



Government Response
to the
Report of the Joint Standing Committee on Electoral Matters:
The 2001 Federal Election
Report of the Inquiry into the conduct of the 2001 Federal Election, and
matters related thereto

October 2003

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Recommendation 1

The Committee recommends that all applicants for enrolment, re-enrolment or change of enrolment details be required to verify their name and address. Regulations should be made under the *Commonwealth Electoral Act 1918* to require people applying to enrol to provide documentary evidence of their name and address:

- by showing or providing a photocopy of their driver's licence or other document or documents accepted by the AEC in a particular case (or, in the event that all States and Territories make driver's licence records available to the AEC for data-matching purposes, by providing their driver's licence number); or
- where such documents cannot be provided, by supplying written references given by any two persons on the electoral roll who can confirm the person's identity and current residential address. These persons must have known the enrollee for at least one month.

The Committee endorses the amendment which has been made to the *Commonwealth Electoral Act 1918* which requires that only a person who is enrolled to vote may witness an enrolment form. However, the Committee does not consider it necessary that the witness be within a specified class of people, given the other safeguards that would be introduced by its recommended scheme.

Increased penalty provisions should be introduced for false declarations including:

- false enrolments;
- false claims by the witnesses; and
- false claims by enrollees including that they are unable to produce primary forms of identification.

Provisions introducing requirements for verification of identity on enrolment should be introduced with a sunset clause of three years. An independent investigation into the operation of such provisions should be conducted to enable an assessment of the benefits and disadvantages of the scheme, including such matters as whether the scheme improves the roll's integrity, and whether concerns that identity requirements will increase disenfranchisement are justified.

Response

Supported in principle. The Government remains committed to maintaining and enhancing the integrity of the electoral roll.

Implementation of this recommendation needs to be progressed in consultation with the States and Territories. For elector convenience and extra rigour applicants should provide their driver's licence number on the enrolment form. The necessary driver's licence records in electronic form could be obtained by extending the Australian Electoral Commission's (AEC) demand powers under section 92 of the *Commonwealth Electoral Act 1918*. Alternatively the data could be provided directly from willing States and Territories following appropriate legislative or other approval.

As indicated in the Committee's comments concerning the extension of the AEC's demand powers, appropriate consultation will be undertaken with the Privacy Commissioner as a matter of priority.

For people who do not have a driver's licence, the Government will prescribe a list of acceptable identification documents, such as Australian birth certificates, marriage certificates, passports etc. in consultation with the AEC.

Only persons in a prescribed class should be permitted to provide written references supporting an application for enrolment by a person as a fallback position for electors unable to furnish appropriate identification.

The Government does not support the application of a sunset clause to the new enrolment arrangements.

Recommendation 2

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to provide that:

- a person whose name does not appear on the certified list of electors used on election day, who claims to have remained resident within the Division of last enrolment, shall only be issued with a provisional vote where they can validate, by producing proof of name and address, before the close of polls, that they have remained resident within the Division of last enrolment. In such cases the elector would be issued with a provisional vote for both the House of Representatives and the Senate. This would be subject to the existing requirement that the objection action that removed the elector from the roll was actioned after the last redistribution or previous federal election, whichever is later; and

- where a provisional vote is admitted from a person whose name could not be found on the certified list of electors used on election day, verification that the elector is at their claimed address shall take place by way of a habitation review as soon as practicable after the election, and only persons whose address is verified shall be reinstated to the roll.

Response

Supported. Implementation of this recommendation will provide an important check on identity fraud at the point of voting. Similar proof of name and address as would apply for the Government's response to Recommendation 1 above should be required to obtain a provisional vote in these circumstances.

Recommendation 3

The Committee recommends that the existing seven-day period between the issue of writs and the close of rolls be retained.

Response

Not supported. The *Commonwealth Electoral Act 1918* requires electors to update their enrolment as details change. An early close of rolls will ensure that the AEC has sufficient time to verify details provided by applicants for enrolment, which will preserve the integrity of the roll.

Recommendation 4

The Committee recommends that subsection 94A(1) of the *Commonwealth Electoral Act 1918* be amended so that expatriate Australians applying for Eligible Overseas Elector status are not required to state the reason why they left Australia.

Response

Supported.

Recommendation 5

The Committee recommends that subsection 94A(2) of the *Commonwealth Electoral Act 1918* be amended so that the current two-year cut off point for application for Eligible Overseas Elector status be extended to three years.

Response

Supported.

Recommendation 6

The Committee recommends that the AEC provide comprehensive information on overseas voting entitlements and enrolment procedures to all electors who contact the AEC about moving overseas.

Response

Supported. The AEC will review its approach to providing information to persons who contact it about moving overseas and amend staff training accordingly. The AEC website already provides a substantial amount of information including frequently asked questions, and information about eligibility and forms for overseas electors.

As these people include travellers, who may be mobile and difficult to contact personally for some period of time, the AEC would propose to use its website as the key vehicle for providing information. The AEC is also working closely with the Department of Foreign Affairs and Trade to provide better service at the next federal election through the provision of ballot papers electronically to diplomatic posts.

Recommendation 7

The Committee recommends that in relation to homeless electors:

- that the itinerant elector provisions outlined in section 96 of the *Commonwealth Electoral Act 1918* be amended so as to make clear their applicability to homeless persons;
- that the AEC continue its efforts to simplify the itinerant elector application form and ensure that its applicability to homeless persons is made more apparent; and
- that the AEC target homeless persons in its next public awareness campaign, informing them about itinerant elector enrolment.

Response

Supported in principle. The AEC is preparing a communication strategy directed at homeless voters for the next federal election. The 2001 Population Census engagement of

homeless persons will be reviewed to ascertain whether there are any communication approaches from that experience which can be adopted by the AEC for the next federal election.

Recommendation 8

The Committee recommends that the AEC investigate the completeness of the electoral roll, with a view to further reducing the percentage of those Australians eligible to be on the roll, but not currently enrolled.

Response

Supported. The AEC is addressing the aspect of completeness of the electoral roll as part of the implementation of the recommendations of the ANAO report on the performance audit of the Integrity of the Electoral Roll.

Recommendation 9

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to allow the name of each candidate elected to be included in an attachment to a writ, rather than printed or photocopied on the reverse side of the original writ.

Response

Supported.

Recommendation 10

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended so that incumbent independent Members and Senators who were elected as Independents need not provide 50 signatures at each election after their first or subsequent elections, but may be nominated by just one other person, who is enrolled in the relevant Division, State or Territory.

Response

Supported in principle. This amendment should be supported for Independent Members and Senators seeking their own nomination as an independent, but not as a candidate for a political party.

Recommendation 11

The Committee recommends that where a person has been generally known by a legally registered name for at least 12 months, enrolment and nomination as a candidate should not be refused by the AEC on the ‘fictitious’ and ‘frivolous’ grounds set out in section 98A of the *Commonwealth Electoral Act 1918*.

Response

Not supported. The intention of section 98A is to provide a deterrent to the use of ‘fictitious’ and ‘frivolous’ names. Its scope, therefore, should not be limited. However, the Government will look at ways to ensure the sound principle of this section can be enforced.

Recommendation 12

The Committee recommends that the AEC be required to provide detailed reasons for a decision, with reference to the *Commonwealth Electoral Act 1918*, to all parties involved in an application under section 129 of the Act, and that those reasons be published to assist the understanding of the application of the relevant provisions.

Response

Supported. The AEC will include this information as part of an enhanced Political Party Register on the website. The Government will pursue legislation to make stricter the requirements for Party names registration to prevent confusion.

Recommendation 13

The Committee recommends that the AEC:

- conduct market research on the impact of advertising using the concept of numbering the boxes 1 to 4; and
- make appropriate improvements to its advertising in light of the results of the research.

Response

Supported. In addition to the survey of informal ballot papers, the AEC conducts market research with a substantial sample of electors before, during and after each federal election to measure a range of electoral matters including formality issues. The AEC uses the results of this research to help guide its advertising approaches and will continue to adopt this approach. In its ongoing program of public awareness campaigns, the AEC will continue to educate voters on the numbering of ballot papers for the Senate and House of Representatives.

Recommendation 14

The Committee recommends that the guidelines governing the use of parliamentary entitlements by incumbent candidates and their staff during election campaigns be clarified, and that the Department of Finance and Administration establish a telephone hotline from the day of the issue of the writs to provide advice on the guidelines to incumbent candidates.

Response

Supported in principle. Guidance on the use of entitlements during election campaigns is already available from the Department of Finance and Administration. Letters are sent by the Department to Senators and Members on the use of entitlements during election periods shortly after the issuing of the writs. The Department also provides a Help Desk Hot Line for Senators, Members and their staff on an ongoing basis. This hot line is also available for use during election campaigns.

Recommendation 15

The Committee recommends that postal votes cast on or before polling day, received by an AEO, ARO or another DRO other than the DRO for the elector's home Division, after the close of poll, be included in the scrutiny if it is subsequently received by the home DRO within 13 days after the close of the poll.

Response

Supported.

Recommendation 16

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to explicitly allow scrutineers to be present at pre-poll voting centres.

Response

Supported. Formalising the access of scrutineers will result in greater transparency in the pre-polling process.

Recommendation 17

The Committee recommends that the AEC report to it in detail on how mobile polling currently operates, exactly where it believes mobile polling should take place, how mobile polling should be administered, and who should be entitled to cast their vote at a mobile polling station.

Response

Supported.

Recommendation 18

The Committee recommends that at the next federal election, the AEC conduct a pilot scheme using computers at the ten polling booths which had the largest number of absentee votes at the 2001 federal election, in order to provide electronic or on-line access to the Certified List for the purpose of verifying the enrolment details of those voters seeking to make an absent vote.

Response

Supported in principle. The AEC should have the discretion to select the booths used for this research in order to provide the most practically and statistically relevant data. For example, the ten polling places which issued the largest number of absent votes at the 2001 federal election included some which were servicing one off events such as the Busselton – Margaret River wine festival.

Recommendation 19

The Committee recommends that the AEC review the evidence to this inquiry regarding polling booth administration, and take account of it in its future planning for election day administration and staff training.

Response

Supported.

Recommendation 20

The Committee recommends that the AEC do more in its planning stages to improve access to polling places. The Committee also recommends that more effort be made with respect to determining the number and location of entrances at each polling place.

Response

Supported. A process will be put in place to effectively manage these arrangements.

Recommendation 21

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to allow for the adjournment or temporary suspension of polling where polling is incapable of being continued for physical and safety reasons.

Response

Supported in principle. This recommendation provides for a sensible process that would allow the Divisional Returning Officers to adjourn or temporarily suspend polling where polling is interrupted by a bomb threat, health hazard (eg white powder incidents or dangerous animals), fire, or the setting-off of fire alarms and/or sprinklers. Where there is an adjournment, each candidate must be notified immediately, and polling be reopened as soon as possible, or alternate arrangements made. The definition of circumstances in which polling is to be suspended will require careful clarification.

Recommendation 22

The Committee recommends that subject to advice from the AEC, section 340 of the *Commonwealth Electoral Act 1918* be amended so as to prohibit the broadcast of political material which is clearly audible within the six metres surrounding a polling place on election day.

Response

Supported in principle. This recommendation will be subject to further investigation about whether it is possible to make a clear and enforceable amendment to the Act in this matter.

Recommendation 23

The Committee recommends that the AEC ensure DRO/AEO decisions regarding disputed campaign materials are communicated as quickly as possible to polling booth presiding officers.

Presiding officers should be empowered to advise all relevant parties of the DRO/AEO decision regarding disputed materials, and to advise that any continued handing out of materials considered by the AEC to be in breach of the *Commonwealth Electoral Act 1918* may be restrained via Federal Court injunction.

Response

Supported in principle.

Recommendation 24

The Committee recommends that the suggested technical amendments to the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984* at Appendix F of this report, with the exception of amendment 18 ('No State Referendum or Vote to be held on polling day'), be made.

Response

Supported in principle. The technical amendments will need to be thoroughly reviewed to ensure they are still relevant. This will be done in the process of finalising the legislative response to the report.

Recommendation 25

The Committee recommends that co-location of AEC Divisional Offices not proceed, and that the AEC be given funding to ensure a minimum of three full-time electoral staff (or equivalent) in each House of Representatives Division.

Response

Supported in principle. There should not be any further co-locations or amalgamations at this time. The Government is giving consideration to the need for legislation in this area.

Recommendation 26

The Committee recommends that the AEC provide all candidates with written advice of the date on which pre-polling will commence, seven days prior to that date.

Response

Supported in principle. The date for informing candidates should be the date of the declaration of nominations as this is the first date on which the names of the candidates are confirmed.

Recommendation 27

The Committee recommends that public access to the roll in AEC Divisional Offices be provided by a regularly updated electronic list of all names and addresses of electors enrolled for the relevant Division, with the provision of all other Divisions held in particular offices such as the State Head Office.

Hard copies of the roll should continue to be printed once in the life of a Parliament and be available for public inspection in AEC Divisional Offices.

Response

Supported.

Recommendation 28

The Committee recommends that an internet enquiry facility be provided whereby electors can verify their own electoral enrolment details, and as much of the detail of any elector's enrolment as the enquirer is able to provide.

This facility should not replace public access to the full electoral roll in AEC offices as recommended in Recommendation 27.

Response

Supported. The internet enquiry facility should permit electors to verify their own enrolment details and check details of other enrolments. This facility would greatly reduce the large number of enrolment checks undertaken by the AEC in response to elector inquiries, particularly after the announcement of an election.

Recommendation 29

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended so that the electoral roll is no longer available for sale in any format.

Response

Supported. With the introduction of electronic access to the roll through personal computers in Divisional Offices, Head Offices and Central Office, and the internet enquiry facility, there would be no legitimate electoral related reasons for making rolls available for sale. Withdrawal of the roll from sale will eliminate the last source of elector information that has the potential for non-electoral and commercial use. There will be no loss of entitlement to printed copies of the roll to Members of Parliament, political parties, and candidates as a result of this Recommendation.

Where the roll is required by charitable institutions for activities such as family reunions, provision will be made for access to the roll by those organizations for prescribed purposes under the Electoral and Referendum Regulations 1940.

Recommendation 30

The Committee recommends that the certified lists provided to candidates during an election *not* contain the gender and date of birth details that will appear on the certified lists used by polling officials if the relevant legislation is passed by the Parliament.

Response

Noted. The legislative response to this matter will take account of the privacy implications associated with the provision of this information to candidates.

Recommendation 31

The Committee recommends that end-use restrictions and related penalties for wrongful disclosure or commercial use apply to all information relating to electors which is contained in the electoral roll, regardless of the medium of supply.

Response

Supported.

Recommendation 32

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended so that the penalty for accepting an anonymous donation above the limits nominated in the Act shall be an amount double the sum received through that anonymous donation.

Response

Not supported. There is nothing to suggest that the penalties currently in place are ineffective.

Recommendation 33

The Committee recommends that, at each federal election inquiry, the AEC report to the Committee on all cases of overseas donations made during the previous parliament.

Response

Not supported. These donations should be subject to the same treatment as other donations.

Recommendation 34

The Committee recommends that the AEC seek definitive advice on the constitutional validity of section 306B of the *Commonwealth Electoral Act 1918* and if necessary, address the substantive issue in more appropriate legislation such as in insolvency law.

Response

Supported in principle. The Government will seek further legal advice on this matter.

General

Closing dates for petitions to the Court of Disputed Returns:

The Government will pursue the preferred option of the Office of General Counsel, (paragraphs 3.3 and 3.39 of the Report refer), to require that the forty day period for filing a petition to the Court of Disputed Returns be counted from the day of the return of the last writ.

Access to information about voters who voted by registered political parties and Independent Members of Parliament:

The Government will pursue an option to amend the *Commonwealth Electoral Act 1918* to allow registered parties and Independent Members of Parliament to obtain the names and addresses and certain other information about voters who voted, along the lines of legislation passed in 2002 by the Victorian Parliament (paragraph 6.90 of the Report refers).

Supplementary Remarks issued by Senator Andrew Bartlett and Senator Andrew Murray

The Government notes the Supplementary Remarks issued by Senator Andrew Bartlett and Senator Andrew Murray. The Supplementary Remarks addressed the topics of Political Governance, Political Donations and Constitutional Reform. These topics were not addressed in the Main Report. The Government makes no further comment on the Supplementary Remarks.