

Other issues

Ballot papers

- 9.1 Commonwealth electoral legislation sets out the design of ballot papers.¹ On House of Representatives ballot papers some modification is permitted; if there are more than 30 candidates, two or more columns can be used. There is currently little flexibility for Senate ballot papers, which are to be:

...laid out in a landscape design, with squares for those groups that have lodged Group Voting Tickets (GVTs) at the top of the ballot paper (the 'above-the-line' portion of the paper), followed by a thick black line, followed by the names of individual candidates organised in groups across the paper in the 'below-the-line' portion.²

- 9.2 The increasing number of Senate candidates and groups in New South Wales, in particular, has led to an expanded ballot paper. In the 2010 federal election, the NSW Senate ballot paper contained 84 candidates distributed across 33 columns. It was 1020 millimetres wide, which is the widest ballot paper that the printers were able to produce as a single sheet.³
- 9.3 The legislative requirements for the Senate ballot paper meant that when faced with the New South Wales Senate ballot paper in 2010, the Australian Electoral Commission (AEC) was limited to reducing the font

1 Section 209 of the *Commonwealth Electoral Act 1918*.

2 Australian Electoral Commission, Submission 87.5, p. 20.

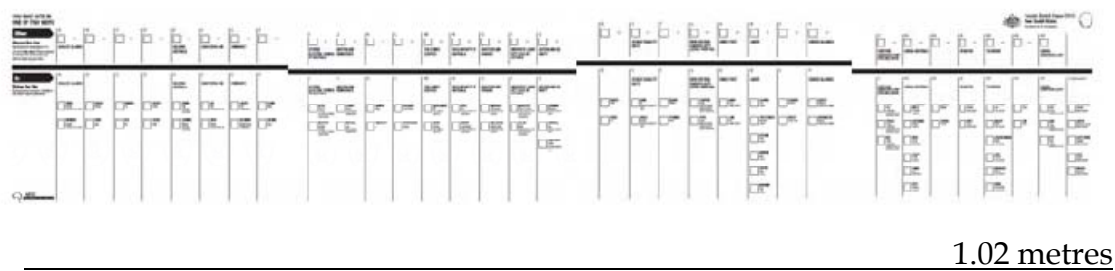
3 Australian Electoral Commission, Submission 87.5, p. 21.

and hyphenating names. Mr Doug Orr, AEC State Manager for NSW, observed with regard to the NSW Senate ballot paper that:

In managing this ballot paper, one candidate’s name had to be wrapped over two lines, and font sizes were reduced to 8.5 for candidate names. I am concerned over the potential effect of the increased group numbers on legibility for future Senate ballot papers, given the inability to print a wider ballot paper.⁴

9.4 Given the size of the NSW Senate ballot paper and the reduced font size (8.5 point), it was impractical to reproduce a legible copy for this report. Figure 9.1 provides some indication of the scale and the amount of information covered in the ballot paper. Figure 9.2 is a more readable sample ballot for the election of Senators for the Australian Capital Territory, which contains 9 candidates in 5 columns.

Figure 9.1 Sample Senate ballot paper, 2010 federal election, New South Wales



Source Provided by the Australian Electoral Commission.

4 Mr Doug Orr, State Manager for New South Wales, Australian Electoral Commission, Transcript, 4 March 2011, p. 41.

Figure 9.2 Sample Senate ballot paper, 2010 federal election, Australian Capital Territory

YOU MAY VOTE IN ONE OF TWO WAYS

Either:

Above the line
By placing the single figure **1** in one and **only one** of these squares to indicate the voting ticket you wish to adopt as your vote

A	B	C	D
☐ AUSTRALIAN LABOR PARTY	☐ AUSTRALIAN DEMOCRATS	☐ THE GREENS	☐ LIBERAL

Or:

Below the line
By placing the numbers **1 to 9** in the order of your preference

A	B	C	D	Ungrouped
AUSTRALIAN LABOR PARTY	AUSTRALIAN DEMOCRATS	THE GREENS	LIBERAL	
☐ LUNDY Kate Alexandra AUSTRALIAN LABOR PARTY	☐ CHURCHILL Narren Mark AUSTRALIAN DEMOCRATS	☐ HATFIELD DODDS I in THE GREENS	☐ HUMPHRIES Gary LIBERAL	☐ GLYNN John INDEPENDENT
☐ MATHEWS David AUSTRALIAN LABOR PARTY	☐ DAVID Anthony John AUSTRALIAN DEMOCRATS	☐ PARRIS Hannah THE GREENS	☐ WATTS Matthew LIBERAL	

 **AEC**
Australian Electoral Commission

Source Provided by the Australian Electoral Commission

9.5 In evidence to the Committee, Mr Antony Green argued that:

Ballot papers of such size [as the NSW Senate ballot paper] are distorting the choice of voters. A ballot paper one metre wide is difficult to manipulate in a polling place.

The point of an election is to elect representatives to the parliament. The current rules for Senate nomination allow people with no hope of election to nominate...⁵

5 Antony Green, Submission 88, p. 10.

- 9.6 The AEC also expressed its concern about the growing size of ballot papers. It argued that:

...the NSW Senate ballot paper does not currently strike an appropriate balance between providing voters with a choice of candidates representative of their views and interests, and the countervailing need to ensure ballot papers are not so unwieldy and difficult to complete that, in effect, they operate to diminish the capacity of voters to exercise their franchise.⁶

- 9.7 Concern about the size of the NSW Senate ballot paper is not new. When discussing the issue during a second reading debate on the Commonwealth Electoral Legislation Amendment Bill 1983, a Senator recounted an anecdote that:

...in 1974 there were 73 candidates in New South Wales. This meant that electors in New South Wales who went to the polls were obliged to fill in numbers from one to 73. I can recall a story about a lady who picked up her ballot paper, took it out of the polling booth, which I suppose is against the electoral legislation, took it home, made a cup of tea and while she was drinking her cup of tea filled in the numbers from 1 to 73. She took it back and put it into the ballot box. That was probably a long-winded way of filling in a ballot paper. However, many people made errors when confronted with that number of candidates.⁷

- 9.8 The debate was in the context of the introduction of above-the-line voting in the Senate to help combat the high level of informality. However, the size of ballot papers still represents a challenge for voters in areas, such as New South Wales, where there are large numbers of candidates.
- 9.9 A noteworthy example at the state level is the 'table cloth' in the 1999 NSW Legislative Council election, which saw a one metre by 700 millimetre ballot paper produced. There were 264 candidates representing 81 groups, and the ballot paper was triple-decked.⁸
- 9.10 If the number of candidates for NSW Senate elections increases at future federal elections, there is limited scope for expansion on the NSW Senate ballot paper. Any increases in candidates and columns on future ballot

6 Australian Electoral Commission, Submission 87.5, p. 24.

7 Senator Malcolm Colston, Senate Hansard, Second reading debate on Commonwealth Electoral Legislation Amendment Bill 1983, 30 November 1983, p. 2987.

8 Australian Electoral Commission, Submission 87.5, p. 22; and ABC website, Antony Green blog: <http://blogs.abc.net.au/antonygreen/2009/06/nsw-legislative.html>, viewed 31 May 2011.

papers would see the AEC further reducing font sizes and hyphenating names, and voters continuing to navigate the casting of their vote over more than a metre of paper.

9.11 The increasing number of candidates for the House of Representatives is also of concern. Given the strict formality requirements for House of Representatives ballot papers, as outlined in Chapter 7 and in Table 7.1, it is apparent that the more preferences the voter is required to mark and keep track of, the greater chance there is of errors creeping in that will render their vote informal.

9.12 The Victorian Electoral Commissioner, Mr Steve Tully, highlighted the problem of high candidate numbers and its effect on informality, stating:

There is a clear correlation – there is research on this that I am sure you have seen – that the more candidates that you have on the ballot paper in a fully preferential system, the more likely you are to have duplication or errors and informality. For local government elections in Victoria, in areas like Brimbank, where they can have as many as 30 or 40 candidates, the informality rate can be as high as 25 per cent for some wards.⁹

9.13 Increasing the nomination deposits for candidates has been proposed as a means of discouraging candidates who are not seriously in contention for election and so reducing the number of candidates on ballot papers.¹⁰ This is applicable to both the Senate and the House of Representatives. The Australian Greens did not agree with this approach. The Greens were of the view that increasing deposits makes it more difficult for people to participate in democratic elections. They believe that if there are problems with too many names on the ballot paper then that particular issue needs to be addressed, but the answer should not be to restrict candidature to only the people or parties who can most afford it. The Greens felt that a doubling of the deposit in such a short time span seems to be an overreaction to this perceived problem. They observed that past deposit increases have never been more than \$150, so to increase it by \$1000 for the Senate and \$500 for the House is unjustified. If there is to be an increase the Greens suggest it should be by a modest amount.

9 Mr Steve Tully, Electoral Commissioner, Victorian Electoral Commission, Transcript, 13 April 2011, pp. 16-17.

10 Antony Green, Transcript, 2 March 2011, p. 16; and Australian Electoral Commission, Submission 87.5, p. 24.

Nomination deposits

- 9.14 As part of the nomination process, candidates for Senate and House of Representatives elections are required to deposit the sums of \$1000 and \$500, respectively, with the AEC.¹¹
- 9.15 The nomination deposits are returned to the candidate or their agent if:
- the nomination is rejected;
 - the candidate dies before election day;
 - if the candidate is elected, or:
 - ⇒ in the case of ungrouped Senate candidates, the candidate has first preferences that are at least four percent of the total number of formal first preference votes cast for all candidates in that state or territory; or
 - ⇒ in the case of grouped Senate candidates, the sum of the first preferences received by the group is at least four per cent of the total number of formal first preference votes in that state or territory; or
 - ⇒ in the case of the House of Representatives, if the candidate receives first preferences that are at least four per cent of the total number of formal first preferences cast in that division.¹²
- 9.16 Spurred by his concerns about ballot paper complexity, Mr Green argued that:
- We need to significantly increase the nomination fee or put a fee on for access to an above-the-line ticket vote on Senate nominations, or at some stage we are going to have a Senate ballot paper which cannot be printed in time for the start of voting, or is going to be so unwieldy that it will do even worse damage to the informal voting rates in the lower house.¹³
- 9.17 The AEC similarly recommended the increase of nomination deposit requirements. It also recommended the indexation of the nomination deposit at the same rate as is used for the public funding payment.¹⁴ The AEC noted that:
- Mechanisms such as deposits and requirements for multiple nominators are widely used to balance the principles of ensuring

11 *Commonwealth Electoral Act*, ss. 167 and 170 (3).

12 Australian Electoral Commission, *Candidates Handbook federal election*, p. 31.

13 Antony Green, Transcript, 2 March 2011, p. 2.

14 Australian Electoral Commission, Submission 87.5, p. 24.

voters have a choice of representative candidates with the need to ensure candidature is serious.¹⁵

- 9.18 The Committee notes that there have only been moderate rises to the nomination deposit fees since 1918, as detailed in Table 9.1.

Table 9.1 Changes to the nomination deposit amount since 1918

Year	Senate	House of Representatives
1918	£25	£25
1965	£100	£50
1966	Australia changes to decimal currency	
(as at 1973 CEA reprint)	\$200	\$100
1983	\$500	\$250
1998	\$700	\$350
2006	\$1000	\$500

Source Figures taken from amendments to the Commonwealth Electoral Act 1918, ss 170 (from 1991) and s 73 (1918-1983)

Committee conclusion

- 9.19 The Committee agrees that in some states, such as New South Wales, ballot papers have become increasingly complex as the number of candidates has risen. The resulting administrative challenges and cost implications are naturally of concern, but the impact that this may have on voters unintentionally voting informally is particularly worrying. The deposit amount should be an amount that does not unduly hamper participation, but acts as a deterrent to frivolous candidacies.

Recommendation 31

- 9.20 **The Committee recommends that subsection 170(3) of the *Commonwealth Electoral Act 1918* be amended to increase the sum to be deposited by or on behalf of a person nominated as a Senator to \$2,000.**

15 Australian Electoral Commission, Submission 87.5, p. 22.

Recommendation 32

- 9.21 **The Committee recommends that subsection 170(3) the *Commonwealth Electoral Act 1918* be amended to increase the sum to be deposited by or on behalf of a person nominated as a Member of the House of Representatives to \$1,000.**

Nominations period and commencement of pre-polling

- 9.22 The close of nominations for Senate and House of Representatives candidates is noon on a fixed date that shall not be less than 10 days or more than 27 days after the issue of the writ. The nominations are then declared the following day at noon.¹⁶
- 9.23 The date fixed for polling is then not less than 23 days and not more than 31 days after the date of nomination.¹⁷ However, at combined House of Representatives and Senate elections, pre-polling may commence no sooner than the second day after the declaration of Senate nominations.¹⁸
- 9.24 As ballot papers must be issued to postal voters and an extended pre-polling period has become an accepted feature at recent elections, a rapid printing turnover is required. As outlined in Table 2.1, the 2010 federal election declaration of nominations was noon Friday 30 July 2010. Pre-poll voting commenced the following Monday 2 August 2010. This meant that 43 million ballot papers had to be produced over that weekend.¹⁹
- 9.25 The AEC further noted that Senate Group Voting Tickets are to be lodged 24 hours after the declaration of Senate nominations, which in practical terms left less than 24 hours to prepare, print and distribute ordinary and postal ballot papers across Australia in time for the commencement of early voting.²⁰
- 9.26 The challenge of preparing and printing ballot papers is made more difficult when facing the complexity of ballot paper layout and size that has come with more candidates, especially on Senate ballot papers.²¹

16 *Commonwealth Electoral Act 1918*, ss. 156 and 175.

17 *Commonwealth Electoral Act 1918*, s. 157.

18 Australian Electoral Commission, Submission 87, p. 70.

19 Australian Electoral Commission, Submission 87, p. 70.

20 Australian Electoral Commission, Submission 87, p. 70.

21 See sample ballot paper for the election of Senators for New South Wales, Figure 9.1

- 9.27 In its evidence to the Committee, the AEC sought more time in which to undertake this considerable printing task. It noted that fortuitously declarations of nominations have occurred on a Friday, making the first possible voting day a non-business Sunday. If this was not the case then the printing and distribution time of ballot paper could potentially be even further shortened.²²

Committee conclusion

- 9.28 The Committee believes that addressing the timing of the candidate nominations is merited, in recognition of the administrative demands on the Australian Electoral Commission in the production of ballot papers for postal votes and pre-polling periods in the short period following the close of nominations.
- 9.29 By bringing the deadline for the receipt of nominations forward one day the AEC will have an extra day in which to undertake the huge task of finalising ballot papers and arrange for their printing and distribution.

Recommendation 33

The Committee recommends that the *Commonwealth Electoral Act 1918* be amended to reduce the nominations period for an election by one day so that nominations close not less than nine or more than 26 days after the issue of the writ, rather than ten and 27 days, respectively.

Recommendation 34

The Committee recommends that, should the Government accept recommendation 33 above, the *Commonwealth Electoral Act 1918* be amended to require the date fixed for polling is not less than 24, or more than 32 days, after the date of nomination.

22 Australian Electoral Commission, Transcript, 4 March 2011, pp. 38-39.

Overseas voting and expatriates

- 9.30 At the 2010 federal election, 74 084 overseas votes were issued (64 832 pre-poll and 9 252 postal votes).²³ There were 104 overseas posts which provided postal and pre-poll voting services to eligible electors voting outside of Australia.²⁴
- 9.31 The issues of overseas enrolment entitlements and voting arrangements arose in the inquiry into the conduct of the 2010 federal election. As in the review of the 2007 federal election, the Southern Cross Group generated interest through its networks, resulting in a number of submissions. In total there were more than 35 submissions to the Committee that raised the subject of overseas voting.
- 9.32 Submitters raised concerns about the difficulties encountered by Australian citizens travelling or living overseas in maintaining their enrolment and voting while overseas.
- 9.33 The Committee notes that the AEC has a 'frequently asked questions' section on its website providing information on voting entitlements and arrangements whilst overseas. It can be accessed from the AEC homepage.²⁵
- 9.34 It is not compulsory to be enrolled and vote in Australian elections while overseas. Electors who are leaving Australia, or who are already overseas, can notify the AEC of their absence and be removed from the electoral roll.
- 9.35 However, the Commonwealth Electoral Act does make provision for Australians travelling and living overseas who wish to remain on the electoral roll and participate in Australian federal elections. As at 26 July 2010, 16 199²⁶ Australians were enrolled as eligible overseas electors.
- 9.36 A person already enrolled for a particular electoral division can apply to be treated as an eligible overseas elector. The elector must be intending to return to reside in Australia within six years, and apply within three months prior to their departure date from Australia or within three years of having ceased to reside in Australia.

23 Australian Electoral Commission, Submission 87, p. 75, Table 5.2.

24 Department of Foreign Affairs and Trade, Submission 97.

25 AEC website, http://www.aec.gov.au/FAQs/Voting_Overseas.htm, viewed 31 May 2011.

26 Australian Electoral Commission, *AEC Electoral Pocketbook 2010*, May 2011, p. 52.

- 9.37 An eligible overseas elector will then be retained on the electoral roll at the address at which they were enrolled before leaving Australia, and can vote in that electoral division. The AEC makes the appropriate notation against the elector's name on the roll to indicate their status as an eligible overseas elector.
- 9.38 If the person is not already enrolled, they can apply from outside Australia to be enrolled in the electoral division:
- in which they last had an entitlement to be enrolled;
 - if they never had an entitlement, for an electoral division in which any of the person's next of kin is enrolled; or
 - if the above does not apply, in the division in which they were born, or failing that, in the division in which the person has the closest connection.²⁷
- 9.39 This eligible overseas elector status is initially granted for six years after the day on which their residency ceased, but under section 94(8) of the Commonwealth Electoral Act, the AEC can extend the period for one year following expiry of the six years, if the elector notifies the relevant Divisional Returning Officer (DRO) each year of their intention to resume residency in Australia. Effectively, if an elector intends to again live in Australia, they can continue to remain on the Commonwealth electoral roll if they take the necessary action each year of advising the AEC.
- 9.40 The AEC provides voting services to electors who are temporarily overseas during an election period, eligible overseas electors and Australian Defence Force personnel serving overseas. These electors can choose to vote by attending an overseas polling place or by postal vote.
- 9.41 A number of submissions brought to the Committee's attention the various difficulties individuals had encountered when attempting to maintain their enrolment. Complaints included:
- not being aware of their options until after they had left Australia;²⁸
 - electors being removed from the roll as a result of the objection process when they are found not to be currently residing at the relevant address and not being able to re-enrol once they have been removed;²⁹ and
 - that there were time restrictions on the overseas eligibility entitlement.³⁰

27 *Commonwealth Electoral Act*, s. 94(3).

28 For example, see Mr Thomas McCann, Submission 57.

29 For example, see Mr Ross Mair, Submission 40.

- 9.42 Some submitters argued that there should not be any limit on how long expatriate Australians can remain eligible overseas electors, if that person remains engaged in Australian issues and wishes to continue to participate in the election of the country's representatives. Ms Shipra Chordia, an Australian living and working overseas, stated that:

There is no substantial reason that might justify this curtailment of an overseas Australian citizen's right to vote. Unlike a prisoner incarcerated for a sufficiently serious crime, an overseas Australian citizen has not necessarily withdrawn from his or her responsibilities to participate in Australian civic life. Merely choosing to reside in a particular place is not an indicator of willingness to carry civic responsibility. This is even acknowledged within the legislation - an individual is not disenfranchised at the point at which he or she emigrates, but rather, at an arbitrary point three years later.³¹

- 9.43 The Committee noted submitter observations that some professionals are increasingly choosing to work overseas, but keep close ties with Australia. It was suggested that their experiences would be beneficial to Australia on their return.³²
- 9.44 For those eligible electors seeking to exercise their vote while overseas, some submitters found that they experienced difficulties due to limited access to pre-polling locations in their country of residence or, in the case of postal voting, not receiving their ballot paper in sufficient time to allow its return to the AEC by the required time.
- 9.45 The issue of postal voting delays was discussed in Chapter 4. The Committee noted that the AEC were aware of, and expressed concern about, the delays in the issues of postal votes, which may have led to some electors not having their vote counted. Further, the Committee noted that the AEC had reviewed the performance of the contractor responsible for the issue of the postal vote packs and they have agreed on improved processes for the future.³³

30 For example, see Submissions 22, 23, 28, 37, 81 and 82.

31 Ms Shipra Chordia, Submission 75, p. 2.

32 See Submissions 21, 30, and 34.

33 Australian Electoral Commission, Submission 87, p. 82.

Committee conclusion

- 9.46 The Committee was pleased to hear from a number of Australians living overseas who seek to remain engaged in Australia's election process. It is regrettable that some eligible electors have encountered difficulties maintaining their enrolment and casting their vote.
- 9.47 The Committee believes that the current provisions and voting entitlements for Australians living overseas are appropriate. However, more should be done by the Australian Electoral Commission to ensure that voters are made aware of their options before leaving Australia, and are not disenfranchised in cases where they remain eligible and willing to cast their vote while overseas.

Senate ballot paper packaging

- 9.48 One of the many logistical challenges faced by the AEC is the distribution and return of polling materials and ballot papers for over 7 760 ordinary polling places, 531 Pre-poll Voting Centres (PPVCs), 455 special hospitals mobile teams, 38 remote mobile teams, 19 prison mobile teams, 104 overseas posts and five overseas Australian Defence Force teams.
- 9.49 On the outward journey ballot papers are mostly provided to polling places and other voting venues as arranged by DROs. Ballot papers are generally pre-packaged in the boxes in which they are received from the printer who produced them.
- 9.50 On the journey back from polling places and other venues, ballot papers are packaged according to instructions provided by the DRO. Where ballot papers are returned from polling places and pre-poll voting centres, and where counts have been conducted, the Commonwealth Electoral Act specifies how they must be packaged.
- 9.51 In the case of Senate ballot papers, those instructions appear in subsection 273 (2)(b), which provides that in the case of ballot papers marked below-the-line, they must be sorted and packaged separately, meaning that the ballot papers must be a sorted to each candidate, counted, then parcelled separately for return to the DRO.
- 9.52 At the 2010 federal election, there were 84 Senate candidates in NSW, 60 each in Victoria and Queensland, 55 in Western Australia, 42 in South

Australia and 24 in Tasmania. The Australian Capital Territory had nine candidates and the Northern Territory had 15.³⁴

- 9.53 Following the conclusion of the count, at each polling place and PPVC, a separate parcel must be prepared and packaged by the Officer in Charge for each candidate who received a first preference vote below the line.
- 9.54 The AEC submitted that this requirement is a legacy from the time prior to the introduction of the computerised Central Senate Scrutiny (CSS) system, and is no longer required.³⁵
- 9.55 The AEC noted in its submission that by removing the need to sort separately, the number of sorts required in each polling place in New South Wales could have been reduced from 117 to 70 and the number of parcels reduced from 117 to 34.³⁶

Committee conclusion

- 9.56 The Committee notes the Australian Electoral Commission's concerns about workloads relating to the parcelling of Senate ballot papers.
- 9.57 The Committee is of the view that the sorting and counting of preferences on Senate ballot papers should continue in the same way that it has been done in the past.
- 9.58 The Officer in Charge of a polling place records the count in the Polling Place Return, and scrutineers are able to watch the counting and sorting. While the information may not be made public on polling night, candidates and political parties are entitled to receive it from their scrutineers.
- 9.59 Further, the Polling Place Return is a record of what transpires in a polling place on polling day, and it is important record that in the event of some unforeseen circumstance can be relied upon.
- 9.60 The Committee agrees, however, that there is no reason why, once the count has been recorded, below-the-line ballot papers should not be parcelled together for return to the DRO, which will reduce workload in a polling place on polling night.

34 AEC website, <http://results.aec.gov.au/15508/Website/SenateNominationsByState-15508.htm>, viewed 22 June 2011.

35 Australian Electoral Commission, Submission 87, p. 113.

36 Australian Electoral Commission, Submission 87, p. 114.

Recommendation 35

- 9.61 The Committee recommends that Part XVIII of the *Commonwealth Electoral Act 1918* be amended to require that once the first preference count in polling places or counting centres on polling night, or in scrutines conducted after polling day, has been completed and appropriate records made, all Senate ballot papers indicating a first preference for individual candidates below the line may be parcelled together for return to the Divisional Returning Officer.

Undertakings by persons employed by the AEC

- 9.62 One important feature of democratic processes that assists the community to maintain faith in election processes and election results in Australia is that federal elections are conducted by an independent and impartial Electoral Commission.
- 9.63 One way of ensuring that impartiality is to make sure that persons employed by the AEC undertake their duties in an impartial fashion and that they act with integrity. Accordingly, the Commonwealth Electoral Act requires that officers and other employees who undertake duties at an election or referendum sign an undertaking in the approved form.³⁷
- 9.64 In the past, when all employment forms were paper-based, this was achieved by providing a form to the officer or employee, who duly signed it prior to commencing work at the election or referendum.
- 9.65 In 2010, the AEC implemented a number of changes to the way it interacted with potential employees, moving to a secure Internet-based application process, with offers of employment generated and sent by email to the potential employee.³⁸
- 9.66 Under this new arrangement, potential employees would receive then review employment documentation attached to the email and accept the offer of employment by email. A paper based process was still available for applicants who did not have access to the internet or chose not to correspond online.³⁹

37 Commonwealth Electoral Act 1918, s. 218A.

38 Australian Electoral Commission, Submission 87, p. 97.

39 Australian Electoral Commission, Submission 87, p. 97.

- 9.67 The AEC submitted that by removing the legislative requirement that the Officer and Employee Undertaking be signed, it would facilitate electronic interactions with potential employees. The AEC proposed that the Undertaking would still be made, as it would remain a condition of acceptance of the offer of employment, however, the requirement for an actual signature on a paper-based form, would be removed.

Committee conclusion

- 9.68 The Committee believes that any person who accepts employment with the AEC at a federal election or referendum must be bound by an undertaking to carry out their duties in an impartial fashion.
- 9.69 The Committee notes that there have been instances where, even though an employee has made such an undertaking, their previous employment or activity in the political arena has been a cause for concern to some, and actions have been taken by the AEC to mitigate such concerns.
- 9.70 The Committee is mindful that the AEC is moving toward electronic interactions to a greater extent in its everyday business and that employment of casual staff in non-election periods is also now carried out using secure internet-based and email interactions.
- 9.71 The Committee agrees with the AEC that removing the requirement that an undertaking be signed would provide greater flexibility in employment processes both in and out of election and referendum periods, with the undertaking still remaining a condition of employment.
- 9.72 However, the Committee notes that not all potential employees are prepared to interact electronically; therefore any paper-based employment regime must also be consistent with an electronic regime.

Recommendation 36

- 9.73 **The Committee recommends that section 202A of the *Commonwealth Electoral Act 1918* be amended to remove the requirement that the officer and employee undertaking be signed. Instead, the officer and employee undertaking should be made and accepted as part of the offer of employment.**

Impact of election earnings for polling staff employed by the AEC

- 9.74 The AEC employed 66 874⁴⁰ temporary staff in order to prepare for and conduct the 2010 federal election. Of this number, some 23 500 persons over 55 were employed on polling day and received a package payment amount, ranging from \$339.83 to \$799.84 depending on the position for which they were employed.⁴¹
- 9.75 In the context of discussing issues around the employment of polling staff, the Community and Public Sector Union told the Committee that some persons who had been employed as polling officials in previous elections had declined to be employed again at the 2010 federal election, and some who were employed at the 2010 federal election, were not inclined to make themselves available in future, because their pensions (or part-pensions) would be reduced.
- 9.76 The Committee heard that in the past, those persons had been able to have their election earnings 'averaged out' over the financial year, but due to changes in the rules, some had lost or had their pensions reduced for that period.⁴²

Committee conclusion

- 9.77 The Committee notes the valuable contribution made by persons who are employed as polling officials and election staff. The Committee is concerned to ensure that sufficient, skilled and experienced staff are available to assist with the conduct of elections and referenda, whenever they may occur.
- 9.78 The Committee is, therefore, reassured by a letter from the Electoral Commissioner dated 27 June 2011, informing the Committee that the matter had been addressed by the Government.
- 9.79 The Electoral Commissioner indicated that he has been advised that changes to income support legislation, effective from 1 July 2011, will over time deliver more generous benefits than the previous annual averaging rules, while retaining the clarity and certainty that the fortnightly assessment arrangements have provided.

40 Australian Electoral Commission, Submission 87, p. 94.

41 Letter from the Australian Electoral Commission to the Joint Standing Committee on Electoral Matters, dated 27 June 2011.

42 Mr Jonathan Ring, Community and Public Sector Union, Transcript 15 June 2011, p. 6.

Referenda

- 9.80 The Committee notes that a number of recommendations made in this report, would, if not also made in respect of referenda, result in inconsistency between the operation of the *Commonwealth Electoral Act 1918* and the *Referendum (Machinery Provisions) Act 1984*.
- 9.81 The Committee believes that wherever possible, consistency of operation should be maintained.

Recommendation 37

- 9.82 **The Committee recommends that any recommendations in this report that propose amending the *Commonwealth Electoral Act 1918* should, where also appropriate, be incorporated into the *Referendum (Machinery Provisions) Act 1984*, to ensure consistency between the provisions applying to elections and referenda.**

Daryl Melham MP

Chair

29 June 2011