act 1995* (the Criminal Code) (Parts 7.7 and 7.4 respectively). These Criminal Code offences carry a higher penalty than those offences in the Electoral Act that were repealed.

In line with the Committee's recommendation, the AEC will undertake a comprehensive review of the remaining electoral fraud offences and penalties in the Electoral Act and report its findings to the Committee following the federal election.

Recommendation 13

That the ANAO conduct a data-matching exercise with a sample of the Commonwealth Electoral Roll as part of its current performance audit of the AEC's management of the roll.

Response

Noted. This is a matter for the Australian National Audit Office (ANAO) which has advised that, as part of its current performance audit of the integrity of the electoral roll, it is considering various options for data-matching of the roll with other databases.

Recommendation 14

That the ANAO conduct an annual data-matching exercise on a sample of the Commonwealth Electoral Roll as a regular check on the accuracy of the roll.

Response

Noted. This is a matter for the ANAO which has advised that it considers that it is inappropriate for the ANAO to undertake such an exercise to check the accuracy of the electoral roll on an annual basis. The ANAO considers that such activities are better undertaken by the AEC.

The Government notes the ANAO's advice and will therefore have the AEC conduct such an exercise.

Recommendation 15

That, during each federal election inquiry, the AEC report all cases of enrolment fraud detected during the previous parliament.

Response

Supported. The AEC will report, after each Federal election, on detected cases of enrolment fraud when the cases have been finalised. However, it would be inappropriate for the AEC to provide reports to the Committee on investigations that are in progress, as this could compromise any subsequent prosecution action.

Recommendation 16

That the AEC report its progress in implementing the recommendations contained in this report to the committee at the next federal election inquiry.

Response

Supported.

Recommendation 17

That the AEC allow political parties to use its services to conduct internal party ballots. Such services should be provided on a cost recovery basis.

Response

Supported in principle. The Government would naturally be concerned that the AEC's neutrality was not compromised and that it is not drawn into internal party disputes in the course of providing such services to political parties.

Amendment of the Electoral Act would be required to clearly define the AEC's role in relation to the provision of such services and to preserve its independence from involvement in internal party matters.

Recommendation 18

That the *Commonwealth Electoral Act 1918* be amended to ensure that the principle of one vote, one value for internal party ballots be a prerequisite for the registration of political parties.

Response

Noted - this is a desirable principle. Placing it in legislation would need careful consideration so that any legislative requirements do not cause undue complexity for, or unnecessary intrusion into, the internal affairs of political parties.

Australian Labor Party Minority Report

The Government notes the minority report issued by the Australian Labor Party members of the Committee which rejects six of the Committee's recommendations, namely recommendations 4, 6, 10, 13, 14 and 18. The Government's response to the Committee's recommendations is outlined above. The Government has no further comment to make on the minority report.